Colorado Register

45 CR 21

Volume 45 , No. 21

November 10, 2022

Introduction

The *Colorado Register* is published pursuant to C.R.S. 24-4-103(11) and is the sole official publication for state agency notices of rule-making, proposed rules, attorney general's opinions relating to such rules, and adopted rules. The register may also include other public notices including annual departmental regulatory agendas submitted by principal departments to the secretary of state.

"Rule" means the whole or any part of every agency statement of general applicability and future effect implementing, interpreting, or declaring law or policy or setting forth the procedure or practice requirements of any agency. "Rule" includes "regulation". C.R.S. 24-4-102(15). Adopted rules are effective twenty days after the publication date of this issue unless otherwise specified.

The *Colorado Register* is published by the office of the Colorado Secretary of State twice monthly on the tenth and the twenty-fifth. Notices of rule-making and adopted rules that are filed from the first through the fifteenth are published on the twenty-fifth of the same month, and those that are filed from the sixteenth through the last day of the month are published on the tenth of the following month. All filings are submitted through the secretary of state's electronic filing system.

For questions regarding the content and application of a particular rule, please contact the state agency responsible for promulgating the rule. For questions about this publication, please contact the Administrative Rules Program at rules@coloradosos.gov.

Notice of Proposed Rulemaking

Tracking number

2022-00670

Department

200 - Department of Revenue

Agency

201 - Taxation Division

CCR number

1 CCR 201-1

Rule title

PROCEDURE AND ADMINISTRATION

Rulemaking Hearing

Date

12/01/2022

Time

10:00 AM

Location

Virtual Hearing See Comments

Subjects and issues involved

The purpose of this new rule is to clarify provisions of House Bill 19-1256 and to consolidate and explain other requirements for electronic returns and payments that are currently in 1 CCR 201-1, Rule 39-21-119 and Special Rule 1.

Statutory authority

The statutory bases for this rule are sections 39-21-102, 39-21-112(1), 39-21-119, 39-21-119.5, 39-21-120, and 39-22-608, C.R.S.

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DEPARTMENT OF REVENUE

Taxpayer Service Division – Tax Group

PROCEDURE AND ADMINISTRATION

1 CCR 201-1

Rule 39-21-119.5. Requirements for Electronic Filing and Electronic Payment.

Basis and Purpose. The statutory bases for this rule are sections 39-21-102, 39-21-112(1), 39-21-119, 39-21-119.5, 39-21-120, and 39-22-608 C.R.S. The purpose of this rule is to clarify the requirements for electronic filing and electronic payment, the penalty for failure to comply therewith, and the hardship waiver available therefrom.

(1) **General Rule.** Except as otherwise provided in this rule, a return or payment sent to the Department electronically is deemed filed or made on the date and time of its electronic postmark.

(a) A return or payment is deemed timely filed or made if the date of its electronic postmark is on or before its due date; and

(b) A return or payment is deemed delinquent if the date of its electronic postmark is after its due date.

(2) **Definitions.** As used in this rule, unless the context otherwise requires:

(a) "Competent evidence" means testimony from a person other than the taxpayer or documentation, either of which is credible and sufficient to prove that the return or payment was sent to the Department electronically on a specified date at a specified time.

(b) "Electronic postmark" means a record of the date and time when:

(i) The electronic payment is requested to be made to the Department;

(ii) The transmitter received the return on its host computer system, if the Internal Revenue Service (IRS) and the Department accept the first transmission of the return through the IRS Federal/State E-file program; or

(iii) The Department received the return, if the Department accepts the return, either through:

(A) The Department's online portal (*Colorado.gov/RevenueOnline*);

(B) The Department's Sales and Use Tax System;

(C) A transmitter using secure file transfer protocol; or

(D) Another electronic means approved by the Department.

(c) “Payment” means any payment required to be made within the scope specified in section 39-21-102, C.R.S.

(d) “Taxpayer” means a person required to account to the Department for a tax or fee imposed within the scope specified in section 39-21-102, C.R.S.

(e) “Taxpayer ID number” for an electronic payment means one of the following numbers:

(i) Colorado Account Number (CAN),

(ii) Social Security Number (SSN),

(iii) Individual Taxpayer Identification Number (ITIN),

(iv) Federal Employer Identification Number (FEIN), or

(v) Electronic Funds Transfer (EFT) number obtained from the Department prior to making a payment.

(f) "Transmitter" means a person other than the taxpayer that is:

(i) authorized by the IRS to transmit electronic tax return information directly to the IRS, or

(ii) authorized by the Department to transmit electronic tax return information directly to the Department.

(3) **Electronic Filing.** The electronic filing of a return must be completed by electronic means in a form and format that has been approved by the Department. A return filed electronically is deemed filed on the date of its electronic postmark, except that:

(a) *Time Zone Adjustment.* If a return is deemed delinquent and the taxpayer’s residence is in a different time zone from the transmitter or the Department, the taxpayer may request that the Department adjust the date and time of the electronic postmark to the time zone of the taxpayer’s residence;

(b) *IRS Receipt Date Adjustment.* A return the Department accepts through the IRS Federal/State E-file program is deemed filed on the IRS receipt date if:

(i) The transmitter receives the return on or before the due date of the return but transmits the return to the IRS more than two days after the due date; or

(ii) The electronic postmark is after the due date of the return; and

(c) *Rejected Return.* A return rejected by the IRS or the Department is deemed to not have been filed until the taxpayer corrects the return and the Department accepts it, except that:

(i) If the Department accepts through the IRS Federal/State E-file program a return that the IRS previously rejected but the taxpayer corrected within the IRS perfection period for timely filing a corrected return after rejection, the return is deemed filed on the IRS rejection date.

(4) **Electronic Payment.** A payment of any tax or fee to the Department by electronic funds transfer (EFT) must be made via an electronic means approved by the Department, including automated clearing house (ACH) credit or debit, credit or debit card, and international wire transfer.

(a) *Required Information.* An EFT payment must designate a taxpayer ID number, the type of tax or fee, and the tax period to which the payment will apply.

(i) An ACH credit payment must include this information in a Tax Payment (TXP) or Third Party Payment (TPP) addenda record.

(ii) For the taxpayer ID number, a Digital Bill Pay ACH debit payment must use an EFT number obtained in advance from the Department.

(b) *Date and Time of Payment.* A payment with an electronic postmark at or before 11:59 P.M. Mountain Time is deemed made on that day, except that:

(i) A payment made via ACH credit with an electronic postmark on a business day before the originating financial institution's cut-off time is deemed made on that day;

(ii) A payment made via Digital Bill Pay ACH debit, or any such successor payment program, with an electronic postmark on a business day at or before 3:59 P.M. Mountain Time is deemed made on that day;

(iii) A payment made via ACH credit or Digital Bill Pay ACH debit, or any such successor payment program, with an electronic postmark that is not on a business day, or is after the time required pursuant to section 39-21-119.5(6)(c), C.R.S., and paragraphs (4)(b)(i) and (ii) of this rule, is deemed made on the following business day; and(iv) A payment rejected or returned by a financial institution is deemed to not have been made.

(5) **Due Dates.** In order for a return or payment to be deemed timely filed or made on a Saturday, Sunday, or legal holiday under section 39-21-119(3), C.R.S., the Department shall extend its due date to the next business day.

(a) If the due date for a federal income tax return or payment is extended because of Emancipation Day in the District of Columbia, the due date for any corresponding Colorado income tax return or payment is also extended to coincide with the federal due date.

(b) If the due date for a return or payment falls upon Columbus Day, a federal holiday that the State of Colorado does not observe, the due date is extended to the next business day.

(6) **Proof of Submission.** The taxpayer bears the burden to demonstrate, by competent evidence, when a return or payment was sent to the Department, if the return or payment was:

(a) Sent to the Department electronically but not received by the Department; or

(b) Deemed delinquent.

(7) **Penalty.** A taxpayer who fails or refuses to file a return or make a payment electronically as required by section 39-21-119.5, C.R.S., or any Department rule, is subject to the penalty imposed by section 39-21-119.5(5), C.R.S., regardless of whether the taxpayer files the return or

makes the payment by another means, and regardless of whether the Department processes such return or payment, except that such penalty does not apply to:

(a) A return or payment to which a hardship waiver applies pursuant to section 39-21-119.5(6), C.R.S., and paragraph (8) of this rule; or

(b) Annual withholding statements required to be filed electronically pursuant to section 39-22-604(6)(b), C.R.S., and 1 CCR 201-2, Rule 39-22-604(8)(b).

(8) **Hardship Waiver.** The Department may grant a request for a waiver from the requirements to file returns electronically or make electronic payments of any tax or fee enumerated in section 39-21-119.5, C.R.S., or any Department rule, except the requirement to file annual withholding statements electronically pursuant to section 39-22-604(6)(b), C.R.S., and 1 CCR 201-2, Rule 39-22-604(8)(b).

(a) *Requesting a Waiver.*

(i) A taxpayer may request an initial waiver for one year, and then request a renewal of the waiver for one subsequent year, by submitting to the Department form DR 0620, *Request for Hardship Waiver from Electronic Filing and EFT Payment Requirements*;

(ii) A taxpayer who is granted a waiver for two years is not eligible for another waiver, even if electronic filing of returns or electronic payment is subsequently required for an additional tax or fee pursuant to section 39-21-119.5, C.R.S., or any Department rule.

(b) *Waiver Period.* A waiver applies for one year from the date the waiver is granted. A renewal of a hardship waiver applies for one year from the date the renewal is granted or effective, whichever is later.

(c) *Effect of a Waiver.* A waiver applies to all returns or payments that the taxpayer files or makes during the waiver period. During the waiver period:

(i) The taxpayer must still file returns or make payments to the Department as otherwise required, but may do so by a means other than electronically; and

(ii) The taxpayer is not subject to the penalty set forth in paragraph (7) of this rule, but may be subject to other types of penalties and interest.

COLORADO DEPARTMENT OF REVENUE
STATEMENT OF BASIS AND PURPOSE

Requirements for Electronic Filing and Electronic Payment
Rule 39-21-119.5
1 CCR 201-1

Basis

The statutory bases for this rule are sections 39-21-102, 39-21-112(1), 39-21-119, 39-21-119.5, 39-21-120, and 39-22-608, C.R.S.

Purpose

The purpose of this new rule is to clarify provisions of House Bill 19-1256 and to consolidate and explain other requirements for electronic returns and payments that are currently in 1 CCR 201-1, Rule 39-21-119 and Special Rule 1.

Notice of Proposed Rulemaking

Tracking number

2022-00669

Department

200 - Department of Revenue

Agency

201 - Taxation Division

CCR number

1 CCR 201-1

Rule title

PROCEDURE AND ADMINISTRATION

Rulemaking Hearing

Date

12/01/2022

Time

10:00 AM

Location

Virtual Hearing See Comments

Subjects and issues involved

The purpose of this amendment is to remove provisions regarding electronic filing and payment, which are being moved to a new rule, 1 CCR 201-1, Rule 39-21-119.5, and to make grammatical, stylistic, and organizational changes to improve the clarity and readability of the remaining provisions.

Statutory authority

The statutory bases for this rule are sections 39-21-102, 39-21-112(1) and 39 21 119, C.R.S.

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DEPARTMENT OF REVENUE

Taxation Division

PROCEDURE AND ADMINISTRATION

1 CCR 201-1

Rule 39-21-119. Date ~~Document~~ Return or Payment ~~Considered~~ Deemed Filed or Made When Sent by Mail.

Basis and Purpose. The statutory bases for this rule are ~~§~~ sections 39-21-102, 39-21-112(1)~~, §~~ and 39-21-119, ~~§ 39-21-120, § 39-27-117, § 38-28.5-106, § 39-28.8-201, and § 39-28.8-202,~~ C.R.S. The purpose ~~for~~ of this rule is to define the date ~~Documents or Payments are considered~~ a return or payment sent by United States mail is deemed filed with or made to the Department.

(1) **General Rule.** Except as otherwise provided in this rule, a return or payment sent to the Department by United States mail is deemed filed or made on the date of its postmark.

(a) A return or payment is deemed timely filed or made if the date of its postmark is on or before its due date; and

(b) A return or payment is deemed delinquent if the date of its postmark is after its due date.

(2) **Definitions.** As used in this rule, unless the context otherwise requires:

(a) "Competent evidence" means testimony from a person other than the taxpayer or documentation, including a record authenticated by the United States Postal Service as described in section 39-21-119(2), C.R.S., either of which is credible and sufficient to prove:

(i) That the return or payment was sent to the Department by United States mail on a specified date; and

(ii) Whether the return or payment was sent before or after the last collection of mail from the place of deposit.

(b) "Payment" means any payment required to be made within the scope specified in section 39-21-102, C.R.S.

(c) "Postmark" means the official postage cancellation mark that is affixed on the envelope or other appropriate wrapper in which the return or payment was sent to the Department and indicates the place and date of deposit in the United States mail.

(d) "Return" means any report, claim, tax return, statement, or other document required or authorized to be filed within the scope specified in section 39-21-102, C.R.S.

(e) "Taxpayer" means a person required to account to the Department for a tax or fee imposed within the scope specified in section 39-21-102, C.R.S.

(f) "United States mail" means the United States Postal Service or a designated delivery service determined by the Commissioner of the Internal Revenue Service to satisfy the conditions of section 7502(f)(2) of the Internal Revenue Code.

(3) **Rejected Return or Payment.**

(a) A return rejected by the Department is deemed to not have been filed until it is corrected and accepted by the Department; and

(b) A payment rejected or returned by a financial institution is deemed to not have been made.

(4) **Due Dates.** In order for a return or payment to be deemed timely filed or made on a Saturday, Sunday, or legal holiday under section 39-21-119(3), C.R.S., the Department shall extend its due date to the next business day.

(a) If the due date for a federal income tax return or payment is extended because of Emancipation Day in the District of Columbia, the due date for any corresponding Colorado income tax return or payment is also extended to coincide with the federal due date.

(b) If the due date for a return or payment falls upon Columbus Day, a federal holiday that the State of Colorado does not observe, the due date is extended to the next business day.

(5) **Proper Mailing.** This rule only applies if the return or payment was sent in an envelope or other appropriate wrapper that displayed sufficient prepaid postage and was properly addressed to the agency, officer, or office with which the return or payment was required to be filed or made.

(6) **Proof of Mailing.** The taxpayer bears the burden to demonstrate, by competent evidence, when a return or payment was sent to the Department, if the return or payment was:

(i) Sent to the Department by United States mail but not received by the Department; or

(ii) Deemed delinquent because its postmark is illegible, erroneous, or omitted.

~~(1) **General Rule.** A Document or Payment is considered to be filed or made on the date of the postmark displayed on the envelope or other appropriate wrapper or on the date of the Electronic Postmark for a Document or Payment made electronically.~~

~~(2) **Definitions.**~~

~~(a) "Department" means the Colorado Department of Revenue.~~

~~(b) "Document" means any return, report, claim, statement, or other document required to be filed within a prescribed period or on or before a prescribed date that is within the scope of article 21 of title 39 as defined in § 39-21-102, C.R.S.~~

~~(c) "Payment" means any payment required to be made within a prescribed period or on or before a prescribed date that is within the scope of article 21 of title 39 as defined in § 39-21-102, C.R.S.~~

~~(d) "Electronic Postmark" means:~~

(i) for Documents filed through a third party transmitter by means other than those described in paragraphs (2)(d)(ii)-(iv) of this rule, a record acknowledging the date and time that the Document was submitted to the third party transmitter so long as the Department accepts such Document. A transmitter that receives a Document for electronic filing on or before the due date of the Document must ensure that it transmits the electronic Document on or before the due date. If the taxpayer and the transmitter are located in different time zones, the taxpayer's time zone controls the timeliness of the electronically filed Document.

(ii) for income tax returns filed through a third party transmitter that uses the Internal Revenue Service's Federal/State e-file program, a record acknowledging the date and time the return was submitted to the third party transmitter so long as the Internal Revenue Service accepts the return. If the Internal Revenue Service rejects an electronic return and the return is corrected and accepted within the timeframe for timely filing corrected returns after rejection, the Electronic Postmark is the date the initial rejection occurred.

(A) If a return is submitted to the third party transmitter on or before the due date of the return but is transmitted to the Internal Revenue Service after the prescribed due date, the Electronic Postmark will be considered the date submitted to the third party transmitter so long as the third party transmitter transmits the return within two days of the due date.

(B) If the taxpayer and the transmitter are located in different time zones, the Electronic Postmark must display the taxpayer's time zone to determine the timeliness of the electronically filed Document.

(iii) for Documents filed through a third party transmitter that files by secure file transfer protocol, a record of the date and time that the Document was submitted to the Department.

(iv) for Documents filed through the Department's online portal, a record acknowledging the date and time that the Document was submitted on the Department's online portal.

(v) for any form of electronic Payment, a record of the date and time that the taxpayer requested the payment be made.

(3) **Documents or Payments Sent Electronically.** Documents and Payments sent to the Department electronically shall be considered to be filed or paid on the date shown on the Electronic Postmark for such submitted Document or Payment. Any electronic return rejected by the Department will not be considered filed unless, if applicable, it is accepted within the timeframe for timely filing corrected returns after rejection. Unless otherwise indicated in this rule, a Document or Payment with an Electronic Postmark on or before 11:59 P.M. Mountain Standard Time on the due date is considered timely.

(a) *Payments Made by Electronic Funds Transfer.* Payments made by electronic funds transfer must be made on or before 4:00 P.M. Mountain Standard Time on the due date of the Payment in order to be treated as paid on that day. Payments made after 4:00 P.M. Mountain Standard Time are considered to be made on the following day.

(4) **Documents or Payments Sent Manually.** Documents or Payments mailed by the United States Postal Service or any "designated delivery service" determined by the Commissioner of the Internal Revenue Service pursuant to I.R.C. § 7502(f) are considered to be filed and received by the Department on the date shown on the postmark attached to the envelope or other appropriate

wrapper. The Document or Payment shall be considered timely filed or paid if received by the Department after the due date for such Document or Payment so long as the postmark displays a date on or before the applicable due date. If the postmark bears a date after the due date for such Document or Payment, such Document or Payment is delinquent.

(a) This rule shall apply only if the Document or Payment:

(i) is deposited in an envelope or other appropriate wrapper,

(ii) displays sufficient prepaid postage, and

(iii) is properly addressed to the agency, officer, or office with which the Document or Payment is required to be filed or made.

(5) If the due date for a Document or Payment falls upon a Saturday, Sunday, or legal holiday, it shall be deemed to have been timely filed or paid if filed or paid on the next business day.

(a) If the due date for filing or paying federal income tax is extended by virtue of Emancipation Day in the District of Columbia, the due date for the filing or paying of any corresponding Colorado income tax will be similarly extended to coincide with the federal due date.

(6) For any Document or Payment that is submitted by the taxpayer but not received by the Department, the taxpayer bears the burden to demonstrate, by competent evidence, that the Document or Payment was timely submitted. "Competent evidence" means evidence, in addition to the testimony of the taxpayer, that is credible and sufficient to prove that the Document or Payment was actually submitted or sent on a specified date. For Documents or Payments sent by mail, the taxpayer must prove that the Document or Payment was actually deposited in the mail on a specified date before the last collection of mail from the place of deposit.

COLORADO DEPARTMENT OF REVENUE
STATEMENT OF BASIS AND PURPOSE

Date Return or Payment Deemed Filed or Made When Sent by Mail
Rule 39-21-119
1 CCR 201-1

Basis

The statutory bases for this rule are sections 39-21-102, 39-21-112(1) and 39-21-119, C.R.S.

Purpose

The purpose of this amendment is to remove provisions regarding electronic filing and payment, which are being moved to a new rule, 1 CCR 201-1, Rule 39-21-119.5, and to make grammatical, stylistic, and organizational changes to improve the clarity and readability of the remaining provisions.

Notice of Proposed Rulemaking

Tracking number

2022-00671

Department

200 - Department of Revenue

Agency

201 - Taxation Division

CCR number

1 CCR 201-1

Rule title

PROCEDURE AND ADMINISTRATION

Rulemaking Hearing

Date

12/01/2022

Time

10:00 AM

Location

Virtual Hearing See Comments

Subjects and issues involved

The purpose of this amendment is to repeal Special Rule 1 because its provisions have been codified in either section 39-21-119.5, C.R.S., or are being promulgated in 1 CCR 201-1, Rule 39-21-119.5

Statutory authority

The statutory bases for this rule are sections 39-21-112, 39-21-119.5, and 39-26-105.5, C.R.S.

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DEPARTMENT OF REVENUE

Taxation Division

PROCEDURE AND ADMINISTRATION

1 CCR 201-1

Special Rule 1. Electronic Funds Transfer.

Basis and Purpose. The bases for this rule are §§ 39-21-112, 39-22-604, 39-26-105.5, 39-27-105.3, 39-28-104, 39-28.5-106, 39-28.8-202, 39-28.8-304, and 39-29-111, C.R.S. The purpose of the rule is to require certain taxpayers make payments by electronic funds transfer.

(1) **Persons Required to Make Payments by Electronic Funds Transfer.** The following persons must remit payment of the following taxes by electronic funds transfer ("EFT").

(a) *Sales Tax*. Retailers whose annual state sales tax liability for the prior calendar year exceeded $75,000, determined without regard to the amount of state-administered city, county and special district taxes collected by the retailer for the same period.

(i) Retailers who meet this requirement must pay state and state-administered city, county, and special district sales taxes by EFT.

(ii) Retailers who meet the requirements of paragraph (1)(a) of this rule are not required to pay the following fees or taxes by EFT:

(A) retailer's use tax,

(B) county lodging tax,

(C) short term rental tax,

(D) daily rental fee, or

(E) local marketing district tax.

(b) *Wage Withholding Tax*. Employers whose annual estimated withholding tax liability is more than $50,000.

(c) *Gasoline and Special Fuel Tax*. Distributors, importers, exporters, suppliers, carriers, blenders, refiners, terminal operators, or fuel licensees who are required to remit excise tax on gasoline or special fuels imposed by article 27 of title 39, C.R.S.

(d) *Cigarette and Tobacco Products Excise Tax*. Wholesalers and distributors who are required to remit excise tax on cigarettes or tobacco products imposed by articles 28 or 28.5 of title 39, C.R.S.

(e) *Retail Marijuana Sales and Excise Tax*. Persons who are required to remit sales and / or excise tax on retail marijuana imposed by article 28.8 of title 39, C.R.S.

(f) *Withholding of Income from Oil and Gas Interest*. Producers and purchasers who are required to withhold and remit a percentage of gross income paid to owners of oil and gas interests pursuant to § 39-29-111, C.R.S.

(2) **EFT Account Setup.** Persons identified in paragraph (1) of this rule must complete an EFT account setup to make payments by EFT. The EFT account setup must be completed no later than 30 days prior to the due date for the first required EFT payment.

(3) **Payment Date.** Payments made by EFT must be made on or before 4:00 P.M. Mountain Time on the due date of the tax payment in order to be treated as paid on that day. Payments made after 4:00 P.M. Mountain Time are considered to be made on the following day. If the due date for the tax payment is on a weekend or a legal holiday, the due date is the next business day. Payments made on a weekend or legal holiday are treated as paid before 4:00 P.M. of the next business day.

(4) **Undue Hardship.** The Department may waive the requirement to remit by EFT for reasons of undue hardship, subject to reasonable terms and conditions as the Department may prescribe for the proper administration of tax.

(a) *Examples.*

(i) Taxpayer is a retail marijuana cultivation facility and is not able to use a bank account or electronically transmit funds due to various federal laws governing taxpayer's business. Taxpayer has demonstrated undue hardship.

(ii) Taxpayer asserts that its financial institution charges a fee for providing EFT services and the amount of the fee is typical of EFT service fees. Taxpayer has not met its burden of establishing undue hardship.

Cross References

1. Department Publication DRP-5782, "Electronic Funds Transfer (EFT) Program for Tax Payments"

2. Form DR-5785, "Electronic Funds Transfer (EFT) Account Setup For Tax Payments". You may complete this form on Revenue Online.

3. § 39-22-105.5, C.R.S

4. § 39-22-604(4)(a), C.R.S

5. § 39-27-105.3, C.R.S.

6. § 39-28-104, C.R.S.

7. § 39-28.5-106, C.R.S.

8. § 39-28.8-202, C.R.S.

9. § 39-28.8-304, C.R.S.

10. § 39-21-119, C.R.S. and Rule 39-21-119, 1 CCR 201-1.

COLORADO DEPARTMENT OF REVENUE
STATEMENT OF BASIS AND PURPOSE

Electronic Funds Transfer
Special Rule 1
1 CCR 201-1

Basis

The statutory bases for this rule are sections 39-21-112, 39-21-119.5, and 39-26-105.5, C.R.S.

Purpose

The purpose of this amendment is to repeal Special Rule 1 because its provisions have been codified in either section 39-21-119.5, C.R.S., or are being promulgated in 1 CCR 201-1, Rule 39-21-119.5.

Notice of Proposed Rulemaking

Tracking number

2022-00687

Department

700 - Department of Regulatory Agencies

Agency

723 - Public Utilities Commission

CCR number

4 CCR 723-6

Rule title

RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE

Rulemaking Hearing

Date

12/12/2022

Time

11:30 AM

Location

By video conference using Zoom at a link in the calendar of events on the Commissions website: https://puc.colorado.gov/

Subjects and issues involved

The Colorado Public Utilities Commission (Commission) hereby issues this Notice of Proposed Rulemaking (NOPR) regarding the maximum rates by taxicabs for service within established zones mandated by Rule 6255 of the Commissions Rules Regulating Transportation by Motor Vehicle, 4 Code of Colorado Regulations (CCR) 723-6. The Commission proposes to raise the maximum rates established in Rule 6255 for transportation between the defined zones and Denver International Airport (DIA), and transportation within Downtown Denver, by approximately 20 percent. This rule amendment reflects the Commissions intent to respond to a petition filed by the taxi industry to eliminate Rule 6255 on an emergency basis, due to recent inflationary pressures on both drivers and companies.

Statutory authority

The Commission has statutory authority to adopt these rules under §§ 40-2-108 and 40-10.1-103, 106, and 702, C.R.S.

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COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-6

PART 6

RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE

MOTOR CARRIERS PROVIDING TAXICAB SERVICE RULES

6255. Maximum Rates for Transportation to and from Denver International Airport and within the Denver Downtown Area.

Motor Carriers providing Taxicab Service authorized to provide service to or from any portion of the zones listed in this rule shall be subject to all the provisions of this rule and rule 6208.

(a) The zones established in this rule include the following:

(I) Zone A (Downtown Denver): Beginning at the intersection of 11th Avenue and Clarkson Street; the west on 11th Avenue to its intersection with Speer Boulevard; then north on Speer Boulevard to its intersection with 13th Avenue; then west on 13th Avenue to its intersection with Interstate 25; then north on Interstate 25 to its intersection with Park Avenue West; then southeast on Park Avenue West to its intersection with Delgany Street; then north on Delgany Street to its intersection with Denargo Street; then north on Denargo Street to its intersection with Arkins Court; then northeast on Arkins Court to its intersection with 38th Avenue; then southeast on 38th Avenue to its intersection with Marion Street; then south on Marion Street to its intersection with Lawrence Street; then southwest on Lawrence Street to its intersection with Park Avenue West; then southeast on Park Avenue West to its intersection with Clarkson Street; then south on Clarkson Street to the point of beginning.

(II) Zone B (Denver Technological Center): Beginning at the intersection of Dayton Street and Arapahoe Road, then north on Dayton Street to Belleview Avenue, then west on Belleview Avenue to Yosemite Street, then north on Yosemite Street to Quincy Avenue, then west on Quincy Avenue to Monaco Street, then south on Monaco Street to Belleview Avenue, then east on Belleview Avenue to Quebec Street, then south on Quebec Street to Arapahoe Road, then east on Arapahoe Road to the point of beginning.

(III) Zone C (Boulder): Beginning at the intersection of Jay Road and U.S. Highway 36, then northwest on U.S. Highway 36 to Lee Hill Drive, then west on Lee Hill Drive for one mile, then south on an imaginary line for seven miles, then east on an imaginary line to Cherryvale Road, then north on Cherryvale Road as extended to Jay Road, then west on Jay Road to the point of the beginning.

(IV) Zone D (Tower Road): Beginning at the intersection of 56th Avenue and Genoa Street, then north on Genoa Street as extended to 72nd Avenue, then west for one mile along

72nd Avenue, then south along an imaginary line to 56th Avenue, then east along 56th Avenue to the point of the beginning.

(b) Taxicab Drivers shall inform Passengers of the total charge prior to commencing the trip.

(c) The maximum rate for Taxicab Service between the following defined zones and DIA shall be no more than:

(I) Zone A: The zone rate for transportation between DIA and any point in Zone A shall be $~~51.00~~61.00.

(II) Zone B: The zone rate for transportation between DIA and any point in Zone B shall be $~~57.00~~65.00.

(III) Zone C: The zone rate for transportation between DIA and any point in Zone C shall be $~~84.00~~101.00.

(IV) Zone D: The zone rate for transportation between DIA and any point in Zone D shall be $~~24.00~~29.00.

(V) In addition to the above maximum rates, the Taxicab Carrier may charge Access Fees as established by DIA for the use of its facilities for one trip levied upon the Taxicab.

(VI) A drop fee of no more than $5.00 may be charged for each additional drop within the above zones required by members of one traveling party.

(d) Flat Rates within Zone A. The Maximum Rate within Zone A shall be no more than $~~8~~10.00, plus an additional $3.00 drop off fee for each additional stop.

(e) Additional requirements with Multiple Loading. The Taxicab Driver shall inform the parties of the total charge prior to departing from the point of origin of the second traveling party and advise the parties they must determine how much of the total charge each party is obligated to pay. The total charge may be approximated for Taxicab Service provided under subparagraphs (I), (II), or (III) of this paragraph.

(I) If the first party is dropped at a point within a defined zone and additional parties are dropped at different points in the same zone, the total charge (not a per party charge) shall be the appropriate zone rate, plus any applicable airport Access Fee, plus a $5.00 charge for each additional drop within the zone.

(II) If the first party is dropped at a point within a defined zone and the second party is dropped at a point outside of any defined zone the charge for the first party shall be the appropriate zone rate plus the agreed portion of applicable airport Access Fees. The charge for the second party shall be the Meter fare from the first drop point to the second drop point, plus the agreed portion of applicable airport Access Fees.

(III) If the first party is dropped at a point outside of the defined zones, the rates established in this rule shall not apply.

Decision No. C22-0661

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22R-0462TR

IN THE MATTER OF THE PROPOSED RULES REGULATING THE MAXIMUM RATES BY TAXICABS FOR SERVICE WITHIN ESTABLISHED ZONES, 4 CODE OF COLORADO REGULATIONS 723-6-6255 (c) AND (d).

COMMISSION NOTICE OF PROPOSED RULEMAKING

Mailed Date: October 28, 2022
Adopted Date: October 26, 2022

I. BY THE COMMISSION

A. Statement

1. The Colorado Public Utilities Commission (Commission) hereby issues this Notice of Proposed Rulemaking (NOPR) regarding the maximum rates by taxicabs for service within established zones mandated by Rule 6255 of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6. The Commission has statutory authority to adopt these rules under §§ 40-2-108 and 40-10.1-103, 106, and 702, C.R.S.

2. The Commission proposes to raise the maximum rates established in Rule 6255 for transportation between the defined zones and Denver International Airport (DIA), and transportation within Downtown Denver, by approximately 20 percent. This rule amendment reflects the Commission's intent to respond to a petition filed by the taxi industry to eliminate Rule 6255 on an emergency basis, due to recent inflationary pressures on both drivers and companies.

The proposed amendments to Rule 6255 are available for review as Attachment A (redline) and Attachment B (clean) to this Decision through the Commission's Electronic Filings website (Proceeding No. 22R-0462TR) at: https://www.dora.state.co.us/pls/efi/EFI.homepage.

3. The Commission welcomes comments from interested rulemaking participants, regarding the amendments proposed in this NOPR. To the extent a participant disagrees with the proposed amendments, they are encouraged to submit comments that include any suggested revisions to the rule language in legislative (*i.e.,* strikeout) format.

B. Background

4. In Proceeding No. 22M-0355TR, Union Taxi Cooperative (Union Taxi) filed a "Petition for Emergency Rulemaking" to eliminate Rule 6255 and included a letter of support from other Large-Market Taxicab Service (LMT) carriers. In the petition, Union Taxi requested that the Commission open an emergency rulemaking to strike the flat rate zones in Rule 6255, due to the severe economic impact of the recent inflation to drivers and companies. Union Taxi argued that "It is far more equitable to drivers and passengers to pay a metered rate based on distance travelled." By Decision No. C22-0539, mailed on September 13, 2022, in Proceeding No. 22M-0355TR, the Commission denied the petition for emergency rulemaking, but directed Staff of the Commission to address the issues raised in a proposed NOPR.

5. Rule 6255 sets the Maximum Rates for Transportation to and from DIA and within the Denver Downtown Area. Rule 6255(a) establishes four zones, namely Zone A (Downtown Denver), Zone B (Denver Technological Center), Zone C (Boulder), and Zone D

(Tower Road).[1] Rule 6255(c) states that the maximum rate for taxicab service between DIA and the defined zones shall be no more than:

(I) Zone A (Downtown Denver): $51.00.
(II) Zone B (Denver Technological Center): $57.00.
(III) Zone C (Boulder): $84.00.
(IV) Zone D (Tower Road): $24.00.[2]

Rule 6255(d) also mandates that the maximum rate for trips within Zone A (Downtown Denver) shall be no more than $8.00, plus an additional $3.00 drop off fee for each additional stop.

6. A rule establishing flat rates for taxi service to/from DIA was first adopted in 1999.[3] The flat rates were initially set at $43 for Zone A, $45 for Zone B, and $70 for Zone C. In 2009, the flat rates were then increased by approximately 20 percent, to $51 for Zone A, $57 for Zone B, and $84 for Zone C.[4] These are the rates that exist in the current Rule 6255; however, instead of a "flat" rate, it is a "maximum" rate to comply with the statutory mandate found under the relatively new law for LMT carriers.[5] Zone D and the flat rate for trips within Zone A were added in the rulemaking initiated by a NOPR filed on November 30, 2017 in Proceeding No. 17R-0796TR.

C. Description of Proposed Rules

7. Given the long history of established flat rate zones and customer reliance on such flat rates, we propose an increase of approximately 20 percent to the maximum rate (as further described below), instead of eliminating the flat rate zones altogether. We propose that such a

[1] A map of each Taxicab Rate Zone may be found on the Commission's website here: https://sites.google.com/state.co.us/puc-zone-maps.

[2] Per Rule 6255(c)(V) and (VI), the taxicab carrier may also charge access fees as established by DIA and a drop fee of no more than $5.00 for each additional drop within the zone.

[3] *See* Decision No. R99-329, mailed on April 6, 1999, in Proceeding No. 98R-610CP.

[4] *See* Decision No. R09-0149, mailed on February 19, 2009, in Proceeding No. 08R-478TR.

[5] Section 40-10.1-702(5), C.R.S., states: "For each county served by a motor carrier providing large-market taxicab service pursuant to this part 7, the commission shall by rule determine the maximum rate that a motor carrier providing large-market taxicab service may charge its passengers."

maximum rate increase will strike an appropriate balance between offering economic relief to the taxi industry while also protecting the consumer. We specifically invite input from stakeholders on options available to include inflation adjustments within the rule.

8. Proposed Rule 6255(c) is amended to increase the maximum rate for Taxicab Service between the defined zones and DIA by 20 percent, rounded to the nearest dollar. The drop fee of no more than $5.00 for each additional drop within the zones, as allowed by Rule 6255(c)(VI), remains unchanged.

9. Proposed Rule 6255(d) is amended to increase the maximum rate for transportation within Zone A (Downtown Denver) by 20 percent, rounded to the nearest dollar. The additional $3.00 drop off fee for each additional stop remains unchanged.

D. Conclusions

10. Through this NOPR, the Commission solicits comments from interested persons and stakeholders on whether to adopt, revise, or not adopt, some or all of the proposed amendments to Rule 6255, as set forth in the attachments to this Decision and discussed above. The Commission encourages members of the transportation industry and other interested persons to participate in the rulemaking proceeding and to contribute to the rulemaking record, on which the Commission will base its decision on whether to adopt rule amendments.

11. The Commission refers this matter to an Administrative Law Judge (ALJ) for the issuance of a recommended decision. The ALJ will hold a hearing on the proposed rules at the below-stated time and place. In addition to submitting written comments, participants will have an opportunity to present comments orally at the hearing, unless the ALJ deems oral presentations unnecessary. The Commission will consider all comments submitted in this Proceeding, whether oral or written.

II. ORDER

A. The Commission Orders That:

1. This Notice of Proposed Rulemaking, including attachments, shall be filed with the Colorado Secretary of State for publication in the November 10, 2022 edition of *The Colorado Register*.

2. The Commission invites comments from interested persons on the proposed amendments to the Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6, as described in this Decision and its attachments. The Commission prefers and encourages interested persons to file comments through the Commission's Electronic Filings website (Proceeding No. 22R-0462TR) at https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=22R-0462TR

3. This matter is referred to an Administrative Law Judge (ALJ) for the issuance of a recommended decision.

4. A rulemaking hearing on the proposed rules and related matters shall be held before an ALJ as follows:

DATE: -	December 12, 2022
TIME:	11:30 am until not later than 5:00 pm
PLACE:	By video conference using Zoom at a link in the calendar of events on Commission's website, available at: https://puc.colorado.gov/

5. The ALJ will set procedures for a remote hearing, if necessary, by a separate decision issued in this Proceeding.

6. The ALJ may set additional hearings, if necessary.

7. Written comments may be filed at any time in this Proceeding. Initial written comments are requested to be filed no later than November 14, 2022, and any comments responsive to the initial comments are requested to be filed no later than November 30, 2022, so that the initial comments and responsive comments may be considered at the hearing.

8. At the time set for hearing, interested persons may submit written comments and may present these orally, unless the ALJ deems oral comments unnecessary. The Commission will consider all comments, whether written or oral.

9. This Decision is effective upon its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING October 26, 2022.

(S E A L)

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

ERIC BLANK

JOHN GAVAN

MEGAN M. GILMAN

Commissioners

ATTEST: A TRUE COPY

Doug Dean,
Director

Notice of Proposed Rulemaking

Tracking number

2022-00686

Department

900 - Department of Law

Agency

901 - Peace Officer Standards and Training Board

CCR number

4 CCR 901-1

Rule title

PEACE OFFICER TRAINING PROGRAMS AND PEACE OFFICER CERTIFICATION

Rulemaking Hearing

Date

12/02/2022

Time

10:00 AM

Location

Department of Law - Ralph L. Carr Judicial Center, 1300 Broadway, Denver, CO 80203

Subjects and issues involved

Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Statutory authority

Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m).

Contact information

Name

Victoria Edstedt

Title

Administrative Coordinator

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Rule 1 – Definitions

*Effective January 30, ~~2022~~**2023***

As used in these rules

(a) "Academy director" means that person responsible for the administration and operation of a POST-approved academy.

(b) "Applicant" means any person formally seeking approval by the Board.

(c) "Appointed" means sworn in and serving as a peace officer or reserve peace officer**, BUT DOES NOT INCLUDE REHIRING BY THE SAME LAW ENFORCEMENT AGENCY IF THE SEPARATION IS FOR LESS THAN SIX (6) MONTHS, FOR THE PURPOSES OF RULE 29**.

(d) "Approved" means formally accepted or authorized by the Board.

(e) "ACT" means Arrest Control Tactics, one of the skills training programs required for the basic, refresher and reserve training academies.

(f) "Assistant skills instructor" means an individual who has successfully completed a relevant approved skills instructor training program and who may instruct the corresponding skills training program in arrest control, law enforcement driving, or firearms under the direction and in the presence of a full skills instructor, and assist in evaluating and coaching trainees at an approved basic, refresher or reserve training academy.

(g) "Authorized emergency vehicle" means such vehicles as further defined in § 42-1-102(6), C.R.S.

(h) "Board" means the Colorado Peace Officer Standards and Training Board.

(i) "Bodily injury" means physical pain, illness, or any impairment of physical or mental condition, per § 18-1-901(3)(c), C.R.S.

(j) "Certification examination" means the written test required, per § 24-31- 305(1)(a)(III), C.R.S.

(k) "Certified peace officer" means any person who has successfully attained POST Certification, as further described in §§ 24-31-305 and 24-31-308, C.R.S.

(l) “Course” means a formal unit of instruction relating to a particular subject.

(m) "C.R.S." means Colorado Revised Statutes, codified laws of the State of Colorado.

(n) "Director" means the director of the POST Board staff.

(o) “Disqualifying incident” means:

(I) A finding of guilt following either a verdict of guilty by the court or jury, or a plea of guilty, or a plea of nolo contendere., per § 24-31-305(1.5)(a), C.R.S. Any Colorado juvenile adjudication is not a conviction.

(II) Entering into a deferred judgment and sentencing agreement, a deferred prosecution agreement, or a pretrial diversion agreement of any disqualifying incident, whether pending or successfully completed, per §§ 24-31-305(1.5)(b) and 24-31-904(4), C.R.S.

(III) A finding of untruthfulness pursuant to § 24-31-305(2.5), C.R.S.

(IV) Convicted of or pleads guilty or nolo contendere to a crime involving unlawful use of physical force, per § 24-31-904, C.R.S., or a crime involving the failure to intervene in the use of unlawful force, per § 24-31-904, C.R.S. and § 18-8-802(1.5)(a) and (d), C.R.S.

(V) Found civilly liable for the use of unlawful physical force or the failure to intervene in the use of unlawful force, per § 24-31-904, C.R.S.

(VI) An administrative law judge, hearing officer, or internal investigation finds that a peace officer used unlawful physical force, failed to intervene, or violated section 18-1-707, C.R.S. as described in §24-31-904, C.R.S.

(VII) A court, administrative law judge, hearing officer, or a final decision in an internal investigation finds that a peace officer intentionally failed to activate a body-worn camera or dash camera or tampered with any body-worn or dash camera with the intent to conceal unlawful or inappropriate actions or obstruct justice, as described in § 24-31-902(1)(a)(IV), C.R.S.

(VIII) Failure to satisfactorily complete peace officer training required by the POST Board, per § 24-31-305(2.7), C.R.S.

(IX) Making materially false or misleading statements of omissions in the application for certification.

(X) Knowingly or intentionally providing inaccurate data for the database created per § 24-31-303(1)(r), C.R.S.

(XI) Otherwise failing to meet the certification requirements established by the Board.

(XII) A finding by an administrative law judge, hearing officer, or internal investigation of a law enforcement agency that a peace officer violated section 18-8-805, C.R.S. regarding the prohibited use or direction of administration of ketamine.

(p) "Enroll" means that a person has applied to and been accepted for admission into an academy and is physically present at the academy to receive instruction.

(q) "Enrollment date" means the first day of instruction at an approved basic, refresher or reserve training academy, and shall be synonymous with the first day of instruction as reflected on the approved academy schedule.

(r) Fingerprint-based criminal history record check: a search of a person's fingerprints, provided on a POST applicant fingerprint card or a Colorado bureau of investigation (CBI) authorized vendor, and processed by CBI and federal bureau of investigation (FBI) for the purpose of determining a person's eligibility for certification as a peace officer in the state of Colorado.

(s) "Found Civilly Liable" as used in §24-31-904, C.R.S. means, a final judgment of civil liability is entered against a certificate holder, or a judge or jury makes a finding of fact that the certificate holder is civilly liable, in a court of competent jurisdiction, for an event occurring after July 6, 2021.

(t) "Full skills instructor" means an individual who has successfully completed the minimum qualifications required by these Rules and who may develop, implement and evaluate a skills training program at an approved basic, refresher or reserve training academy.

(u) "Incident" means a single, distinct event as determined by the POST Director or designee.

(v) "Lead skills instructor" means a full skills instructor at a basic, refresher or reserve training academy who may be designated by the academy director to oversee or coordinate the administration of a specific skills program for a particular academy class.

(w) "Lesson plan" means a document that specifically describes the material presented during a course of instruction, as further described in POST RULE 21.

(x) "Moving training" means training where the academy students are involved in movement with a loaded weapon. It is recognized that during square range drills, academy students may move 1-2 steps laterally or forward/backward. The 1:1 ratio is not required for this drill. For all other drills/exercises involving movement a 1:1 ratio is required.

(y) "Operable firearm" means a firearm that is capable of discharging a bullet if loaded. This does not include firearms designed or modified to discharge marking cartridges or airsoft projectiles during academy scenario/reality-based training.

(z) "Peace officer" means any person, AS recognized in § 16-2.5-102, C.R.S.

(aa) "POST certified" means any person possessing a valid, numbered certificate issued by the Board authorizing such person to serve as a peace officer or reserve peace officer.

(bb) "POST fingerprint card" means a fingerprint card provided by POST.

(cc) "POST Identification" (PID) means a number assigned and unique to each active peace officer's certification record. All inquiries and correspondence to POST should contain this number.

(dd) “Practical Exercise” means role playing, table top exercises, or other scenario/reality-based training.

(ee) "Program director" means the person responsible for the administration and operation of a POST-approved training program.

(ff) "Provisional certification" means a signed instrument issued by the POST Board that grants interim certification for qualified out-of-state peace officers seeking Colorado certification that enables the provisional applicant to obtain appointment as a peace officer in Colorado while fulfilling the requirements for basic certification.

(gg) "Recognized disciplines for arrest control training" mean those arrest control/defensive tactics systems that have been reviewed and approved by the Board, or it’s designee, in consultation with the Arrest Control Subject Matter Expert Committee for use in an approved law enforcement academy. Such systems may include, but are not limited to, Federal Bureau of Investigation (FBI) system, Koga system and Pressure Point Control Tactics (PPCT) system.

(hh) “Records management system” is an agency-wide system that provides for the storage, retrieval, retention, archiving, and viewing of information, records, documents, or files pertaining to POST operations.

(ii) "Refresher academy" means an approved training program that consists of a minimum of 96 hours of instruction and includes POST Board approved academics, arrest control, law enforcement driving and firearms.

(jj) "Relevant approved skills instructor training program" means a basic, not advanced, instructor training program that contains a minimum of forty (40) hours of instruction with instructional content that meets or exceeds the content of the respective instructor training programs for arrest control, law enforcement driving, or firearms, and has been formally accepted or authorized by the Board.

(kk) "Renewal applicant" means an applicant whose Colorado peace officer certificate has expired per § 24-31-305(1.7)(b), C.R.S., and who has applied to

renew his/her Colorado peace officer certificate in accordance with § 24-31-305(1.7)(c), C.R.S. and POST Rule 13.

(ll) "Reserve peace officer" means any person described in § 16-2.5-110, C.R.S., and who has not been convicted of a felony or convicted on or after July 1, 2001, of any misdemeanor as described in section 24-31-305 (1.5), or released or discharged from the armed forces of the United States under dishonorable conditions.

(mm) "Serious bodily injury" means bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures, or burns of the second or third degree, per § 18-1-901(3)(p), C.R.S.

(nn) "Skills examination" means the approved practical test of an applicant's proficiency in arrest control, law enforcement driving, or firearms.

(oo) "Skills training" means the required approved arrest control, law enforcement driving, and firearms courses.

(pp) "State" means any State in the United States, the District of Columbia, and any territory or possession of the United States.

(qq) "Subject Matter Expert" (SME) means an individual formally recognized by the chair of the Board for his or her extensive knowledge, expertise and/or experience in one of the skills areas or in academics.

(rr) "Successful completion" means a score of seventy (70) percent or greater, or a grade of "C" or better, or a rating of pass, if offered as pass/fail, in a POST approved academy or program. For the certification examination passing score, see Rule 15.

(ss) "Termination for cause" means the certificate holder was terminated from a peace officer position for intentional wrongdoing or misconduct.

(tt) "Test out" means a POST-scheduled skills examination where proficiency is assessed by ~~a~~ POST Subject Matter Experts (SMEs) in all three perishable skills (Arrest Control, Law Enforcement Driving, and Firearms) and the written POST certification exam is administered.

(uu) "Training academy" means a POST-approved school, agency or other entity that provides POST-approved training programs.

(vv) "Training program" means a POST-approved course of instruction required by statute, or Rule, or for peace officer certification and other peace officer training programs as otherwise recognized and approved by the Board.

(ww) “Unlawful Use of Physical Force” as used in §24-31-904, C.R.S. means the use of physical force that violates title 18, C.R.S.

Rule 3 – Director's Authority

*Effective ~~November 1, 2022~~**JANUARY 30, 2023***

a) The Director's authority shall include:

(I) Making the initial determination as to whether an applicant has met the requirements to sit for the certification examination, or to be certified;

(II) Approving or disapproving program applications;

(III) Issuing remedial action and compliance orders for non-compliance with POST rule;

(IV) Determining the equivalency of first aid and cardiopulmonary resuscitation training;

(V) At the Director's**, OR THE DIRECTOR'S DESIGNEE'S,** discretion, selecting qualified evaluators to administer the skills examinations described in Rule 16;

(VI) Determining the merit of challenges relating to the administration of examinations pursuant to Rules 15 and 16;

(VII) Determining the merits of variance requests, consistent with the basic purposes and policies of § 24-31-301, et seq., C.R.S., and of the Board, in accordance with Rule 7 and Rule 8;

(VIII) The Director, or their designee, may approve eyewitness identification training per § 16-1-109, C.R.S., or other statutorily mandated training on behalf of the POST Board.

(IX) Discharging such other powers or duties as the Board or the Attorney General may direct.

(A) Issuing summary suspensions in situations where the board has delegated authority to the director, including:

1) Where a certificate holder has failed to meet in-service training requirements;

2) Where a specific law enforcement training academy class was found to be substantially deficient, such that the certificate holders of that class would pose a danger to the public health, safety and welfare.

b) If any action or determination made by the Director**, OR THEIR DESIGNEE,** pursuant to this rule is not appealed by the applicant within thirty (30) days as provided in Rule 5(e**D**), the Director's**, OR THEIR DESIGNEE'S,** action or determination shall become final agency action.

Rule 5 – Hearings

Effective ~~*May 15, 2022*~~***JANUARY 30, 2023***

a) Show Cause Hearings for revocation or suspension of certification for criminal disqualifying incidents

(I) At any time, the Director or the Director's designee may direct a respondent to appear at a hearing and show cause why the Board should not take disciplinary action of certification for criminal convictions, deferred judgment and sentence agreements, deferred prosecution agreements, or pretrial diversion agreements. Disciplinary action may include revoking, suspending, or voluntary surrender of the certification of a peace officer for a qualifying criminal act.

(A) Not less than forty (40) days prior to the date set for such hearing, the Director or the Director's designee shall transmit to the respondent written notice of the hearing, which must include:

1) The date, time and place of the hearing;

2) An advisement that the respondent has the right to appear and be heard at such hearing, either in person or through legal counsel;

3) An advisement that the respondent has the burden of going forward, and the burden of proving all facts relevant to their position;

4) A concise statement setting forth the subject of the hearing, facts relevant to the matter, and the statute, rule, or order, to which the matter relates;

5) Copies of all documents considered by the Board in setting the hearing; and

6) The nature of the proposed disciplinary action.

(B) Not less than ten (10) days prior to the date set for a hearing pursuant to section (a) of this rule, the respondent shall file a response, including:

1) A concise statement setting forth the respondent's position;

2) All facts relevant to the matter; and

3) Copies of all documents the respondent wishes the Director or the Director's designee to consider in the matter;

4) If applicable, a list of witnesses from whom respondent intends to elicit a statement relevant to the matters at issue; and

5) Notification of the respondent's intent to appear at the hearing. If no such notification is received, the hearing will be cancelled, and the Director or the Director's designee will make a finding on the basis of documents presented.

(C) Actions against certifications may be based upon criminal disqualifying incidents, as defined in Rule 1, of certain offenses as identified or referenced in §§ 24-31-305(1.5), 24-31-904(1)(a)(I), (2)(a)(I).

(D) When the Director receives notice or otherwise learns that a certificate holder was engaged in a criminal disqualifying incident of the enumerated offenses listed in §§ 24-31-305(1.5), 24-31-904(1)(a)(I), (2)(a)(I), the Director shall issue an Order to Show Cause for why the officer's certification should not be revoked.

1) At the show cause hearing, the court record of the conviction or agreement shall constitute prima facie evidence of the conviction or agreement.

2) The certificate holder may be represented by counsel.

3) The certificate holder bears the burden of proving that an exemption from revocation would meet the requirements articulated in Rule 8.

(E) The Director will consider all information provided at the show cause hearing. If the Director determines by a preponderance of the evidence that disciplinary action is not appropriate, no further action will be taken. If the Director determines by a preponderance of the evidence that the disciplinary action is appropriate, the Director will make a recommendation to the Board regarding appropriate disciplinary action or actions.

(II) Any certificate holder or chief law enforcement officer of the employing law enforcement agency ("petitioner") may request a hearing before the Director to address matters of this section (a), through the filing of a petition.

(A) The petition supporting such request must include:

1) The name and address of the petitioner and whether the petitioner currently possesses Colorado POST certification;

2) A concise statement setting forth the subject of the hearing, all facts necessary to the matter, and the statute, rule, or order to which the petition relates;

3) A list of witnesses from whom petitioner intends to elicit a statement relevant to the matters at issue;

4) Copies of all documents the petitioner wishes the Director to consider in the matter; and

5) The action the petitioner wishes the Director to take.

(B) No less than thirty (30) days prior to the date set for a hearing on a petition, the Director shall provide a written response to the petitioner, including:

1) The date, time and place of such hearing;

2) An advisement that the petitioner has the right to appear and be heard at such hearing, either in person or through legal counsel;

3) An advisement that the petitioner has the burden of going forward, and the burden of proving all facts relevant to their petition; and

(III) The parties may mutually agree to shorten or lengthen any of the time frames set forth in these sections a) and b).

b) Administrative Hearings for Disqualifying Incidents Other Than Those Addressed in Subsection (a)(I)(C) of This Rule 5 (not criminal disqualifying incidents)

(I) When POST Staff receives appropriate written notification that a peace officer is subject to action against the peace officer's POST certificate pursuant to disqualifying incidents not related to criminal conduct, POST Staff shall take the following actions:-

(A) The Director shall review the written notification to determine whether the information provided complies with the statutory requirements.

1) If the Director determines that the information provided in the written notification does not comply with statutory

requirements, the Director shall advise the notifying party that determination, and POST will take no further action.

2) If the certificate holder is subject to board action under § 24-31-305(2.5) or for a finding in an internal investigation as outlined in § 24-31-904(1)(a)(III)-(V) or (2)(a)(III)-(IV), C.R.S., and the Director determines that the information provided in the written notification does comply with the statutory requirements, the Director shall notify the peace officer of the right to request a hearing before a hearing officer to determine whether the peace officer certification should be revoked or suspended. The notice must also inform the peace officer that the peace officer must request the hearing within thirty (30) days of the date of the notice, which may be extended for good cause shown.

a. If the peace officer does not request a hearing within the required time frame, the Director will recommend revocation or suspension and the Board will vote on revoking or suspending the certification at its next regular meeting.

b. If the peace officer requests a hearing, the Director will request the law enforcement agency to provide documentation relevant to the information provided in the written notification. The Director will review the documentation provided by the law enforcement agency and conduct additional investigation, if necessary and appropriate. Upon the conclusion of the Director's review and investigation, the Director will either recommend no action or refer the matter for hearing.

(B) If the certificate holder is subject to board action for any other disqualifying incidents not addressed in (a) or (b)(1)(A)(2) of this rule, and the director determines that the information provided in the written notification does comply with the statutory requirements, the director shall review the documentation provided by the notifying party and conduct additional investigation if necessary and appropriate. Upon the conclusion of the director's review and investigation, the director will either recommend no action or refer the matter for hearing.

(C) If the matter is referred for hearing, the Director shall appoint a hearing officer to conduct the hearing in accordance with §§ 24-4-104 and 105, C.R.S.

1) The Director shall advise the notifying party in writing that the matter will be set for hearing and that the law enforcement agency may submit any documentary evidence or argument that it wishes to provide to the hearing officer, and must serve any documentary evidence or argument on all parties. The law enforcement agency may not intervene or participate as a party to the hearing. Documentary evidence or argument must be submitted within fifteen (15) days of notification.

2) The hearing shall be conducted in accordance with § 24-4-105, C.R.S. upon filing of a notice of hearing, the hearing officer shall issue a protective order maintaining confidentiality of internal affairs investigation records, if any.

3) POST will appear at the hearing through its counsel, and will bear the burden of proving grounds for revocation or suspension of the certification by a preponderance of the evidence. The peace officer may be represented by counsel of their choice.

4) At a minimum, the hearing will be audio recorded.

5) Within forty-two (42) days of the conclusion of the hearing, the hearing officer shall prepare and file an initial decision, which the agency shall serve upon the parties. Each decision and initial decision must include a statement of findings and conclusions upon all the material issues of fact, law, or discretion presented by the record and the appropriate order, sanction, relief, or denial. A notice of appeal rights shall be attached to the initial decision.

6) Either party may file an appeal of the initial decision with the POST Board pursuant to § 24-4-105(14), C.R.S. by filing written exceptions within thirty (30) days of the date of service of the initial decision. Any party who seeks to reverse or modify the initial decision shall file a designation of the relevant parts of the record described in § 24-4-105(14), C.R.S. within twenty (20) days of the initial decision. Within ten (10) days thereafter, any other party or the law enforcement agency may also file a designation of additional parts of the transcript of the proceedings which is to be included and advance the cost thereof. All deadlines are jurisdictional and will not be extended. Timely filing is determined by the date the POST Board receives the

appeal. Any appeal must be filed with the POST Board and not the hearing officer.

7) If a party appeals the initial decision of the hearing officer, the appeal must describe in detail the basis for the appeal, the specific findings of fact and/or conclusions of law to be reviewed, and the remedy being sought.

8) The record shall be certified within 60 days of the appeal. Any party that designates a transcript as part of the record is responsible for obtaining and paying a certified court reporter who shall prepare the transcript and file it with the Board no more than 59 days after the designation of record. If no transcript has been filed within the time limit, the record will be certified and the transcript will not be included in the record or considered on appeal. In the absence of a transcript, the POST Board is bound by the hearing officer's findings of fact. No transcript is required if the review is limited to a pure question of law.

9) The POST Board will notify the parties when the record is certified. Opening briefs are due ten (10) days after the notice is served. Answer briefs are due ten (10) days after the opening brief is filed. Reply briefs are due ten (10) days after the answer brief is filed. These deadlines may be extended by the Director or Director's designee upon motion filed before the deadline upon good cause shown. No brief may exceed ten (10) pages without leave of the Director or Director's designee, which must be requested before the due date for the brief.

10) In general, no oral argument will be heard and the POST Board will decide the appeal based upon the briefs. A party may request an oral argument and if requested must be made no later than the date the requesting party's brief is due. If oral argument is granted, the parties will be given notice of the time and place. If granted, oral argument will be limited to no more than ten (10) minutes per side. The moving party may reserve part of its time for rebuttal.

11) If neither party appeals, the initial decision of the hearing officer becomes the final decision of the POST Board thirty (30) days after the date of the initial decision.

c) Appeals of fines or other administrative sanctions issued by the Attorney General:

(I) The administration of a fine or other administrative sanction by the Attorney General for violations of part 3, article 31, title 24 of the Colorado Revised Statutes or any rule promulgated under such authority is final unless appealed to the **D**~~d~~irector within thirty (30) days of such decision.

(II) Appeals of fines or other administrative sanctions shall be referred to a hearing officer, per § 24-4-105, C.R.S.

(A) The initial decision of the hearing officer, including the hearing officer's recommendations and any exceptions by the parties, shall be reviewed by the Board, which will adopt or reject the initial decision in whole or in part upon the issuance of a final agency order.

d) Appeals ~~from Director~~ **OF** Decisions **OF THE DIRECTOR OR THEIR DESIGNEE** relating to Show Cause Hearings, Variance Decisions, or Other ~~Director~~ Decisions:

(I) A decision by the Director **OR THEIR DESIGNEE** is final unless appealed to the Board within thirty (30) days of the date of such decisions.

(II) If a ~~Director~~ decision **BY THE DIRECTOR OR THEIR DESIGNEE** is appealed to the Board, the Board will decide whether to hear the appeal. An appeal of the Director's**, OR THEIR DESIGNEE'S,** decision in the form of a notice of appeal must be made in writing and submitted to the POST Director. A notice of appeal will be brought before the board at the next scheduled meeting date. If a majority of the POST Board members agree to hear the appeal, a five-member panel of Board members shall proceed to hear the Board appeal. The appeal hearing must commence within forty-five (45) days from the date the Board agreed to hear the appeal. The certificate holder will be notified of the Board's action. This decision, whether summarily affirmed or decided by the board subcommittee, shall constitute Final Agency Action. The appellant will be notified of the Board's action.

e) Final Agency Action relating to the application of this Rule 5 is subject to judicial review under § 24-4-106, C.R.S.

(a) The Board may, upon sufficient cause shown, authorize variances to persons who are otherwise required to meet the requirements of these rules.

(b) To request a variance, an applicant must submit a written petition to the Director **OR THE DIRECTOR'S DESIGNEE**, fully explaining all relevant facts. Any person seeking a temporary or permanent variance has the burden of establishing that:

(I) The variance is consistent with the basic purposes and policies of § 24-31-301, et seq., C.R.S.; and

(II) Strict application of the statutes and rules pertaining to the certification process would present a practical difficulty or unnecessary hardship. Mere inconvenience or expense does not suffice.

(c) The Director **OR THE DIRECTOR'S DESIGNEE**, in ~~the Director's~~ **THEIR** discretion, may determine the merits of the request based upon the applicant's written submissions, or may request additional information, or may hold a meeting.

(d) Any variance granted under this rule shall be subject to such limitations or conditions as the Director**, DIRECTOR'S DESIGNEE,** or Board deems necessary in order to conform to the basic purposes and policies of applicable law.

(I) A temporary variance is valid for six (6) months from the date of issue. One variance may be granted at the discretion of the Director **OR THE DIRECTOR'S DESIGNEE** per incident.

(e) If any determination made by the Director **OR THE DIRECTOR'S DESIGNEE** pursuant to this rule is not appealed by the applicant within thirty (30) days pursuant to Rule 5(**e**D), such determination shall become final.

(f) Pursuant to § 24-31-303(5)(a) and § 24-31-305(1)(a)(III), C.R.S., no person may, through a variance or otherwise, serve as a certified peace officer, as defined in § 16-2.5-102, C.R.S., without having first passed the required certification examination and become certified.

(g) Pursuant to § 24-31-303(1)(r), C.R.S., the process outlined in subsection (b) of this Rule 7 applies to a peace officer seeking review of a peace officer's status in the database created per §24-31-303(1)(r), C.R.S.

Rule 8 – Process for Seeking Exemption from Statutory Certification Restrictions

Effective ~~*May 15, 2021*~~***JANUARY 30, 2023***

(a) The Board has promulgated these rules to ensure orderly and fair treatment of all POST approved training academy, renewal and provisional peace officer applicants. § 24-31-305, C.R.S., requires the POST Board to deny or revoke certification of any person with a disqualifying incident.

(b) If an applicant anticipates prior to the denial of certification that they will be denied certification on the ground that the applicant has a disqualifying incident, the applicant must provide a fingerprint-based criminal history record check, by submitting fingerprints to the Colorado Bureau of Investigation and the U.S. Federal Bureau of Investigation, and request an exemption from denial of certification. When POST receives the criminal history and exemption request, it will process the exemption request using the process described in section (c) of this Rule 8.

(c) To seek an exemption of a certification denial, or to request a reinstatement following a certification revocation **OR SUSPENSION**, the applicant or the chief law enforcement officer, if any, of the potential employing agency, or the effected certificate holder, must submit a written petition to the Director **OR THEIR DESIGNEE**, notifying of such disqualifying incident, and requesting that the Director **OR THEIR DESIGNEE** to grant the applicant an exemption from certification denial, or to the affected certificate holder certificate reinstatement of the certificate. The petition must fully explain all relevant facts. Any person seeking an exemption from certificate denial or reinstatement of a certificate due to a disqualifying incident has the burden to establish:

(I) The exemption or reinstatement is consistent with the basic purposes and policies of § 24-31-305, et seq., C.R.S., including § 24-31-305(1.5)(b), if applicable;

(II) Mitigating circumstances exist that warrant exemption or reinstatement;

(III) Certification would be in the public interest; and

(IV) A true and accurate copy of the court record with disposition, law enforcement offense/case report from the disqualifying incident, and/or any other relevant documentation of a disqualifying incident, is attached to the petition. If the charging agency no longer has a copy of the report, a letter from the agency verifying that fact should be attached.

(d) The Director **OR THEIR DESIGNEE**, at their discretion, may determine the merits of the request based upon the petitioner's written submissions, may request additional information, or may hold a meeting**.**

(e) Any exemption granted under this rule shall be subject to such limitations or conditions as the Director**, OR THEIR DESIGNEE,** or Board deems necessary in order to conform to the basic purposes and policies of applicable law.

(f) The Director's**, OR THEIR DESIGNEE'S,** decision may be appealed by following the process outlined in Rule 5 – Hearings.

(g) In accordance with § 24-31-303(5)(a) and § 24-31-305(1.6)(a)(b), C.R.S., no person may, through an exemption or otherwise, serve as a certified peace officer, as defined in § 16-2.5-102 or § 16-2.5-110, C.R.S., without having first passed the required certification requirements and become certified.

(H) NO PERSON CONVICTED OF A FELONY MAY REQUEST AN EXEMPTION FROM DENIAL OF ENROLLMENT.

Rule 11 – Provisional Certification

*Effective ~~November 15, 2020~~**JANUARY 30, 2023***

(a) The Board is authorized to issue a provisional certification letter to any applicant who is authorized to serve as a certified peace officer by any other state or federal jurisdiction, excluding the armed forces, which has established minimum law enforcement training standards that are substantially equivalent to the standards established by Colorado as determined by the Director. The

provisional applicant must be fully certified within the preceding three years and have served as a certified law enforcement officer in a full or part-time status in good standing in such other state or federal jurisdiction for more than one year, per § 24-31-308 (1)(a), C.R.S. The applicant must additionally meet all of the following requirements:

(I) Possess and submit a copy of their high school diploma, or high school equivalency certificate, or other evidence of successful completion of high school, including official college transcripts or degree,

(II) Possess and submit a copy of their current first aid and cardiopulmonary resuscitation certification, or equivalents;

(III) Truthfully complete and submit the POST Form 3 – Application for Provisional Certification and a notarized copy of the Release of Information Form;

(IV) Is in good standing with Colorado POST as determined by the director;

(V) Successfully completes the fingerprint-based criminal history record check required under Rule 14;

(VI) If applicable, submits a copy of their official military discharge documents showing character of service and discharge under other than dishonorable conditions; and

(VII) Pass the certification examination or, if leaving active out-of-state (the state in which the individual is certified) or federal peace officer employment, pass the certification exam within six (6) months from the date of issuance of the provisional certification.

(VIII) Provisional certification applications are valid for one year from date of submission.

(b) If an applicant becomes ineligible prior to receiving their provisional certification letter due to time-in-service requirements, the applicant must request and be granted a Rule 7 variance in order to move forward in the provisional process.

A provisional certification letter authorizes the holder to serve as a certified Colorado peace officer for not more than six (6) months.-

(c) At the discretion of the Director **OR THEIR DESIGNEE**, a variance may grant a single six (6) month extension to the Provisional certification, upon the showing of good cause.

(d) The Board shall issue a basic certificate to the holder of a provisional certification letter if such person satisfies one or any acceptable combination of the following skills proficiency requirements, or, if leaving active out-of-state (the state in which the individual is certified) or recognized federal peace officer employment, satisfies one or any acceptable combination of the following skills proficiency requirements within six (6) months from the date of issuance of the rovisional certification:

(I) Successfully completes skills training at a POST-approved basic peace officer training academy;

(II) Successfully completes a POST-approved refresher academy, including the arrest control, law enforcement driving, and firearms skills training;

(III) Passes a test out pursuant to Rule 16 with SME committee members or POST-approved designees who are not members of the applicant's employing agency.

(e) Upon issuance of a provisional certification and appointment to an agency the individual must comply with the training requirements outlined in § 24-31-315, C.R.S., within six months of date of appointment.

(I) Complete 2 hours of training in each of the following areas: anti- bias, community policing, situational de-escalation, and proper holds and restraints.

(f) The POST-approved skills instructor must submit the completed *POST Skills Testing Grade Sheet* to POST.

(g) Persons desiring additional time to complete the basic certification requirements beyond the initial six (6) months provided by the provisional certification letter must submit a variance request to the Director **OR THEIR DESIGNEE** and demonstrate good cause why such additional time should be granted.

(h) An applicant may complete the provisional certification process while their application is valid, regardless if their provisional certification letter has expired. however, the applicant may not work as a certified peace officer if their provisional certification letter is not valid or has expired.

Rule 14 – Fingerprint-Based Criminal History Record Check

*Effective ~~November 1, 2022~~**JANUARY 30, 2023***

a) No person shall be eligible for certification as a Colorado peace officer if they have a disqualifying incident.

b) Per § 24-31-304, C.R.S. and POST Rules, all persons seeking to enroll in a training academy shall submit their fingerprints to CBI no more than 60

days prior and at least one week before enrolling in the training academy. The academy must notify POST when fingerprints are submitted.

(I) All fingerprint results must be received by post no later than two weeks after enrollment date.

c) All persons seeking to apply for provisional or renewal certification must submit fingerprints to CBI as part of the application process pursuant to Rule 11 and 13.

d) POST Applicant Fingerprint results.

(I) The Board recommends that an applicant's fingerprints be submitted electronically by a CBI-authorized vendor or a LEA authorized by CBI to submit fingerprints for POST. When this is not possible, the applicant can submit fingerprints using the POST Applicant Fingerprint Card, obtained directly from POST. Any fees associated with this service are the responsibility of the applicant.

(II) Provisional and renewal applicants may request the POST Applicant Fingerprint Card when they are unable to submit fingerprints electronically. The applicant is responsible for having their fingerprints taken prior to the applicant's participation in the testing process as a provisional or renewal applicant.

(III) Applicants enrolling in a basic or reserve training academy fingerprinted in accordance with the academy's policies and procedures. The academy is responsible for ensuring that fingerprints are submitted to CBI by a CBI-authorized vendor or that the completed POST Applicant Fingerprint Card and fee are submitted to CBI prior to the applicant's enrollment in the academy.

(IV) Fingerprint results are valid throughout the certification process and through the life of certification. If certification expires or is revoked they become invalid. Applicants renewing their certification must submit new fingerprints.

e) Results from completed criminal history record checks.

(I) The Board shall be the authorized agency to receive the results from all POST Applicant Fingerprint submissions that have been processed for the state and national fingerprint-based criminal history record checks.

(II) All results from the completed criminal history record checks will be provided to the POST Director **OR THEIR DESIGNEE**. Notice of subsequent arrests and convictions resulting in denial of certification will be provided to the Board.

f) Basic and reserve training academies.

(I) A training academy shall not enroll any person who has been convicted of an offense that would result in the denial of certification pursuant to § 24-31-305(1.5), C.R.S. The only exception shall be if the Board has granted the person an exemption from denial of enrollment pursuant to § 24-31-304(4)(a), C.R.S. and POST Rule 7, *Variances*.

(II) No person shall be enrolled in a training academy unless the person has been fingerprinted on a POST Applicant Fingerprint Card and an academy has submitted the person's completed POST Applicant Fingerprint Card and fee to CBI, or fingerprints have been submitted by a CBI-authorized vendor, prior to enrolling the person in the academy.

(III) A POST Form 11-E, *Enrollment Advisory Form*, shall be completed on the first day of the academy by both the person enrolled in the academy and the academy director or designee. The completed *Enrollment Advisory Form* shall be maintained at the academy.

(IV) The academy director shall ensure that an accurate and complete enrollment roster for each academy class is received at POST electronically by the day after the academy commences. The enrollment roster will be completed on the template provided by POST to the academy director.

(A) The enrollment roster must be fully completed with all personal information, education, military service, etc. and returned to POST staff. After entry, the roster will be returned to the academy director with assigned PID numbers.

(V) If the results of a criminal history record check reveal that a person currently enrolled in an academy is prohibited from enrolling pursuant to § 24-31-304(2), C.R.S., the Board or its designated representative(s) shall notify the academy. The academy shall take appropriate measures to immediately dismiss the person from the academy.

g) Exemption from denial of enrollment.

(I) If a person anticipates that he or she will be prohibited from either enrolling in a training academy or participating in the testing process as a provisional or renewal applicant because he or she has been convicted of any misdemeanor described in § 24-31-305(1.5), C.R.S., the person may submit a request for exemption from denial of enrollment under POST Rule 8, ~~*Appeal Process for Peace Officer Applicants - Certification Denial as a Result of a Misdemeanor Conviction*~~ **PROCESS FOR SEEKING EXEMPTION FROM STATUTORY CERTIFICATION RESTRICTIONS**.

(II) Only if the person has, in fact, submitted a request for exemption from denial of enrollment under POST Rule 8, *Appeal Process for Peace Officer Applicants - Certification Denial as a Result of a Misdemeanor Conviction*, and the request has been granted by the Board, will the person be permitted to either enroll in a training academy or participate in the testing process as a provisional or renewal applicant.

(III) No person convicted of a felony may request an exemption from denial of enrollment.

Basic, Provisional, Renewal

*Effective ~~January 30, 2021~~**JANUARY 30, 2023***

(a) To be eligible to take the certification examination, an applicant must have completed and submitted to POST, as applicable:

(I) Form 1 - Application for Basic Peace Officer Certification; or
Form 3 - Application for Provisional Certification; or
Form 4 - Application for Renewal of Basic Certification; and

(II) A copy of their approved basic training academy diploma, or other evidence of successful completion; and

(III) A copy of their high school diploma, high school equivalency certificate or other evidence of successful completion of high school, including official college transcripts or college degree as evidence that the applicant has met the high school completion requirement; and

(IV) A copy of their current first aid and cardiopulmonary resuscitation certification, or equivalents; and

(V) A copy of their current driver's license or state-issued identification card; and

(VI) If applicable, a copy of their official military discharge documents showing character of service other than dishonorable conditions per § 24- 31-301(5), C.R.S.

(VII) A law enforcement agency check, certified check, money order, or electronic payment in the prescribed amount.

(b) Certification examinations will be conducted by POST staff or POST approved designated proctor at academy locations. However, if the number of students sitting for the examination is four (4) or fewer, the students shall be required to take the examination at a location designated by POST. Additional exam dates will be offered periodically at POST for individuals.

(c) Refunds of certification examination fees shall not be provided unless the examination is postponed or canceled or under such other exceptional circumstances as determined by the Director**, OR THEIR DESIGNEE**. Otherwise, non-refunded fees may be credited to allow the applicant to take the next administration of the certification examination. Further credits or extensions shall not be permitted.

(d) An applicant has a maximum of three attempts to pass the POST certification examination within two years of graduating the academy, or within one year of beginning the provisional or renewal process. Applicants taking the examination for a second or third time must pay the fee for the additional examination, and such examination shall not be comprised of the same questions that comprised the prior examinations. If an applicant cannot pass the certification examination after three attempts, the applicant must retake and successfully complete the academic portion of a basic academy in accordance with Rule 10 at the discretion of the academy director and in coordination with POST.

(e) Any protest or challenge to an examination or its administration must be made in writing within ten (10) days of the examination. The Director**, OR THEIR DESIGNEE,** shall issue his decision in writing within twenty (20) working days. The decisions of the Director**, OR THEIR DESIGNEE,** shall be final, unless appealed to the Board in accordance with Rule 5(e**D**).

(f) POST sets a passing score that reflects the level of knowledge and skills required for minimally competent performance as an entry-level Peace Officer in the State of Colorado. POST uses national testing standards in setting the passing score which falls on a test score scale that ranges from 0 to 100.

Applicants

*Effective January 30, ~~2021~~**2023***

(a) To be eligible to take any of the skills examinations, an applicant must complete and submit all applicable POST form(s) as set forth in POST Rule, including POST Form 3 – *Application for Provisional Certification* and/or POST Form 4 – *Application for Renewal of Basic Certification* along with a law enforcement agency check, certified check, money order, or electronic payment in the prescribed amount for each examination to be taken (prior to the day of the exam).

(b) Refunds of skills examination fees shall be provided only if requested more than twenty (20) days prior to the scheduled examination, unless the examination is postponed or canceled, or under such other exceptional circumstances as may be determined by the Director**, OR THEIR DESIGNEE**.

(c) Only SME members, or the Director's designee, may conduct skills examinations.

(d) An applicant will be permitted three formal attempts to successfully complete each skills exam.

(I) Starting any skills exam is considered one attempt.

(II) An applicant may only coordinate additional attempts with POST staff in advance.

(III) Payment for each attempt must be submitted prior to the exam.

(IV) Multiple attempts may be permitted at the discretion of the SME member administering the test out. POST may or may not assess an additional exam fee.

(e) If an applicant has failed a skills examination on three (3) formal attempts, the applicant then has two (2) years to complete the basic academy training program for that skill at a Colorado POST-approved basic or reserve academy at the discretion of the academy director and in coordination with POST. If the applicant does not complete the required training within the two (2) years following their last skills examination attempt, they must complete a full basic academy.

(f) Skills examination scores are valid for two (2) years from the date of the last registered score with POST. All skills exams must be taken and successfully completed within two years of the initial application date.

(g) Any protest or challenge to an examination or its administration must be made in writing within ten (10) days of the examination. The Director**, OR THEIR DESIGNEE,** shall issue a decision in writing within twenty (20) working days. The decision of the Director**, OR THEIR DESIGNEE,** shall be final, unless appealed to the Board in accordance with Rule 5(e**D**).

Rule 21 – Basic, Refresher and Reserve Training Academies

Effective ~~*November 1, 2022*~~***JANUARY 30, 2023***

a) Academy approval.

(I) All aspects of an academy must be in compliance with POST Rules and Program requirements before academy approval will be considered.

(II) Only an academy that is approved by POST may provide training required for certified peace officer status; and

(III) Each scheduled academy class of an approved training academy must be approved prior to the start of instruction.

b) Continuing academies.

(I) A continuing academy is an approved Basic, Refresher or Reserve academy that conducts and completes at least one approved academy class every three (3) years and operates in compliance with these rules. Three (3) years is defined by the enrollment date of the last academy completed.

(II) If a continuing academy does not complete at least one approved academy class in any consecutive three (3) year period, approval of the academy shall expire. An expired academy must reapply for approval as a new academy and must be approved by POST prior to providing any academy instruction.

(III) Other than as referenced in the preceding paragraph (II), a continuing academy may remain approved unless its status is surrendered, suspended or revoked.

(IV) The academy director must ensure that the following items are submitted electronically to POST at the same time and are received by POST at least thirty (30) days**,** but no more than sixty (60) days, prior to the start of instruction for each scheduled academy class of the approved training academy:

(A) A completed POST Form 7, *Application for Academy Approval*;

(B) A completed "*Scheduling Request for POST Exam*" form (Basic and Refresher academies only); and

(C) A complete and accurate academy schedule with the following information clearly noted on the schedule:

1) Name of the academy and academy class number as listed on the POST Form 7, *Application for Academy Approval*; and

2) All courses, dates and times in chronological order for each course, major exams and the name of the primary instructor for each course;

3) All dates and times when arrest control drill training, night driving and dim light shooting will be instructed;

4) For arrest control and firearms training, if the schedule shows more than eight (8) hours of instruction in any one day, then the schedule must denote lab or lecture hours, as appropriate; and

5) If multiple courses are listed within the same block of time on the schedule, then either the schedule itself or accompanying documents must specify the amount of time that will be instructed for each course.

6) All courses required by the basic academic training program must be scheduled and completed prior to administration of the POST certification examination.

(V) The academy director shall ensure that an accurate and complete enrollment roster for each academy class**, ALONG WITH THE REQUIRED ENROLLMENT DOCUMENTS, ARE** ~~is~~ received at POST electronically by the day after the academy commences. The enrollment roster will be completed on the template provided by POST to the academy director. See **THE ENROLLMENT CHECKLIST AND** ~~also~~ POST Rule 14, *Fingerprint-Based Criminal History Record Check*.

(VI) The academy director shall notify POST prior to the occurrence of any change of the academy's **APPROVED SCHEDULE** ~~start date or end~~

~~date~~, to include cancellation of the academy, as submitted to POST on the Form 7, *Application for Academy Approval*.

(VII) All academies not based at a law enforcement agency shall establish an advisory committee that consists of law enforcement officials, administrators and community members to assist with providing logistical support and validation of training.

(VIII) Existing academies must petition the POST Board every five (5) years to renew their authority to operate a law enforcement training academy.

c) New academies.

(I) A new academy is either a Basic, Refresher or Reserve academy that has never conducted approved training, or a Basic, Refresher or Reserve academy that has not conducted approved training within the previous three (3) years.

(II) Entities interested in creating a new POST Approved Law Enforcement Training Academy must receive approval from the POST Board prior to application. The entity must present a feasibility study to demonstrate the academy could be successful, demonstrate the need for a new academy, as well as mitigation of workload on POST staff and SME's.

(III) The academy director of a proposed new academy shall contact POST at least Twelve (12) months prior to the anticipated start date of the new academy to ascertain application procedures and deadlines for submitting documents for new academy approval.

(IV) The following types of academies are considered separate academies that must be individually approved:

(A) Basic, Refresher and Reserve academies even if operated by the same agency, organization, or academic institution.

(B) Academies located either on a satellite campus, or at a different physical location than the primary academy.

(V) The proposed formal name of an academy must neither misrepresent the status of the academy, nor mislead law enforcement or the public.

(VI) Required documentation that must be submitted for new academy approval includes, but is not limited to, a video in a digital media format approved by POST of all proposed sites where academic instruction and skills training will take place, site safety plans, lesson plans for all academic courses and all skills training programs for the Basic, Refresher or Reserve Academic Training Program, resumes for all academic instructors, and documentation of qualifications for all skills instructors.

(VII) Once a proposed new academy begins the approval process by submitting any of the required documentation listed in the preceding paragraph (VI) to POST, the proposed new academy shall have a maximum of twelve (12) months to complete the new academy approval process, including approval of all site safety plans, lesson plans, and other associated documents.

(VIII) The director of a proposed new academy shall also ensure that the documents required to be submitted by continuing academies, as listed in paragraph (b)(IV) of this Rule, are received at POST at least thirty (30) days, but no more than sixty (60) days, prior to the start of instruction.

(IX) Prior to approval, the proposed new academy must pass an on-site pre-approval inspection conducted by the Director or the Director's designated representative(s).

d) Training sites, site safety plans and equipment.

(I) An academy shall have the following training sites and facilities:

(A) For academics: A classroom with adequate heating, cooling, ventilation, lighting, acoustics and space, reasonable access to restroom facilities and a sufficient number of desks or tables and chairs in the classroom for each trainee;

(B) For firearms: A firing range with adequate backstop and berms to ensure the safety of all persons at or near the range, and some type of visual notification (range flag, signs, lights, or other) whenever the range is being utilized for live fire;

(C) For driving: A safe driving track for conducting law enforcement driving;

(D) For arrest control: An indoor site for instructing arrest control training with sufficient space and mats to ensure trainee safety;

(E) For practical exercises and wellness training: Appropriate and safe locations for conducting all practical exercises and wellness lab training**;**

(F) Where practicable, all training sites should be clearly marked denoting that law enforcement training is in progress; and

(G) Online/remote training is not allowed without expressed written permission from POST.

(II) Approval of training sites.

(A) All new training sites for academic classroom instruction and skills training must be approved by POST in consultation with the appropriate subject matter expert committee prior to conducting any training at the site.

(B) Each academy is responsible for obtaining approval for all of its training sites of academic instruction and skills training.

(C) Academy directors shall ensure that all sites for practical exercises and wellness lab training are safe and that appropriate training can be accomplished at the site to achieve the course objectives or performance outcomes.

(D) Presumed approval or use of a specific site by one academy does not extend to automatic approval of the site for use by other academies.

(E) If an approved site is not utilized during any consecutive three (3) year period by any academy for the type of training for which the site was initially approved, then site approval expires. In order to resume training at an expired site, the site must be resubmitted for approval and approved.

(F) The following items must be submitted to POST in order for approval of a new or expired training site to be considered:

1) Video in a digital media format approved by POST that accurately depicts the site where instruction is to take place;

2) A detailed description of the site must be included, either as verbal narrative on the video or as a written supplement; and

3) An up-to-date written site safety plan.

(G) If an approved site has been in continuous use by at least one approved academy for at least the previous three (3) consecutive years and an additional academy seeks approval of the same site:

1) The director of the additional academy may submit a written request to POST that includes the location and/or description of the site, in lieu of the video; and

2) An up-to-date written site safety plan must be submitted to POST that is specific to the site and to the additional academy; and

3) Both the site and the safety plan must be approved by POST in consultation with the appropriate subject matter expert committee prior to conducting any training at the site.

(H) Academy Directors have discretion to utilize other classroom facilities as necessary for academic programs, provided those facilities are appropriate, safe and adhere substantially to the statements set forth in this part (d). This section is intended to allow such use of other facilities due to a facility emergency or for unique situations where a primary facility is not available or it is not desirable for the intended academic class.

1) In such cases where a primary classroom facility is rendered unusable for a period reasonably anticipated to exceed 21 continuous days, the Academy Director shall notify POST and submit an alternative training site plan for approval.

(III) Site safety plans.

(A) Each site of skills training and academic or classroom instruction must have an up-to-date and approved written site safety plan posted on site during any academy training at the site, or issued to, and present on the person of, each recruit and instructor.

(B) Copies of all site safety plans must also be on file at the academy at all times.

(C) Each site safety plan shall include procedures for managing medical emergencies, injuries, or accidents that are probable or likely to occur at the site.

(D) All site safety plans must include the information contained in POST Rule 21 (h), Duty to Report.

(E) All academy staff members, instructors and trainees shall be familiar with the content of each site safety plan as it pertains to the nature and scope of their involvement with the academy.

(IV) Equipment.

(A) An academy shall have and maintain the necessary equipment and instructional aids in sufficient quantities for conducting all aspects of the required academy training program; and

(B) All training sites and facilities, equipment, books, supplies, materials and the like shall be updated and maintained in good condition.

(C) The following items shall be present at each training site during any academy training at the site:

1) An effective means of summoning emergency medical assistance; and

2) A first aid kit that contains appropriate supplies to treat medical emergencies or injuries that are likely to be sustained at the site.

e) Academy directors.

(I) Qualifications. Each academy shall designate an on-site academy director whose qualifications, based upon education, experience and training, demonstrate his or her ability to properly manage the academy.

(II) Compliance. The academy director shall ensure that the academy operates in compliance with all POST Rules.

(III) Records. The academy director shall be responsible for establishing and maintaining a records management system that includes, but is not limited to, enrollment rosters, POST Form 11-E's, trainee files, trainee manuals, attendance records, lesson plans, source material, instructor files, instructor/course evaluations and site safety plans.

(IV) Change of director. The academy director or authorized representative of an academy shall notify POST as soon as practicable of any change of academy director or any change of the academy director's electronic mailing address.

f) Curriculum requirements.

(I) Academic standards.

(A) All training academies shall meet or exceed the required course content and minimum number of hours for each academic course of instruction and for each of the skills programs as required by the Basic, Refresher or Reserve Academic Training Programs.

(B) Successful completion required.

1) Trainees must successfully complete the Basic, Refresher or Reserve Academic Training Programs with a minimum score of seventy percent (70%); and

2) Trainees must successfully complete all skills training as required by the Arrest Control Training Program, Law Enforcement Driving Program and Firearms Training Program.

3) If an academy applies a higher standard than what is required by the preceding paragraphs (1) and (2), the higher standard must be described in the Trainee Manual and in the respective skills lesson plans or course materials, as applicable.

(II) Attendance.

(A) Skills training. For all hours of all skills training programs, 100 percent attendance and participation are required.

1) Skills training classes missed due to circumstances beyond the student's control shall be completed in person and before the end of the academy session.

(B) Academic training. For all hours of academic training, 100 percent attendance and participation are required.

1) Academic classes missed due to circumstances beyond the student's control may be made up in a virtual format. These virtual make up courses may not exceed ten percent of the academy session's total hours and must be completed before the end of the academy session.

(C) Written attendance records are required.

1) For trainees: Written daily attendance records that are accurate and up to date shall be kept for all trainees enrolled in all academic classes and all skills training programs.

2) For instructors: Written attendance records that are accurate and up to date shall be kept for all instructors who teach any portion of a training program.

3) For skills training, the format of the attendance records must clearly substantiate that the minimum ratios required by Rule 24, *Skills Training Safety and Skills Program Requirements for Basic, Refresher and Reserve Academies*, have been met.

(III) Lesson plans.

(A) All Basic, Refresher and Reserve training academies shall develop

and maintain up-to-date lesson plans for each academic course of instruction and for each of the skills training programs.

(B) Academic lesson plans shall be organized and readily accessible and may be maintained either electronically or as physical copies.

(C) Each academic and skills lesson plan must include at least the following information, as applicable:

1) Course title as specified in the POST Academic Training Program (Basic, Refresher or Reserve) or the POST skills training program; and

2) Date the lesson plan was prepared and date of last revision, if applicable; and

3) Name and title of author of lesson plan and name and title of the person who approved the lesson plan; and

4) Number of hours for the course required by the POST Academic Training Program and the number of actual course hours that will be instructed; and

5) Learning goals, course objectives and/or performance outcomes for the course as specified in the POST academic training program (basic, refresher or reserve) or the POST skills training programs. Additional outcomes may be added as long as such outcomes are supported in the content and are consistent with generally accepted academic practices. Any additional learning goals, course objectives, and/or performance outcomes must not conflict with those listed in the applicable POST basic training or skills training programs; and

6) Methods of instruction; and

7) A copy of the handouts, multimedia and/or PowerPoint presentations referenced in the lesson plan that will be used during the instruction; and

8) A list of all source materials used to develop the course, including internet links. In matters of law, primary authority, such as case law, regulations and statutes, shall provide the foundation for source material used in

the lesson plan along with any additional secondary authority, i.e., articles and other references, subject to that primary authority; and

9) Testing and/or assessment methods, such as test questions and answers, performance rubrics, or other assessment tools, that are appropriate to measure the learning goal, performance outcomes and/or objectives; and

10) Safety plan control measures specific to any practical exercise, role-play, scenario or other reality-based classroom and outside the classroom; and

11) Comprehensive content information that must be delivered to teach the subject matter to a level of proficiency that allows the student to perform the tasks on the job and that satisfies the required course objectives.

a) The required material can reasonably be taught given the time constraints using appropriate instructional methodologies.

b) Written content must be supported by currently accepted laws, policies, rules, regulations, and generally accepted law enforcement practices if challenged.

(D) All lesson plans must be written to ensure consistency between instructors and between all sessions of the academy over time. Content must be sufficient in scope and specificity to allow an instructor who did not author the lesson plan or develop the supporting materials to effectively teach the course.

(E) The curriculum SME committee may create guidelines to clarify expectations from time to time. These guidelines must be published on the POST website.

(F) Skills lesson plans must additionally include the program-specific documentation referenced within the applicable POST skills training program.

(IV) Daily schedules.

(A) For all skills training programs, daily schedules are required that contain the information referenced in each of the skills training programs, as referenced in Rule 21(b)(IV)(C).

(B) Daily schedules will be submitted on the form provided by POST.

(V) Source material.

(A) For source material identified as required source material in the current POST Curriculum Bibliography, at least one (1) copy of each of the publications or sources must be maintained at the place of academic instruction. For those sources that are referenced with a website address, providing the trainees with readily available Internet access is acceptable in lieu of maintaining at least one (1) copy of each of the publications or sources.

(VI) Academy examinations.

(A) All academies shall administer written, oral or practical examinations periodically during each academy in order to measure the attainment of course objectives or performance outcomes as specified in the Basic, Refresher or Reserve Academic Training Programs.

(B) The academy director shall prescribe the manner, method of administration, frequency and length of academy examinations.

(C) For academic courses, the time allotted for examinations shall be in addition to the number of Required Minimum Hours for each course as specified in the Basic, Refresher or Reserve Academic Training Programs.

(D) For skills training programs, the time allotted for examinations or testing is included within the total program hours of each program.

(VII) Academy certificates of completion.

(A) The academy director shall immediately issue a certificate of completion to each trainee who successfully completes all requirements of the approved academy.

(B) Only a trainee who has attended and successfully completed all academic classes and all required skills training programs shall be issued an academy certificate of completion.

(C) Each academy certificate of completion shall contain the following information:

1) Trainee's name; and

2) Name of the approved academy; and

3) Type of academy (Basic, Refresher or reserve); and

4) Date of academy completion (month, day, year); and

5) Total number of hours of the completed academy; and

6) Signature of the academy director and/or agency or academic representative; and

7) Reserve academy certificates of completion shall additionally state whether the total number of academy hours does or does not include the approved law enforcement driving program.

g) Instructors

(I) Minimum qualifications.

(A) Academic instructors shall possess the requisite education, experience and/or training necessary, as determined by the academy director, to competently instruct specific academic courses or blocks of instruction.

(B) Skills instructors shall meet the minimum qualifications as described in Rule 23, *Academy Skills Instructors*.

(II) Instructor files.

(A) A file (electronic or hard copy) shall be maintained for each instructor who teaches any portion of an academic class or skills training class.

1) For academic instructors, the file must contain a current resume and/or other documentation that substantiates the instructor's qualifications.

2) For skills instructors, the file must contain copies of the relevant certificates of completion referenced in Rule 23, *Academy Skills Instructors*, and/or a copy of the applicable skills instructor approval letter issued by POST.

(B) The academy shall maintain current contact information for each instructor.

(C) Exception. Licensed attorneys from the same office or firm may be included in one instructor file, as long as the file contains the names of all attorneys from that office or firm who provide instruction at the academy.

(III) Instructor/course evaluations.

(A) Trainees shall complete written evaluations for each instructor and/or course of instruction for all academic courses and skills training programs of the approved academy.

(B) Either the POST Form 10, *Instructor/Course Evaluation*, or comparable academy forms and/or documents may be used for this purpose.

(C) The academy director shall determine the most meaningful format and method of administration of the instructor/course evaluations in order to monitor instructor quality and course content and to meet the needs of the individual academy.

h) Duty to report.

(I) In addition to any notifications that may be required administratively or under federal, state or local law, it shall be the duty of every academy director or the academy director's designee to report the following events to POST immediately or as soon as practicable after the event**,** in a manner designated by POST:

(A) Any death, gunshot wound or serious bodily injury that occurs to any person whose death, gunshot wound, or serious bodily injury was either caused by, or may have been caused by, any training or

activity associated with the academy; or

(B) Any bodily injury that occurs to any person who is not affiliated with the academy, i.e., an innocent bystander, whose bodily injury was either caused by, or may have been caused by, any training or activity associated with the academy.

(C) Academies are encouraged to report any other injuries in order to allow POST to track injury trends statewide in an effort to ensure safe training environments.

(II) Training to cease.

(A) In the event of any death or gunshot wound as described in paragraph (h)(I)(A) of this section, all training shall immediately cease at the training site where the death or gunshot wound occurred.

(B) Training may resume only after the Board or its designated representative(s) have ensured that the program is operating in compliance with POST Rules.

(III) Serious bodily injury means those injuries as defined in § 18-1-901(3)(p), C.R.S.

(IV) Bodily injury means those injuries as defined in § 18-1-901(3)(c), C.R.S.

(V) All instructors shall be familiar with the information contained in this Section (h) as it pertains to the nature and scope of their involvement with the academy.

i) Academy records requirements.

(I) Trainee files. During the academy, a file shall be maintained for each trainee or a systematic filing system must exist that contains at least the following records:

(A) Trainee's full legal name and date of birth; and

(B) Photocopy of the trainee's high school diploma, high school equivalency certificate or other evidence of successful completion of high school; and

(C) Photocopy of the trainee's valid driver's license; and

(D) Form 11-E, *Enrollment Advisory Form;* and

(E) Current contact information; and

(F) Signed and dated acknowledgment of privacy and appeal rights forms.

(II) Trainee manual.

(A) Each academy shall maintain an up-to-date trainee manual that contains relevant and accurate information. At a minimum, the trainee manual shall contain the academy's rules and regulations, academic requirements, attendance policies and site safety plans.

(B) Upon entry into the academy, each trainee should be issued a copy of the trainee manual and acknowledge receipt of the manual in writing.

(III) The following records shall be maintained at the academy and shall be readily available for inspection at any reasonable time by the Board or its designated representative(s).

(A) A completed Form 11-E, *Enrollment Advisory Form*, for each trainee enrolled in the academy in progress; and

(B) Current trainee manual; and

(C) Current lesson plans; and

(D) Current source material; and

(E) Instructor files for current instructors; and

(F) Copies of all site safety plans; and

(G) Trainee files; and

(H) Tests, including a record of written test results and copies of associated rubrics; and

(I) Attendance records; and

(J) Instructor/course evaluations.

(IV) Academy records must be retained for at least the three (3) year period as referenced in the Uniform Records Retention Act, § 6-17-101, et seq., C.R.S.

Rule 26 – Academy and Academy Instructor Training Program Inspections

*Effective January ~~31, 2016~~**30, 2023***

(a) Members of the Board, or its designated representative(s) may at any reasonable time inspect any approved academy or academy Instructor Training Program (Instructor Program), or any Academy or Instructor Program believed to be operating contrary to these Rules.

(b) An academy or Instructor Program inspection may include, but is not limited to, a review of any records required to be maintained under these Rules, examination of the academy's facilities, training sites, and equipment, observation of classroom instruction and skills training, and interviews with trainees, staff and instructors.

(c) Training that is not required by POST but is incorporated within the approved academy or Instructor Program *may* be inspected to the extent necessary to ensure it is legitimate (i.e., in accordance with established or accepted patterns and standards) and safe (i.e., secure from danger, harm or injury).

(d) The POST Director **OR THE DIRECTOR'S DESIGNEE** shall be informed of all inspection results.

(e) Should the POST Director **OR THE DIRECTOR'S DESIGNEE** determine, in consultation with the appropriate Subject Matter Expert committee(s), as applicable, that an academy or Instructor Program is not in compliance with POST Rules or is providing training that is not legitimate or safe, he/she shall notify the academy director or program director in writing of the specific deficiencies or findings and order remedial action.

(f) The academy director or program director may appeal the POST Director's**, OR THEIR DESIGNEE'S,** order to the Board within thirty (30) days in accordance with Rule 5(e**D**).

(g) Failure to comply with the POST Director's**, OR THEIR DESIGNEE'S,** order shall result in the immediate suspension of the academy or Instructor Program, pending review by the Board at its next regular meeting.

Rule 28 – In-Service Training Program

*Effective ~~November 1, 2022~~**JANUARY 30, 2023***

The purpose of in-service training is to provide continuing education to certified peace officers to develop their knowledge and/or skills. The POST Board's duties relating to annual in-service training are addressed in Colorado Revised Statutes § 24-31-303(1). The POST Board can "promulgate rules deemed necessary by the Board concerning annual in-service training requirements for certified peace officers, including but not limited to evaluation of the training program and processes to ensure substantial compliance by law enforcement agencies and departments." In-service training is mandatory for all certified peace officers who are currently employed. This includes certified fulltime, part-time and reserve peace officers. Failure to satisfactorily complete training may result in suspension or revocation of an individual's POST certification, or other administrative sanction in accordance with Rule 31.

a) Annual Hour Requirement

The in-service training program requires certified peace officers to complete a minimum of 24 hours of in-service training annually. Of the 24 hours, a minimum of 12 hours shall be perishable skills training as specified below.

b) Training Period

(I) The training period shall be the calendar year, from January 1 to December 31, of each year. In-service training in excess of 24 hours each year shall not be credited towards any future or prior training period.

(II) Remedial training hours completed after January 1 to gain compliance for a prior calendar year shall not count towards the current year requirement.

c) Approved Training for POST Credit

The authority and responsibility for training shall be with the chief executive of each law enforcement agency. The chief executive accepts responsibility and liability for the course content and instructor qualification. Legislatively mandated training may also be used for credit towards the training

requirement.

The following are examples of training that would qualify for in-service credit:

(I) Training received during the Basic Academic Training Program (Basic Academy).

(II) Computer or web-based courses that have been approved by the chief executive may be used for in-service credit.

(III) The viewing of law enforcement related audiovisual material (DVD, video, etc.) or material related to the viewer's position or rank can be used in conjunction with a facilitated discussion or other presentation. This could include roll call or lineup briefings where the session is dedicated to training and not for the purpose of information exchange.

(IV) For each class hour attended at an accredited college or university in any course related to law enforcement or criminal justice that is required to earn a degree, one hour of in-service credit may be awarded.

d) Perishable Skills Training

Perishable skills training shall consist of a minimum of 12 hours. The required 12 hours must include a minimum of one hour of training in each of the three perishable skills (Arrest Control, Driving, and Firearms) each calendar year. Examples of perishable skills training could include:

(I) Arrest Control-live or simulator exercises and scenarios, classroom discussion followed by interactive scenario events. Arrest control fundamentals, agency policies and/or legal issues.

(II) Driving-behind-the-wheel or simulator training, classroom discussion regarding judgment/decision making in driving, agency policies and/or legal issues.

(III) Firearms-live or simulator exercises and scenarios, firearms fundamentals, use of force training or discussions, classroom training requiring student interaction and/or decision making, classroom discussion on agency policies and/or legal issue. Firearms qualification alone is insufficient to meet this mandate.

e) Agency Maintenance of Training Records

The chief executive of each agency is responsible for the true, accurate and verifiable entry of training records into the POST database.

Agencies are encouraged to enter training as it occurs, but shall enter training no later than the end of each calendar year for the certified peace officers employed at any time during that year, regardless of current employment status. This information shall be entered into the POST database. For in-person courses, agencies are required to keep records of sign-in sheets, topics covered, and lesson plans (if they exist).

(I) Waiver of In-Service Requirements

All certified peace officers shall meet the minimum annual hours. However, under the circumstances listed below, an agency may request a waiver for a portion of the annual in-service training requirement. Any waiver of the annual training request must be made in writing to the POST Director **OR THEIR DESIGNEE** by January 31st of the following year.

(A) Perishable Skills Waiver

Agency executives may request an exemption from the perishable skills training requirement. This request shall be in writing to the POST Director **OR THEIR DESIGNEE**. This request shall state that either their certified peace officers do not carry firearms, or they infrequently interact with or effect physical arrests, or they do not utilize marked or unmarked emergency vehicles as part of their normal duties.

(B) Partial Year Employment Waiver

The 24 hours of in-service training is required if a certified peace officer is employed for the entire calendar year. Certified peace officers who are employed after the start of the calendar year only need to complete a prorated number of training hours. Therefore, two hours of training per month, with a minimum of one hour of perishable skills training shall be required. (Example: If a certified peace officer is hired in July, 12 hours of training with a minimum of six hours of perishable skills training must be completed for that calendar year).

(C) Long Term Disability, Medical Leave or Restricted Duty

If a certified peace officer is unable to complete the in-service annual hours due to long term disability, medical leave or restricted duty, the agency must obtain a letter from a physician

stating that participation in any type of training including audiovisual or online training would be detrimental to the officer's health. The letter should define the time that the officer is unable to attend any training. Those granted a waiver will be on a prorated basis for the time stated in the physician's letter. The agency does not need to forward the physician's letter to POST but only reference it in a waiver request.

(D) Military Leave
Those certified peace officers deployed in military service only need to complete a prorated number of training hours.

(E) Administrative Leave
If a certified peace officer is unable to complete the in-service annual hours due to placement on administrative leave, the officer must complete a prorated number of training hours.

(II) Compliance

(A) Agencies and individual peace officers shall comply with the in-service training requirements.

1) Agencies

a) POST will send out a preliminary compliance report following each training period. The report will provide the compliance status of each agency and its certified peace officers. Agencies shall have thirty (30) days from the date of the preliminary report to dispute the POST data and provide additional training information. Following the thirty-day period, POST will distribute the final compliance reports to all agencies.

b) POST may declare an agency noncompliant after the final compliance report has been issued if new information is discovered.

c) Once the final compliance report has been sent to all agencies; an agency seeking to appeal the POST data must do so within thirty (30) days of being notified of failure to comply with Rule 28. Agencies

may appeal this by following the process outlined in Rule 5, *Hearings*. Upon conclusion of all appeal hearings POST will issue a final report indicating whether the agency was found in compliance.

d) If POST finds that the agency failed to comply, such finding shall constitute a basis for the Board to impose an administrative sanction pursuant to Rule 31.

2) Individual peace officers

a) POST will send out a preliminary compliance report following each training period. The report will provide an individual peace officer's compliance status. Individuals shall have thirty (30) days from the date of the preliminary report to dispute the POST data and/or complete the training requirements.

b) Individual peace officers failing to satisfactorily complete the training requirements within the 30 day period may have their POST certification suspended by the POST Director pursuant to Rule 3, until such time as they come into compliance. If an individual peace officer is suspended, the peace officer may appeal the suspension within thirty (30) days, as provided in rule 5(d).

c) Failure to satisfactorily complete POST training requirements may result in a recommendation by the Director **OR THEIR DESIGNEE** to the Board for revocation of the individual's POST certification, or other administrative sanction pursuant to Rule 31.

(III) The POST Board shall evaluate the program annually following the release of the final compliance reports. Such evaluation will include a review and evaluation of the program. The evaluation may be based on the compliance rate, agency survey and other performance metrics.

Notice of Proposed Rulemaking

Tracking number

2022-00689

Department

1100 - Department of Labor and Employment

Agency

1101 - Division of Workers' Compensation

CCR number

7 CCR 1101-3

Rule title

WORKERS' COMPENSATION RULES OF PROCEDURE WITH TREATMENT GUIDELINES

Rulemaking Hearing

Date

12/13/2022

Time

10:00 AM

Location

Virtual - see website to register

Subjects and issues involved

The proposed rule revision will allow DIME physicians to receive additional payment when the relevant medical records are voluminous (more than 500 to 1000 pages, depending on the type of the DIME). The physicians would be able to charge $1 for each page that is over these limits. The proposed rule revision also calls for the records to be bates-stamped and include an index to make it easier for physicians to review the records. Finally, to lessen the impact of the increase of the overall fees on some DIMEs on injured workers, the proposed rule revision modifies indigency standards. The statute requires the party requesting the DIME pay for the DIME upfront unless that party is indigent. Thus, doubling the indigency standards will reduce the upfront barriers for claimants requesting DIMEs (although the payers would still be entitled to offset DIME costs against some future benefits).

Statutory authority

CRS 8-47-107

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DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Workers' Compensation

7 CCR 1101-3

WORKERS' COMPENSATION RULES OF PROCEDURE

Rule 11 Division Independent Medical Examination

Rule 11 Division Independent Medical Examination

This rule applies to parties and physicians participating in the Division Independent Medical Examination (DIME) program pursuant to the Workers' Compensation Act of Colorado, § 8-40-101, et seq. ("The Act"). When used in this rule, Administrative Law Judge (ALJ) refers to Administrative Law Judges in the Office of Administrative Courts or prehearing Administrative Law Judges employed by the Division of Workers' Compensation.

11.1 QUALIFICATIONS

A physician seeking appointment to the DIME panel pursuant to The Act, shall meet the following qualifications:

(A) Be licensed with no restrictions by the Colorado Medical Board, the Colorado Dental Board, the Colorado Board of Chiropractic Examiners, or the Colorado Podiatry Board. Physicians licensed by the Colorado Medical Board must be board-certified or board eligible by the American Board of Medical Specialties, ~~or~~ the American Osteopathic Association, or the National Board of Physicians and Surgeons.

(B) For determination of maximum medical improvement (MMI), have attained at least Level I accreditation and engaged in at least 384 hours of direct patient care (excluding medical/legal evaluation) during the past five calendar years.

(C) For determination of permanent impairment and MMI, have attained Level II accreditation and either:

(1) engaged in at least 384 hours of direct patient care (excluding medical/legal evaluation) during the past calendar year OR

(2) engaged in at least 384 hours of direct patient care (excluding medical/legal evaluation) during the previous five years and demonstrated additional competency in the field of disability evaluation through certification by the American Board of Independent Medical Examiners, the International Academy of Independent Medical Evaluators, or equivalent continuing medical education courses.

(D) A physician who is selected to perform a DIME as a result of an agreement by the parties and who has not been appointed to the DIME panel is not required to apply for appointment; however, such physician shall comply with all other qualifications and rules governing the DIME proceedings.

11.2 COMPUTATION OF TIME

In computing any period of time prescribed or allowed by this rule, the parties shall refer to Rule 1-2. All references to "days" shall mean calendar days unless otherwise stated. All references to "years" shall mean twelve calendar months.

11.3 DIME PHYSICIAN COMPLIANCE

A physician seeking appointment to the DIME panel shall complete the Request for Appointment to the Independent Medical Examination Panel in full, including the required certification. Upon approval of the application, the physician shall:

(A) Comply with The Act and the Workers' Compensation Rules of Procedure;

(B) Complete a summary disclosure form;

(C) Conduct all DIMEs in an objective and impartial manner;

(D) Decline a request to conduct a DIME only with approval by the Director or an ALJ on the basis of good cause shown;

(E) Not evaluate the claimant if an actual conflict of interest exists. A conflict of interest includes, but is not limited to, instances where the physician or someone in the physician's office has treated the claimant or performed an Independent Medical Examination (IME) on the claimant. A conflict is presumed to exist when the DIME physician and a physician who previously treated or evaluated the claimant in the course of an IME have a relationship involving a direct or substantial financial interest during the pendency of the DIME.

(1) Direct or substantial financial interest is defined as a business ownership interest, a creditor interest in an insolvent business, employment relationship, prospective employment for which negotiations have begun, ownership interest in real or personal property, debtor interest, or being an officer or director in a business.

(2) Being members of the same professional association, society, or medical group, sharing office space, or having practiced together in the past are not the types of relationships that will be considered a conflict;

(F) Not engage in communication regarding the DIME with any person other than Division Staff, except under the following circumstances:

(1) The claimant during the DIME;

(2) The requesting party to set the appointment;

(3) The submitting party when discussing the format of the medical records;

(4) The paying party to discuss issues regarding the invoice;

(5) The parties negotiating selection of the DIME physician and agreed upon fees pursuant to sections 11-4(A) or 11-7(B). All communications with potential DIME physicians in furtherance of these negotiations shall involve all parties to the claim.

(6) By order of the Director, an ALJ or by written agreement of all parties;

(7) The parties to discuss payment for review of extensive medical records in accordance with section 11-5(C). Any such communication must be in writing, with copies to both parties and the DIME Unit.

(G) Not become the treating physician for the claimant, unless ordered by the Director or an ALJ, or by written agreement of all parties;

(H) Not refer the claimant to another physician for treatment or testing unless an essential test is required;

(I) Not employ invasive diagnostic procedures unless approved by the parties or an ALJ;

(J) Not substitute any other physician as the DIME physician, unless ordered by the Director or an ALJ, or by written agreement of all parties;

(K) For each DIME assigned, make all relevant findings regarding MMI, permanent impairment, and apportionment of impairment, unless otherwise ordered by an ALJ.

(L) Within twenty (20) days of the examination submit to the Division and all parties the original report with all attachments. The twenty (20) day deadline for the insurer to file an admission of liability or request a hearing pursuant to § 8-42-107.2(4)(c), does not begin to run until the DIME Unit has issued a notice to all parties that it has received a sufficient report. The report shall conform to the DIME Report Template.

11.4 DIME PROCESS

(A) Application and scheduling:

(1) Either party disputing a determination of MMI or impairment made by an authorized treating physician in a workers' compensation case must apply for a DIME by filing the Notice and Proposal and Application for a DIME form within thirty (30) days after the date of mailing of the final admission of liability or the date of mailing or physical delivery of the disputed finding or determination, as applicable, pursuant to § 8-42-107.2(2)(a) and (b). The party applying for a DIME pursuant to § 8-42-107(8)(b), shall meet all statutory conditions prior to filing the form. The requesting party may amend the Application for a DIME form only by order of an ALJ or written agreement of all parties.

(2) The parties must attempt to negotiate the selection of a physician to conduct the DIME. The requesting party shall propose one or more candidates qualified under section 11-1 on the Notice and Proposal and Application for a DIME form. The Notice of DIME Negotiations form shall be filed within thirty (30) days of the filing of the Notice and Proposal and Application for a DIME.

(a) If the parties have agreed on the DIME physician and fee, either party may file the form indicating the name of the physician.

(i) The parties and the DIME physician may agree to the fees set forth in 11-5(A)(1) – (3) or to any other fee as provided by 11- 5(A)(4). The parties shall indicate the agreed upon fee on the Notice of DIME Negotiations form. The form shall be signed by the DIME physician and all parties to the claim.

(ii) If the parties cannot reach agreement regarding the fee with the agreed upon physician, they shall proceed with the selection process set forth in 11-4(A)(3)-(5).

(b) If the parties have not agreed on the DIME physician, the insurer shall file the form.

(3) The Division will notify the parties in writing of the names and the medical specialties of three physicians or of the agreed-upon physician within five (5) days of receiving the Notice of DIME Negotiations form.

(4) Within five (5) business days of issuance of the three-physician list by the Division, a party may request summary disclosures concerning any business, financial, employment, or advisory relationship with the insurer or self-insured employer. Such request shall be submitted by electronic mail to the DIME Unit and copied to the other parties. The parties may use the information provided on the summary disclosure forms to assist in the decision to strike a physician. The information shall not be used as a basis for the Division to remove a physician from the three-physician list. Physicians who are agreed-upon to perform DIMEs pursuant to § 8-42-107.2(3)(a), are not required to comply with this subsection.

(5) Within five (5) business days of issuance of the three-physician list by the Division, the requesting party shall strike one name and inform the other party and the Division. The other party then shall have five (5) business days to strike one of the remaining physicians and inform the DIME Unit in writing, with confirmation to the requesting party. If the Division is not notified of the selected physician within ten (10) business days of the issuance of the three-physician list, the Division shall randomly select one name from the remaining physicians.

(6) The Division shall confirm to the parties in writing the name of the selected or agreed-upon physician.

(7) If the selected physician is unable to perform the DIME or if a physician is removed from the panel for any reason other than having been struck by a party, the Division shall provide one replacement name to the original list of three

physicians, and present that revised list to the parties where each shall strike one name according to the procedures set forth in this section.

(8) The requesting party shall schedule the DIME with the physician within fourteen (14) days of receiving the DIME physician confirmation. The requesting party shall immediately notify the DIME Unit and the opposing party in writing of the date and time of the examination. Absent good cause as determined by the Director or an ALJ, failure to make the appointment and advise all parties within fourteen (14) days may result in a Director's order to show cause why the DIME process should not be terminated.

(9) The examination shall be scheduled no earlier than 45 days or later than 75 days after the requesting party receives the notice of the DIME physician confirmation unless otherwise ordered by the Director or an ALJ, or by written agreement of all parties.

(B) Medical Records:

(1) The medical records packet shall include all records regarding the diagnosis, treatment, and evaluation of the claimant's work-related injury(ies) or disease(s), as well as any relevant pre-existing condition(s), injury(ies), or disease(s), if applicable and available. Each page shall be bates-stamped. The parties may agree in writing to exclude any records. The party seeking to exclude any ~~the above~~ records without agreement of the other parties must request a prehearing conference before an ALJ.

(2) Surveillance recordings, depositions, vocational rehabilitation reports, non- treating case manager records, prior orders and other records may not be submitted without written agreement of all parties or by order of an ALJ. The party seeking to include the above records without agreement of all other parties must request a prehearing conference before an ALJ.

(3) The medical records packet shall include a dated cover sheet listing the claimant's name, DIME physician's name, date and time of the appointment, and the Division workers' compensation number. The records shall be in a chronological order, beginning with the earliest record, and tabbed by year. The packet shall not contain duplicative records. The packet also shall include a chronological index of the records, beginning with the earliest record. The index shall list the bates-page number, the date, and the provider corresponding to each record.

Each of the following inpatient medical records shall correspond to an individual entry on the index:

- Admission notes;
- Discharge summaries;
- Operative reports; and
- Diagnostic tests other than blood tests.

All other inpatient medical records from the same inpatient stay shall correspond to a single entry on the index. The index entry shall list the name of the facility as the provider.

(4) Records may be provided electronically by agreement of the parties and the DIME Physician so long as the records otherwise comply with the formatting requirements of this paragraph.

(5) The insurer shall serve the claimant with a complete copy of the initial packet no later than fourteen (14) days from the date the Division confirms the selected DIME physician. The claimant shall serve the insurer with any additional relevant

records, in the format compliant with this section, no later than ten (10) days after receiving the initial packet, or twenty-four (24) days after the date the Division confirms the selected DIME physician, whichever comes later. The insurer shall serve the DIME physician with the final packet no later than fourteen (14) days prior to the scheduled examination. At the time the final packet is served on the DIME examiner, the insurer shall provide Claimant with an identical copy of the final packet. If no party has supplemented the initial DIME packet previously exchanged with Claimant, then the insurer shall affirm that fact in the letter to the DIME unit and Claimant. In such an instance, the insurer does not need to reproduce the previously exchanged DIME packet. For purposes of this rule, date of service shall be determined by the verifiable date of delivery.

(6) Failure to timely and properly submit records may result in termination or rescheduling of the DIME by the Director, at the cost to the defaulting party. The DIME physician has discretion to ~~proceed with the DIME and~~ impose $250.00 non-compliant ~~late~~ records fee on the defaulting party. In addition, other penalties available under these rules and the Act may be determined by the Director. Any disputes regarding the contents of the final medical records packet may be resolved by an ALJ. Disputes regarding responsibility for default may be addressed by the ALJ or the dispute resolution process set forth in Rule 16.

(7) Submission of supplemental records requires a prior order by an ALJ finding good cause. Supplemental records shall be prepared pursuant to this section (B) and must be served by any party concurrently to the DIME physician and all other parties no later than seven (7) days prior to the DIME examination. If the addition of supplemental records causes the total records packet to exceed applicable page counts in subsection 11-5(A)(4), additional record review fees will apply pursuant to that subsection.

(C) The parties may agree to limit the issues to be addressed in the DIME in writing and signed by both parties. The written agreement may use the optional Notice of Agreement to Limit the Scope of the DIME form. The parties must include the agreement in the medical records packet served on the DIME physician, immediately following the chronological index and must provide a copy of the agreement to the DIME Unit.

(D) The claimant shall notify the insurer of the necessity for a language interpreter no later than fourteen (14) days before the examination. The insurer shall be responsible for arranging for the services of and paying for such language interpreter. The language interpreter shall be impartial and independent, and have no professional or personal affiliation with any party to the claim or the DIME physician.

(E) An order by an ALJ is required to hold the proceedings in abeyance once an appointment has been scheduled. The party filing a motion to hold the proceeding in abeyance shall be considered the defaulting party for purposes of paying all applicable rescheduling or termination fees to the DIME physician.

(F) Prior to the examination, the DIME may be terminated by the requesting party or by order. Following the examination, the DIME may be terminated only by agreement of the parties or by order.

11.5 PAYMENTS/FEES

(A) The fees stated in Rule 11 shall be the only fees that may be billed or charged for DIMEs, except as set forth in subsection (4) below. The base DIME fee will be determined based upon the length of time elapsed between the date of injury and the filing of the notice and proposal, as well as body regions identified on the DIME application in accordance with the following schedule:

(1) Less than two years after the date of injury and/or less than three body regions: $1,000;

(2) Two or more years but less than five years after the date of injury and/or three or four body regions: $1,400;

(3) Five or more years after the date of injury and/or five or more body regions: $2,000.

(4) If the medical records exceed the page counts below, additional record review fees will apply:

$1,000 DIME 500 pages

$1,400 DIME 750 pages

$2,000 DIME 1,000 pages

The additional record review fees are calculated at the rate of $1 for each page that exceeds these page counts.

(~~4~~5) The DIME fees do not apply if the parties have agreed on the DIME physician and fee pursuant to section 11-4(A)(2)(a)(i).

(B) The Division will attach an invoice for the base DIME fee to the DIME physician confirmation issued pursuant to section 11-4(A)(6). The selected DIME physician shall receive the fee from the paying party prior to scheduling the examination unless the claimant has filed an indigent application pursuant to section 11-12. If such an application is filed the paying party shall submit the DIME fee within fourteen (14) days of the order on that application or within fourteen (14) days of the final DIME physician selection, whichever is later.

(C) The paying or requesting party shall, no later than fourteen (14) days prior to the scheduled examination, (1) submit payment for the additional record review fees to the DIME physician or (2) request a prehearing conference and notify via electronic mail all parties, the confirmed DIME physician, and the DIME Unit.

(1) The prehearing conference will be limited to disputes as to whether the medical records (a) are regarding to the diagnosis, treatment, and evaluation of the claimant's work-related injury(ies) or disease(s), as well as relevant pre-existing condition(s), injury(ies), or disease(s); or (b) are duplicative.

(2) No rescheduling or termination fees otherwise applicable under subsection (D) of this Rule are payable if the rescheduling or termination was due solely to the payment of additional record review fees.

(~~C~~D) Prior to the examination, t~~T~~he DIME may only be rescheduled ~~or terminated~~ by the requesting party or by order. The party responsible for the rescheduling (or the paying party when the indigent claimant is responsible for the rescheduling) shall submit the rescheduling fee, if applicable, to the DIME physician within ten (10) days of the defaulting event. The requesting party shall reschedule the appointment after the physician receives this fee. Rescheduling of the DIME more than once requires a finding of good cause by an ALJ. The DIME rescheduling and termination fees shall be as follows (unless reduced by an ALJ upon a showing of good cause):

(1) Rescheduling fees:

	DIME is rescheduled more than ten (10) days before the scheduled date	DIME is rescheduled ten (10) days or less before the scheduled date	DIME is rescheduled one (1) business day or less prior to the scheduled date
$1,000 DIME	No fee	$500	$1,000
$1,400 DIME	No fee	$700	$1,400
$2,000 DIME	No fee	$1,000	$2,000

(2) Termination fees:

	DIME is terminated more than ten (10) days before the scheduled date	DIME is terminated ten (10) days or less before the scheduled date	DIME is terminated one (1) business day or less prior to the scheduled date
$1,000 DIME	$250	$500	$1,000
$1,400 DIME	$350	$700	$1,400
$2,000 DIME	$500	$1,000	$2,000

(3) The rescheduling and termination fees shall apply to the agreed-upon DIMEs under section 11-4(A)(2)(a)(i). The fees shall be determined based on the section 11-5(A)(1) – (3) category that would have applied.

(4) If the DIME physician reschedules the examination more than two (2) times, the physician shall pay $250.00 fee to the paying party.

(5) The DIME physician shall refund the DIME fee minus the termination fee to the paying party within ten (10) days of receiving the notice of termination.

(6) The parties and the DIME physician may use the Notice of Reschedule or Termination form to notify the DIME Unit of any rescheduling, termination, or failure to attend the DIME.

(~~D~~E) It is expected that a test essential for an impairment rating to be rendered under the AMA Guides, 3rd Edition (revised) or the Level II accreditation curriculum will have been performed prior to the DIME. Routine tests necessary for a complete DIME should be performed as part of the DIME with no additional cost. If an essential test is non-routine or requires special facilities or equipment, and such test was not previously performed, or was previously performed but the findings are not usable at the time of the DIME, the DIME physician shall notify the DIME Unit, who will notify the parties. The DIME physician will either perform the essential test or refer out the essential test for completion at the insurer's expense unless extraordinary circumstances are determined by an ALJ. A return visit for range of motion validation shall be considered a part of the initial DIME.

(~~E~~F) Services rendered by a DIME physician shall conclude upon acceptance by the Division of the final DIME report.

(~~F~~G) A party who seeks the presence of a DIME physician as a witness at a proceeding for any purpose, by subpoena or otherwise, shall pay the physician pursuant to Rule 18.

11.6 COMMUNICATION WITH A DIME PHYSICIAN

(A) During the DIME process, there shall be no communication between the parties and the DIME physician except in circumstances allowed under section 11-3(F). The parties shall provide the DIME Unit with copies of any permitted correspondence with the DIME physician. Any violation may result in termination of the DIME.

(B) After acceptance by the Division of the final DIME report, no communication with the DIME physician shall be allowed by any party or their representative except under the following circumstances: approval by the Director; by written agreement of all parties; by an order of an ALJ; or by deposition or subpoena ~~approved by an ALJ~~. The parties shall provide the Division with copies of any correspondence with the DIME physician permitted under this section.

11.7 DIME FOLLOW-UP

(A) If a DIME physician determines that a claimant has not reached MMI and recommends additional treatment, a follow-up DIME examination shall be scheduled with the same DIME physician, unless the physician is unavailable or declines to perform the examination. Either party may ~~The insurer shall~~ file the Follow-Up DIME form after the claimant completes all additional recommended treatment.

(B) The parties shall indicate on the Follow-Up DIME form if the previous DIME physician is unavailable or declines to perform the follow-up DIME. In that case, the parties also shall indicate whether they have agreed on the new physician and a follow-up fee.

(1) If the parties have agreed on the new DIME physician, the parties also must agree on a follow-up fee. The parties shall indicate the fee on the Follow-Up DIME form. The form shall be signed by the new DIME physician and all parties to the claim.

(2) If the parties have not agreed on the new DIME physician and the follow-up fee, the following procedures shall apply:

(a) If previous DIME physician was selected pursuant to the procedures set forth in section 11-4(A)(5), the Division shall provide one replacement name to the previous list of three physicians and present that revised list to the parties where each shall strike one name according to the procedures set forth in that section.

(b) If the parties have agreed on the previous DIME physician under section 11-4(A)(2)(a)(i) but now wish to proceed under section 11-4(A)(5), the parties shall request a prehearing conference before an ALJ.

(C) Either party ~~The insurer~~ shall notify in writing the DIME Unit and the other party of the date and time of the follow-up DIME.

(D) Absent an agreement of the parties and the DIME physician, or an order from an ALJ, the insurer shall pay any additional examination fees. The physician must receive the follow-up examination fee prior to scheduling the examination.

(1) Follow-up fees where the exam is scheduled with the original DIME physician shall be as follows:

Filing date of the Follow-Up DIME form	Follow-up evaluation fee
3 months or less after the last evaluation	$350

Over 3 months but 6 months or less after the last evaluation	$700
Over 6 months but 12 months or less after the last evaluation	$1,000
Over 12 months after the last evaluation	$1,400

(2) Follow-up fees where the exam is scheduled with a new DIME physician shall be as follows:

Filing date of the Follow-Up DIME form	Follow-up evaluation fee
Less than five years from the date of injury to the Follow-Up DIME form	$1,400
Five years or more from the date of injury to the Follow-Up DIME form	$2,000

Additional record review fees and procedures set forth in sections 11-5(A)(4) and (C) will apply to follow-up exams scheduled with a new DIME physician, if the medical records for a $1,400 follow-up DIME exceed 750 pages or for a $2,000 follow-up DIME exceed 1,000 pages.

(E) If the follow-up DIME is rescheduled the party responsible for the rescheduling (or the paying party when the indigent claimant is responsible for the rescheduling) shall submit the required fee, if applicable, to the DIME physician within ten (10) days of the defaulting event. The requesting party shall reschedule after the physician receives this fee. Rescheduling of the DIME more than once requires a finding of good cause by an ALJ.

(1) Rescheduling fees for a follow-up examination shall be as follows:

	DIME is rescheduled more than ten (10) days before scheduled date	DIME is rescheduled ten (10) days or less before the scheduled date	DIME is rescheduled one (1) business day or less before scheduled date
$350 Follow-up DIME	No fee	$350	$350
$700 Follow-up DIME	No fee	$700	$700
$1,000 Follow-up DIME	No fee	$700	$1,000
$1,400 Follow-up DIME	No fee	$700	$1,400
$2,000 Follow-up DIME	No fee	$1,000	$2,000

(2) Termination fees for a follow-up examination shall be as follows:

	DIME is terminated more than ten (10) days before the scheduled date	DIME is terminated ten (10) days or less before the scheduled date	DIME is terminated one (1) business day or less prior to the scheduled date
$350 Follow-up DIME	$350	$350	$350
$700 Follow-up DIME	$350	$700	$700
$1,000 Follow-up DIME	$350	$700	$1,000
$1,400 Follow-up DIME	$350	$700	$1,400
$2,000 Follow-up DIME	$350	$1,000	$2,000

(3) The rescheduling and termination fees shall apply to the agreed-upon follow-up DIMEs under section 11-7(B). The fees shall be determined based on the section 11-7(D) category that would have applied.

(F) If the DIME physician reschedules the follow-up examination more than two (2) times, the physician shall pay $250.00 fee to the paying party.

(G) The DIME physician shall refund the follow-up examination fee minus the termination fee to the paying party within ten (10) days of receiving the notice of termination.

(H) The parties and the DIME physician may use the Notice of Reschedule or Termination form to notify the DIME Unit of any rescheduling, termination, or failure to attend the follow-up examination.

(I) For the follow-up exams scheduled with the original DIME physician, t~~T~~he parties shall ~~may~~ submit additional medical records ~~prior to the follow-up appointment~~ in accordance with section 11-4(B). For the follow-up exams scheduled with a new DIME physician, the parties shall submit the entire medical records packet in accordance with section 11-4(B).

11.8 DIMES FOLLOWING REOPENING

DIMEs performed in claims that have been reopened pursuant to §8-43-303 are considered subsequent DIMEs and will be treated as new DIMEs subject to all DIME procedures in this rule. The party requesting the subsequent DIME shall be considered the requesting party regardless of whether that party requested the original DIME. By filing the application form in a claim where a DIME has been completed previously, the requesting party certifies the claim has been reopened pursuant to §8-43-303.

11.9 REMOVAL OF A PHYSICIAN FROM THE SELECTION PROCESS

(A) Complaints regarding a DIME physician may be submitted to the Director or the Medical Director. The Director may temporarily inactivate and exclude a physician from the revolving selection process.

(B) The Director, in consultation with the Medical Director, may permanently remove a physician from the medical review panel on any of the following grounds:

(1) A misrepresentation on the application for appointment;

(2) Refusal and/or substantial failure to comply or two or more incidents of failure to comply with the provisions of The Act, the Workers' Compensation Rules of Procedure and/or any other relevant statutes;

(3) Loss or suspension of Level I and/or Level II accreditation;

(4) For good cause as determined by the Director.

(C) A physician removed under this section may apply to the Director for reinstatement after six months. The reinstatement decision is at the sole discretion of the Director.

11.10 IMMUNITY

Doctors and other individuals involved in the DIME process who have acted within the appropriate scope of their capacity shall be immune from liability in any civil action for any actions undertaken in good faith and in the reasonable belief that the actions were appropriate under the circumstances.

11.11 DISPUTES

Non-compliance with this rule may be addressed through the Dispute Resolution process described in Rule 16~~-~~ or through any other mechanism of dispute resolution provided for in rule or statute.

11.12 INDIGENCE PROCESS~~T CLAIMANT~~

(A) Within 15 days of filing the Notice and Proposal and Application for a Division Independent Medical Examination form, a claimant asserting indigent status shall file an "Application for Indigent Determination (DIME)" form at the Office of Administrative Courts with copies to the other parties and the DIME Unit.

(B) The DIME process will not be held in abeyance while the indigent application is pending unless so ordered by an ALJ.

(C) Within eight (8) days after the date of mailing of the Application for Indigent Determination (DIME) form, any other party to the claim may file a response at the Office of Administrative Courts. Any such response shall state with specificity the grounds for objection.

(D) An ALJ shall issue a written order to all parties within twenty (20) days after the application is filed, a hearing will only be held if a timely submitted response raises disputed questions of material fact or if there is a lack of sufficient information in the written submissions of the parties. Any such hearing shall be held as soon as possible and a ruling shall be issued within thirty (30) days of the date of filing of the indigent application.

(E) The determination regarding indigence shall be based on the claimant's financial status on the date the application is filed and any extraordinary circumstances. In ruling on the application, the ALJ shall apply the standards set forth in Rule 18. Extraordinary circumstances exist where the claimant would be deprived of the ability to provide for basic necessities that cannot be deferred, such as food, shelter, clothing, utilities and out of pocket medical costs.

(F) The insurer or self-insured employer shall advance the costs of the DIME, including rescheduling, termination, or late records fees on behalf of the indigent claimant. These costs ~~of the DIME advanced on behalf of the indigent claimant~~ shall be taken as an offset against permanent indemnity benefits following either a final order or approved settlement.

11-13 INDIGENCE STANDARDS

(A) A person shall be found to be indigent for purposes of Rule 11-12 only if:

(1) income is at or below eligibility guidelines with liquid assets of $3,000 or less; or

(2) “extraordinary circumstances” exist which merit a determination of indigence.

(B) Income Eligibility Guidelines:

Family Size	**Monthly income guidelines**
1	$2,832
2	$3,814
3	$4,798
4	$5,782
5	$6,764
6	$7,748
7	$8,732
8	$9,714

*For family units with more than eight members, add $984 per month for “monthly income” or $11,800, per year for "yearly income" for each additional family member.

(1) Income is gross income from all members of the household who contribute monetarily to the common support of the household.

(2) Liquid assets include cash on hand or in accounts, stocks, bonds, certificates of deposit, equity and personal property or investments which could readily be converted into cash without jeopardizing the applicant’s ability to maintain home and employment. “Liquid assets” exclude any equity in any vehicle which the injured worker or family members must use for essential transportation unless the ALJ makes an affirmative finding of fact that the worker is credit worthy, can borrow against the equity in this vehicle, and can afford to pay back a loan without compromising food, clothing, shelter, and transportation needs.

Notice of Proposed Rulemaking

Tracking number

2022-00688

Department

1200 - Department of Agriculture

Agency

1201 - Animal Health Division

CCR number

8 CCR 1201-18

Rule title

BUREAU OF ANIMAL PROTECTION RULES

Rulemaking Hearing

Date

11/30/2022

Time

09:00 AM

Location

This hearing will be held via Zoom, links and call in information are in the hearing notice.

Subjects and issues involved

The purpose of this rulemaking is to streamline the training, continuing education, renewal process, and statistics reporting for BAP agents.

Statutory authority

35-42-106

Contact information

Name

Jenifer Gurr

Title

Chief Administrative Officer

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COLORADO
Department of Agriculture

NOTICE OF PUBLIC RULEMAKING HEARING

FOR AMENDMENTS TO

"Bureau of Animal Protection Rules"

8 CCR 1201-18, Parts 4, 5, and 9.6

Notice is hereby given pursuant to § 24-4-103 C.R.S. that the Department of Agriculture will hold a public rulemaking hearing:

DATE: November 30, 2022
TIME: 9:00 am
LOCATION: This hearing will be held via Zoom
CALL INFORMATION: 1-719-359-4580
MEETING ID: 832 7830 9318
PASSCODE: 826851

In order to maintain a proper hearing record you are encouraged to pre-register by completing this Google form. If you do not have access to Google you may send your name and telephone number to Jenifer.Gurr@state.co.us
Pre-registration is not required to participate in the hearing.

The purpose of this rulemaking is to streamline the training, continuing education, renewal process, and statistics reporting for BAP agents.

The statutory authority for these rules is §35-42-106, C.R.S.

Any interested party may file written comment with the Commissioner's office prior to the hearing, or present at the aforementioned hearing written data, views or arguments. Emailed comments should be sent to the hearing officer at Jenifer.Gurr@state.co.us. A copy of the proposed rule is available on the Department of Agriculture's website at www.colorado.gov/ag or may be obtained by calling 303-869-9002. The proposed rule shall be available for public inspection at the Colorado Department of Agriculture at 305 Interlocken Parkway, Broomfield, Colorado during regular business hours.

Editing comments: Changes to this rule are indicated in ~~strikethrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

DEPARTMENT OF AGRICULTURE

Animal Health Division

BUREAU OF ANIMAL PROTECTION RULES

8 CCR 1201-18

Part 1. Definitions

As used in this document, unless the context otherwise requires:

1.1. "Abandon" means the leaving of an animal without adequate provisions for the animal's proper care by its owner, the person responsible for the animal's care or custody, or any other person having possession of such an animal.

1.2. "Animal" means any living dumb creature.

1.3. "Commissioned agent" or "agent" means an agent of the Bureau of Animal Protection approved by the Colorado Agricultural Commission and appointed by the Commissioner.

1.3.1. "Non-profit agent" means a commissioned agent of the Bureau of Animal Protection who is employed by a Colorado non-profit agency.

1.3.2. "Municipal agent" means a commissioned agent of the Bureau of Animal Protection who is employed by a county, city, or other municipal organization.

1.3.3. "Law enforcement agent" means a commissioned agent of the Bureau of Animal Protection who is employed by a law enforcement agency and whose employment relationship defines the scope of the agent's law-enforcement authorities.

1.3.4. "Colorado Department of Agriculture agent" means an agent of the Bureau of Animal Protection who is employed by the department's Division of Animal Health or the Division of Brand Inspection.

1.4. "Commissioner" means the Colorado Commissioner of Agriculture or his or her designee.

1.5. "Companion Animal" means domestic dogs, domestic cats, small pet birds, and other non-livestock species.

1.6. "Cruelty to Animals" means criminal offenses set forth in part 2 of article 9 of title 18, C.R.S.

1.7. "Department" means the Colorado Department of Agriculture.

1.8. "Euthanasia: means to produce a humane death by techniques accepted by the American Veterinary Medical Association as defined at section 18-9-201(2.7), C.R.S.

1.9. "Investigation" means a fact-finding process to gather evidence to support a criminal charge of cruelty to animals, or to support a civil charge for neglect, mistreatment, or abandonment of an animal.

1.10. "Livestock" means cattle, swine, sheep, goats, and such horses, mules, asses, and other animals used in the farm or ranch production of food, fiber, or other products defined by the Commissioner as agricultural products.

1.11. "Mistreat" means every act or omission which causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.

1.12. "Neglect" means failure to provide food, water, protection from the elements, or other care generally considered to be normal, usual, and accepted for an animal's health and well-being consistent with species, breed, and type of animal.

Part 2. Agent Authorities

2.1. Civil Investigations, Allegations of Mistreatment, Abandonment, or Neglect

2.1.1. An agent may gather evidence, including interviewing witnesses, to establish the probable cause necessary to support an allegation that a person has committed a civil violation of mistreatment, neglect, or abandonment of an animal in any circumstance so that the animal's life or health is in danger. If necessary, the Commissioner may authorize an agent, in conjunction with the Department of Agriculture and the Office of the Attorney General, to obtain an administrative search warrant.

2.1.2. Of the four classifications of commissioned agents defined above in Part 1.3, the authority to investigate an allegation that any person has committed a civil violation of mistreatment, neglect, or abandonment of any livestock in any circumstance so that the livestock's life or health is in danger is restricted to Colorado Department of Agriculture agents as well as law enforcement agents employed by a sheriff and within their jurisdiction.

2.2. Criminal Investigations, Summons and Complaints, Misdemeanor Cruelty to Animals

2.2.1. An agent may issue a criminal summons and complaint to enforce the provisions of part 2 of article 9 of title 18 as granted peace officers under section 16-2-104, C.R.S., which provides, "A summons and complaint may be issued by a peace officer for an offense constituting a misdemeanor or a petty offense committed in his presence or, if not committed in his presence, which he has probable cause to believe was committed and has probable cause to believe was committed by the person charged." Section 16-2-104, C.R.S.

2.2.2. To establish the probable cause necessary to issue a summons and complaint for an alleged misdemeanor violation of cruelty to animals, an agent may gather necessary evidence, including interviewing witnesses, except when gathering evidence would require the execution of a criminal search warrant. An agent may not execute a criminal search warrant.

2.2.3. Of the four classifications of commissioned agents defined above in Part 1.3, the authority to investigate alleged criminal offenses of animal cruelty involving livestock is restricted to Colorado Department of Agriculture agents as well as law enforcement agents employed by a sheriff and within their jurisdiction.

2.3. Provide Adequate Food and Water to Confined Animals

If any animal is found to be confined without adequate food and water, an agent may as necessary enter into any and upon any area or building where such animal is confined and supply it with adequate food and water.

2.3.1. Such entry by an agent shall not be made into any building which is a person's residence.

2.3.2. The agent must post a Notice of Entry and Care at an entrance to or at a conspicuous place upon such area or building where such animal is confined.

2.3.3. In the case of a companion animal, if such animal is not cared for by a person other than an agent or officer of the bureau or a peace officer or veterinarian within seventy-two hours of the posting a Notice of Entry and Care, such animal shall be presumed to have been abandoned under circumstances in which the animal's life or health is endangered.

2.3.3.1. An agent may refer this circumstance of abandonment to the commissioner's designee for potential civil proceedings; or,

2.3.3.2. An agent may issue a criminal summons and complaint for a misdemeanor cruelty to animals offense.

2.4. Lawful Interference to prevent mistreatment, neglect, abandonment or cruelty

An agent may lawfully interfere to prevent the perpetration of an act of mistreatment, neglect, abandonment, or cruelty, pursuant to part 2 of article 9 of title 18, C.R.S., which act occurs in his or her presence.

2.5. Euthanasia

Any agent may lawfully euthanize or cause to be euthanized any animal in his or her charge when, in the judgment of such agent, and in the opinion of a licensed veterinarian, the animal is experiencing extreme pain or suffering or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery. In the event a licensed veterinarian is not available, the animal may be euthanized by an agent if, by the written certificate of two persons, one of whom may be selected by the owner if the owner so requests, called to view the animal in the presence of the agent, the animal appears to be severely injured past recovery, severely disabled past recovery, severely diseased past recovery, or unfit for any useful purpose.

Part 3. Agent Training Requirements

In addition to the applicable requirements set forth in section 35-42-107 C.R.S., each applicant must satisfy the requirements set forth below to be eligible to receive a commission, unless the Commissioner determines that an applicant's experience and training constitute equivalent qualification for a commission.

3.1. 40 hours of prior training, to include:

3.1.1. Legal authority for investigations to include the constitutional rights of property owners;

3.1.2. Animal care, behavior, and handling;

3.1.3. Occupational safety;

3.1.4. Crisis intervention and conflict resolution;

3.1.5. Report writing;

3.1.6. Professionalism and ethics;

3.1.7. Animal husbandry and body condition scoring; and

3.1.8. Optional training, which may include but is not limited to:

3.1.8.1. Cost of Care;

3.1.8.2. Evidence collection and chain of custody;

3.1.8.3. Courtroom preparation; and

3.1.8.4. Cross reporting.

3.2. Equine endorsement: anyone who desires an equine endorsement must complete a minimum of 8 hours of equine husbandry and body condition scoring training.

3.3. Training provided by the Colorado Department of Agriculture, to include, a minimum:

3.3.1. Colorado laws including Colorado Revised Statutes Titles 18 and 35;

3.3.2. An Agent's scope and range of authority; and

3.3.3. Bureau of Animal Protection Rules 8 CCR 1201-18.

3.4. One year of experience in regulatory or code enforcement, animal care and control, or animal cruelty Investigations.

Part 4. Continuing Education, Terms of Commissions and of Renewals, and Revocation

4.1. Continuing Education: 32 hours of continuing education and training must be completed every 2 years. Continuing education must include at least 2 hours of Colorado Department of Agriculture provided training on program updates; 8 hours of investigations, search and seizure, report writing, or courtroom preparation; 4 hours of animal care, husbandry, handling, or body condition scoring. For equine-endorsed agents, each such agent must also complete 4 hours of equine husbandry, handling, or body condition scoring.

~~4.1.1. An agent's two year continuing education accrual cycle that includes the calendar year 2020 is extended by one year.~~

4.1.1~~2~~. Continuing education course information must be submitted to the Colorado Department of Agriculture for approval and must be submitted and approved prior to a training course being offered as continuing education.

4.1.2~~3~~. No training course submitted for approval will be considered valid until it receives the Commissioner's approval. A wide variety of training falls within the scope of BAP agent authority, and will be considered by the Commissioner.

4.2 Within six months of receiving a commission, any agent who has not been previously commissioned within the past two years must conduct and coordinate at least one investigation with the Department. Such coordination includes, but is not limited to: notifying the Department of

the planned investigation before it begins; weekly updates to the Department on the status of the investigation and any actions taken or planned to be taken; and a final meeting after the investigation to discuss and analyze the investigation and its outcome.

4.3~~2~~. Term of Commission: Each commission shall remain valid for the period of two~~one~~ calendar years from the date it is issued unless revoked by the Commissioner prior to expiration.

4.4~~3~~. Renewal of Commission: A commissioned agent who desires to continue as a commissioned agent must apply for renewal every two years~~annually~~, providing with such application for renewal, at a minimum:

4.4~~3~~.1. Employment Information: Current employer name, address, phone, category, and supervisor information;

4.4~~3~~.2. Continuing Education: Evidence of completed, approved, continuing education credits, if applicable;

4.4~~3~~.3. Statistics: Fully submitted statistics for the agent's previous year's activities; and

4.4~~3~~.4. Additional Requirements of Commissioner: Any additional requirements or information that the Commissioner may request must be provided.

4.4~~3~~.5. Term of Renewal: Recommissioned agents will be recommissioned for two~~one~~ years, subject to any subsequent determination by the Commissioner to revoke an agent's commission.

4.5~~4~~. Change or Termination of Employment

4.5~~4~~.1. Any agent who changes employers and who desires that his or her commission continue to the new employer must, within 14 days of the change of employment, update the Commissioner with: 1) the date of the change of employment; 2) the name of the new employer; 3) a copy of the certificate of liability insurance if the agent is moving to a non-profit agency; 4) a letter from the new employer affirming that the agent is authorized to act as a commissioned agent for the new employer; and 5) any other information as identified by the Commissioner in a change-of-employment form.

4.5~~4~~.2. Any agent who terminates his or her employment and who does not transition to a different employer with the authority to employ commissioned agents may request that the Commissioner place the agent's commission in an inactive status for the remainder of the unexpired term of the agent's commission.

4.5~~4~~.3. The Commissioner may reinstate the commission of any agent who requested that his or her commission be placed in an inactive status and whose commission has not yet expired if such agent accepts employment with an employer authorized to employ commissioned agents.

4.5~~4~~.4. In no circumstance may the Commissioner renew an agent's inactive commission.

4.5~~4~~.5. The Commissioner may revoke the commission of any agent who does not report to the Commissioner such change in employment within 14 days.

4.5~~4~~.6. The Commissioner may deny a request that a commission be placed in an inactive status if the agent does not make such request within 14 days of leaving the employ of an employer authorized to employ commissioned agents.

Editing comments: Changes to this rule are indicated in ~~strikethrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

Part 5. Statistics and Reporting

5.1. Each agency must designate at least one representative to submit statistics to the Bureau of Animal Protection.

5.2. Statistics for each commissioned agent must be compiled and reported as part of the agency statistics.

5.3. Statistics for any given month are due on the 15th day of each subsequent month.

5.4. Statistics to be reported for the month must include:

5.4.1. Total number of investigations conducted pursuant to Parts 2.1 and 2.2 above;

5.4.2. Total number of summons and complaints issued for a misdemeanor violation of part 2 of article 9 of title 18;

5.4.3. Total number of investigations conducted for a charge of Unlawful Ownership of Dangerous Dog;

5.4.4 Total number of summons and complaints issued for a charge of Unlawful Ownership of Dangerous Dog;

5.4.5. Total number of dogs seized and impounded as a result of an agent's issuing a summons and complaint for a charge of Unlawful Ownership of Dangerous Dog;

5.4.6. Total number of premises an agent or agents entered to supply any animal or animals with adequate food or water; and

5.4.7. Total number of entries described in 5.4.6 in which the agent or agents entered to supply livestock with adequate food and water.

5.4.8. For each investigation an agent conducts pursuant to Part 2.1 above, the agent, or the agent's designated representative, must submit a case report for each such investigation to the Department within a month after closing the case. The report must include a description of the complaint and the type of alleged mistreatment, what was observed during the investigation, the species being investigated, the outcomes of the investigation, and the date the case was closed.

Parts 6-8. Reserved

Part 9. Statements of Basis, Specific Statutory Authority and Purpose

9.1. Adopted April 4, 2003 – Effective June 30, 2003

The Colorado State Agricultural Commission adopts these rules pursuant to Section C.R.S. 35-42-106.

The purpose of rule 1 is to inform the State Veterinarian's Office before any animal is impounded, and to protect the owner from having his animal(s) unnecessarily impounded, or to require an owner to post bond for an unnecessary impoundment.

The purpose of rule 2 is to have minimum education/experience requirements for BAP commission applicants.

The purpose of rule 3 is to provide choices in disciplinary action, other than commission revocation, for any problem that may arise regarding legal authority.

9.2. Adopted March 5, 2007 – Effective May 1, 2007

The Commissioner of Agriculture adopts these rules pursuant to § 35-42-106, C.R.S.

The purpose of rule 4 is to establish reporting requirements to aid the Bureau of Animal Protection in compiling accurate statistics to be reported to the Commissioner of Agriculture and other entities as requested. These statistics reflect work done by all agents of the Bureau as commissioned law enforcement officers as defined in § 35-42-107, C.R.S.

9.3. Adopted November 9, 2016- Effective December 30, 2016

The Commissioner of Agriculture adopts these Rules pursuant to the authorities located at § 35-42-106, C.R.S.

The purpose of these Rules is to identify and articulate the Commissioner's authority with regard to administration of the Animal Protection Act. This Rule establishes how the Commissioner's authority is to be exercised with regard to assessment, inspection, and investigation of companion animals and of livestock. This Rule further establishes the processes and procedures in place for such inspections and investigations related to potential violations of the Animal Protection Act. Additionally, this Rule sets forth the training requirements and continuing education for individuals who desire to be agents and who are currently agents of the Bureau of Animal Protection. Finally, this Rule establishes the statistics that the Commissioner requires be kept with regard to enforcement of this Animal Protection Act and the manner by which those statistics must be reported to the Commissioner.

The Rules previously adopted pursuant to the Animal Protection Act had not been revised or updated since 2007. This rule-making completely replaces those Rules with updated, more user-friendly, and expanded Rules for enforcement of the Animal Protection Act.

9.4. Adopted April 11, 2018 – Effective May 30, 2018

The Commissioner of Agriculture adopts these Rules pursuant to the authorities located at §35-42-106, C.R.S.

The purpose of this Rule is to make the statistics required for submission by Part 5 consistent with the definition of statistics as set forth in Part 1. This remedy not only streamlines reporting, but will more accurately capture how each unique agency utilizes the Commissioner's authority. In addition, because there is no substantive need for agents to return expired BAP commission cards to CDA that requirement is eliminated.

9.5. Adopted November 12, 2020 – Effective December 30, 2020

The Commissioner of Agriculture adopts these Rules pursuant to the authorities located at §35-42-106, C.R.S.

The purpose of this rulemaking is to update the rule and to harmonize it with statutory amendments made to section 35-42-107(4), C.R.S., during the 2020 legislative session (SB 20-104).

The changes to the rule define the investigative authorities of commissioned agents and remove distinctions related to inspections and assessments that had become unnecessary. The revisions to the rule remove unnecessary definitions, highlight the primary authorities of commissioned agents, distinguish which agents may investigate cases related to livestock consistent with the statutory restrictions, and clarify investigative authorities. Because revisions to 35-42-107(4), C.R.S., clarify that commissioned agents may investigate and issue misdemeanor summons and complaints to enforce the provisions of 18-9-201, et seq., the Department removed reference to unlawful ownership of a dangerous dog to avoid any appearance that the Department was selecting or limiting what provisions of 18-9-201, et seq., the agents could investigate for purposes of issuing misdemeanor summons and complaints.

The agency has also adjusted the statistics that the Commissioner will require agencies that employ agents report to the Commissioner. The revised statistics will inform the Commissioner's understanding of the work BAP agents are doing in the field as agents of the Commissioner. In addition, this rule now identifies specific training necessary for an agent to receive an equine endorsement.

Changes to this rule provide specificity related to the Commissioner's authority to place a commission in an inactive status, to reinstate a commission, and to revoke a commission should an agent fail to update the Commissioner with information related to a change in employment. Finally, due to limited training opportunities during the 2020 calendar year as a result of COVID-19, this Rule exempts the 2020 calendar year from an agent's two-year continuing education accrual cycle.

9.6. Adopted December 14, 2022 – Effective February 15, 2023

The Commissioner of Agriculture adopts these Rules pursuant to the authorities located at §35-42-106, C.R.S.

The purpose of this rulemaking is to streamline the training, continuing education, renewal process, and statistics reporting for BAP agents.

This rule change extends the period that a commission is valid from one to two years, which coincides with the two-year period for continuing education. While the statute prescribes that a commission shall expire on the anniversary date of issuance, there is no statutory requirement that this be on the annual anniversary of the commission. The Department's analysis concluded that extending a commission from one to two years will also result in a cost savings to the Department and commissioned agents.

This rule change also introduces a new requirement for first-time agents and agents who have not been commissioned during the previous two years. The rule will now require that such agents coordinate with the Department prior to and during at least one investigation during the first six months of a new commission. The Department, in consultation with stakeholders, determined that this coordination would enhance communication, build a working relationship between the Department and agents in the field, provide hands-on mentorship and guidance to new agents, and provide the Department with a better understanding of challenges agents face and how the Department can best support them.

This rule change also identifies specific training that the Department will require as part of the 32 hours of continuing education. With input from industry and stakeholders, the Department concluded that identifying specific areas of training would enhance agents' overall knowledge, competence, and efficacy in the field.

Finally, the Department has also expanded the statistics that agents are required to report to the Commissioner to include that agents must submit a case report for each investigation conducted pursuant to part 2.1 of this rule set – civil investigations of allegations of mistreatment, neglect, or abandonment.

Such a report must be made within one month after an agent closes any such case. This additional information will inform the Department's understanding of the work agents are doing in the field as the Commissioner's commissioned agents.

Notice of Proposed Rulemaking

Tracking number

2022-00697

Department

500,1008,2500 - Department of Human Services

Agency

2503 - Income Maintenance (Volume 3)

CCR number

9 CCR 2503-5

Rule title

ADULT FINANCIAL PROGRAMS

Rulemaking Hearing

Date

12/09/2022

Time

08:30 AM

Location

1575 Sherman Street, Denver, CO 80203

Subjects and issues involved

Senate Bill 21-199 eliminated lawful presence as a requirement for state funded programs. An initial rule was passed updating Adult Financial Programs that was effective July 1, 2022. However, upon further review, additional rule updates are needed to fully comply with the legislation. It is expected that this rule will be adopted on an emergency/temporary basis at the December 9, 2022 hearing, to be followed by adoption on a permanent basis at the January 6, 2023 hearing.

Statutory authority

26-1-107, C.R.S; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 24-76.5-103, C.R.S.

Contact information

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Title

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Title of Proposed Rule:	Elimination of Lawful Presence for Old Age Pension
CDHS Tracking #:	**22-08-02-02**
CCR #:	9 CCR 2503-5
Office, Division, & Program:	Office of Economic Support, Division of Economic and Workforce Support, Adult Financial
Phone:	303-866-2751
Rule Author:	Laura Sartor
EMail:	laura.sartor@state.co.us

RULEMAKING PACKET

Type of Rule: *(complete a and b, below)*

a. [x] Board [ ] Executive Director

b. [ ] Regular [x] Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

x	AG Initial Review		x	Initial Board Reading			AG 2nd Review		Second Board Reading / Adoption

This package contains the following types of rules: *(check all that apply)*

Number	
x	Amended Rules
	New Rules
	Repealed Rules
	Reviewed Rules

What month is being requested for this rule to first go before the State Board?	November 2022

What date is being requested for this rule to be effective?	December 01, 2022
Is this date legislatively required?	Yes

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ Date: _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION
Comments:

Estimated Dates: 1st Board 11/04/2022 2nd Board 12/06/2022 Effective Date 12/01/2022

Summary of the basis and purpose for new rule or rule change.

Title of Proposed Rule:	Elimination of Lawful Presence for Old Age Pension		
CDHS Tracking #:	**22-08-02-02**		
CCR #:	9 CCR 2503-5		
Office, Division, & Program:	Office of Economic Support, Division of Economic and Workforce Support, Adult Financial	Phone:	303-866-2751
Rule Author:	Laura Sartor	EMail:	laura.sartor@state.co.us

Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. ***1500 Char max***

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

x	to comply with state/federal law and/or
	to preserve public health, safety and welfare

Justification for emergency: Senate Bill 21-199 eliminated lawful presence as a requirement for state funded programs. An initial rule was passed updating Adult Financial Programs that was effective July 1, 2022. However, upon further review, additional rule updates are needed to fully comply with the legislation.

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2022)	State Board to promulgate rules

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making <u>function</u> AND <u>authority.</u>*

Code	Description
26-1-109, C.R.S. (2022)	State department to coordinate with federal programs
26-1-111, C.R.S. (2022)	State department to promulgate rules for public assistance and welfare activities
24-76.5-103, C.R.S. (2022)	Verification of lawful presence is prohibited as an eligibility requirement for State benefits

Does the rule incorporate material by reference?		Yes		x	No
Does this rule repeat language found in statute?		Yes		x	No
If yes, please explain.					

Title of Proposed Rule:	Elimination of Lawful Presence for Old Age Pension		
CDHS Tracking #:	**22-08-02-02**		
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REGULATORY ANALYSIS

1. List of groups impacted by this rule.
Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?
This rule change impacts all applicants for the Old Age Pension in the Adult Financial programs. Additionally, this rule change affects all county departments of human services that process applications for Adult Financial programs.

2. Describe the qualitative and quantitative impact.
How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?
This rule will eliminate the need for an applicant to be lawfully present in order to be eligible for the Old Age Pension in the Adult Financial programs. This change will substantially alter the eligible populations for these programs. We estimate this change will increase the number of people eligible for the Old Age Pension between 3,000 and 32,833 people. The possible increase is wide because, based on 2019 census data, 32,833 additional non-citizens are potentially eligible for OAP based on their reported income; however, no information is known about individual liquid assets, which are also considered in determining eligibility. We are estimating that about 10% of the individuals identified in census data would qualify and apply for OAP benefits.

3. Fiscal Impact
For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources. ***Answer should NEVER be just "no impact" answer should include "no impact because…."***

State Fiscal Impact *(Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)*
The cost to update CBMS is approximately $45,172, these updates will be made within the existing pool hours.

The anticipated increase to the caseload is 3,000. Assuming these clients qualify for the full Old Age Pension, this is an increased cost of $31,644,000. The funding for the Old Age Pension is continually appropriated. In SFY 2022-23, $78,905,051 was formally appropriated for OAP cash assistance. Our most recent projects indicate that we think we'll spend about $56.4 million in SFY 2022-23 based on current trends. This leaves about $22.5 million remaining from the appropriation. Accordingly, the added costs associated with expanded eligibility could result in a possible deficit of approximately $9.1 million. A request for additional funding may be made if the spending matches these projections.

County Fiscal Impact
There is no county fiscal impact as counties do not contribute to the Old Age Pension payments.

Federal Fiscal Impact

Title of Proposed Rule:	Elimination of Lawful Presence for Old Age Pension		
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There is no federal fiscal impact as the Old Age Pension is entirely State funded.

Other Fiscal Impact *(such as providers, local governments, etc.)*
There are no additional fiscal impacts identified.

4. Data Description
List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?
Ad hoc caseload and demographic data from the statewide automated system was used. In addition, information available in the Census American Community Survey (ACS) was used to gather information on the general population.

5. Alternatives to this Rule-making
Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative. **Answer should NEVER be just "no alternative" answer should include "no alternative because…"**
There is no alternative because, as of 07/01/2022, section 24-76.5-103, C.R.S. (2022) prohibits lawful presence as a requirement for State or local benefits programs. State rules for Adult Financial which currently require lawful presence, need to be updated in order to comply with the law.

Title of Proposed Rule: Elimination of Lawful Presence for Old Age Pension
CDHS Tracking #: **22-08-02-02**
CCR #: 9 CCR 2503-5
Office, Division, & Program: Office of Economic Support, Division of Economic and Workforce Support, Adult Financial
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OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
3.520.6	Includes lawful presence as a requirement.	To be eligible for Adult Financial programs, a client shall: C. Be a citizen of the United States or be a qualified non-citizen or legal immigrant as outlined in Sections 3.520.67; and, D. Have a valid SSN, as outlined in Section 3.520.65; and	To be eligible for Adult Financial programs, a client shall: C. FOR AND ONLY, B~~B~~e a citizen of the United States or be a qualified non-citizen or legal immigrant as outlined in Sections 3.520.67; and, D. FOR AND ONLY, H~~H~~ave a valid SSN, as outlined in Section 3.520.65; and,	Eliminate lawful presence as a requirement for OAP.	
3.520.65	Includes valid social security number	A. Each Adult Financial program client shall provide his or her SSN to the county department. 1. If a client has multiple numbers, all numbers shall be required. 2. If a client is unable to provide their SSN, the client shall be required to apply for an SSN at the local Social Security office and provide the county department with verification of application for an SSN. 3. Refusal or failure to apply for or provide their SSN shall result in denial for Adult Financial programs. 4. Upon proof of application for an SSN, the time required for issuance of the number or to secure verification of the number shall not be used as a basis for delaying action on the Adult Financial program application. B. The county department shall verify the client's SSN with the SSA in accordance with procedures established by the State Department for the SVES. 1. The county department shall accept as verified a SSN that has been confirmed by the SVES. 2. When the county department receives notification that an SSN cannot be verified or is otherwise discrepant (e.g., name or number	A. Each Adult Financial program client WHO HAS A SOCIAL SECURITY NUMBER (SSN) shall provide his or her SSN to the county department. 1. If a client has multiple numbers, all numbers shall be required. 2. If a client is unable to provide their SSN, the client shall be required to apply for an SSN at the local Social Security office and provide the county department with verification of application for an SSN. FOR OAP, CLIENTS WHO ARE NOT U.S. CITIZENS OR QUALIFIED NON-CITIZENS, AND ARE INELIGIBLE TO RECEIVE A SSN, THIS REQUIREMENT DOES NOT APPLY. 3. WHEN A CLIENT IS ELIGIBLE FOR A SSN, R~~R~~efusal or failure to apply for or provide their SSN shall result in denial for Adult Financial programs. 4. Upon proof of application for an SSN, the time required for issuance of the number or to secure verification of the number shall not be used as a basis for delaying action on the Adult Financial program application. 5. CLIENTS INELIGIBLE FOR A SSN SHALL BE ASKED TO APPLY FOR AND PROVIDE AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER, IF ELIGIBLE. B. The county department shall verify the client's SSN with the SSA in accordance with procedures established by the State Department for the	Eliminates social security number requirement for OAP	

		do not match SSA records), the county department shall: a. Conduct a case record review to confirm that the SSN in the case record matches the SSN submitted to the SSA for verification. 1) If an error occurred in the original submittal (e.g., digits transposed, incorrect name submitted) the county department shall correct the error and resubmit the SSN through SVES for verification. 2) If no error is identified, the county department shall advise the client in writing that the SSN could not be verified, and instruct the client to contact the local Social Security office to resolve the discrepancy. b. Make every effort to assist the client to obtain available documents required by the SSA. 3. If the client is unable to provide his or her valid SSN, the application shall be denied or the case terminated following the policies outlined in Section 3.554.	SVES. 1. The county department shall accept as verified a SSN that has been confirmed by the SVES. 2. When the county department receives notification that an SSN cannot be verified or is otherwise discrepant (e.g., name or number do not match SSA records), the county department shall: a. Conduct a case record review to confirm that the SSN in the case record matches the SSN submitted to the SSA for verification. 1) If an error occurred in the original submittal (e.g., digits transposed, incorrect name submitted) the county department shall correct the error and resubmit the SSN through SVES for verification. 2) If no error is identified, the county department shall advise the client in writing that the SSN could not be verified, and instruct the client to contact the local Social Security office to resolve the discrepancy. b. Make every effort to assist the client to obtain available documents required by the SSA. 3.FOR CLIENTS ELIGIBLE TO RECEIVE A SSN, if the client is unable to provide his or her valid SSN, the application shall be denied or the case terminated following the policies outlined in Section 3.554.		
3.520.66	Identity requirements	IDENTITY	IDENTITY IN ORDER TO VERIFY CLIENTS IDENTITY, THE CLIENT SHALL PRODUCE AND PROVIDE TO THE COUNTY DEPARTMENT:	Adding explanation of identity	
3.520.67	Citizenship	G. The following non-citizens and	G. The following non-citizens and	Eliminates	

	requirements for Adult Financial programs	temporary residents shall not be eligible for Adult Financial programs: 1. A non-citizen with no status verification (undocumented) from the USCIS; 2. A non-citizen granted a specific voluntary departure date; 3. A non-citizen without a current qualified status, regardless of application status; or, 4. A citizen of foreign nations residing temporarily in the United States on the basis of a visa issued to permit employment, education, or a visit.	temporary residents shall not be eligible for AND~~Adult Financial programs~~: 1.A non-citizen with no status verification (undocumented) from the USCIS; 2. A non-citizen granted a specific voluntary departure date; 3. A non-citizen without a current qualified status, regardless of application status; or, 4. A citizen of foreign nations residing temporarily in the United States on the basis of a visa issued to permit employment, education, or a visit.	citizenship requirements for OAP	

STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC): The Food and Energy Assistance Division and Economic Security Sub-PAC.

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services: County Human Services Directors Association; Colorado Commission on Aging; Colorado Legal Services; Disability Law Colorado; Colorado Senior Lobby; PAC & Economic Security Sub-PAC; Colorado Gerontological Society; Area Agencies on Aging; Colorado Center on Law and Policy; Colorado Department of Human Services Food & Energy Assistance Division; and, Colorado Department of Health Care Policy and Financing.

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

[ ] Yes [x] No

If yes, who was contacted and what was their input?

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[ ] Yes [x] No

Name of Sub-PAC	Economic Security		
Date presented			
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

[ ] Yes [x] No

Date presented			
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

[ ] Yes [x] No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

ADULT FINANCIAL PROGRAMS

9 CCR 2503-5

****

3.520.6 NON-FINANCIAL ELIGIBILITY REQUIREMENTS

To be eligible for Adult Financial programs, a client shall:
****
C. FOR AND ONLY, B~~B~~e a citizen of the United States or be a qualified non-citizen or legal immigrant as outlined in Sections 3.520.67; and,

D. FOR AND ONLY, H~~H~~ave a valid SSN, as outlined in Section 3.520.65; and,
****
3.520.65 SOCIAL SECURITY NUMBERS (SSN)
A. Each Adult Financial program client WHO HAS A SOCIAL SECURITY NUMBER (SSN) shall provide his or her SSN to the county department.
1. If a client has multiple numbers, all numbers shall be required.
2. If a client is unable to provide their SSN, the client shall be required to apply for an SSN at the local Social Security office and provide the county department with verification of application for an SSN. FOR OAP, CLIENTS WHO ARE NOT U.S. CITIZENS OR QUALIFIED NON-CITIZENS, AND ARE INELIGIBLE TO RECEIVE A SSN, THIS REQUIREMENT DOES NOT APPLY.
3. WHEN A CLIENT IS ELIGIBLE FOR A SSN, R~~R~~efusal or failure to apply for or provide their SSN shall result in denial for Adult Financial programs.
4. Upon proof of application for an SSN, the time required for issuance of the number or to secure verification of the number shall not be used as a basis for delaying action on the Adult Financial program application.
5. CLIENTS INELIGIBLE FOR A SSN SHALL BE ASKED TO APPLY FOR AND PROVIDE AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER, IF ELIGIBLE.
B. The county department shall verify the client's SSN with the SSA in accordance with procedures established by the State Department for the SVES.
1. The county department shall accept as verified a SSN that has been confirmed by the SVES.
2. When the county department receives notification that an SSN cannot be verified or is otherwise discrepant (e.g., name or number do not match SSA records), the county department shall:
a. Conduct a case record review to confirm that the SSN in the case record matches the SSN submitted to the SSA for verification.
1) If an error occurred in the original submittal (e.g., digits transposed, incorrect name submitted) the county department shall correct the error and resubmit the SSN through SVES for verification.

2) If no error is identified, the county department shall advise the client in writing that the SSN could not be verified, and instruct the client to contact the local Social Security office to resolve the discrepancy.

b. Make every effort to assist the client to obtain available documents required by the SSA.

3. FOR CLIENTS ELIGIBLE TO RECEIVE A SSN, if the client is unable to provide his or her valid SSN, the application shall be denied or the case terminated following the policies outlined in Section 3.554.

****

3.520.66 IDENTITY

IN ORDER TO VERIFY CLIENTS IDENTITY, THE CLIENT SHALL PRODUCE AND PROVIDE TO THE COUNTY DEPARTMENT:

****

3.520.67 CITIZENSHIP AND QUALIFIED NON-CITIZENS

****

G. The following non-citizens and temporary residents shall not be eligible for AND~~Adult Financial programs~~:

1. A non-citizen with no status verification (undocumented) from the USCIS;
2. A non-citizen granted a specific voluntary departure date;
3. A non-citizen without a current qualified status, regardless of application status; or,
4. A citizen of foreign nations residing temporarily in the United States on the basis of a visa issued to permit employment, education, or a visit.

Notice of Proposed Rulemaking

Tracking number

2022-00684

Department

2505,1305 - Department of Health Care Policy and Financing

Agency

2505 - Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)

CCR number

10 CCR 2505-10

Rule title

MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY

Rulemaking Hearing

Date

12/09/2022

Time

09:00 AM

Location

303 East 17th Avenue, 11th Floor, Denver, CO 80203

Subjects and issues involved

see attached

Statutory authority

Sections 25.5-1-301 through 25.5-1-303 (2022)

Contact information

Name

Chris Sykes

Title

Medical Services Board Coordinator

Telephone

3038664416

Email

chris.sykes@state.co.us

COLORADO
Department of Health Care Policy & Financing
Medical Services Board

NOTICE OF PROPOSED RULES

The Medical Services Board of the Colorado Department of Health Care Policy and Financing will hold a public meeting on Friday, December 9, 2022, beginning at 9:00 a.m., in the eleventh floor conference room at 303 E 17th Avenue, Denver, CO 80203. Reasonable accommodations will be provided upon request for persons with disabilities. Please notify the Board Coordinator at 303-866-4416 or chris.sykes@state.co.us or the 504/ADA Coordinator hcpf504ada@state.co.us at least one week prior to the meeting.

A copy of the full text of these proposed rule changes is available for review from the Medical Services Board Office, 1570 Grant Street, Denver, Colorado 80203, (303) 866-4416, fax (303) 866-4411. Written comments may be submitted to the Medical Services Board Office on or before close of business the Wednesday prior to the meeting. Additionally, the full text of all proposed changes will be available approximately one week prior to the meeting on the Department's website at www.colorado.gov/hcpf/medical-services-board.

This notice is submitted pursuant to § 24-4-103(3)(a) and (11)(a), C.R.S.

MSB 22-09-22-A, Revision to the Medical Assistance Act Rule concerning Out of State Former Foster Care members for Sections 8.100.4.H.2. (Melissa-Torres-Murrilo, Eligibility Policy Section)

Medical Assistance. The proposed rule change will amend Section 8.100.4.H.2, to include requirements to expand Former Foster Care Medicaid to members who were in foster care at the age of 18 on or after January 1, 2023, were on Medicaid, and who have become residents of Colorado from another state. These requirements are to expand coverage according to Section 1002 of the Substance Use-Disorder Prevention That Promotes Opioid Recovery and Treatment for Patients and Communities Act of 2018 (SUPPORT Act), signed into law on October 24, 2018, which amends Medicaid coverage requirements for the Former Foster Care eligibility category that provides youth who aged out of foster care with Medicaid eligibility up to the age 26. The out-of-state former foster care coverage will be available to all Medicaid members enrolled in the Former Foster Care Medicaid defined under 42 C.F.R. § 435.150. The Department will be updating the Colorado Benefits Management System (CBMS) to reflect these changes.

The authority for this rule is contained in 42 C.F.R. § 435.150; Section 25.5-5-101.(1)(e), C.R.S. (2021) and Sections 25.5-1-301 through 25.5-1-303 (2022).

MSB 22-10-27-A, Revision to the Special Financing Division Rules Language Correction, Section 8.904.F.2. and Section 8.923.B.2 (Taryn Graf, Special Financing Division)

Medical Assistance. The proposed rule change will correct Section 8.904.F.2, to be in alignment with Section 8.904 and the requirements. Section 8.923.B.2. will be amended to align with the statute.

The authority for this rule is contained in Sections 25.5-3-501 through 25.5-3-506, C.R.S. (2021); Sections 25.5-3-101 through 25.5-3-112 and Sections 25.5-1-301 through 25.5-1-303 (2022).

MSB 22-10-27-B, Revision to the Medical Assistance programs Rule for Language Correction, Section 8.100.3.G.1.g.v. (Melissa Torres-Murrilo, Eligibility Policy Section)

Medical Assistance. The proposed rule change will correct Section 8.100.3.G.1.g.v, to be in alignment with statutory requirements regarding incorporation by reference.

The authority for this rule is contained in Sections 25.5-1-301 through 25.5-1-303 (2022).

Notice of Proposed Rulemaking

Tracking number

2022-00693

Department

500,1008,2500 - Department of Human Services

Agency

2509 - Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-1

Rule title

OVERVIEW OF CHILD WELFARE SERVICES

Rulemaking Hearing

Date

12/09/2022

Time

08:30 AM

Location

1575 Sherman Street, Denver, CO 80203

Subjects and issues involved

House Bill 22-1038 Concerning client-directed legal representation for youth in court proceedings for youth was signed into law in April 2022. Current law requires the appointment of a guardian ad litem for children or youth in dependency and neglect cases. The bill requires that client-directed counsel for youth be appointed for children or youth 12 years of age or older to provide specialized client-directed legal representation. The new law prohibits the waiver of a child's or youth's right to counsel in dependency and neglect proceedings. The bill also allows a child or youth to be a party in a dependency and neglect proceeding. For a child or youth 12 years of age or older with diminished capacity, a guardian ad litem shall remain in the role and separate counsel for the child or youth must be appointed. Due to changes from this new law the rules that govern child welfare practice will need to be updated. This packet includes updates to 12CCR-2509-01 to include definitions of Counsel for youth and Guardian Ad Litem" and include expectations for counsel for youth in responsibilities for children and youth served in child welfare cases as outlined in Colorado Revised Statutes 13-91-103 .

Statutory authority

26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 26-1-111, C.R.S.

Contact information

Name

Korey Elger

Title

Permanency Manager

Telephone

303.249.5662

Email

korey.elger@state.co.us

Title of Proposed Rule: SB22-1038 (Right to Counsel) 2509-1
CDHS Tracking #:

Office, Division, & Program: OCYF/ DCW/ Permanency
Rule Author: Korey Elger
Phone: 303-249-5662
E-Mail: Korey.Elger@state.co.us

RULEMAKING PACKET

Type of Rule: *(complete a and b, below)*

a. [x] Board [ ] Executive Director

b. [x] Regular [ ] Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

[x] AG Initial Review
[ ] Initial Board Reading
[ ] AG 2nd Review
[ ] Second Board Reading / Adoption

This package contains the following types of rules: *(check all that apply)*

Number	
1	Amended Rules
2	New Rules
	Repealed Rules
	Reviewed Rules

What month is being requested for this rule to first go before the State Board? April 2023

What date is being requested for this rule to be effective?	June 30, 2023
Is this date legislatively required?	No

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ Date: _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION

Comments:

Estimated Dates:	1st Board	2nd Board	Effective Date

Title of Proposed Rule: SB22-1038 (Right to Counsel) 2509-1

CDHS Tracking #:

Office, Division, & Program: OCYF/ DCW/ Permanency

Rule Author: Korey Elger

Phone: 303-249-5662

E-Mail: Korey.Elger@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. ***1500 Char max***

House Bill 22-1038 “Concerning client-directed legal representation for youth in court proceedings for youth” was signed into law in April 2022. Current law requires the appointment of a guardian ad litem for children or youth in dependency and neglect cases. The bill requires that client-directed counsel for youth be appointed for children or youth 12 years of age or older to provide specialized client-directed legal representation.

The new law prohibits the waiver of a child's or youth's right to counsel in dependency and neglect proceedings. The bill also allows a child or youth to be a party in a dependency and neglect proceeding. For a child or youth 12 years of age or older with diminished capacity, a guardian ad litem shall remain in the role and separate counsel for the child or youth must be appointed. Due to changes from this new law the rules that govern child welfare practice will need to be updated. This packet includes updates to 12CCR-2509-01 to include definitions of “Counsel for youth” and “Guardian Ad Litem" and include expectations for counsel for youth in responsibilities for children and youth served in child welfare cases as outlined in Colorado Revised Statutes 13-91-103 .

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

x	to comply with state/federal law and/or
	to preserve public health, safety and welfare

Justification for emergency:

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2015)	State Board to promulgate rules.
26-1-109, C.R.S. (2015)	State department rules to coordinate with federal programs.
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Title of Proposed Rule: SB22-1038 (Right to Counsel) 2509-1

CDHS Tracking #:

Office, Division, & Program: OCYF/ DCW/ Permanency

Rule Author: Korey Elger

Phone: 303-249-5662

E-Mail: Korey.Elger@state.co.us

Does the rule incorporate material by reference?		Yes	x	No
Does this rule repeat language found in statute?	x	Yes		No

If yes, please explain. The definition for Guardian Ad Litem and Counsel for youth is from Colorado Revised Statute 13-91-103

REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

Child welfare sub pac, Perm Task Group, Stakeholder meetings, Office of Child Representative, Office of Respondent parent counsel.

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

This rule will impact the practice of stakeholders to understand that law will allow for youth over the age of twelve to have counsel and a voice for themselves in Dependency and Neglect and Juvenile Justice cases. The short and long term consequences will result in compliance with Colorado law.

3. Fiscal Impact

For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources. ***Answer should NEVER be just "no impact" . The answer should include "no impact because…."***

State Fiscal Impact *(Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)*

No State impact as this is providing guidance and there are no costs associated with these changes needed to modify state systems and rule changes is a planned for and absorbable impact for the state department.

County Fiscal Impact

No County impact as this is providing guidance and there are no costs associated with this change for counties.

Federal Fiscal Impact

No Federal Impact as this is providing guidance and there are no costs associated with this change.

Other Fiscal Impact *(such as providers, local governments, etc.)*

There will be a fiscal impact on the Office of Child Representative because they are developing to address training for Guardians Ad Litem due to the change to practice for attorneys.

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

This is not applicable as this is new law so no time has passed for data to be collected.

5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative. **Answer should NEVER be just "no alternative" answer should include "no alternative because…"**

There is not an alternative to rule making as the rules will need to have a definition through the statute about how and what a Guardian Ad Litem and a Counsel for youth will be doing in child welfare cases.

Title of Proposed Rule: _____

CDHS Tracking #: _____

Office, Division, & Program:
OCYF/ DCW/ Permanency

Rule Author: Korey Elger

Phone: 303-249-5662

E-Mail:
Korey.Elger@state.co.us

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
7.000	*Incorrect Statutory Reference*	*Section 26.5.103 C.R.S.*	*Section 26.5-101(3) C.R.S.*		
7.000 D	Does not include Counsel for youth	D. It is the responsibility of all adults involved in a child/youth's life, including but not limited to county department personnel, parents, foster parents, adoptive parent/s, Guardians Ad Litem, Court-Appointed Special Advocates, next of kin, treatment providers, and others, to seek opportunities to foster sibling relationships, to promote continuity, and to help sustain	D. It is the responsibility of all adults involved in a child/youth's life, including but not limited to county department personnel, parents, foster parents, adoptive parent/s, Guardians Ad Litem, COUNSEL FOR YOUTH, Court-Appointed Special Advocates, next of kin, treatment providers, and others, to seek opportunities to foster sibling relationships, to promote continuity, and to help sustain	To include Counsel for youth	
7.1.2	Definitions	None	"COUNSEL FOR YOUTH" MEANS AN ATTORNEY-AT-LAW WHO PROVIDES SPECIALIZED CLIENT-DIRECTED LEGAL REPRESENTATION FOR A CHILD OR YOUTH AND WHO OWES THE SAME DUTIES, INCLUDING UNDIVIDED LOYALTY, CONFIDENTIALITY, AND COMPETENT REPRESENTATION, TO THE CHILD OR YOUTH AS IS DUE AN ADULT CLIENT. COUNSEL FOR YOUTH MAY BE APPOINTED BY A COURT TO REPRESENT A CHILD OR YOUTH IN A PROCEEDING PURSUANT TO ARTICLE 1, 3, OR 7 OF TITLE 19, C.R.S., OR MAY BE ASSIGNED BY THE OFFICE OF THE CHILD'S REPRESENTATIVE PURSUANT TO ARTICLE 7 OF TITLE 19, C.R.S. "COUNSEL FOR YOUTH; DOES NOT MEAN DEFENSE COUNSEL FOR A JUVENILE PURSUANT TO ARTICLE 2.5 OF TITLE 19, C.R.S.	To include Counsel for youth	

7.1.2	Definitions	None	“GUARDIAN AD LITEM” MEANS A PERSON APPOINTED BY A COURT TO ACT IN THE BEST INTERESTS OF A PERSON WHOM THE PERSON APPOINTED IS REPRESENTING IN PROCEEDINGS PURSUANT TO TITLE 19, C.R.S. AND WHO, IF APPOINTED TO REPRESENT A PERSON IN A DEPENDENCY AND NEGLECT PROCEEDING PURSUANT TO ARTICLE 3 OF THIS TITLE 19, MUST BE AN ATTORNEY-AT-LAW LICENSED TO PRACTICE IN COLORADO.	To include Counsel for yout	

Title of Proposed Rule: SB22-1038 (Right to Counsel) 2509-1

CDHS Tracking #:

Office, Division, & Program: OCYF/ DCW/ Permanency

Rule Author: Korey Elger

Phone: 303-249-5662

E-Mail: Korey.Elger@state.co.us

STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

Cara Nord Office of the Child's Representative

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

[ ] Yes [X] No

If yes, who was contacted and what was their input?

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[ ] Yes [ ] No

Name of Sub-PAC			
Date presented			
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

[ ] Yes [ ] No

Date presented What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

[ ] Yes [ ] No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

EXAMPLE OF RULES WITH SECRETARY OF STATE'S STYLE CODING
REPLACE WITH YOUR OWN RULES

(10 CCR 2506-1)

<Title2>
********** (BREAK BETWEEN SECTIONS)

[Note: Changes to rule text are identified as follows: deletions are shown as "strikethrough", additions are in "All Caps", and changes made between initial review and final adoption are in [brackets] or highlighted yellow]

7.000 D D. It is the responsibility of all adults involved in a child/youth's life, including but not limited to county
department personnel, parents, foster parents, adoptive parent/s, Guardians Ad Litem, COUNSEL
FOR YOUTH, Court-Appointed Special Advocates, next of kin, treatment providers, and others, to seek opportunities to foster sibling relationships, to promote continuity, and to help sustain

7.1.2 Definitions
"COUNSEL FOR YOUTH" MEANS AN ATTORNEY-AT-LAW WHO PROVIDES SPECIALIZED CLIENT-DIRECTED LEGAL REPRESENTATION FOR A CHILD OR YOUTH AND WHO OWES THE SAME DUTIES, INCLUDING UNDIVIDED LOYALTY, CONFIDENTIALITY, AND COMPETENT REPRESENTATION, TO THE CHILD OR YOUTH AS IS DUE AN ADULT CLIENT. COUNSEL FOR YOUTH MAY BE APPOINTED BY A COURT TO REPRESENT A CHILD OR YOUTH IN A PROCEEDING PURSUANT TO ARTICLE 1, 3, OR 7 OF TITLE 19, C.R.S., OR MAY BE ASSIGNED BY THE OFFICE OF THE CHILD'S REPRESENTATIVE PURSUANT TO ARTICLE 7 OF TITLE 19, C.R.S. "COUNSEL FOR YOUTH; DOES NOT MEAN DEFENSE COUNSEL FOR A JUVENILE PURSUANT TO ARTICLE 2.5 OF TITLE 19, C.R.S.

"GUARDIAN AD LITEM" MEANS A PERSON APPOINTED BY A COURT TO ACT IN THE BEST INTERESTS OF A PERSON WHOM THE PERSON APPOINTED IS REPRESENTING IN PROCEEDINGS PURSUANT TO TITLE 19, C.R.S. AND WHO, IF APPOINTED TO REPRESENT A PERSON IN A DEPENDENCY AND NEGLECT PROCEEDING PURSUANT TO ARTICLE 3 OF THIS TITLE 19, MUST BE AN ATTORNEY-AT-LAW LICENSED TO PRACTICE IN COLORADO.

Notice of Proposed Rulemaking

Tracking number

2022-00691

Department

500,1008,2500 - Department of Human Services

Agency

2509 - Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-2

Rule title

REFERRAL AND ASSESSMENT

Rulemaking Hearing

Date

12/09/2022

Time

08:30 AM

Location

1575 Sherman Street, Denver, CO 80203

Subjects and issues involved

House Bill 22-1038 Concerning client-directed legal representation for youth in court proceedings for youth was signed into law in April 2022. Current law requires the appointment of a guardian ad litem for children or youth in dependency and neglect cases. The bill requires that client-directed counsel for youth be appointed for children or youth 12 years of age or older to provide specialized client-directed legal representation. The new law prohibits the waiver of a child's or youth's right to counsel in dependency and neglect proceedings. The bill also allows a child or youth to be a party in a dependency and neglect proceeding. For a child or youth 12 years of age or older with diminished capacity, a guardian ad litem shall remain in the role and separate counsel for the child or youth must be appointed. Due to changes from this new law the rules that govern child welfare practice will need to be updated. This packet will include updates to 12 CCR-2509-04 to include counsel for youth and guardian ad litem and includes rule updates to incorporate language regarding the new law.

Statutory authority

26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 26-1-111, C.R.S.

Contact information

Name

Korey Elger

Title

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Title of Proposed Rule: SB22-1038 (Right to Counsel) 2509-2
CDHS Tracking #:

Office, Division, & Program: OCYF/ DCW/ Permanency
Rule Author: Korey Elger
Phone: 303-249-5662
E-Mail: Korey.Elger@state.co.us

RULEMAKING PACKET

Type of Rule: *(complete a and b, below)*

a. [x] Board [ ] Executive Director

b. [x] Regular [ ] Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

[x] AG Initial Review
[ ] Initial Board Reading
[ ] AG 2nd Review
[ ] Second Board Reading / Adoption

This package contains the following types of rules: *(check all that apply)*

Number	
	Amended Rules
3	New Rules
	Repealed Rules
	Reviewed Rules

What month is being requested for this rule to first go before the State Board? April 2023

What date is being requested for this rule to be effective?	June 30, 2023
Is this date legislatively required?	No

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ Date: _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION

Comments:

Estimated Dates: 1st Board _____ 2nd Board _____ Effective Date _____

Title of Proposed Rule: SB22-1038 (Right to Counsel) 2509-2

CDHS Tracking #:

Office, Division, & Program: OCYF/ DCW/ Permanency

Rule Author: Korey Elger

Phone: 303-249-5662

E-Mail: Korey.Elger@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. ***1500 Char max***

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The new law prohibits the waiver of a child's or youth's right to counsel in dependency and neglect proceedings. The bill also allows a child or youth to be a party in a dependency and neglect proceeding. For a child or youth 12 years of age or older with diminished capacity, a guardian ad litem shall remain in the role and separate counsel for the child or youth must be appointed. Due to changes from this new law the rules that govern child welfare practice will need to be updated. This packet will include updates to 12 CCR-2509-04 to include counsel for youth and guardian ad litem and includes rule updates to incorporate language regarding the new law.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

x	to comply with state/federal law and/or
	to preserve public health, safety and welfare

Justification for emergency:

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2015)	State Board to promulgate rules.
26-1-109, C.R.S. (2015)	State department rules to coordinate with federal programs.
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Does the rule incorporate material by reference? ☐ Yes x No

Does this rule repeat language found in statute? ☐ Yes x No

If yes, please explain.

REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

Child welfare sub pac, Perm Task Group, Stakeholder meetings, Office of the Child Representative, Office of Respondent parent counsel.

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

This rule will impact the practice of stakeholders to understand that they will allow for youth over the age of twelve to have counsel and a voice for themselves in Dependency and Neglect and Juvenile Justice cases. The short and long term consequences will result in compliance with Colorado law.

3. Fiscal Impact

For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources. ***Answer should NEVER be just "no impact" answer should include "no impact because…."***

State Fiscal Impact *(Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)*

No State impact as this is providing guidance and there are no costs associated with these changes needed to modify state systems and rule changes is a planned for and absorbable impact for the state department.

County Fiscal Impact

No County impact as this is providing guidance and there are no costs associated with this change for counties.

Federal Fiscal Impact

No Federal Impact as this is providing guidance and there are no costs associated with this change.

Other Fiscal Impact *(such as providers, local governments, etc.)*

There will be a fiscal impact on the Office of Child Representative because they are developing that they are incurring to address training for Guardians Ad Litems due to and the change to practice for attorneys.

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

This is not applicable as this is new law so no time has passed for data to be collected.

5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative. **Answer should NEVER be just "no alternative" answer should include "no alternative because…"**

There is not an alternative to rulemaking as the rules will need to have a definition through the statute about how and what a Guardian Ad Litem and a Counsel for Youth will be doing in child welfare cases.

Title of Proposed Rule: _____

CDHS Tracking #: _____

Office, Division, & Program:
OCYF/ DCW/ Permanency

Rule Author: Korey Elger

Phone: 303-249-5662

E-Mail:
Korey.Elger@state.co.us

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
7.000	*Incorrect Statutory Reference*	*Section 26.5.103 C.R.S.*	*Section 26.5-101(3) C.R.S.*		

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7.104.12	Audio Or Video Recording Of The Interview Or Observation	A. The interview or observation may be audio or video taped except when it is impracticable under the circumstances or will result in trauma to the child, as determined by the county department. B. If audio or video recording is conducted, the following standards shall be followed: 1. The interview shall be conducted by a competent interviewer, and may occur at a child advocacy center, as defined in Section 19-1-103(19.5), C.R.S., that has a Memorandum of Understanding with the county department responsible for the assessment or by a competent interviewer for the county department. 2. The child shall be advised that audio or video taping of the interview is to be conducted and the advisement shall be documented in the state automated case management system. If the child objects to videotaping of the assessment, such taping shall not be conducted by the county department. 3. If it is the county department's policy to routinely video or audio tape interviews, and an exception is made, the reason for the exception shall be	A. The interview or observation may be audio or video taped except when it is impracticable under the circumstances or will result in trauma to the child, as determined by the county department. B. If audio or video recording is conducted, the following standards shall be followed: 1. The interview shall be conducted by a competent interviewer, and may occur at a child advocacy center, as defined in Section 19-1-103(19.5), C.R.S., that has a Memorandum of Understanding with the county department responsible for the assessment or by a competent interviewer for the county department. 2. The child shall be advised that audio or video taping of the interview is to be conducted and the advisement shall be documented in the state automated case management system. If the child objects to videotaping of the assessment, such taping shall not be conducted by the county department. 3. If it is the county department's policy to routinely video or audio tape interviews, and an exception is made, the reason for the exception shall be documented in the state automated case management system. 4. If there is a request by any party to the action to view or listen to an audio or video tape, the child and/or, the guardian ad litem OR COUNSEL FOR YOUTH shall be notified in advance of the request, when possible.	To include Counsel for youth	

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7.104.24	Notice	7.104.24 Notice A. The following individuals shall receive notice: 1. The licensing authority or certifying unit shall be notified that a referral concerning abuse and/or neglect has been received within one (1) working day after receipt of the referral. 2. The licensing authority or certifying unit shall be notified if the assessment indicates there is an immediate threat to the child(ren)'s health, safety, or welfare within one (1) working day of such determination. 3. Custodial agencies, including county departments, other states, and appropriate divisions of the State Department shall be notified as follows: a. Immediately, if there are safety issues or if an injury requires medical treatment; and, b. Following completion of the assessment, if a child in their custody was the subject of a referral or if the assessment reveals concerns regarding the child care practices which could negatively impact the child(ren).	7.104.24 Notice A. The following individuals shall receive notice: 1. The licensing authority or certifying unit shall be notified that a referral concerning abuse and/or neglect has been received within one (1) working day after receipt of the referral. 2. The licensing authority or certifying unit shall be notified if the assessment indicates there is an immediate threat to the child(ren)'s health, safety, or welfare within one (1) working day of such determination. 3. Custodial agencies, including county departments, other states, and appropriate divisions of the State Department shall be notified as follows: a. Immediately, if there are safety issues or if an injury requires medical treatment; and, b. Following completion of the assessment, if a child in their custody was the subject of a referral or if the assessment reveals concerns regarding the child care practices which could negatively impact the child(ren). 4. Parents or legal guardians of alleged child(ren) victim(s) shall be notified as follows: a. By the custodial counties when alleged abuse and/or neglect occurs in out-of- home care setting; b. By the assessing county when there is no custodial county;	To include Counsel for youth	

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Title of Proposed Rule: SB22-1038 (Right to Counsel) 2509-2
CDHS Tracking #:

Office, Division, & Program: OCYF/ DCW/ Permanency
Rule Author: Korey Elger
Phone: 303-249-5662
E-Mail: Korey.Elger@state.co.us

STAKEHOLDER COMMENT SUMMARY

Development
The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

Cara Nord, Office of Child's Representative

This Rule-Making Package
The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

Other State Agencies
Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

[ ] Yes [X] No

If yes, who was contacted and what was their input?

Sub-PAC
Have these rules been reviewed by the appropriate Sub-PAC Committee?

[x] Yes [ ] No

Name of Sub-PAC			
Date presented			
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

PAC
Have these rules been approved by PAC?

[ ] Yes [ ] No

Date presented What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments
Comments were received from stakeholders on the proposed rules:

[ ] Yes [ ] No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

EXAMPLE OF RULES WITH SECRETARY OF STATE'S STYLE CODING
REPLACE WITH YOUR OWN RULES

7.104.12 Audio Or Video Recording Of The Interview Or Observation [Eff. 1/1/15]
A. The interview or observation may be audio or video taped except when it is impracticable under
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7. Guardians ad litem AND/OR COUNSEL FOR YOUTH of alleged victims, by the custodial county when there is an assessment of an allegation of abuse and/or neglect in out-of-home care.

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Notice of Proposed Rulemaking

Tracking number

2022-00690

Department

500,1008,2500 - Department of Human Services

Agency

2509 - Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-4

Rule title

CHILD WELFARE SERVICES

Rulemaking Hearing

Date

12/09/2022

Time

08:30 AM

Location

1575 Sherman Street, Denver, CO 80203

Subjects and issues involved

House Bill 22-1038 Concerning client-directed legal representation for youth in court proceedings for youth was signed into law in April 2022. Current law requires the appointment of a guardian ad litem for children or youth in dependency and neglect cases. The bill requires that client-directed counsel for youth be appointed for children or youth 12 years of age or older to provide specialized client-directed legal representation. The new law prohibits the waiver of a child's or youth's right to counsel in dependency and neglect proceedings. The bill also allows a child or youth to be a party in a dependency and neglect proceeding. For a child or youth 12 years of age or older with diminished capacity, a guardian ad litem shall remain in the role and separate counsel for the child or youth must be appointed. Due to changes from this new law the rules that govern child welfare practice will need to be updated. This packet will include updates to 12 CCR-2509-04 to include counsel for youth and guardian ad litem and includes rule updates to incorporate language regarding the new law.

Statutory authority

26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 26-1-111, C.R.S.

Contact information

Name

Korey Elger

Title

Permanency Manager

Telephone

303.249.5662

Email

korey.elger@state.co.us

Title of Proposed Rule: SB22-1038 (Right to Counsel) 2509-4
CDHS Tracking #: 22-07-14-01

Office, Division, & Program: OCYF/ DCW/ Permanency
Rule Author: Korey Elger
Phone: 303-249-5662
E-Mail: Korey.Elger@state.co.us

RULEMAKING PACKET

Type of Rule: *(complete a and b, below)*

a. [x] Board [ ] Executive Director

b. [x] Regular [ ] Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

[x] AG Initial Review
[ ] Initial Board Reading
[ ] AG 2nd Review
[ ] Second Board Reading / Adoption

This package contains the following types of rules: *(check all that apply)*

Number	
	Amended Rules
12	New Rules
3	Repealed Rules
	Reviewed Rules

What month is being requested for this rule to first go before the State Board?	April 2023
What date is being requested for this rule to be effective?	June 30, 2023
Is this date legislatively required?	No

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ Date: _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION

Comments:

Estimated Dates: 1st Board _____ 2nd Board _____ Effective Date _____

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.
Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. ***1500 Char max***

House Bill 22-1038 “Concerning client-directed legal representation for youth in court proceedings for youth” was signed into law in April 2022. Current law requires the appointment of a guardian ad litem for children or youth in dependency and neglect cases. The bill requires that client-directed counsel for youth be appointed for children or youth 12 years of age or older to provide specialized client-directed legal representation.

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Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Does the rule incorporate material by reference? ☐ Yes ☒ No

Does this rule repeat language found in statute? ☐ Yes ☒ No

If yes, please explain.

REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

Child welfare sub pac, Perm Task Group, Stakeholder meetings, Office of the Child Representative, Office of Respondent parent counsel.

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

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There will be a fiscal impact on the Office of Child Representative because they are developing that they are incurring to address training for Guardians Ad Litems due to and the change to practice for attorneys.

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

This is not applicable as this is new law so no time has passed for data to be collected.

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Title of Proposed Rule: SB22-1038 (Right to Counsel) 2509-4
CDHS Tracking #:

Office, Division, & Program: OCYF/ DCW/ Permanency
Rule Author: Korey Elger
Phone: 303-249-5662
E-Mail: Korey.Elger@state.co.us

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
7.000	*Incorrect Statutory Reference*	*Section 26.5.103 C.R.S.*	*Section 26.5-101(3) C.R.S.*		
7.301.24 Family Service Plan Out-of-Home Placement Documentation S,4		S 4. Upon the decision to pursue reinstatement of parental rights; only the county department, guardian ad litem, or a child sixteen (16) TWELVE (12) years of age or older may file the petition for reinstatement. a. The petition for reinstatement of parental rights should be filed in the county who has custody of the child(ren) through the dependency and neglect court case. b. The petition shall be filed in the dependency and neglect court case where the termination of parental rights occurred for the former parent(s) or in the event that the current open dependency and neglect case is a termination of the adoptive parent's rights, then the petition shall be filed in that court case, as it grants custody of the child(ren) to the county. c. If the county is contacted by a former parent inquiring about reinstatement, the county must notify the guardian ad litem (gal) within thirty (30) calendar days after the contact and provide them with the name and address of the former parent(s).	S 4. Upon the decision to pursue reinstatement of parental rights; only the county department, guardian ad litem, or a child sixteen (16) TWELVE (12) years of age or older may file the petition for reinstatement. a. The petition for reinstatement of parental rights should be filed in the county who has custody of the child(ren) through the dependency and neglect court case. b. The petition shall be filed in the dependency and neglect court case where the termination of parental rights occurred for the former parent(s) or in the event that the current open dependency and neglect case is a termination of the adoptive parent's rights, then the petition shall be filed in that court case, as it grants custody of the child(ren) to the county. c. If the county is contacted by a former parent inquiring about reinstatement, the county must notify the guardian ad litem (gal) AND CHILD TWELVE (12) YEARS OF AGE OR OLDER within thirty (30) calendar days after the contact and provide them with the name and address of the former parent(s). d. Once the court sets an initial hearing, the county shall develop and report to the court the following: 1) Whether the former parent(s) has remedied the conditions that led to the termination; 2) Based on the assessment of the former parent, including the outcome of the Colorado family risk assessment tool, the transition plan shall include supports or treatment needed for the child(ren) and former parent(s) to help make the reinstatement a success;	To include Counsel for youth	

		d. Once the court sets an initial hearing, the county shall develop and report to the court the following: 1) Whether the former parent(s) has remedied the conditions that led to the termination; 2) Based on the assessment of the former parent, including the outcome of the Colorado family risk assessment tool, the transition plan shall include supports or treatment needed for the child(ren) and former parent(s) to help make the reinstatement a success; 3) Whether the former parent(s) can provide a safe and stable home for the child(ren); 4) A visitation or temporary placement plan with the former parent(s) for up to a six month trial period where custody remains with the department; This plan will be approved or modified at this initial hearing. a) Updates about the visits, transition plan, and supports shall be provided at each review hearing and no later than thirty (30) calendar days prior to the expiration of the trial home period. b) At any point the placement is deemed no longer safe or in the best interest of the child(ren), removal shall be in accordance with procedures outlined in Sections 19-3-401 and 19-3-403, C.R.S. 5) Whether the child(ren) will lose or gain any benefits or services (Medicaid, Chafee, etc.) as a result of the reinstatement being granted.	3) Whether the former parent(s) can provide a safe and stable home for the child(ren); 4) A visitation or temporary placement plan with the former parent(s) for up to a six month trial period where custody remains with the department; This plan will be approved or modified at this initial hearing. a) Updates about the visits, transition plan, and supports shall be provided at each review hearing and no later than thirty (30) calendar days prior to the expiration of the trial home period. b) At any point the placement is deemed no longer safe or in the best interest of the child(ren), removal shall be in accordance with procedures outlined in Sections 19-3-401 and 19-3-403, C.R.S. 5) Whether the child(ren) will lose or gain any benefits or services (Medicaid, Chafee, etc.) as a result of the reinstatement being granted.		

7.301.241 Education Requirements for Children/Youth in Out-of-Home Placement		D. It is presumed to be in a child/youth's best interest to remain in the "school of origin." If transportation is necessary to maintain the child/youth in the "school of origin," this shall be provided in accordance with section 7.301.241, E. The county shall make a best interest determination prior to any school move resulting from a change in placements unless remaining in the "school of origin" poses a specific, documented threat to the child/youth's safety. The best interest determination process is as follows: 1. The best interest discussion and determination shall occur as an in-person meeting when warranted and possible. When an in-person meeting is not warranted or not possible, or for participants unable to attend the meeting, the county department shall consult participants by other means, such as phone or email. 2. The county department shall invite the following people to participate in the best interest determination. If a participant is unavailable or cannot be located, the county shall document the various ways in which attempts were made to engage that participant. a. Child/youth., as described below, The county department of human services shall determine the child/youth's wishes in a developmentally appropriate way and include the child/youth in the meeting to the extent appropriate and possible for the child/youth's individual needs. If it is inappropriate or not possible for the child/youth to participate	D. It is presumed to be in a child/youth's best interest to remain in the "school of origin." If transportation is necessary to maintain the child/youth in the "school of origin," this shall be provided in accordance with section 7.301.241, E. The county shall make a best interest determination prior to any school move resulting from a change in placements unless remaining in the "school of origin" poses a specific, documented threat to the child/youth's safety. The best interest determination process is as follows: 1. The best interest discussion and determination shall occur as an in-person meeting when warranted and possible. When an in-person meeting is not warranted or not possible, or for participants unable to attend the meeting, the county department shall consult participants by other means, such as phone or email. 2. The county department shall invite the following people to participate in the best interest determination. If a participant is unavailable or cannot be located, the county shall document the various ways in which attempts were made to engage that participant. ~~a. Child/youth., as described below,~~ ~~The county department of human services shall determine the child/youth's wishes in a developmentally appropriate way and include the child/youth in the meeting to the extent appropriate and possible for the child/youth's individual~~ ~~needs. If it is inappropriate or not possible for the child/youth to participate in the meeting, the county department shall document the reason and ascertain the child/youth's wishes through other means.~~ A. For purposes of this subsection 7.301.241, the term "parents" includes a natural parent having sole or joint custody, regardless of whether the parent is designated as the primary residential custodian, or a parent allocated parental responsibilities with respect to a child, or an adoptive parent. Parent does not include a person whose parental rights have been terminated pursuant to the provisions of Title 19 of the Colorado Revised Statutes or the parent of an emancipated minor. B. Caseworker or appropriate designee,	To include Counsel for youtTo include Counsel for yout	

		in the meeting, the county department shall document the reason and ascertain the child/youth's wishes through other means. b. For purposes of this subsection 7.301.241, the term "parents" includes a natural parent having sole or joint custody, regardless of whether the parent is designated as the primary residential custodian, or a parent allocated parental responsibilities with respect to a child, or an adoptive parent. Parent does not include a person whose parental rights have been terminated pursuant to the provisions of Title 19 of the Colorado Revised Statutes or the parent of an emancipated minor. c. Caseworker or appropriate designee, d. Guardian ad litem AND/OR COUNSEL FOR YOUTH, if one is appointed, e. Representative from the "school of origin" who knows the child/youth, as determined by the "education provider," f. Educational surrogate parent, if any, and g. Others as relevant and appropriate as determined by the county, which may include but are not limited to future caregiver, court appointed special advocate (CASA), current caregiver, representatives from potential new school, support person for the child/youth.	C. Guardian ad litem AND/OR COUNSEL FOR YOUTH, if one is appointed, D. Representative from the "school of origin" who knows the child/youth, as determined by the "education provider," E. Educational surrogate parent, if any, and F. Others as relevant and appropriate as determined by the county, which may include but are not limited to future caregiver, court appointed special advocate (CASA), current caregiver, representatives from potential new school, support person for the child/youth. .		
7.301.241 Education Requirements for Children/Youth in		7. The county department shall inform the parent(s), guardian ad litem AND/OR COUNSEL FOR YOUTH, and educational surrogate parent, if any, of the best	7. The county department shall inform the parent(s), guardian ad litem AND/OR COUNSEL FOR YOUTH, and educational surrogate parent, if any, of the best interest determination within one business day of making the determination. The notification shall serve as the first day in the dispute resolution time frames	To include Counsel for yout	

Out-of-Home Placement D 7&8		interest determination within one business day of making the determination. The notification shall serve as the first day in the dispute resolution time frames described in section 7.301.24, D, 8. 8. Disputes regarding best interest determinations shall be handled in a manner that promotes the child/youth's safety and stability, as follows: If the parent(s), guardian ad litem, CHILD TWELVE (12) YEARS OF AGE OR OLDER, and/or educational surrogate parent, if any, is a party to an accompanying court case and disagrees with the county department's best interest determination, he or she must file a motion with the juvenile court to seek judicial resolution. Such a motion must be filed within three business days of the notice of the county's determination. If the county receives such a motion, the child/youth shall remain in the "school of origin" pending dispute resolution, unless remaining in the school poses a specific, documented threat to the child/youth's safety. If such parties indicate their agreement to a school move, the county need not delay the move pending the three-day appeal period.	described in section 7.301.24, D, 8. 8. Disputes regarding best interest determinations shall be handled in a manner that promotes the child/youth's safety and stability, as follows: If the parent(s), guardian ad litem, CHILD TWELVE (12) YEARS OF AGE OR OLDER, and/or educational surrogate parent, if any, is a party to an accompanying court case and disagrees with the county department's best interest determination, he or she must file a motion with the juvenile court to seek judicial resolution. Such a motion must be filed within three business days of the notice of the county's determination. If the county receives such a motion, the child/youth shall remain in the "school of origin" pending dispute resolution, unless remaining in the school poses a specific, documented threat to the child/youth's safety. If such parties indicate their agreement to a school move, the county need not delay the move pending the three-day appeal period.		

7.304.53 Court-Related Procedures [Rev. eff. 12/1/18] M		M. When court-ordered, the county department of human or social services shall share a foster care home, kinship foster care home, and/or non-certified kinship care home provider's reports of fingerprint-based criminal history record information check generated from the Colorado Bureau of Investigation (CBI) and Federal Bureau of Investigation (FBI) with the guardian ad litem related to the placement of a child and/or youth in out-of-home care.	M. When court-ordered, the county department of human or social services shall share a foster care home, kinship foster care home, and/or non-certified kinship care home provider's reports of fingerprint-based criminal history record information check generated from the Colorado Bureau of Investigation (CBI) and Federal Bureau of Investigation (FBI) with the guardian ad litem AND/OR COUNSEL FOR YOUTH, related to the placement of a child and/or youth in out-of-home care.		
7.304.55 Court Procedures Related to Termination of the Parent-Child Legal Relationship [Rev. eff. 2/1/10] G		G. In planning for termination of the parent-child legal relationship, the county department shall: 1. Work with the county's attorney in preparation of the court case. 2. Provide a treatment plan for the court's approval. 3. Cooperate with any guardian ad litem for the case. 4. Provide prepared staff to testify at the termination hearing, identify other witnesses, and assist in preparation of witnesses. 5. Keep parents, children, and appropriate interested parties informed regarding hearings and the status of the case. 6. File a motion for termination no less than 30 calendar days before the hearing.	G. In planning for termination of the parent-child legal relationship, the county department shall: 1. Work with the county's attorney in preparation of the court case. 2. Provide a treatment plan for the court's approval. 3. Cooperate with any guardian ad litem AND/OR COUNSEL FOR YOUTH for the case. 4. Provide prepared staff to testify at the termination hearing, identify other witnesses, and assist in preparation of witnesses. 5. Keep parents, children, and appropriate interested parties informed regarding hearings and the status of the case. 6. File a motion for termination no less than 30 calendar days before the hearing.		
7.304.62 Placement Activities L		L. Notify the guardian ad litem and/or COUNSEL FOR YOUTH the youth's counsel, parent(s) or legal guardian within one (1) business day upon a child/youth's placement into a foster care home. The Guardian Ad Litems contact	L. Notify the guardian ad litem and/or COUNSEL FOR YOUTH the youth's counsel, parent(s) or legal guardian within one (1) business day upon a child/youth's placement into a foster care home. The Guardian Ad Litem;s AND/OR COUNSEL FOR YOUTH'S contact information shall be provided to the foster parents.		

		information shall be provided to the foster parents.			
7.304.65 Administrative Review Definitions E		E. The county department shall invite parents, the childREN (if age appropriate as determined by the caseworker), out-of-home care providers, pre-adoptive parents, relatives/kin who are providing out-of-home care for the child, and the guardian ad litem to the Administrative Review in order that these individuals will have a right to beheard. All invitees shall be encouraged to attend.	E. The county department shall invite parents, the childREN (if age appropriate as determined by the caseworker), out-of-home care providers, pre-adoptive parents, relatives/kin who are providing out-of-home care for the child, and the guardian ad litem AND/OR COUNSEL FOR YOUTH to the Administrative Review in order that these individuals will have a right to be heard. All invitees shall be encouraged to attend.		
7.304.651 Qualified Residential Treatment Program Placement Reviews Definitions B 6		6. In instances of a voluntary placement, the ARD shall review the child or youth's placement no later than 60 days after placement in a QRTP or within 30 days after placement when the qualified individual does not support the QRTP level of care or the child, juvenile, or youth, guardian ad litem or any party objects to the placement.	6. In instances of a voluntary placement, the ARD shall review the child or youth's placement no later than 60 days after placement in a QRTP or within 30 days after placement when the qualified individual does not support the QRTP level of care or the child, juvenile, or youth, guardian ad litem AND/OR COUNSEL FOR YOUTH, or any party objects to the placement.		
7.304.651 Qualified Residential Treatment Program Placement Reviews Definitions D Invitations		D. Invitations 1. The county department shall invite parents, legal guardian or custodian, the child (if age appropriate at determined by the caseworker), members selected by the child (for children 14 years of age and above), kin, out-of-home care providers, and attorneys of record to the QRTP Placement Review. The county department shall encourage all invitees to attend.	D. Invitations 1. The county department shall invite parents, legal guardian or custodian, the child ~~(if age appropriate at determined by the caseworker),~~ members selected by the child (for children 14 years of age and above), kin, out-of-home care providers, and attorneys of record to the QRTP Placement Review. The county department shall encourage all invitees to attend.		
7.305.2 SPECIFIC PROCEDURE S E		E. Free Annual Credit Record Report for Youth Fourteen (14) Years of Age and Older in Foster Care The following steps shall be taken: 1. The county department shall obtain free annual credit report information from the three	E. Free Annual Credit Record Report for Youth Fourteen (14) Years of Age and Older in Foster Care The following steps shall be taken: 1. The county department shall obtain free annual credit report information from the three credit reporting agencies designated by the Department for youth who are in foster care and are at least fourteen (14) years of age, and provide the information to the youth and		

		credit reporting agencies designated by the Department for youth who are in foster care and are at least fourteen (14) years of age, and provide the information to the youth and Guardian ad Litem (GAL);	Guardian ad Litem (GAL) AND/OR COUNSEL FOR YOUTH;		
7.306.2 Adoption Placement Services A 1		The county department shall complete the following most recent, approved, state prescribed documents and reports: A. As soon as the county department has identified a prospective adoptive family, the county department shall conduct a face-to-face presentation interview with the prospective adoptive parent(s) within 90 days of termination of parental rights. If the adoptive resource is a two-parent family, both parents shall be present for the interview. If attending a face-to-face presentation will create an undue hardship for the prospective adoptive family, the presentation meeting may be conducted via phone or video conference chat to accommodate the prospective family during the presentation. 1. The guardian ad litem shall be invited to attend the presentation interview.	The county department shall complete the following most recent, approved, state prescribed documents and reports: A. As soon as the county department has identified a prospective adoptive family, the county department shall conduct a face-to-face presentation interview with the prospective adoptive parent(s) within 90 days of termination of parental rights. If the adoptive resource is a two-parent family, both parents shall be present for the interview. If attending a face-to-face presentation will create an undue hardship for the prospective adoptive family, the presentation meeting may be conducted via phone or video conference chat to accommodate the prospective family during the presentation. 1. The guardian ad litem AND/OR COUNSEL FOR YOUTH shall be invited to attend the presentation interview.		

Title of Proposed Rule: SB22-1038 (Right to Counsel) 2509-4
CDHS Tracking #:

Office, Division, & Program: OCYF/ DCW/ Permanency
Rule Author: Korey Elger
Phone: 303-249-5662
E-Mail: Korey.Elger@state.co.us

STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

Cara Nord, Office of the Child's Representative.

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

[ ] Yes [X] No

If yes, who was contacted and what was their input?

.

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[ ] Yes [ ] No

Name of Sub-PAC Date presented			
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

[ ] Yes [ ] No

Date presented What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

[ ] Yes [ ] No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

EXAMPLE OF RULES WITH SECRETARY OF STATE'S STYLE CODING

REPLACE WITH YOUR OWN RULES

7.301.24 Family Service Plan Out-of-Home Placement Documentation
S. Reinstatement of Parental Rights

4. Upon the decision to pursue reinstatement of parental rights; only the county department, guardian ad litem, or a child sixteen (16) TWELVE (12) years of age or older may file the petition for reinstatement.
a. The petition for reinstatement of parental rights should be filed in the county who has custody of the child(ren) through the dependency and neglect court case.
b. The petition shall be filed in the dependency and neglect court case where the termination of parental rights occurred for the former parent(s) or in the event that the current open dependency and neglect case is a termination of the adoptive parent's rights, then the petition shall be filed in that court case, as it grants custody of the child(ren) to the county.
c. If the county is contacted by a former parent inquiring about reinstatement, the county must notify the guardian ad litem (gal) AND CHILD TWELVE (12) YEARS OF AGE OR OLDER within thirty (30) calendar days after the contact and provide them with the name and address of the former parent(s).

7.301.241 Education Requirements for Children/Youth in Out-of-Home Placement

D. It is presumed to be in a child/youth's best interest to remain in the "school of origin." If transportation is necessary to maintain the child/youth in the "school of origin," this shall be provided in accordance with section 7.301.241, E.
The county shall make a best interest determination prior to any school move resulting from a change in placements unless remaining in the "school of origin" poses a specific, documented threat to the child/youth's safety. The best interest determination process is as follows:

1. The best interest discussion and determination shall occur as an in-person meeting when warranted and possible. When an in-person meeting is not warranted or not possible, or for participants unable to attend the meeting, the county department shall consult participants by other means, such as phone or email.

2. The county department shall invite the following people to participate in the best interest determination. If a participant is unavailable or cannot be located, the county shall document the various ways in which attempts were made to engage that participant.

~~a. Child/youth., as described below,~~
~~The county department of human services shall determine the child/youth's wishes in a developmentally appropriate way and include the child/youth in the meeting to the extent appropriate and possible for the child/youth's individual needs. If it is inappropriate or not possible for the child/youth to participate in the meeting, the county department shall document the reason and ascertain the child/youth's wishes through other means.~~

a. Parents,
For purposes of this subsection 7.301.241, the term "parents" includes a natural parent having sole or joint custody, regardless of whether the parent is designated as the primary residential custodian, or a parent allocated parental responsibilities with respect to a child, or an adoptive parent. Parent does not include a person whose parental rights have been terminated pursuant to the provisions of Title 19 of the Colorado Revised Statutes or the parent of an emancipated minor.

b. Caseworker or appropriate designee,

c. Guardian ad litem AND/OR COUNSEL FOR YOUTH, if one is appointed,

d Representative from the "school of origin" who knows the child/youth, as determined by the "education provider,"

e. Educational surrogate parent, if any, and

f. Others as relevant and appropriate as determined by the county, which may include but are not limited to future caregiver, court appointed special advocate (CASA), current caregiver, representatives from potential new school, support person for the child/youth.

7.301.241 Education Requirements for Children/Youth in Out-of-Home Placement
D
7. The county department shall inform the parent(s), guardian ad litem AND/OR

COUNSEL FOR YOUTH, and educational surrogate parent, if any, of the best interest determination within one business day of making the determination. The notification shall serve as the first day in the dispute resolution time frames described in section 7.301.24, D, 8.
8. Disputes regarding best interest determinations shall be handled in a manner that promotes the child/youth's safety and stability, as follows:
If the parent(s), guardian ad litem, CHILD TWELVE (12) YEARS OF AGE OR OLDER, and/or educational surrogate parent, if any, is a party to an accompanying court case and disagrees with the county department's best interest determination, he or she must file a motion with the juvenile court to seek judicial resolution. Such a motion must be filed within three business days of the notice of the county's determination. If the county receives such a motion, the child/youth shall remain in the "school of origin" pending dispute resolution, unless remaining in the school poses a specific, documented threat to the child/youth's safety. If such parties indicate their agreement to a school move, the The county need not delay the move pending the three-day appeal period.

7.304.53 Court-Related Procedures
M. When court-ordered, the county department of human or social services shall share a foster care home, kinship foster care home, and/or non-certified kinship care home provider's reports of fingerprint-based criminal history record information check generated from the Colorado Bureau of Investigation (CBI) and Federal Bureau of Investigation (FBI) with the guardian ad litem AND/OR COUNSEL FOR YOUTH, related to the placement of a child and/or youth in out-of-home care.

7.304.55 Court Procedures Related to Termination of the Parent-Child Legal Relationship
G. In planning for termination of the parent-child legal relationship, the county department shall:
1. Work with the county's attorney in preparation of the court case.
2. Provide a treatment plan for the court's approval.
3. Cooperate with any guardian ad litem AND/OR COUNSEL FOR YOUTH for the case.
4. Provide prepared staff to testify at the termination hearing, identify other witnesses, and assist in preparation of witnesses.
5. Keep parents, children, and appropriate interested parties informed regarding hearings and the status of the case.
6. File a motion for termination no less than 30 calendar days before the hearing.

7.304.62 Placement Activities
L. Notify the guardian ad litem and/or COUNSEL FOR YOUTH the youth's counsel, parent(s) or legal guardian within one (1) business day upon a child/youth's placement into a foster care home. The Guardian Ad Litem;s AND/OR COUNSEL FOR YOUTH'S contact information shall be provided to the foster parents.

7.304.65 Administrative Review
E. The county department shall invite parents, the childREN ~~(if age appropriate as determined by the caseworker),~~ out-of-home care providers, pre-adoptive parents, relatives/kin who are providing out-of-home care for the child, and the guardian ad litem AND/OR COUNSEL FOR YOUTH to the Administrative Review in order that these individuals will have a right to be heard. All invitees shall be encouraged to attend.

7.304.651 Qualified Residential Treatment Program Placement Reviews
B.
6. In instances of a voluntary placement, the ARD shall review the child or youth's placement no later than 60 days after placement in a QRTP or within 30 days after placement when the qualified individual does not support the QRTP level of care or the child, juvenile, or youth, guardian ad litem AND/OR COUNSEL FOR YOUTH, or any party objects to the placement.

D. Invitations
1. The county department shall invite parents, legal guardian or custodian, the child ~~(if age appropriate at determined by the caseworker)~~, members selected by the child (for children 14 years of age and above), kin, out-of-home care providers, and attorneys of record to the QRTP Placement Review. The county department shall encourage all invitees to attend.

7.305.2 SPECIFIC PROCEDURES

E. Free Annual Credit Record Report for Youth Fourteen (14) Years of Age and Older in Foster Care The following steps shall be taken:

1. The county department shall obtain free annual credit report information from the three credit reporting agencies designated by the Department for youth who are in foster care and are at least fourteen (14) years of age, and provide the information to the youth and Guardian ad Litem (GAL) AND/OR COUNSEL FOR YOUTH;

7.306.2 Adoption Placement Services

A. As soon as the county department has identified a prospective adoptive family, the county department shall conduct a face-to-face presentation interview with the prospective adoptive parent(s) within 90 days of termination of parental rights. If the adoptive resource is a two-parent family, both parents shall be present for the interview.

If attending a face-to-face presentation will create an undue hardship for the prospective adoptive family, the presentation meeting may be conducted via phone or video conference chat to accommodate the prospective family during the presentation.

1. The guardian ad litem AND/OR COUNSEL FOR YOUTH shall be invited to attend the presentation interview.

[Note: Changes to rule text are identified as follows: deletions are shown as “strikethrough”, additions are in “All Caps”, and changes made between initial review and final adoption are in [brackets] or highlighted yellow]

Notice of Proposed Rulemaking

Tracking number

2022-00694

Department

500,1008,2500 - Department of Human Services

Agency

2509 - Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-6

Rule title

RESOURCE DEVELOPMENT

Rulemaking Hearing

Date

12/09/2022

Time

08:30 AM

Location

1575 Sherman Street, Denver, CO 80203

Subjects and issues involved

This rule packet contains proposed revisions for the entire section of the county department of human/social service (herein county department) resource development (12 CCR 2509-6). The 7.500 section contains foster care recruitment, training certification and recertification requirements, specialized group facility requirements, adoption application and services specifically for foster homes that are certified by county department of human services. The rule packet is specific to the administration of procedures completed by the county department. This rule packet is intended to update, revise, and repeal language to reflect current practice.

Statutory authority

26-1-107(5)(a),(b), C.R.S.; 26-1-109(3), C.R.S.; 26-1-111, C.R.S.; 26-6-909(1), C.R.S.; 19-1-130, C.R.S.; 19-7-104, C.R.S.; 42 U.S.C. § 671 (a)(10)

Contact information

Name

Mary Griffin

Title

Program Administrator Foster Care and Relative Guardianship Assistance

Telephone

303.396.3979

Email

mary.griffin@state.co.us

RULEMAKING PACKET

Type of Rule: *(complete a and b, below)*

a. [X] Board [ ] Executive Director

b. [X] Regular [ ] Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

[X]	AG Initial Review	[X]	Initial Board Reading	[ ]	AG 2nd Review	[ ]	Second Board Reading / Adoption

This package contains the following types of rules: *(check all that apply)*

Number	
38	Amended Rules
6	New Rules
7	Repealed Rules
X	Reviewed Rules - entire section

What month is being requested for this rule to first go before the State Board?	December 2022

What date is being requested for this rule to be effective?	March 2023
Is this date legislatively required?	No

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ Date: _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION

Comments:

Estimated Dates: 1st Board _____ 2nd Board _____ Effective Date _____

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.
Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule.

This rule packet contains proposed revisions for the entire section of the county department of human/social service (herein county department) resource development (12 CCR 2509-6). The 7.500 section contains foster care recruitment, training certification and recertification requirements, specialized group facility requirements, adoption application and services specifically for foster homes that are certified by county department of human services. The rule packet is specific to the administration of procedures completed by the county department. This rule packet is intended to update, revise, and repeal language to reflect current practice.

The Department strives to align county department and child placement agency rules regarding relevant procedures. There is language in the foster care subsection that needs to be updated and revised, such as the time frame for interviews when completing the home study. In addition the specialized group facilities subsection is being repealed because it is duplicative. The need for these facilities is limited and county departments should follow the requirements in Section 7.709 (12 CCR 2509-8).

The county foster care/adoption application and services section was revised to reflect current practice and requirements. Several subsections must be repealed because they are no longer relevant. Finally, the Department established a home study model statewide in 2006 and the home study is used for foster care and adoption. A subsection was developed specifically to address qualifications needed to complete home studies. The subsection also addresses supervision of the person completing the home study.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

☐	to comply with state/federal law and/or
☐	to preserve public health, safety and welfare

Justification for emergency:

N/A

State Board Authority for Rule:

Code	Description
26-1-107(5)(a),(b), C.R.S. (2022)	State Board to promulgate rules.
26-1-109(3), C.R.S. (2022)	State department rules to coordinate with federal programs.
26-1-111, C.R.S. (2022)	State department to promulgate rules for public assistance and welfare activities.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making <u>function</u> AND <u>authority.</u>*

Code	Description
26-6-909(1), C.R.S. (2022)	The department shall prescribe and publish standards for facilities, including child placement agencies and foster care homes.

19-1-130, C.R.S. (2022)	Access to services related to out-of-home placement.
19-7-104, C.R.S. (2022)	Subjects included in training for foster care parents.
42 U.S.C. § 671 (a)(10)(2021)	The state plan for foster care and adoption assistance must provide for the establishment and maintenance of standards for foster homes and child care institutions that are in accord with recommended standards of national organizations.

Does the rule incorporate material by reference? [ ] Yes [X] No
Does this rule repeat language found in statute? [X] Yes [ ] No

If yes, please explain. Colorado Revised Statute, 19-1-130 requires access to services for all children/youth and families without discrimination.

REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

County foster and adoptive parents, county departments, child placement agency staff, home study contractors, and the public will benefit. County department staff and some individuals on the home study vendor list will bear the burden in learning the revisions in rule.

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

For the long-term, the proposed changes in rules in Section 7.500 will be consistent and current for anyone reviewing or seeking information on county department procedures for foster care, qualifications of individuals completing home studies, for adoption or foster care. Those benefiting are county department staff, child placement agency staff, foster and adoptive parents, and the public. County department staff that recruit, train, certify, and recertify foster care homes will have accurate information regarding expectations to complete their responsibilities. For the short-term, these staff will need to learn about any changes in procedures to better support county foster homes. For the long-term, the rules will align with Section 7.710 regarding the recruitment, training, certification, and recertification of foster parents who are certified by child placement agencies and county departments where currently there are discrepancies. Any new rules promulgated in Section 7.500 that are not yet in Section 7.710, will be updated in the Section 7.710 at a later date. Individuals that previously did not require supervision when contracting to complete home studies for county departments or child placement agencies will need to seek supervision. For the long-term, children and youth will benefit from additional supervision of the home study. The Division of Child Welfare will be responsible for completing an operation memo to inform Colorado Counties of these changes and will complete a webinar through the foster care quarterly meeting to train counties regarding these changes. As always if there is additional information or training needed the Division of Child Welfare will coordinate with Colorado Counties to complete this.

3. Fiscal Impact

For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources.

State Fiscal Impact *(Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)*

There are no fiscal impacts because these rules reflect county department processes for their foster care program and adoption application and services. There is no financial impact to the Comprehensive Child Welfare Information System (CCWIS - Trails) because there are no changes in service authorizations. No other state agencies are impacted because these rules relate to internal procedures for foster care and adoption.

County Fiscal Impact

County department staff may have an initial workload impact when analyzing the rules to determine if there is an impact on their foster care or adoption program, including training.

Federal Fiscal Impact

There is no impact on federal funding eligibility or claiming.

Other Fiscal Impact *(such as providers, local governments, etc.)*

There is no fiscal impact for foster care providers. There could be a fiscal impact for up to 30 individuals that previously did not require supervision of their contracted home studies. This home study supervisor training, however, is offered through the Child Welfare training system free of charge. The contractors can develop a co-op or make other arrangements to obtain supervision with those who are already approved, including child placement agencies and county departments.

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

Item 42 of systemic factors in the Federal Tool Child and Family Services Review (CFSR) provided by the Children's Bureau (Federal partners) requires that foster care and adoptive parent licensing "standards are applied to all licensed or approved foster family homes … receiving title IV-E or IV-B funds." Similar processes used by county departments and child placement agencies for the certification of foster care homes and adoptive parent approvals will promote consistency and compliance with this systemic factor.

5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative.

An alternative considered was to make no changes. This is not in the best interest of Colorado county departments, child placement agencies, foster and adoptive parents, and the public because some rules are inconsistent or obsolete, and therefore do not reflect current practice.

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
7.000	*Incorrect Statutory Reference*	*Section 26.5.103 C.R.S.*	*Section 26.5-101(3) C.R.S.*		
7.500.1		**Mission Statement** To develop and coordinate the external resources necessary to fulfill the objectives of the social services programs.	**Mission Statement** To develop and coordinate the external resources necessary to fulfill the objectives of the COUNTY HUMAN/ social services programs.	Technical changes	
7.500.11		**Target Groups [Rev. eff. 4/1/12]** Target groups served by this program area are the individuals who will be serving the department's clients in such roles as foster or kinship foster parents for children or adults or day care providers or adoptive parents.	**Target Groups ~~[Rev. eff. 4/1/12]~~** Target groups served by this program area are the individuals who will be serving the department's clients in such roles as foster or kinship foster parents for children/YOUTH or adults or ~~day~~ CHILD care providers or adoptive parents.	Technical changes	
7.500.2		**ASSESSMENT OF FOSTER HOMES AND ADOPTIVE HOMES**	**ASSESSMENT OF FOSTER CARE HOMES AND ADOPTIVE HOMES**	Technical change - add CARE to title	
7.500.2.A		A. The family assessment must be complete using the Structured Analysis Family Evaluation (SAFE) homes study format. The SAFE home study tool assessment must be completed by using all tools and processes required by the SAFE format. Persons completing the home studies must be qualified, as a minimum, as a placement worker, with a Bachelor's degree in the social or behavioral sciences, and must complete the Department-required training prior to performing the home studies.	A. The family assessment must be completeD using the Structured Analysis Family Evaluation (SAFE™) OR OTHER STATE APPROVED homes study ~~format~~. The SAFE™ ~~home study tool~~ assessment must be completed by using all tools and processes required by the SAFE™ ~~format~~ PROTOCOL INCLUDING THE SAFE™ USER'S DESK GUIDE. Persons completing the home studies must be qualified~~, as a minimum, as a placement caseworker, with a Bachelor's degree in the social or behavioral sciences,~~ and must complete the ~~Department~~ required SAFE™ TWO (2) DAY training prior to ~~performing~~ COMPLETING the ~~home studies~~ ASSESSMENT. THE SAFE™ ASSESSMENT MUST BE COMPLETED PRIOR TO CERTIFICATION OF A FOSTER PARENT OR ADOPTIVE PARENT. A SAFE™ REFRESHER TRAINING IS REQUIRED EVERY THREE (3) YEARS FROM THE DATE OF THE INITIAL SAFE™ TRAINING RECEIVED OR PREVIOUS REFRESHER TRAINING. THIS INCLUDES HOME STUDY PRACTITIONERS AND THEIR SUPERVISORS.	Technical changes, new, language struck and additional guidance	

7.500.2.A .1.a-c		1. As part of the assessment, the home study worker must: a. Conduct a minimum of one joint interview with a couple, one individual interview with each adult member of the household and an [age]/developmentally appropriate interview with all children residing in the home. For single applicants, a minimum of two (2) interviews will be required. b. Conduct at least one (1) interview in the applicant's home. c. Ensure the second interview, and any subsequent interviews, of the adults shall not be performed until at least three (3) calendar days after the previous interview.	1. ~~As part of~~ T~~t~~he ~~assessment the home study worker~~ SAFE™ PRACTITIONER must~~:~~ CONDUCT A MINIMUM OF ONE (1) JOINT INTERVIEW WITH A COUPLE, ONE (1) INDIVIDUAL INTERVIEW WITH EACH ADULT MEMBER OF THE HOUSEHOLD, AND AN AGE/DEVELOPMENTALLY APPROPRIATE INTERVIEW WITH ALL CHILDREN/YOUTH RESIDING IN THE HOME. FOR SINGLE APPLICANTS, A MINIMUM OF TWO (2) INTERVIEWS IS REQUIRED WITH A SINGLE APPLICANT ~~a. Conduct a minimum of one (1) joint interview with a couple, one (1) individual interview with each adult member of the household and an [age]/developmentally appropriate interview with all children residing in the home. For single applicants, a minimum of two (2) interviews will be required~~. ~~b. Conduct at least one (1) interview in the applicant's home.~~ ~~c. Ensure the second interview, and any subsequent interviews, of the adults shall not be performed until at least three (3) calendar days after the previous interview.~~]	Technical changes	

7.500.2.A.2.a-b		2. Relationship with the County Department Discuss the applicant's ability to work with the child welfare system, court, birth parents, and others in the child's life, including willingness to obtain help from professionals involved.	~~2. Relationship with the County Department~~ ~~Discuss the applicant's ability to work with the child welfare system, court, birth parents, and others in the child's life, including willingness to obtain help from professionals involved.~~ 2. INTERVIEW REQUIREMENTS THE ORIGINAL SAFE™ ASSESSMENT MUST INCLUDE THE DATE, PERSON INTERVIEWED, LENGTH OF INTERVIEW (HOURS AND MINUTES), LOCATION OF EACH INTERVIEW, AND MUST BE DOCUMENTED IN THE SAFE ASSESSMENT. IF THE CERTIFYING AGENCY PROPOSES HAVING INTERVIEWS CONDUCTED OUTSIDE OF THE RESIDENCE, AN APPLICANT MUST BE CONSULTED AND BE IN AGREEMENT. THE CONVERSATION MUST BE DOCUMENTED IN THE SAFE™ ASSESSMENT. a. A MINIMUM OF TWO INTERVIEWS MUST BE COMPLETED IN THE APPLICANT'S HOME ON SEPARATE DAYS. QUESTIONNAIRE II MUST BE COMPLETED IN THE HOME. b. ENSURE THE SECOND INTERVIEW, AND ANY SUBSEQUENT INTERVIEWS, OF THE ADULTS IS NOT COMPLETED UNTIL AT LEAST THREE (3) CALENDAR DAYS AFTER THE PREVIOUS INTERVIEW.	New language clarifies expectations for home study procedure	
7.500.2.A.3.a-d		3. Post-Adoptive Services The applicant's ability to assist with possible post-adoptive issues of the child/youth, including, but not limited to: a. Questions about the birth family. b. Locating and obtaining non identifying information about the birth family. c. Search and possible reunification of the adopted child/youth with the birth family.	~~3. Post-Adoptive Services~~ ~~The applicant's ability to assist with possible post-adoptive issues of the child/youth, including, but not limited to:~~ ~~a. Questions about the birth family.~~ ~~b. Locating and obtaining non identifying information about the birth family.~~ ~~c. Search and possible reunification of the adopted child/youth with the birth family.~~ ~~d. Willingness to assist adopted child/youth with counseling, if needed, related to adoption issues.~~	Renumber and moves language	

		d. Willingness to assist adopted child/youth with counseling, if needed, related to adoption issues.	3. THE PRACTITIONER MUST DOCUMENT THE RELATIONSHIP WITH THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES, INCLUDING A DISCUSSION OF THE APPLICANT'S ABILITY AND WILLINGNESS TO WORK WITH THE CHILD WELFARE SYSTEM, COURT, GUARDIAN AD LITEM (GAL), LEGAL PARENT/LEGAL CUSTODIAN, AND OTHERS IN THE CHILD'S/YOUTH'S LIFE.		
7.500.2.A.4		4. Kinship Foster Care The applicant's ability to provide a permanent home through adoption, guardianship or permanent custody. The ability to meet the individualized needs of the specified child(ren)/youth, and assessment of the relationship with birth parents and extended family members as they impact capacity of the applicants to care for the child(ren). The ability to set boundaries with birth parents to maintain safety for the child(ren) in care. When completing the assessment, Section 7.708, "Rules Regulating Foster Care Homes" shall also apply.	~~4. Kinship Foster Care~~ ~~The applicant's ability to provide a permanent home through adoption, guardianship or permanent custody. The ability to meet the individualized needs of the specified child(ren)/youth, and assessment of the relationship with birth parents and extended family members as they impact capacity of the applicants to care for the child(ren). The ability to set boundaries with birth parents to maintain safety for the child(ren) in care. When completing the assessment, Section 7.708, "Rules Regulating Foster Care Homes" shall also apply.~~ 4. THE SIGNATURE PAGE OF THE SAFE™ ASSESSMENT MUST BE SIGNED AND DATED BY THE PERSON COMPLETING THE ASSESSMENT AND SUPERVISOR/DESIGNEE. THE APPLICANT MUST SIGN THE SAFE™ ASSESSMENT /UPDATE SECTION INDICATING THE INDIVIDUAL READ AND REVIEWED THE FINAL DRAFT OF THE ASSESSMENT. ALL SIGNATURES MUST BE DATED PRIOR TO OR ON THE ISSUANCE OF THE FOSTER CARE HOME CERTIFICATE.	Renumber and new language to clarify home study procedure	
7.500.2.A.5.a		5. State Automated Case Management System, Colorado Bureau of Investigation (CBI), Federal Bureau of Investigation (FBI), and the Colorado State Courts Data Access a. Prior to full certification of a foster home, there shall be a review and documentation in the provider record of: i. Complete a background check for each adult living in the home for the following: 1. Child	5. ~~State Automated Case Management System,~~ COMPREHENSIVE CHILD WELFARE INFORMATION SYSTEM (CCWIS), Colorado Bureau of Investigation (CBI), Federal Bureau of Investigation (FBI), and the Colorado ~~State Courts Data Access~~COURT CASE MANAGEMENT SYSTEM AT THE STATE JUDICIAL DEPARTMENT. a. Prior to full certification of a foster CARE home, there shall be a review and documentation in the provider record of: ~~i.~~1) Complete a background check for each adult living In the home for the following:	Renumber	

		abuse/neglect records check in every state where the adult has resided in the five (5) years immediately preceding the date of application for each adult (18 years and older) living in the home. 2. A fingerprint-based , criminal history record information check of CBI and FBI records; and, 3. A comparison search on the court case management system at the State Judicial Department, using the name and date of birth with available criminal history information for each adult eighteen (18) years and older living in the home. This search must be completed regardless of whether the CBI and FBI fingerprint history confirms or does not confirm a criminal history. 4. The CBI sex offender registry and national sex offender public website operated by the United States Department of Justice by: a. Known names and addresses of each adult residing in the home; and, b. Address only of the home.	~~1.~~a) Child abuse/neglect records check in every state where the adult has resided in the five (5) years immediately preceding the date of application for each adult (18 years and older) living in the home. ~~2.~~b) A fingerprint-based criminal history record information check of CBI and FBI records~~, and,~~: i. A NEW FBI FINGERPRINT - BASED CRIMINAL HISTORY INFORMATION RECORD MUST BE COMPLETED EVERY FIVE (5) YEARS FROM THE ORIGINAL FINGERPRINT DATE AS REQUIRED IN SECTION 7.701.33.D.5. ~~3.~~c) A comparison search on the court case management system at the State Judicial Department, using the name and date of birth with available criminal history information for each adult eighteen (18) years and older living in the home. This search must be completed regardless of whether the CBI and FBI fingerprint history confirms or does not confirm a criminal history. THESE CHECKS ARE VALID FOR ONE YEAR PRIOR TO CERTIFICATION. ~~4.~~d) The CBI sex offender registry and national sex offender public website **(NSOPW)** operated by the United States gDepartment of Justice by: ~~a.~~i. Known names, NICKNAMES,ALSO KNOWN AS (AKA), and addresses of each adult residing in the FOSTER CARE home~~; and,~~. CHECKS MUST BE COMPLETED PRIOR TO EACH RECERTIFICATION. ~~b.~~ii. Address only of the FOSTER CARE home, INCLUDING A COPY OF THE MAP FROM THE RESPECTIVE DATABASE TO CONFIRM THAT THE ADDRESS OF THE FOSTER CARE HOME HAS BEEN CHECKED. iii. SEX OFFENDER CHECKS MUST BE COMPLETED PRIOR TO EACH RECERTIFICATION.	New language	
		ii. Written statements from references;	~~ii~~2) COMPLETE SAFE™ REFERENCE LETTERS WITH SIGNATURES; ~~Written statements from references;~~	Renumber	

		iii. Health information; iv. The review of existing agency case records, including the automated system, for prior foster home certifications or denials; and, v. Investigations of any concerns raised from the application and/or aforementioned sources of information. vi. The results of the face-to-face interview on all members of the household.	~~iii.~~3) Health information INCLUDING A HEALTH ASSESSMENT COMPLETED BY A PHYSICIAN, DOCTOR OF OSTEOPATHIC MEDICINE, PHYSICIAN ASSISTANT, OR A NURSE PRACTITIONER; ~~iv.~~4) The review of existing agency case records, including the CCWIS, ~~automated system~~, for prior foster CARE home certifications or denials; and, ~~v.~~5) ~~Investigations~~ ASSESSMENTS of any concerns raised from the application and/or ~~aforementioned~~ OTHER sources of information. ~~vi.~~6) The results of the face-to-face interviews WITH all members of the household.		
7.500.2.A .5.b-e		b. Federal Bureau of Investigation (FBI) fingerprint-based criminal history record information checks shall be initiated for all prospective foster and adoptive parents and each adult eighteen (18) years and older living in the home. The FBI reports shall be made available to the county department of human or social services submitting the request for information. c. All CBI and FBI fingerprint-based criminal record information reports, including court dispositions, if applicable, and results from the five-year child abuse and/or neglect checks shall remain confidential in the county department records, except as provided in Section 7.500.2, C, 3. d. A county department of human or social services shall not place a child and/or youth in the home if the foster parent or any adult eighteen (18) years of age or older who resides in the home is a registered sex offender, or has a finding of child abuse and/or neglect in the state	b. THE COLORADO DEPARTMENT OF HUMAN SERVICES ORIGINAL APPLICATION TO CARE FOR CHILDREN AND YOUTH EXPIRES ONE YEAR FROM THE DATE OF APPLICANT(S) SIGNATURE(S) IF THE FOSTER CARE HOME IS NOT CERTIFIED. ~~b~~c. FBI fingerprint-based criminal history record information checks shall be initiated for all prospective foster and adoptive parents and each adult eighteen (18) years and older living in the FOSTER CARE home. The FBI reports shall be made available to the county department of human/~~ or~~ social services submitting the request for information. 1) FOLLOWING REVIEW OF FBI INFORMATION, THE FINDINGS MAY ONLY BE IDENTIFIED AS ELIGIBLE, NOT ELIGIBLE, MEETS CRITERIA, DOES NOT MEET CRITERIA, OR INCONCLUSIVE. ~~c~~d. All CBI and FBI fingerprint-based criminal HISTORY record information reports, including court dispositions, if applicable, and results from the five-year child abuse and/or neglect checks shall remain confidential in the county department records~~, except as provided in Section 7.500.2, C, 3~~. ~~d~~e. A county department ~~of human or social services~~ shall not place a child and/or youth in the FOSTER CARE	Renumber and new language to clarify changes	

		automated case management system or another state's child abuse and neglect registry, unless it is determined following a review of the finding that the placement is safe.	home if the foster parent or any adult eighteen (18) years of age or older who resides in the home: 1) ~~I~~is a registered sex offender, or, 2) ~~H~~has a finding of child abuse and/or neglect in the ~~state automated case management system~~ CCWIS or another state's child abuse and neglect registry, unless it is determined following a review of the finding that the placement is safe.	Renumbered for clarity Renumbered for clarity	
7.500.2.A.6.a-b		6. Other Requirements a. Assessment of the ability of the applicant(s) to foster or adopt a child/youth and to preserve continuity of the child's/youth's identity in a positive	~~6. Other Requirements~~ ~~a. Assessment of the ability of the applicant(s) to foster or adopt a child/youth and to preserve continuity of the child's/youth's identity in a positive manner. Factors should include, but are not limited to, consideration of the~~	Renumber	

		manner. Factors should include, but are not limited to, consideration of the child's/youth's family, community, neighborhood, faith or religious beliefs, school activities, friends, and child's/youth's and family's primary language. Documentation of the assessment of this requirement shall be in the case file. b. Assessment of the ability of the applicant(s) to foster or adopt a child/youth and to preserve continuity of the child's/youth's identity in a positive manner. Factors should include, but are not limited to, consideration of the child's/youth's family, community, neighborhood, faith or religious beliefs, school activities, friends, and child's/youth's and family's primary language. Documentation of the assessment of this requirement shall be in the case file.	~~child's/youth's family, community, neighborhood, faith or religious beliefs, school activities, friends, and child's/youth's and family's primary language. Documentation of the assessment of this requirement shall be in the case file.~~ ~~b. Assessment of the ability of the applicant(s) to foster or adopt a child/youth and to preserve continuity of the child's/youth's identity in a positive manner. Factors should include, but are not limited to, consideration of the child's/youth's family, community, neighborhood, faith or religious beliefs, school activities, friends, and child's/youth's and family's primary language. Documentation of the assessment of this requirement shall be in the case file.~~		
7.500.2.A.6.c		c. For the purposes of conducting an adoptive home study, the county department, qualified individual, and child placement agencies shall be required to report to the court the results of a fingerprint-based criminal history records check when it reveals that the prospective adoptive parent was convicted of a felony or misdemeanor of: i. Child abuse or neglect; ii. Any crime against a child, including child pornography; iii. Any crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as specified in Section 18-6- 800.3, C.R.S.; iv. Violation of a protective order, as described in Section 18-6-803.5, C.R.S.;	~~c. For the purposes of conducting an adoptive home study, the county department, qualified individual, and child placement agencies shall be required to report to the court the results of a fingerprint-based criminal history records check when it reveals that the prospective adoptive parent was convicted of a felony or misdemeanor of:~~ ~~i. Child abuse or neglect;~~ ~~ii. Any crime against a child, including child pornography;~~ ~~iii. Any crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as specified in Section 18-6- 800.3, C.R.S.;~~ ~~iv. Violation of a protective order, as described in Section 18-6-803.5, C.R.S.;~~ ~~v. Any crime involving violence, rape, sexual assault, or homicide;~~ ~~vi. Any felony drug-related conviction within, at a minimum, the past five (5) years. No person convicted of a felony~~	Renumber	

		v. Any crime involving violence, rape, sexual assault, or homicide; vi. Any felony drug-related conviction within, at a minimum, the past five (5) years. No person convicted of a felony offense shall be allowed to adopt a child/youth, except a person may be allowed to adopt a child/youth if: 1. The applicant has had no further arrests or convictions subsequent to the original conviction; 2. The applicant has not been convicted of a pattern of misdemeanors, as defined by rule of the State Board of Human Services at Section 7.500.312, D, 4, a-c; and, 3. The court enters a finding consistent with Section 19-5-210(2)(d), C.R.S., that the adoption is in the best interest of the child/youth.	~~offense shall be allowed to adopt a child/youth, except a person may be allowed to adopt a child/youth if:~~ ~~1. The applicant has had no further arrests or convictions subsequent to the original conviction;~~ ~~2. The applicant has not been convicted of a pattern of misdemeanors, as defined by rule of the State Board of Human Services at Section 7.500.312, D, 4, a-c; and,~~ ~~3. The court enters a finding consistent with Section 19-5-210(2)(d), C.R.S., that the adoption is in the best interest of the child/youth.~~		
7.500.2.A.6.d		d. As part of the assessment, the agency must: i. Conduct a minimum of one joint face-to-face interview with a couple, one individual face-to-face interview with each adult member of the household, and, if applicable, one individual face-to-face interview with any person considering a second parent adoption of the child(ren)/youth, and an age/developmental appropriate face-to-face interview with all children residing in the home. For single applicants, a minimum of two interviews will be required. ii. Conduct at least one face-to-face interview in the applicant's home. iii. Perform an on-site inspection for foster homes to determine compliance with the Rules and Regulations for Foster Homes, Section 7.708. Approval of local	~~d. As part of the assessment, the agency must:~~ ~~i. Conduct a minimum of one joint face-to-face interview with a couple, one individual face-to-face interview with each adult member of the household, and, if applicable, one individual face-to-face interview with any person considering a second parent adoption of the child(ren)/youth, and an age/developmental appropriate face-to-face interview with all children residing in the home. For single applicants, a minimum of two interviews will be required.~~ ~~ii. Conduct at least one face-to-face interview in the applicant's home.~~ ~~iii. Perform an on-site inspection for foster homes to determine compliance with the Rules and Regulations for Foster Homes, Section 7.708. Approval of local zoning, health, or fire departments must be documented in the foster home file when the situation warrants.~~ ~~iv. Spread out interviews over a period of not less than seven (7) consecutive days.~~	Renumber and new language to clarify when a new or updated home study	

		zoning, health, or fire departments must be documented in the foster home file when the situation warrants. iv. Spread out interviews over a period of not less than seven (7) consecutive days. v. Complete an annual SAFE update. This shall include at least one home visit and a review of the current medical status. Applicants shall be questioned regarding any child abuse investigations during the previous year. If the governor or local government declares a disaster or emergency, and because of the declared disaster or emergency the medical exams for the foster parent(s), other children, and other adults residing in the home cannot be completed for the child/youth in the required time frame, the medical exam(s) must be completed as soon	~~v. Complete an annual SAFE update. This shall include at least one home visit and a review of the current medical status. Applicants shall be questioned regarding any child abuse investigations during the previous year.~~ ~~If the governor or local government declares a disaster or emergency, and because of the declared disaster or emergency the medical exams for the foster parent(s), other children, and other adults residing in the home cannot be completed for the child/youth in the required time frame, the medical exam(s) must be completed as soon as possible, but no later than 45 calendar days after the declared conclusion of the disaster or emergency~~		
		as possible, but no later than 45 calendar days after the declared conclusion of the disaster or emergency.			
7.500.2.A. 6.e		e. The application and medical records will be reviewed; any issues that are identified will be discussed with the applicants. No physical examination shall be required of any person who in good faith relies upon spiritual means or prayer in the free exercise of religion to prevent or cure a disease unless there is a reason to believe such person's physical condition is such that he/she would be unable to care for a child, or such person has a communicable illness.	~~e. The application and medical records will be reviewed; any issues that are identified will be discussed with the applicants. No physical examination shall be required of any person who in good faith relies upon spiritual means or prayer in the free exercise of religion to prevent or cure a disease unless there is a reason to believe such person's physical condition is such that he/she would be unable to care for a child, or such person has a communicable illness.~~		
7.500.2.A.6.f		f. The county department shall not perform a foster home or adoptive home assessment on a member of its own staff. The worker should check with the supervisor for county policies and	~~f. The county department shall not perform a foster home or adoptive home assessment on a member of its own staff. The worker should check with the supervisor for county policies and procedures regarding completing assessments on county staff.~~		

		procedures regarding completing assessments on county staff.			
7.500.2.A .6.g		g. Water, if from any source other than a regular municipal water supply, shall be tested for compliance with water quality requirements.	~~g. Water, if from any source other than a regular municipal water supply, shall be tested for compliance with water quality requirements.~~		
7.500.2.A .6.h		h. A current photograph of the family shall be requested and maintained in the file.	~~h. A current photograph of the family shall be requested and maintained in the file.~~		
7.500.2.A .6.i		i. For the purposes of conducting an adoptive home study, the home study is to be completed ninety (90) working days from receiving the completed background checks.	~~i. For the purposes of conducting an adoptive home study, the home study is to be completed ninety (90) working days from receiving the completed background checks.~~		
7.500.2.A .6.j		j. The county department shall not deny to any person the opportunity to become an adoptive or foster parent on the basis of race, color, or national origin of the person, or of the child involved.	~~j. The county department shall not deny to any person the opportunity to become an adoptive or foster parent on the basis of race, color, or national origin of the person, or of the child involved.~~ 6. KINSHIP FOSTER CARE a. ASSESSMENT INCLUDES THE APPLICANT'S ABILITY TO PROVIDE A PERMANENT HOME THROUGH ADOPTION, GUARDIANSHIP, OR PERMANENT CUSTODY. ALSO INCLUDED ARE THE ABILITY TO MEET THE INDIVIDUALIZED NEEDS OF THE SPECIFIED CHILD(REN)/YOUTH, THE RELATIONSHIP WITH BIRTH PARENTS/LEGAL CUSTODIANS AND EXTENDED FAMILY MEMBERS AS IT IMPACTS THE APPLICANT'S ABILITY TO CARE FOR THE CHILD(REN)/YOUTH, AND THEIR ABILITY TO SET BOUNDARIES WITH THE BIRTH PARENTS/LEGAL CUSTODIAN TO MAINTAIN SAFETY FOR THE CHILD(REN)/YOUTH. b. APPLICANTS ARE NOT PREVENTED FROM FOSTERING IF THEY ARE NOT ABLE TO PROVIDE A PERMANENT HOME. WHEN COMPLETING THE ASSESSMENT, SECTION 7.708, "RULES REGULATING FOSTER CARE HOMES" SHALL ALSO APPLY.	Renumber and home study requirements	
7.500.2.A .7		7. Additional Requirements	~~7. Additional Requirements~~	Renumber and move previous language	

		List characteristics of child(ren) the home is approved for: age, sex, race, legal risk, and special needs (such as medical, physical, emotional). Following the completion of the assessment, a narrative report that summarizes and evaluates the information obtained must be completed. It shall be attached to the SAFE questionnaires 1 and 2.	~~List characteristics of child(ren) the home is approved for: age, sex, race, legal risk, and special needs (such as medical, physical, emotional). Following the completion of the assessment, a narrative report that summarizes and evaluates the information obtained must be completed. It shall be attached to the SAFE questionnaires 1 and 2.~~ 7. WHEN THERE IS A SIGNIFICANT CHANGE IN THE COMPOSITION OF THE HOUSEHOLD, AN UPDATE MUST BE COMPLETED ON THE UPDATE TEMPLATE OR WRITTEN IN A WORD DOCUMENT. THE UPDATE MUST BE COMPLETED WITHIN 45 CALENDAR DAYS FROM THE DATE THE COUNTY DEPARTMENT BECOMES AWARE OF THE CHANGE. EXPECTATIONS FOR TIME FRAMES FOR COMPLETING BACKGROUND CHECKS IS LOCATED IN 7.500.2 A.11. b.5) WHEN THE CHANGE OCCURS 45 CALENDAR DAYS OR LESS FROM THE EXPIRATION DATE OF THE CERTIFICATE, THE CHANGE MAY BE ADDRESSED IN THE SAFE™ UPDATE. THE ADDENDUM NEEDS TO BE SIGNED BY ALL PARTIES. THESE CHANGES MAY INCLUDE BUT ARE NOT LIMITED TO: a. NEW INDIVIDUALS THAT ARE 18 YEARS OF AGE OR OLDER, LIVING IN THE FOSTER CARE HOME (INCLUDING RESULTS OF THE BACKGROUND CHECKS); b. WHEN A HOUSEHOLD MEMBER MOVES OUT OF THE FOSTER CARE HOME; c. THE AGE, GENDER, GENDER IDENTITY, AND/OR SPECIAL CHARACTERISTICS OF THE CHILD(REN)/YOUTH WHICH WILL BE CONSIDERED FOR THE FOSTER CARE HOME. A RE-EVALUATION OF THE FOSTER CARE HOME WILL BE COMPLETED AND THE ASSESSMENT REVISED; d. NEW LOCATION OF THE FOSTER CARE HOME; e. MARITAL/DOMESTIC RELATIONSHIP; OR, f. HEALTH ISSUES, INCAPACITATION, OR DEATH OF A FOSTER PARENT OR HOUSEHOLD MEMBER.		

7.500.2.A.8.a		8. Assessment Update a. If there are changes in the age, sex, and special characteristics of the child(ren) which will be considered for the family, a re-evaluation of the family will be completed and the assessment revised.	~~8. Assessment Update~~ ~~a. If there are changes in the age, sex, and special characteristics of the child(ren) which will be considered for the family, a re-evaluation of the family will be completed and the assessment revised.~~	Renumber	
7.500.2.A.8.b		b. For any individual eighteen (18) years of age or older entering the home with the intent of residing in the home or providing caretaker services in the home, there shall be a review and documentation in the provider record of the following: i. Child abuse or neglect records check in every state where the adult has resided in the previous five (5) years. ii. A fingerprint-based criminal history check completed for the CBI and FBI, and, iii. A comparison search in the Colorado State Courts Data Access, using the name and date of birth with available criminal history information for each adult eighteen (18) years and older entering the home. The purpose is to determine any crime(s) for which the adult residing in the home was arrested or convicted and the disposition. This search must be completed regardless of whether the CBI and FBI fingerprint history confirms or does not confirm a criminal history.	~~b. For any individual eighteen (18) years of age or older entering the home with the intent of residing in the home or providing caretaker services in the home, there shall be a review and documentation in the provider record of the following:~~ ~~i. Child abuse or neglect records check in every state where the adult has resided in the previous five (5) years.~~ ~~ii. A fingerprint-based criminal history check completed for the CBI and FBI, and,~~ ~~iii. A comparison search in the Colorado State Courts Data Access, using the name and date of birth with available criminal history information for each adult eighteen (18) years and older entering the home. The purpose is to determine any crime(s) for which the adult residing in the home was arrested or convicted and the disposition. This search must be completed regardless of whether the CBI and FBI fingerprint history confirms or does not confirm a criminal history.~~ 8. SAFE™ REQUIREMENTS WHEN CERTIFICATION STATUS CHANGES. a. A FULL SAFE™ ASSESSMENT IS REQUIRED WHEN A FOSTER CARE HOME WAS CLOSED LONGER THAN 365 DAYS. THIS INCLUDES ADMINISTRATION OF QUESTIONNAIRES I AND II, PSYCHOSOCIAL INVENTORY, AND PERSONAL REFERENCES. b. WHEN THE FOSTER CARE HOME WAS CLOSED LESS THAN 365 DAYS, A COMPREHENSIVE UPDATE, INCLUDING ADMINISTRATION OF THE SAFE™ UPDATE QUESTIONNAIRE, IS REQUIRED TO IDENTIFY NEW RELEVANT INFORMATION. ALL RELEVANT DOMAINS AND/OR ANY GAPS IN CONTENT FROM THE ORIGINAL HOME STUDY AND SUBSEQUENT UPDATES, AS WELL AS THE COMPLETION OF THE	Moved previous language	

			NEW UPDATE QUESTIONNAIRES, MUST BE INCLUDED. 1) WHEN ALL HISTORIC SAFE™ DOCUMENTS, INCLUDING ORIGINAL SAFE™, QUESTIONNAIRES I AND II, UPDATE QUESTIONNAIRES, SAFE™ UPDATES, REFERENCES, AND PSYCHOSOCIAL INVENTORIES, ARE NOT AVAILABLE, A NEW SAFE™ ASSESSMENT MUST BE COMPLETED. ‘		
7.500.2.A.9		9. At any time after the placement of a child, the placing agency may review the written family assessment, home study, and background checks of the foster parents.	~~9. At any time after the placement of a child, the placing agency may review the written family assessment, home study, and background checks of the foster parents.~~ 9. OTHER REQUIREMENTS a. ASSESSMENT OF THE ABILITY OF THE APPLICANT(S) TO FOSTER AND/OR ADOPT A CHILD/YOUTH AND TO PRESERVE CONTINUITY OF THE CHILD'S/YOUTH'S IDENTITY IN A POSITIVE AND AFFIRMING MANNER. FACTORS SHOULD INCLUDE, BUT ARE NOT LIMITED TO, CONSIDERATION OF THE CHILD'S/YOUTH'S SEXUAL ORIENTATION, GENDER IDENTITY, AND EXPRESSION, RACIAL AND ETHNIC IDENTITY, FAMILY, COMMUNITY, NEIGHBORHOOD, FAITH OR RELIGIOUS BELIEFS, SCHOOL ACTIVITIES, FRIENDS, AND THE CHILD'S/YOUTH'S AND FAMILY'S PRIMARY LANGUAGE. DOCUMENTATION OF THE ASSESSMENT OF THIS REQUIREMENT SHALL BE IN THE CASE FILE. b. THE APPLICATION FOR FOSTER CARE OR ADOPTION SHALL BE DENIED FOR REASONS LISTED IN SECTION 7.500.312.D AND MAY BE DENIED FOR REASONS LISTED IN SECTION 7.500.312.E. IF THE APPLICANT HAS EVER BEEN DENIED AS A PROSPECTIVE FOSTER AND/OR ADOPTIVE PARENT, THE SAFE™ ASSESSMENT MUST ADDRESS THE REASON FOR THE DENIAL AND ANY RESOLUTION OF DISAGREEMENTS CONCERNING THE DECISION. c. FOR THE PURPOSES OF CONDUCTING AN ADOPTIVE HOME STUDY, THE COUNTY	Moved previous language and added additional requirement in statute	

			DEPARTMENT, QUALIFIED INDIVIDUAL, AND CHILD PLACEMENT AGENCIES SHALL BE REQUIRED TO REPORT TO THE COURT THE RESULTS OF A FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK WHEN IT REVEALS THAT THE PROSPECTIVE ADOPTIVE PARENT WAS CONVICTED OF A FELONY OR MISDEMEANOR OF: 1) CHILD ABUSE OR NEGLECT; 2) ANY CRIME AGAINST A CHILD, INCLUDING CHILD PORNOGRAPHY; 3) ANY CRIME, THE UNDERLYING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY THE COURT ON THE RECORD TO INCLUDE AN ACT OF DOMESTIC VIOLENCE, AS SPECIFIED IN SECTION 18-6- 800.3, C.R.S.; 4) VIOLATION OF A PROTECTIVE ORDER, AS DESCRIBED IN SECTION 18-6-803.5, C.R.S.; 5) ANY CRIME INVOLVING VIOLENCE, RAPE, SEXUAL ASSAULT, OR HOMICIDE; OR, 6). ANY FELONY DRUG-RELATED CONVICTION WITHIN, AT A MINIMUM, THE PAST FIVE (5) YEARS. NO PERSON CONVICTED OF A FELONY OFFENSE SHALL BE ALLOWED TO ADOPT A CHILD/YOUTH, EXCEPT A PERSON MAY BE ALLOWED TO ADOPT A CHILD/YOUTH IF: a) THE APPLICANT HAS HAD NO FURTHER ARRESTS OR CONVICTIONS SUBSEQUENT TO THE ORIGINAL CONVICTION; b) THE APPLICANT HAS NOT BEEN CONVICTED OF A PATTERN OF MISDEMEANORS, AS DEFINED BY RULE OF THE STATE BOARD OF HUMAN SERVICES AT SECTION 7.500.312. D. 4. A-C; AND, c) THE COURT ENTERS A FINDING CONSISTENT WITH SECTION 19-5-210(2)(D), C.R.S., THAT THE ADOPTION IS IN THE BEST INTEREST OF THE CHILD/YOUTH.		

			d. AS PART OF THE ASSESSMENT, THE AGENCY MUST: 1) COMPLETE A MINIMUM OF ONE JOINT FACE-TO-FACE INTERVIEW WITH A COUPLE, ONE INDIVIDUAL FACE-TO-FACE INTERVIEW WITH EACH ADULT MEMBER OF THE HOUSEHOLD, AND, IF APPLICABLE, ONE INDIVIDUAL FACE-TO-FACE INTERVIEW WITH ANY PERSON CONSIDERING A SECOND PARENT ADOPTION OF THE CHILD(REN)/YOUTH, AND AN AGE/DEVELOPMENTALLY APPROPRIATE FACE-TO-FACE INTERVIEW WITH ALL CHILDREN/YOUTH RESIDING IN THE HOME. FOR SINGLE APPLICANTS, A MINIMUM OF TWO INTERVIEWS WILL BE REQUIRED. 2) COMPLETE AT LEAST ONE FACE-TO-FACE INTERVIEW IN THE APPLICANT'S HOME. 3) COMPLETE AN ON-SITE INSPECTION FOR FOSTER CARE HOMES TO DETERMINE COMPLIANCE WITH THE “RULES AND REGULATIONS FOR FOSTER HOMES”, SECTION 7.708. APPROVAL OF LOCAL ZONING, HEALTH, OR FIRE DEPARTMENTS MUST BE DOCUMENTED IN THE FOSTER CARE HOME FILE WHEN THE SITUATION WARRANTS. 4) COMPLETE INTERVIEWS OVER A PERIOD OF NOT LESS THAN THREE (3) CONSECUTIVE DAYS. 5) COMPLETE AN ANNUAL SAFE™ UPDATE. THIS SHALL INCLUDE AT LEAST ONE VISIT IN THE FOSTER CARE HOME AND A REVIEW OF THE CURRENT MEDICAL STATUS. ANY CHILD ABUSE/NEGLECT ASSESSMENTS COMPLETED DURING THE PREVIOUS YEAR SHALL BE DISCUSSED WITH THE APPLICANT(S). IF THE GOVERNOR OR LOCAL GOVERNMENT DECLARES A DISASTER OR EMERGENCY, AND BECAUSE OF THE DECLARED DISASTER OR EMERGENCY THE MEDICAL EXAMS FOR THE FOSTER PARENT(S), OTHER CHILDREN, AND OTHER ADULTS RESIDING IN THE HOME CANNOT BE COMPLETED FOR THE CHILD/YOUTH IN THE REQUIRED TIME		

			FRAME, THE MEDICAL EXAM(S) MUST BE COMPLETED AS SOON AS POSSIBLE, BUT NO LATER THAN 45 CALENDAR DAYS AFTER THE DECLARED CONCLUSION OF THE DISASTER OR EMERGENCY. e. THE APPLICATION AND MEDICAL RECORDS MUST BE REVIEWED; ANY ISSUES THAT ARE IDENTIFIED WILL BE DISCUSSED WITH THE APPLICANT. NO PHYSICAL EXAMINATION SHALL BE REQUIRED OF ANY PERSON WHO IN GOOD FAITH RELIES UPON SPIRITUAL MEANS OR PRAYER IN THE FREE EXERCISE OF RELIGION TO PREVENT OR CURE A DISEASE UNLESS THERE IS A REASON TO BELIEVE THE INDIVIDUAL'S PHYSICAL CONDITION IS SUCH THAT THE PERSON WOULD BE UNABLE TO CARE FOR A CHILD/YOUTH. f. THE COUNTY DEPARTMENT SHALL NOT COMPLETE A FOSTER CARE HOME OR ADOPTIVE HOME ASSESSMENT ON A MEMBER OF ITS OWN STAFF. THE WORKER SHOULD CHECK WITH THE SUPERVISOR FOR COUNTY POLICIES AND PROCEDURES REGARDING COMPLETING ASSESSMENTS ON COUNTY STAFF. g. WATER, IF FROM ANY SOURCE OTHER THAN A REGULAR MUNICIPAL WATER SUPPLY, SHALL BE TESTED FOR COMPLIANCE WITH WATER QUALITY REQUIREMENTS. h. A CURRENT PHOTOGRAPH TAKEN WITHIN ONE (1) YEAR OF THE FOSTER FAMILY SHALL BE REQUESTED AND MAINTAINED IN THE PROVIDER RECORD. i. PURSUANT TO SECTION 19-1-130 C.R.S., A SERVICE PROVIDER MEANS THE STATE DEPARTMENT OF HUMAN SERVICES, A COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES, OR A CHILD PLACEMENT AGENCY. THIS INCLUDES A CONTRACTOR OR SUBCONTRACTOR THAT PROVIDES PLACEMENT-RELATED SERVICES ON A SERVICE PROVIDER'S BEHALF. 1) A SERVICE PROVIDER SHALL		

			PROVIDE PLACEMENT-RELATED SERVICES IN A MANNER THAT IS CULTURALLY RESPONSIVE TO THE COMPLEX SOCIAL IDENTITY OF THE INDIVIDUAL RECEIVING SUCH SERVICES. COMPLEX SOCIAL IDENTITIES INCLUDE BUT ARE NOT LIMITED TO RACE, ETHNICITY, NATIONALITY, AGE, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, GENDER EXPRESSION, SOCIOECONOMIC STATUS, PHYSICAL OR COGNITIVE ABILITY, LANGUAGE, BELIEFS, VALUES, BEHAVIOR PATTERNS, AND CUSTOMS. a) NONE OF THESE CHARACTERISTICS MAY BE USED TO CAUSE THE DELAY OR DENIAL OF AN OUT-OF-HOME PLACEMENT OF A CHILD OR YOUTH, UNLESS THE DELAY OR DENIAL OF THE PLACEMENT IS NOT DETRIMENTAL TO THE HEALTH OR WELFARE OF THE CHILD OR YOUTH. 2) THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES MUST NOT DENY ANY PERSON THE OPPORTUNITY TO BECOME A FOSTER OR AN ADOPTIVE PARENT SOLELY ON THE BASIS OF A REAL OR PERCEIVED DISABILITY, RACE, CREED, RELIGION, COLOR, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, GENDER EXPRESSION, MARITAL STATUS, NATIONAL ORIGIN, ANCESTRY, OR ANY COMMUNICABLE DISEASE, INCLUDING HIV, OF THE PERSON OR A MEMBER OF THE PERSON'S HOUSEHOLD; AND, a) ANY DENIAL TO CARE FOR A SPECIFIC CHILD OR YOUTH THAT INCLUDES ONE OF THE FACTORS ABOVE AS THE BASIS FOR THE DENIAL MUST BE DOCUMENTED, MUST HAVE A CLEAR CONNECTION TO THE ABILITY TO MEET THE NEEDS OF THE CHILD/YOUTH, AND THE DENIAL TO CARE MUST NOT BE DETRIMENTAL TO THE HEALTH OR WELFARE OF THE CHILD OR YOUTH; OR, 3) DELAY OR DENY THE PLACEMENT OF A CHILD OR YOUTH FOR ADOPTION OR INTO FOSTER CARE ON THE BASIS OF A REAL OR PERCEIVED DISABILITY, RACE, CREED, RELIGION, COLOR, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, GENDER EXPRESSION,		

			NATIONAL ORIGIN, ANCESTRY, OR ANY COMMUNICABLE DISEASE, INCLUDING HIV, OF THE CHILD OR YOUTH.		
7.500.2.A .10		10. County departments are required to share approved adoptive home assessments within the county system if there is a child(ren) whom the family wants to be considered for possible placement. The family shall make a request in writing providing the name of the county department or child placement agency, address and name of the person who is to receive the home assessment, and appropriate documents. When the county department or child placement agency that completed the home assessment receives the written request, the written home assessment and appropriate documents shall be sent to the other county within five (5) working days at no cost to the family. The county receiving the home assessment shall notify the family within five (5) days that the county department has received the information. The county department placing the child for adoption will be responsible for post-placement supervision until the adoption is finalized, unless otherwise negotiated in the placement agreement between the county and the child placement agency.	~~10. County departments are required to share approved adoptive home assessments within the county system if there is a child(ren) whom the family wants to be considered for possible placement. The family shall make a request in writing providing the name of the county department or child placement agency, address and name of the person who is to receive the home assessment, and appropriate documents. When the county department or child placement agency that completed the home assessment receives the written request, the written home assessment and appropriate documents shall be sent to the other county within five (5) working days at no cost to the family. The county receiving the home assessment shall notify the family within five (5) days that the county department has received the information. The county department placing the child for adoption will be responsible for post-placement supervision until the adoption is finalized, unless otherwise negotiated in the placement agreement between the county and the child placement agency.~~ 10. ADDITIONAL REQUIREMENTS BASED ON THE RECOMMENDATION OF THE SAFE™ ASSESSMENT PRACTITIONER AND IN CONJUNCTION WITH THE APPLICANT'S COMPLETION OF THE SAFE™ COMPATIBILITY INVENTORY, LIST CHARACTERISTICS OF CHILD(REN)/YOUTH THAT THE FOSTER PARENT(S) ARE APPROVED AND/OR CAN BEST SERVE. INFORMATION OBTAINED FROM THE COMPATIBILITY INVENTORY INCLUDING BUT NOT LIMITED TO AGE, RACE, LEGAL RISK, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, AND SPECIAL NEEDS (SUCH AS MEDICAL, PHYSICAL, AND EMOTIONAL).THIS MUST BE IN COMPLIANCE WITH SECTION 7.500.2.A.9i.ABOVE. THESE CHARACTERISTICS MUST BE DISCUSSED IN THE RECOMMENDATIONS IN THE SAFE™ ASSESSMENT. THE INFORMATION MUST BE EVALUATED AND SUMMARIZED AND ATTACHED TO THE SAFE™ QUESTIONNAIRES I AND II.	Renumber and moved previous language	

			AT A MINIMUM, THE SAFE™ COMPATIBILITY INVENTORY MUST BE COMPLETED WITH EACH APPLICANT AT INITIAL CERTIFICATION AND THEN EVERY OTHER YEAR THEREAFTER. IT IS ENCOURAGED THAT SOMEONE WITH KNOWLEDGE ABOUT THE CHILD/YOUTH BEING CONSIDERED FOR PLACEMENT IN A FOSTER CARE HOME COMPLETE THE CHILD/YOUTH INVENTORY.		
7.500.2.A.11.a-d		11. Child Placement Agencies (CPAs) shall share their home assessments with the county department when a CPA family is providing foster care and wants to be considered for a possible adoptive placement. a. The family shall make a written request to the Child Placement Agency, identifying the county department, and the name and address of the county contact that is to receive the home assessment and appropriate documents. b. When the Child Placement Agency receives the written request, the written home assessment and appropriate documents shall be sent to the identified county department within five (5) working days. c. The county department receiving the home assessment shall notify the prospective adoptive family within five (5) working days that the county department has received the information. d. The county department placing the child for adoption will be responsible for post placement supervision until the adoption is finalized, unless otherwise negotiated in the placement agreement between the county and the child placement agency.	~~11. Child Placement Agencies (CPAs) shall share their home assessments with the county department when a CPA family is providing foster care and wants to be considered for a possible adoptive placement.~~ ~~a. The family shall make a written request to the Child Placement Agency, identifying the county department, and the name and address of the county contact that is to receive the home assessment and appropriate documents.~~ ~~b. When the Child Placement Agency receives the written request, the written home assessment and appropriate documents shall be sent to the identified county department within five (5) working days.~~ ~~c. The county department receiving the home assessment shall notify the prospective adoptive family within five (5) working days that the county department has received the information.~~ ~~d. The county department placing the child for adoption will be responsible for post placement supervision until the adoption is finalized, unless otherwise negotiated in the placement agreement between the county and the child placement agency.~~ 11. ASSESSMENT UPDATE a. IF THERE ARE CHANGES IN THE AGE AND/OR SPECIAL CHARACTERISTICS OF THE CHILD(REN)/YOUTH WHICH WILL BE CONSIDERED FOR THE FOSTER PARENT(S), A RE-EVALUATION OF THE FAMILY WILL BE COMPLETED AND THE ASSESSMENT REVISED. b. FOR ANY INDIVIDUAL EIGHTEEN (18) YEARS OF AGE OR OLDER ENTERING THE HOME	Moved previous language and added rule regarding new adults moving into or visiting a foster home 14 day or longer	

			WITH THE INTENT OF RESIDING IN THE HOME OR PROVIDING CARE IN THE HOME, THERE SHALL BE A REVIEW AND DOCUMENTATION IN THE PROVIDER RECORD OF THE FOLLOWING: 1) CHILD ABUSE OR NEGLECT RECORDS CHECK IN EVERY STATE WHERE THE ADULT HAS RESIDED IN THE PREVIOUS FIVE (5) YEARS. 2). A FINGERPRINT-BASED CRIMINAL HISTORY RECORD INFORMATION CHECK COMPLETED FOR THE CBI AND FBI, AND, 3). A COMPARISON SEARCH IN THE COURT CASE MANAGEMENT SYSTEM AT THE STATE JUDICIAL DEPARTMENT, USING THE NAME AND DATE OF BIRTH WITH AVAILABLE CRIMINAL HISTORY INFORMATION FOR EACH ADULT EIGHTEEN (18) YEARS AND OLDER ENTERING THE HOME. THE PURPOSE IS TO DETERMINE ANY CRIME(S) FOR WHICH THE ADULT RESIDING IN THE HOME WAS ARRESTED OR CONVICTED AND THE DISPOSITION. THIS SEARCH MUST BE COMPLETED REGARDLESS OF WHETHER THE CBI AND FBI FINGERPRINT HISTORY CONFIRMS OR DOES NOT CONFIRM A CRIMINAL HISTORY. 4) CBI SEX OFFENDER AND NSOPW, INCLUDING KNOWN NAMES, NICKNAMES, AKAs, ADDRESSES, AND A MAP OF THE LOCATION FROM THE RESPECTIVE DATABASE TO CONFIRM THAT THE ADDRESS OF THE FOSTER CARE HOME WAS CHECKED. 5) IF A NEW ADULT IS VISITING OR LIVING IN THE FOSTER CARE OR KINSHIP FOSTER CARE HOME FOR 14 CONSECUTIVE DAYS AND INTENDS TO STAY THIRTY (30) CONSECUTIVE DAYS OR LONGER, THE FOLLOWING MUST BE COMPLETED NO LATER THAN THE TIME FRAMES LISTED BELOW FROM THE DATE THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES LEARNED THAT THE ADULT WAS IN THE FOSTER CARE HOME: a) WITHIN 24 HOURS THE COUNTY MUST COMPLETE CBI AND NSOPW SEX OFFENDER REGISTRY CHECKS AND DOCUMENT THE		

			INFORMATION INTO THE PROVIDER RECORD IN THE CCWIS AND FOSTER CARE HOME RECORD. b) WITHIN 24 HOURS A COLORADO CHILD ABUSE/NEGLECT CHECK AND A CHECK IN THE STATE JUDICIAL DATABASE MUST BE COMPLETED AND DOCUMENTED IN THE PROVIDER RECORD IN THE CCWIS AND THE FOSTER CARE HOME RECORD. c) WITHIN THIRTY (30) CALENDAR DAYS ~~OF THE ARRIVAL~~ DATE, A CBI AND FBI FINGERPRINT BASED CRIMINAL HISTORY RECORD SCAN MUST BE SUBMITTED. DOCUMENTATION, INCLUDING THE DATES OF THE CBI AND FBI CHECKS, MUST BE ENTERED INTO THE PROVIDER RECORD IN THE CCWIS. DOCUMENTATION MUST INDICATE THE RESULTS WERE REVIEWED AND THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES DID NOT HAVE ANY CONCERNS. THIS MAY BE A RECORD OF CONTACT (ROC) NOTE. THE HARD COPY RECORDS MUST BE LOCATED IN THE FOSTER HOME RECORD. d) IF THE ADULT HAS NOT BEEN IN THE FOSTER CARE HOME OR KINSHIP FOSTER CARE HOME FOR 14 CONSECUTIVE DAYS AT THE TIME THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES LEARNS THAT THE PERSON IS IN THE HOME, AND THE INDIVIDUAL INTENDS TO STAY IN THE HOME THIRTY (30) CONSECUTIVE DAYS OR LONGER FROM THE ARRIVAL DATE, THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES MUST COMPLETE AND DOCUMENT THE FOLLOWING IN THE PROVIDER RECORD IN THE CCWIS AND THE FOSTER HOME RECORD: i. WITHIN 24 HOURS, THE CBI AND NSOPW SEX OFFENDER REGISTRY CHECKS; ii. WITHIN 24 HOURS, A COLORADO CHILD ABUSE/NEGLECT CHECK AND A CHECK IN THE STATE JUDICIAL DATABASE; AND, iii. WITHIN THIRTY (30) CALENDAR DAYS ~~OF THE ARRIVAL DATE~~, A CBI AND FBI FINGERPRINT BASED CRIMINAL HISTORY RECORD SCAN MUST BE SUBMITTED. DOCUMENTATION, INCLUDING THE DATES OF THE CBI AND FBI CHECKS, MUST BE		

			ENTERED INTO THE PROVIDER RECORD IN THE CCWIS. DATES MAY BE ENTERED INTO THE REQUIREMENTS SECTION OF THE PROVIDER RECORD. DOCUMENTATION MUST INDICATE THE RECORDS WERE REVIEWED AND THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES DID NOT HAVE CONCERNS. THIS COULD BE IN THE FORM OF A RECORD OF CONTACT (ROC) NOTE. THE HARD COPY RESULTS MUST BE LOCATED IN THE FOSTER CARE HOME RECORD.		
7.500.2.A.12		None	12. AT ANY TIME AFTER THE PLACEMENT OF A CHILD/YOUTH, THE PLACING AGENCY MAY REVIEW THE SAFE™ ASSESSMENT, UPDATES, AND ALL BACKGROUND CHECKS OF THE FOSTER PARENTS, EXCEPT THE FBI CRIMINAL HISTORY RECORD INFORMATION REPORT, UNLESS THE APPLICANT AUTHORIZES IT IN WRITING.	Renumber	
7.500.2.A.13		None	13. COUNTY DEPARTMENTS OF HUMAN/SOCIAL SERVICES ARE REQUIRED TO SHARE APPROVED ADOPTIVE HOME HOME STUDIES WITHIN THE COUNTY SYSTEM IF THERE IS A CHILD(REN)/YOUTH WHOM THE FOSTER PARENT(S) WANTS TO BE CONSIDERED FOR POSSIBLE PLACEMENT. THE FOSTER PARENT(S) SHALL MAKE A REQUEST IN WRITING PROVIDING THE NAME OF THE COUNTY DEPARTMENT OR CHILD PLACEMENT AGENCY, ADDRESS, AND NAME OF THE PERSON WHO IS TO RECEIVE THE HOME ASSESSMENT, AND APPROPRIATE DOCUMENTS. WHEN THE COUNTY DEPARTMENT OR CHILD PLACEMENT AGENCY THAT COMPLETED THE HOME	Renumber and moved previous language	

			ASSESSMENT RECEIVES THE WRITTEN REQUEST, THE WRITTEN HOME ASSESSMENT AND APPROPRIATE DOCUMENTS SHALL BE SENT TO THE OTHER COUNTY WITHIN FIVE (5) WORKING DAYS AT NO COST TO THE FOSTER PARENTS(S). THE COUNTY RECEIVING THE HOME ASSESSMENT SHALL NOTIFY THE FOSTER PARENT(S) WITHIN FIVE (5) WORKING DAYS THAT THE COUNTY DEPARTMENT HAS RECEIVED THE INFORMATION. THE COUNTY DEPARTMENT PLACING THE CHILD/YOUTH FOR ADOPTION WILL BE RESPONSIBLE FOR POST- PLACEMENT SUPERVISION UNTIL THE ADOPTION IS FINALIZED, UNLESS OTHERWISE NEGOTIATED IN THE PLACEMENT AGREEMENT BETWEEN THE COUNTY AND THE CHILD PLACEMENT AGENCY.		
7.500.312.A.14			14. A CHILD PLACEMENT AGENCY SHALL SHARE THE SAFE™ ASSESSMENT WITH THE COUNTY DEPARTMENT WHEN A CHILD PLACEMENT AGENCY FOSTER PARENT WANTS TO BE CONSIDERED FOR A POSSIBLE ADOPTIVE PLACEMENT. a. THE FOSTER PARENT SHALL MAKE A WRITTEN REQUEST TO THE CHILD PLACEMENT AGENCY, IDENTIFYING THE COUNTY DEPARTMENT, AND THE NAME, AND ADDRESS OF THE COUNTY CONTACT THAT IS TO RECEIVE THE SAFE™ ASSESSMENT AND APPROPRIATE DOCUMENTS. b. WHEN THE CHILD PLACEMENT AGENCY RECEIVES THE WRITTEN REQUEST, THE SAFE™ ASSESSMENT AND APPROPRIATE DOCUMENTS SHALL BE SENT TO THE IDENTIFIED COUNTY DEPARTMENT WITHIN FIVE (5) WORKING DAYS. c. THE COUNTY DEPARTMENT RECEIVING THE SAFE™ ASSESSMENT SHALL NOTIFY THE PROSPECTIVE ADOPTIVE PARENT(S) WITHIN FIVE (5) WORKING DAYS THAT THE COUNTY DEPARTMENT HAS RECEIVED THE INFORMATION.		

			d. THE COUNTY DEPARTMENT PLACING THE CHILD/YOUTH FOR ADOPTION WILL BE RESPONSIBLE FOR POST PLACEMENT SUPERVISION UNTIL THE ADOPTION IS FINALIZED, UNLESS OTHERWISE NEGOTIATED IN THE PLACEMENT AGREEMENT BETWEEN THE COUNTY AND THE CHILD PLACEMENT AGENCY.		
7.500.2.A.15		None	15. POST-ADOPTIVE SERVICES AND CONNECTIONS THE APPLICANT'S ABILITY AND WILLINGNESS TO ASSIST WITH POSSIBLE POST-ADOPTIVE QUESTIONS AND CONCERNS OF THE CHILD/YOUTH SHOULD BE ASSESSED, INCLUDING, BUT NOT LIMITED TO: a. QUESTIONS ABOUT THE BIRTH FAMILY; b. LOCATING AND OBTAINING NON-IDENTIFYING INFORMATION ABOUT THE BIRTH FAMILY; c. SEARCH AND POSSIBLE REUNIFICATION OF THE CHILD/YOUTH WITH THE BIRTH FAMILY; AND, d. WILLINGNESS TO ASSIST THE CHILD/YOUTH WHO WAS ADOPTED WITH COUNSELING, IF NEEDED, REGARDING ISSUES RELATED TO ADOPTION.	Renumbered and moved previous language	

7.500.3		**CHILDREN'S RESOURCES [Rev. eff. 1/1/16]**	**CHILDREN'S / Youth's Resources ~~[Rev. eff. 1/1/16]~~**		
7.500.3.A		A. Resources for children to be developed by the county department of social or human services are foster care homes, receiving homes, specialized group facilities, and adoption resources.	A. Resources for children/YOUTH to be developed by the county department of ~~social or~~ human/SOCIAL services are NON-RELATIVE foster care homes, KINSHIP FOSTER CARE HOMES, receiving homes IF APPLICABLE, ~~specialized group facilities,~~ and adoption resources.	Technical changes	
7.500.3.B		B. Good faith efforts and due diligence shall be used to recruit families who reflect the communities of all children in care.	B A DILIGENT RECRUITMENT PLAN SHALL BE SUBMITTED TO THE DIVISION OF CHILD WELFARE WITH THE CONTENT, FORMAT, AND TIME FRAMES PRESCRIBED. THE COUNTY DEPARTMENT SHALL IMPLEMENT THE PLAN AND DEMONSTRATE good faith efforts and due diligence ~~shall be used~~ to recruit AND RETAIN families ~~who~~ THAT reflect the DIVERSE communities AND IDENTITIES of all children/YOUTH served by the child welfare agency..	Requires a diligent recruitment plan to demonstrate efforts to recruit families that reflect the children in care	
7.500.3.C		C. Facilities for children shall be utilized solely by children, shall be licensed or certified, and shall meet necessary local requirements and hold local licenses or permits. In order to support youth with an independent living stipend, a foster care home may provide a home for a youth that previously resided in foster care in the home on or before the youth's eighteenth (18th) birthday. The youth shall solely occupy a bedroom and shall not occupy a bedroom with a child and/or youth in foster care. The foster care home may accept a negotiated portion of the independent living stipend. Negotiation shall include the youth, caseworker, and foster parent(s).	C. Facilities for children/YOUTH shall be utilized solely by children/YOUTH, shall be ~~licensed or~~ certified, and shall meet necessary local requirements and hold local ~~licenses or~~ permits, AS APPLICABLE. In order to support youth with an independent living stipend, a foster care home may provide a home for a youth that previously resided in foster care in the home on or before the youth's eighteenth (18th) birthday. The youth shall solely occupy a bedroom and shall not occupy a bedroom with a child and/or youth in foster care. The foster care home may accept a negotiated portion of the independent living stipend. Negotiation shall include the youth, caseworker, and foster parent(s).	Technical changes	
7.500.3.D		D. The county department of social/human services shall audit all current foster care files on an annual basis to verify that all required information is present in the file. Following the annual audit, the county department shall attest in writing that all the required information is present.	D. The county department of ~~social/~~human/SOCIAL services shall audit all current foster care files ~~on an~~ annualLY ~~basis~~ to verify that all required information is present in the file. Following the annual audit, the county department shall attest in writing that all the required information is present.	Technical changes	

7.500.3.E		E. The county department shall develop resources for the twenty-four (24) hour out-of-home care of children who otherwise would be inappropriately placed in jail or detention.	E. The county department OF HUMAN/SOCIAL SERVICES shall develop resources for the twenty-four (24) hour out-of-home care of children/YOUTH who otherwise would be inappropriately placed in jail or detention.	Technical changes	
7.500.3.F		F. A foster home or receiving home certified by the county department of social or human services or a specialized group facility sponsored by a county department shall receive children only from a county department of social or human services, and the certifying county shall approve of each placement.	F. A foster CARE home or receiving home certified by the county department of ~~social or~~ human/SOCIAL services ~~or a specialized group facility sponsored by a county department~~ shall receive children/YOUTH only from a county department ~~of social or human services~~, and the certifying county shall approve ~~of~~ each placement.	Technical changes	
7.500.3.G		G. The county department shall maintain a directory of current, accurate information to identify available placements. The directory shall include available vacancies, licensed or certified capacity, ages and gender of children accepted by the home or facility, a description of the level of care which the home or facility can provide, and a listing of any special services that it can provide.	G. The county department OF HUMAN/SOCIAL SERVICES shall maintain a directory of current, accurate information to identify ALL available placements. The directory shall include available vacancies, licensed or certified capacity, ages, and gender IDENTITY of children/YOUTH accepted by the FOSTER CARE home or facility, a description of the level of care which the FOSTER CARE home or facility can provide, and any special services that ~~it can~~ ARE provideD.	Technical changes	
7.500.3.H	NEW	NONE	H. CARE OF CHILDREN/YOUTH IN FOSTER CARE HOMES WHEN CARE IS ALSO PROVIDED FOR ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES. 1. NO AGENCY SHALL ACCEPT A CHILD/YOUTH FOR PLACEMENT FROM ANY SOURCE OTHER THAN THE CHILD'S/YOUTH'S PARENT(S) OR GUARDIAN(S), A COURT OF COMPETENT JURISDICTION, A COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES, OR TRIBAL HUMAN/SOCIAL SERVICES AND UPON A SPECIFIC WRITTEN AUTHORIZATION BY ONE OF THESE ENTITIES TO PLACE THE CHILD/YOUTH. THE WRITTEN AUTHORIZATION MUST CONTAIN NOTIFICATION THAT THE CHILD/YOUTH IS TO BE PLACED IN A FOSTER CARE HOME WHERE ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES ARE ALSO RECEIVING CARE. 2. THE FOSTER CARE HOME SHALL MEET ALL CERTIFICATION AND	New	

			RECERTIFICATION REQUIREMENTS IN SECTION 7.500. 3. THE CAPACITY OF THE FOSTER CARE HOME WHEN ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES ARE ALSO IN CARE SHALL NOT EXCEED A TOTAL OF FOUR (4) PERSONS REQUIRING CARE THROUGH THE FOSTER CARE SYSTEM AND/OR THE ADULT INTELLECTUAL AND DEVELOPMENTAL DISABILITIES SYSTEM. a. WHEN A YOUTH IN FOSTER CARE TURNS EIGHTEEN (18) YEARS OF AGE AND IS ELIGIBLE FOR THE ADULT RESIDENTIAL SYSTEM THROUGH THE DEPARTMENT OF HEALTH CARE POLICY & FINANCING (HCPF), THE YOUTH SHALL BE CONSIDERED AN ADULT RECEIVING CARE FOR THE PURPOSE OF CAPACITY. IF THE COUNTY OR STATE DEPARTMENT OF HUMAN/SOCIAL SERVICES HAS LEGAL RESPONSIBILITY FOR THE CARE AND PLACEMENT OF THE YOUTH TURNING EIGHTEEN (18) YEARS OF AGE, THE INDIVIDUAL WILL BE CONSIDERED A CHILD FOR THE PURPOSE OF CAPACITY. b. CHILDREN/YOUTH IN FOSTER CARE AND WHO ARE ENROLLED IN THE CHILDREN'S HABILITATION RESIDENTIAL PROGRAM (CHRP), MAY HAVE A COMBINED MAXIMUM OF THREE (3) INDIVIDUALS RECEIVING HOME AND COMMUNITY BASED (HCBS) WAIVER SERVICES. THIS MAY INCLUDE ONE (1) HCBS-CHRP CLIENT AND TWO (2) HCBS- PERSONS WITH DEVELOPMENTAL DISABILITIES (DD) OR HCBS-SUPPORTED LIVING SERVICES (SLS) WAIVER PARTICIPANTS, OR TWO (2) HCBS-CHRP PARTICIPANTS AND ONE (1) HCBS-DD OR HCBS-SLS WAIVER PARTICIPANTS LIVING IN THE SAME FOSTER CARE HOME. c. ALL CHILDREN/YOUTH UNDER THE AGE OF EIGHTEEN RESIDING IN THE FOSTER CARE HOME COUNT IN THE TOTAL FOSTER CARE HOME CAPACITY OF EIGHT (8) CHILDREN, YOUTH, AND ADULTS. 4. WHEN A YOUTH IN FOSTER CARE IN THE HOME TURNS EIGHTEEN (18) YEARS OF AGE, IF THE		

			YOUTH IS ELIGIBLE FOR THE ADULT RESIDENTIAL SYSTEM, THE YOUTH MUST COMPLETE BACKGROUND CHECKS IN SECTION 7.500.2.A.5.a.1), AND A SAFE™ UPDATE AS IDENTIFIED IN 7.500.A.7 MUST BE COMPLETED.		
7.500.31		**Foster Care Homes [Rev. eff. 1/1/16]** Foster care homes are certified by county departments of human or social services; foster care homes associated with Child Placement Agencies (CPAs) are certified by the CPA.	**Foster Care Homes ~~[rev.eff.1/1/16]~~** Foster care homes are certified by county departments of human/~~of~~ social services, ~~foster care homes associated with Child Placement Agencies are certified by the CPAs~~, CHILD PLACEMENT AGENCIES OR A FEDERALLY RECOGNIZED TRIBE WITH A FOSTER CARE PROGRAM.	Technical changes	
7.500.31.A		A. A foster care home provides temporary or long-term care for children who must live outside their own homes and are in need of protection and/or supervision, including those children with physical handicaps or developmental disabilities when target group eligibility and out-of-home placement criteria are met. Receiving homes are a type of foster care home which provide temporary care of children.	A. A foster care home provides temporary ~~or long-term~~ care for children/YOUTH who must live outside their own homes and are in need of protection and/or supervision, including those children/YOUTH with physical handicaps or developmental disabilities when target group eligibility and out-of-home placement criteria are met. Receiving homes are a type of foster care home which provide temporary care of children/YOUTH.	Technical changes	
7.500.31.B		B. Foster parents shall be recruited who demonstrate a genuine interest in and knowledge of children and a concern for their proper care and well-being. A county department shall recruit within its own county and may recruit in adjacent counties with the approval of the director of the county department of the adjacent county.	B. Foster parents shall be recruited who demonstrate a genuine interest in and knowledge of children/YOUTH and a concern for their ~~proper~~ care and well-being. A county department OF HUMAN/SOCIAL SERVICES shall recruit within its own county and may recruit in adjacent counties.	Technical changes	
7.500.31.C		C. Within five working days after initial inquiry, the worker shall discuss with prospective applicants general information regarding foster parenting requirements and the upcoming orientation.	C. Within five **(5)** working days after initial inquiry, the CASE worker shall discuss with THE prospective applicant(S) general information regarding foster CARE requirements and the DATE OF THE upcoming orientation/INFORMATION MEETING.	Technical changes	
7.500.31.D		D. An orientation shall be held to discuss the application and certification process for prospective foster parent applicants within six weeks after initial inquiry.	D. An orientation/information meeting shall be held to discuss the application and certification process for prospective foster parent applicants within six **(6)** weeks after the initial inquiry. THE ORIENTATION/INFORMATION MEETING CAN BE HELD INDIVIDUALLY.	Technical change	

7.500.31. E.1-4		E. A foster home must be certified. Pursuant to an application for a certificate, the county department of human or social services shall assess a foster home; however: 1. A staff member of a county department of human/social services shall not be certified by the county in which he/she is employed to operate a foster home due to conflict of interest. 2. A staff member of a county department of human or social services may be certified by another county, but may not receive children placed by the county in which he/she is employed. 3. No county department shall certify a foster home of a relative of any staff member of the Child Welfare Division or unit. If the foster home is certified by another county department, the referring county department may place children in the foster home upon written agreement of the two county department directors or designee. 4. If a relative of a staff member of the county department, who is not an employee of the county Child Welfare Division or unit, makes application to be a foster care home for the county department, then the application shall be reviewed by the county department director to determine whither a conflict of interest exists and the director shall provide written approval or denial and the justification for the decision. The documentation shall be attached to the application.	E. A foster CARE home must be certified~~.~~ AND ~~P~~pursuant to an application for ~~a certificate~~ certification, the county department of human~~/ or~~ social services shall assess a foster CARE home; ~~however~~ except: 1. A staff member of a county department of human/social services shall not be certified by the county in which ~~he/she~~ THE INDIVIDUAL is employed to operate a foster CARE home due to conflict of interest. A HARDSHIP WAIVER CAN BE FILED IF THERE IS UNDUE HARDSHIP WHICH CREATES A SUBSTANTIAL AND UNNECESSARY BURDEN ON THE APPLICANT OR THE FAMILIES OR COMMUNITIES SERVED. 2. A staff member of a county department of human/ ~~or~~ social services may be certified by another county, but may not receive children/YOUTH placed by the county in which ~~he/she~~ THE INDIVIDUAL is employed. 3. No county department OF HUMAN/SOCIAL SERVICES shall certify a foster CARE home of a relative of any staff member of the Child Welfare Division or unit. If the foster CARE home is certified by another county department, the referring county department may place children/YOUTH in the foster CARE home upon written agreement of the two **(2)** county department directors or designeeS. 4. If a relative of a staff member of the county who is not an employee of the county, Child Welfare Division or unit, makes application to be a foster care home for the county department, then the application shall be reviewed by the county department director OR DESIGNEE to determine ~~whither~~ WHETHER a conflict of interest exists and the director OR DESIGNEE shall provide written approval or denial and the justification for the decision. The documentation shall be attached to the application.	Technical changes	
7.500.31. F		F. A county department may receive an application for a certificate and complete a foster home assessment for an applicant living in an adjacent county only after the county director of the adjacent county or	F. A county department OF HUMAN/SOCIAL SERVICES may receive an application for~~ certificate~~ certification and complete a ~~foster home~~ SAFE™ assessment for an applicant living in an adjacent county only after the county director of the adjacent county or	Technical changes	

		his/her designee gives approval for the other county department to complete the assessment and issue the certificate. County departments may only certify a foster home in a nonadjacent county with the written permission of both county directors or designees.	~~his/her~~ designee gives approval for the other county department to complete the SAFE™ assessment and issue the certificate. County departments may only certify a foster home in a nonadjacent county with the written permission of both county directors or THEIR designees.		
7.500.31. G		G. The county department of human or social services shall require verification of an individual's lawful presence in the United States, as provided in general eligibility requirements as found in Section 3.140.11 (9 CCR 2503-1), in order to approve an application to operate a foster home.	G. ~~The county department of human/ or social services shall require verification of an individual's lawful presence in the United States, as provided in general eligibility requirements as found in Section 3.140.11 (9 CCR 2503-1), in order to approve an application to operate a foster CARE home.~~ LAWFUL PRESENCE IN THE UNITED STATES IS NO LONGER A REQUIREMENT TO OPERATE A FOSTER CARE HOME. THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES WILL NOT VERIFY AN INDIVIDUAL'S LAWFUL PRESENCE IN ORDER TO APPROVE AN APPLICATION TO OPERATE A FOSTER CARE HOME.	New language	
7.500.31. H		H. A county department of human or social services shall not accept an application to operate a foster home from an individual who is currently certified by a child placement agency to operate a family care home until that individual has terminated the certification by the child placement agency.	H. A county department of human/ ~~or~~ social services shall not accept an application to operate a foster CARE home from an individual who is currently certified by a child placement agency to operate a ~~family~~ FOSTER CARE home until that individual has terminated the certification by the child placement agency.	Technical changes	
7.500.31. I		I. Reference checks for the applicant and all adults residing in the home: An applicant for certification for a foster care home and all adults residing in the home shall provide the county department of human or social services from whom the certification is sought with a list of all child placement agencies and county departments of human or social services that previously certified the applicant or any adult residing in the home. Each adult shall sign a release of information; and, the county department of human or social services from whom the certification is sought shall conduct a reference check of each adult residing in the home by contacting all of the child placement	I. Reference checks for the applicant and all adults residing in the home: AnY ~~applicant~~ APPLICATION ACCEPTED BY THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES FOR AN INDIVIDUAL(S) OR COUPLE WHO WISHES TO BE CERTIFIED TO OPERATE A ~~for certification for~~ foster care home SHALL BE ON THE DEPARTMENT'S APPROVED FORM. ~~and all adults residing in the home shall provide the county department of human or social services from whom the certification is sought with a list of all child placement agencies and county departments of human or social services that previously certified the applicant or any adult residing in the home.~~	Technical changes, and new language	

		agencies and county departments of human or social services identified before issuing the certification for the foster care home.	Each adult shall sign a release of information; and, the county department of human/ ~~or~~ social services from whom the certification is sought shall conduct a reference check of each adult residing in the home by contacting all of the child placement agencies and county departments ~~of human or social services~~ identified before issuing the ~~certification~~ CERTIFICATE for the foster care home. THIS SHOULD INCLUDE AND IS NOT LIMITED TO: 1. THE NAMES AND ADDRESSES OF CHILD PLACEMENT AGENCIES AND COUNTY DEPARTMENTS WHERE THE APPLICANT PREVIOUSLY APPLIED OR WAS CERTIFIED, INFORMATION ABOUT PRIOR OR CURRENT LICENSING FOR CHILD CARE AT THE TIME OF THE APPLICATION, THE AGENCY THAT ISSUES THE CERTIFICATE OR LICENSE, AND THE TYPE OF CARE THE CERTIFICATE OR LICENSE AUTHORIZES.		
7.500.31.J		J. No director or staff member of a county department or governing body for a Specialized Group Facility (SGF) sponsored by the county department shall contact or recruit foster homes currently certified by another county department or child placement agency for the purpose of becoming a foster home or specialized group facility.	J. No director or staff member of a county department OF HUMAN/SOCIAL SERVICES or CHILD PLACEMENT AGENCY ~~governing body for a Specialized Group Facility (SGF) sponsored by the county department~~ shall contact or recruit foster CARE homes currently certified by another county department or child placement agency for the purpose of becoming a foster CARE home ~~or specialized group facility~~.	Technical changes	
7.500.3.K.1-44		K. A county director or his/her designee may take the following actions for prospective or current kinship foster care home providers. Decisions shall be made case-by-case and the safety and well-being of a child and/or youth placed in the home shall not be compromised: 1. Waive non-safety certification standards for kinship foster care providers defined in Section 7.708.11 and referenced in 7.708.7 (12 CCR 2509-8); 2. Require special conditions for certification that address the safety or well-being needs for a child or youth; 3. Limit or restrict a certificate; and/or,	K. A county director or THE ~~his/her~~ designee may take the following actions for prospective or current kinship foster care home providers. Decisions shall be made case-by-case and the safety and well-being of a child/YOUTH ~~and/or youth~~ placed in the FOSTER CARE home shall not be compromised, The county director or the designee may: 1. Waive non-safety certification standards for kinship foster care providers defined in Section 7.708.11 and referenced in 7.708.7 (12 CCR 2509-8); 2. Require special conditions for certification that address the safety or well-being needs for a child/YOUTH ~~or youth~~; 3. Limit or restrict a certificate; and/or,	Technical changes	

		4. Require a written agreement for compliance that addresses safety and well-being needs for a child or youth.	4. Require a written agreement for compliance that addresses safety and well-being needs for a child/YOUTH ~~or youth~~.		
7.500.311		**Training and Foster Home Assessment ~~[Rev. eff. 1/1/16]~~** In addition to twenty-seven hours of pre-certification training, which includes twelve hours of core training, each foster parent shall be certified in First Aid or the equivalent, and CPR for the ages of the children and/or youth in placement.	**Training ~~and Foster Home Assessment [Rev. eff. 1/1/16]~~**	Title revision	
7.500.311.A		A. Prior to certification, the county department shall complete the single SAFE assessment of foster and adoptive homes as outlined in Section 7.500.2.	~~A. Prior to certification, the county department of human or social services shall complete the single SAFE assessment of foster and adoptive homes as outlined in Section 7.500.2.~~	Struck because the language is unnecessary	
7.500.311.B.1.a		B. Training, Colorado Bureau of Investigation (CBI), Federal Bureau of Investigation (FBI), and Five Year Child Abuse and Neglect Records Check Requirements 1. Prior to the placement of a child and/or youth, initial training shall be provided through the statewide core curriculum, county department of human or social services, or CPA. a. Each applicant shall complete twelve hours of core training. Core training shall include, at a minimum, the following ten primary topic areas: 1) General overview of foster care; 2) Administrative and legal issues; 3) Why children and youth get placed in out-of-home care; 4) Parenting and family dynamics; 5) Key concepts of child/youth growth and development;	~~B~~A. Training, Colorado Bureau of Investigation (CBI), Federal Bureau of Investigation (FBI), and Five- Year Child Abuse and Neglect Records Check Requirements. 1. Prior to the placement of a child and/or youth, initial training shall be provided through the statewide core curriculum, county department of human/ ~~or~~ social services, ~~or~~ ~~CPA~~ LICENSED COLORADO CHILD PLACEMENT AGENCY, OR AN ORGANIZATION APPROVED BY THE DIVISION OF CHILD WELFARE. a. Each applicant shall complete twelve hours of core training. Core training shall include, at a minimum, the following ~~ten~~ primary ~~topic~~ CONTENT areas: 1) General overview of foster care; 2) Administrative, LAWS, and legal issues; 3) ~~Why children and youth get placed in out-of-home care~~ THE IMPACT OF CHILD ABUSE AND NEGLECT ON CHILD DEVELOPMENT; 4) Parenting and family dynamics; 5) Key concepts of child growth and development;	Re-letter and technical changes	

		6) Importance of the team approach; 7) Individual differences, such as ethnicity and culture; 8) Discipline; 9) Effects of fostering on the foster family; and, 10) Working with the biological family.	6) ~~Importance of the team approach;~~ ADDRESSING CHILD/YOUTH BEHAVIORS; 7) ~~Individual differences, such as ethnicity and culture~~ IMPORTANCE OF THE TEAM APPROACH; 8) ~~Discipline~~ CULTURAL RESPONSIVENESS IDENTIFIED IN SECTION 7.701 (12 CCR 2509-8), INCLUDING individual differences, such as RACE, ethnicity, SEXUAL ORIENTATION, GENDER IDENTITY, AND EXPRESSION, ABLEISM, and culture; 9) ~~Effects of fostering on the foster family; and,~~ DISCIPLINE; 10) ~~Working with the biological family~~ EFFECTS OF FOSTERING ON THE FOSTER FAMILY; 11) LEGAL PARENTS/LEGAL CUSTODIANS, INCLUDING THE IMPORTANCE OF MAINTAINING MEANINGFUL RELATIONSHIPS BETWEEN CHILDREN/YOUTH AND PARENTS, INCLUDING REGULAR VISITATION; 12) REASONABLE AND PRUDENT PARENT STANDARD; 13) TRAUMA-INFORMED CARE AS IDENTIFIED IN SECTION 7.701.400; 14) MEDICATION ADMINISTRATION; 15) HEALTH ISSUES IN FOSTER CARE, INCLUDING HEALTH SERVICES AVAILABLE TO CHILDREN AND YOUTH IN FOSTER CARE; 16) THE RIGHT OF A CHILD OR YOUTH IN FOSTER CARE TO HAVE FAIR AND EQUAL ACCESS TO ALL AVAILABLE SERVICES, PLACEMENT, CARE, TREATMENT, AND BENEFITS, AND TO NOT BE		

			SUBJECTED TO DISCRIMINATION OR HARASSMENT ON THE BASIS OF ACTUAL OR PERCEIVED DISABILITY, RACE, CREED, RELIGION, COLOR, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, GENDER EXPRESSION, NATIONAL ORIGIN, ANCESTRY, OR ANY COMMUNICABLE DISEASE, INCLUDING HIV, OF THE CHILD OR YOUTH; 17) THE RIGHTS OF SIBLINGS IN FOSTER CARE, LOCATED IN SECTION §19-7-203, C.R.S.; AND, 18) UNDERSTANDING THE ROLE OF A CHILD WELFARE EDUCATION LIAISON, AS DESCRIBED IN § 22-32-13 8 (2), C.R.S.		
7.500.31 1.B.1.b		b. In addition to twenty-seven hours of pre-certification training, which includes twelve hours of core training, each foster parent shall be certified in First Aid or the equivalent, and CPR for the ages of the children and/or youth in placement. 1. If the governor or local government declares a disaster or emergency, and because of the declared disaster or emergency, the foster parent(s) cannot take the First Aid class in a classroom with the first aid trainer, the First Aid training may be completed online. The foster parent(s) must then complete the classroom training with the first aid trainer as soon as possible, but no later than 45 calendar days after the declared conclusion of the disaster or emergency. 2. If the governor or local government declares a disaster or emergency, and because of the declared disaster or emergency, the foster parent(s) cannot take the CPR class in a classroom with the CPR trainer, and the foster parent(s) has successfully completed a CPR class within the last five (5) years, the foster parent(s) may take the CPR class online. The foster parent(s) must then complete the classroom training with a CPR instructor as soon as possible, but no later than 45	b. In addition to twenty-seven hours of pre-certification training, which includes twelve hours of core training, each foster parent shall be certified in First Aid ~~or the equivalent,~~ and CPR for the ages of the children and/or youth in placement. INITIAL CPR TRAINING MUST BE COMPLETED IN A CLASSROOM WITH MANUAL DEMONSTRATION OF RESUSCITATION. INDIVIDUALS IN THE DIRECT MEDICAL OR EMERGENCY RESPONDER FIELD MAY HAVE CPR AND FIRST AID WAIVED IF THEIR IMMEDIATE SUPERVISOR AFFIRMS THAT THE APPLICANT IS A MEDICAL PROFESSIONAL THAT PERFORMS THESE SKILLS. 1) If the governor or local government declares a disaster or emergency, and because of the declared disaster or emergency, the foster parent(s) cannot take the First Aid class in a classroom with the first aid trainer, the First Aid training may be completed online. The foster parent(s) must then complete the classroom training with the first aid trainer as soon as possible, but no later than 45 calendar days after the declared conclusion of the disaster or emergency. 2) If the governor or local government declares a disaster or emergency, and because of the declared disaster or emergency, the foster parent(s) cannot take the CPR class in a classroom with the CPR trainer, and the foster parent(s) has successfully completed a CPR class within the last five (5) years, the foster parent(s)	Technical change, clarifies training method, and allows exception based on training	

		calendar days after the declared conclusion of the disaster or emergency.	may take the CPR class online. The foster parent(s) must then complete the classroom training with a CPR instructor as soon as possible, but no later than 45 calendar days after the declared conclusion of the disaster or emergency.		
7.500.311.B.1.c		c. Complete a background check required in Section 7.500.2, B, 1.	c. Complete a background check required in Section 7.500.2~~,~~.A~~,~~.8.	Technical changes	
7.500.311.B1..d		d. The county department of human or social services shall train foster parents how to determine whether to approve the child's or youth's participation in an extracurricular, enrichment, cultural, or social activity is consistent with the reasonable and prudent parent standard, based upon criteria in section 7.701.200 (12 CCR 2509-8).	d. The county department of human/~~ or~~ social services shall train foster parents how to determine whether to approve the child's/YOUTH'S ~~or youth's~~ participation in an extracurricular, enrichment, cultural, or social activity is consistent with the reasonable and prudent parent standard, based upon criteria in section 7.701.200 (12 CCR 2509-8).	Technical changes	
7.500.3111.B.2.a-b		2. Ongoing Training a. Each applicant shall have twenty (20) hours of ongoing training every year, except specialized providers outlined in Section 7.708.65, E (12 CCR 2509-8). The training shall be relevant to fostering the children and/or youth being served in the foster care home or kinship foster care home. b. If there are children and/or youth in the home and training is not completed, no additional children and/or youth shall be placed until training is complete. Children and/or youth	2. Ongoing Training a. Each applicant shall have twenty (20) hours of ongoing training every year, except specialized providers outlined in Section 7.708.65~~,~~.E (12 CCR 2509-8). The training shall be relevant to fostering the children and/or youth being served in the foster care home or kinship foster care home. b. If there are children and/or youth in the home and training is not completed, no additional children and/or youth shall be placed until training is complete. Children and/or youth who are currently in placement shall not be disrupted due to this requirement.		
7.500.311.C		C. Exceptions to the Training and CBI, FBI, and Five-Year Child Abuse and Neglect Records Check Requirements An exception to the rules may be made for emergency "child specific" placements identified in Section 7.304.21, D, 2, f, and for non-emergency "child specific" placements in Section 7.500.312, E. These are defined as placements where the child has a prior relationship to the applicant.	~~C~~B. Exceptions to the Training and CBI, FBI, and Five-Year Child Abuse and Neglect Records Check Requirements An exception to the rules may be made for emergency "child specific" placements identified in Section 7.304.21~~,~~.D~~,~~.2~~,~~.f, and for non-emergency "child specific" placements in Section 7.500.312~~,~~.E. These are defined as placements where the child/YOUTH has a prior relationship to the applicant.	Re-letter and technical changes	

		1. The applicant may have sixty (60) calendar days from the date of application to complete training. 2. In the event of an emergency child specific placement in a previously uncertified home, prior to or at the time of the placement the county department of human or social services shall receive the completed Original Application to Care for Children. In addition, the county staff and the applicant shall review and sign the CWS-7A, "Individual Provider Contract for Purchase of Foster Care Services in a Foster Care Home".	1. The applicant may have NINETY ~~sixty~~ (~~6~~90) calendar days from the date of application to complete training. 2. In the event of an emergency child specific placement in a previously uncertified home, prior to or at the time of the placement the county department ~~of human or social services~~ shall receive the completed Original Application to Care for Children AND YOUTH. In addition, the county staff and the applicant shall review and sign the CWS-7A, "Individual Provider Contract for Purchase of Foster Care Services in a Foster Care Home".		
7.500.31 1.D.1-4		D. If a provisional certificate will be issued because a "child specific" emergency placement is required in a previously non-certified home, prior to or at the time of the placement the county department of human or social services shall receive the completed Original Application to Care for Children, and the county staff and the applicant shall review and sign the CWS-7A, "Individual Provider Contract for Purchase of Foster Care Services in a Foster Care Home", and submit fingerprints and current processing fee to the Colorado Bureau of Investigation. The following shall be initiated by the county department of human or social services as soon as possible for an emergency "child specific" placement of a child and/or youth. Complete a background check for each adult (18 years and older) living in the home for the following: 1. Child abuse/neglect records in every state where any adult residing in the home has lived in the five (5) years immediately preceding the date of application; 2. Fingerprint-based criminal history record information checks from the CBI and the FBI as soon as possible and consistent with Section 7.304.21, D, 2, f (12 CCR 2509-4);	~~D~~C. If a provisional certificate will be issued because a "child specific" emergency placement is required in a previously non-certified home, prior to or at the time of the placement the county department of human/social services shall receive the completed Original Application to Care for Children AND YOUTH, and the county staff and the applicant shall review and sign the CWS-7A, "Individual Provider Contract for Purchase of Foster Care Services in a Foster Care Home", and submit fingerprints and current processing fee to the Colorado Bureau of Investigation. WHEN A CHILD/YOUTH THAT WAS IN FOSTER CARE WITH A FOSTER PARENT(S) THAT IS NO LONGER CERTIFIED, A PROVISIONAL CERTIFICATE MAY BE ISSUED IF IT IS IN THE CHILD'S/YOUTH'S BEST INTEREST TO RETURN TO THE FOSTER CARE HOME. The following shall be ~~initiated~~ COMPLETED by the county department ~~of human/or social services as soon as possible for~~ PRIOR TO an emergency "child specific" placement of a child/YOUTH ~~and/or youth~~. Complete a background check for each adult (18 years and older) living in the home for the following: 1. Child abuse/neglect records in every state where any adult residing in the home has lived in the five (5) years immediately preceding the date of application SHALL BE INITIATED NO LATER THAN SEVEN BUSINESS DAYS FOLLOWING PLACEMENT;	Re-letter, technical changes, and additional language regarding CCWIS	

		3. Review the court case management system at the State Judicial Department and include a copy in the provider record; and, 4. The CBI sex offender registry and the national sex offender public website operated by the United States Department of Justice and include a copy in the provider record using: a. Known names and addresses of each adult residing in the home; and, B. Address only, of the provider's home.	2. Fingerprint-based criminal history record information checks from the CBI and the FBI as soon as possible WITHIN FIVE (5) BUSINESS DAYS FOLLOWING THE REMOVAL AND NO LATER THAN 15 BUSINESS DAYS IN URGENT CIRCUMSTANCES and consistent with Section 7.304.21~~,~~.D~~,~~.2~~,~~.f (12 CCR 2509-4); 3. Review the court case management system at the State Judicial Department and include a copy in the provider record; and, 4. The CBI sex offender registry, ~~and~~ the ~~national sex offender public website~~ NSOPW operated by the United States Department of Justice, and include a copy in the provider record using: a. Known names, NICKNAMES, AKA, and addresses of each adult residing in the FOSTER CARE home; and, b~~B~~. Address only, of the provider's home WITH A MAP FROM THE RESPECTIVE DATABASES TO CONFIRM THE ADDRESS OF THE FOSTER CARE HOME HAS BEEN CHECKED. 5. CCWIS (TRAILS) SCREEN PRINTS, INCLUDING PRIOR NAMES, NICKNAMES, AND AKAs.		
7.500.31 11.E.1-2		E. If a provisional certificate will be issued because a non-emergency "child specific" placement is required in a previously non-certified home: 1. The county department of human or social services shall submit fingerprints to CBI and FBI and complete all other background checks prior to placement of the child and/or youth, consistent with Section 7.500.2, B, 1, except that child abuse and neglect records in other states where an adult has resided in the five (5) years preceding the application shall be initiated no later than seven (7) working days following placement; and, 2. Review the completed "Original Application to Care for Children" and the	~~E~~D. If a provisional certificate will be issued because a non-emergency "child specific" placement is required in a previously non-certified home: 1. The county department of human/~~ or~~ social services shall submit fingerprints to CBI and FBI and complete all other background checks prior to placement of the child/YOUTH ~~and/or youth~~, consistent with Section 7.500.2~~,~~.B~~,~~.1, except that child abuse and neglect records in other states where an adult has resided in the five (5) years preceding the application shall be initiated no later than seven (7) working days following placement; and, 2. Review the completed "Original Application to Care for Children AND YOUTH" and the CWS-7A "Individual Provider Contract for Purchase of Foster Care Services in a Foster	Re-letter and technical changes	

		CWS-7A "Individual Provider Contract for Purchase of Foster Care Services in a Foster Care Home" with the provider, and collect the signed documents.	Care Home" with the provider, and collect the signed documents.		
7.500.312		**Issuance/Denial of Certificate [Rev. eff. 1/1/16]** Every application used in the state of Colorado for employment with a child care provider or facility, or for the certification of a foster home, shall include the following notice to the applicant: "Any applicant who knowingly or willfully makes a false statement of any material fact or thing in the application is guilty of perjury in the second degree as defined in Section 18-8-503, C.R.S., and, upon conviction thereof, shall be punished accordingly." After the completion of the home assessment, the county department shall take one of the following certification actions:	**7.500.312 Issuance/Denial of Certificate ~~[Rev. eff. 1/1/16]~~** Every application used in the state of Colorado for employment with a child care provider or facility, or for the certification of a foster home, shall include the following notice to the applicant: "Any applicant who knowingly or willfully makes a false statement of any material fact or thing in the application is guilty of perjury in the second degree as defined in Section 18-8-503, C.R.S., and, upon conviction thereof, shall be punished accordingly." EACH APPLICANT MUST PROVIDE VERIFICATION OF A SOCIAL SECURITY NUMBER (SSN) OR AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER (ITIN) ISSUED BY THE FEDERAL GOVERNMENT. After the completion of the ~~home~~ SAFE™ assessment, the county department shall take one of the following certification actions:	Technical change New language	
7.500.312.A.1-2		A. A one (1) year time-limited certificate shall be issued when it is determined that the applicant is competent, has completed the necessary training, and is in compliance with the Rules Regulating Foster Care Homes, Section 7.708. The certificate issue date is the date that the assessment is completed and the foster home is in compliance with Rules Regulating Foster Care Homes, Section 7.708. 1. The number and age of children for whom the home is certified shall be determined by the size of the home and the rules regulating foster care homes, the applicant's previous experience, and parenting skills. 2. Before a certificate is issued, the county department shall review the foster	A. A one (1) year time-limited certificate shall be issued when it is determined that the applicant ~~is competent,~~ has completed the necessary training, and is in compliance with the Rules Regulating Foster Care Homes, Section 7.708. The certificate issue date is the date that the assessment is completed and the foster CARE home is in compliance. ~~with Rules Regulating Foster Care Homes, Section 7.708.~~ 1. The number and age of children/YOUTH for whom the FOSTER CARE home is certified shall be determined by the size of the home and the rules regulating foster care homes, the applicant's previous experience, ~~and~~ parenting skills, AND INPUT FROM THE FOSTER PARENT. 2. Before a certificate is issued, the county department shall review the foster care ~~facility~~ contract and agreement with the foster parents. The contract and agreement must be signed by each	Technical changes	

		care facility contract and agreement with the foster parents. The contract and agreement must be signed by each applicant prior to certification. If a child is placed and care paid by the county department, rules found in the provider rules section of this manual shall be utilized.	applicant prior to certification. If a child/YOUTH is placed and care paid by the county department, rules found in the provider rules IN section 7.417.1 (12 CCR 2509-5) ~~of this manual~~ shall be utilized.		
7.500.312.B.1-2		B. A provisional certificate shall be issued for child specific homes if the home is temporarily unable to conform to all appropriate regulations upon proof by the applicant that attempts are being made to comply with the appropriate regulations. 1. A provisional certificate may be issued to complete required training or in the event that an emergency placement into a previously uncertified home is required. If the applicant does not complete training within six months after application, no additional children can be placed in the home until this requirement is met. The reasons for the issuance of a provisional certificate shall be displayed on the certificate. The Department will not reimburse for children placed in a provisionally certified foster care home more than ninety (90) calendar days from the date of application. 2. The provisional certificate shall be issued for no more than six months from the date it is determined that time will be needed to complete the regulations or that care is to begin. Only one original provisional certificate may be issued to a foster home at one location address. The Department will not reimburse for children placed in a provisionally certified foster care home more than ninety (90) calendar days from the date of application.	B. A provisional certificate shall be issued for child specific homes if the home is temporarily unable to conform to all appropriate regulations upon proof by the applicant that attempts are being made to comply with the appropriate regulations. 1. A provisional certificate may be issued to complete required training or in the event that an emergency placement into a previously uncertified home is required. If the applicant does not complete training within six months after application, no additional children/YOUTH can be placed in the home until this requirement is met. The reasons for the issuance of a provisional certificate shall be displayed on the certificate. The Department will not reimburse for children/YOUTH placed in a provisionally certified foster care home more than ninety (90) calendar days from the date of application. 2. The provisional certificate shall be issued for no more than six months from the date it is determined that time will be needed to complete the regulations or that care is to begin. Only one original provisional certificate may be issued to a foster home at one location address. The Department will not reimburse for children/YOUTH placed in a provisionally certified foster care home more than ninety (90) calendar days from the date of application.	Technical changes	
7.500.312.C		C. The application shall be withdrawn when the applicant no longer chooses to pursue certification.	C. The application shall be ~~withdrawn~~ CLOSED when the applicant no longer chooses to pursue certification.	Technical changes	

7.500.31 2.D.1-5		D. The application shall be denied for one or more of the following reasons: 1. When it is determined that the applicant is not competent to operate a family foster home or is unable or unwilling to comply with the regulations within three months of application. 2. When the individual or person who resides with the applicant has been determined to be insane or mentally incompetent by a court of competent jurisdiction and, should a court enter an order pursuant to Part 3 or Part 4 of Article 14 of Title 15, C.R.S., or Section 27- 65-109(4) or 27-65-127, C.R.S., specifically finding that the mental incompetency or insanity is of such degree that the applicant is incapable of operating a family child care home, foster care home, child care center, or child placement agency, the record of such determination and entry of such order being conclusive evidence thereof. 3. If the person applying for the certificate has been convicted of any of the crimes defined in a-e, below. "Convicted" means a conviction by a jury or a court and shall also include a deferred judgment and sentence agreement, a deferred prosecution agreement, a deferred adjudication agreement, an adjudication, and a plea of guilty or nolo contendere. This does not apply to a diversion, deferral or plea for a juvenile who participated in diversion (defined in Section 19-1-103(44), C.R.S.), and does not apply to an adult who successfully completed the child abuse and/or neglect diversion program (defined in Section 19-3-310, C.R.S.). a. Child abuse, as specified in Section 18-6-401, C.R.S. b. A crime of violence, as defined in Section 18-1.3-406, C.R.S.,	D. The application shall be denied for one or more of the following reasons: ~~1. When it is determined that the applicant is not competent to operate a family foster home or is unable or unwilling to comply with the regulations within three months of application.~~ ~~2~~1. PURSUANT TO SECTION 26-6-905(10), C.R.S., w~~W~~hen the individual or person who resides with the applicant has been determined to be insane or mentally incompetent by a court of competent jurisdiction and, should a court enter an order pursuant to Part 3 or Part 4 of Article 14 of Title 15, C.R.S., or Section 27- 65-109(4) or 27-65-127, C.R.S.,AN ORDER specifically finding that the mental incompetency or insanity is of such degree that the applicant is incapable of operating a RESIDENTIAL OR DAY TREATMENT CHILD CARE FACILITY, ~~family child care home,~~ foster care home,~~ child care center,~~ or child placement agency, the record of such determination and entry of such order being conclusive evidence thereof. ~~3~~2. If the person applying for the certificate OR A PERSON WHO RESIDES AT THE HOME has been convicted of any of the crimes defined in a-e, below. "Convicted" means a conviction by a jury or a court and ~~shall~~ also includeS a deferred judgment and sentence agreement, a deferred prosecution agreement, a deferred adjudication agreement, an adjudication, and a plea of guilty or nolo contendere. This does not apply to a diversion, deferral or plea for a juvenile who participated in diversion (defined in Section ~~19-1-103(44)~~ 19-2.5-102 , C.R.S.), and does not apply to an adult who successfully completed the child abuse and/or neglect diversion program (defined in Section 19-3-310, C.R.S.). a. Child abuse, as specified in section 18-6-401; b. A crime of violence, as defined in section 18-1.3-406; c. An offense involving unlawful sexual behavior, as defined in section 16-22-102 (9); d. A felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3;	Statutory change - Section 26-6-910 Strike Moved to another section Technical change and renumber	

		c. An offense involving unlawful sexual behavior, as defined in Section 16-22-102(9), C.R.S. d. A felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in Section 18-6-800.3, C.R.S. e. A felony involving physical assault, battery or a drug-related offense within the five years immediately preceding the date of application for a certificate. 4. No certificate to operate a foster care home shall be issued by a county department or human or social services if the person applying for such certificate or a person who resides with the applicant at the foster care home has shown a pattern of misdemeanor convictions within the ten (10) years immediately preceding submission of the application. "Pattern of misdemeanor" shall include consideration of Section 26-6-108(2), C.R.S., regarding suspension, revocation and denial of a license, and shall be defined as: a. Three (3) or more convictions of 3rd degree assault as described in Section 18 3- 204, C.R.S., and/or any misdemeanor, the underlying factual basis of which has been found by any court on the record to include an act of domestic violence as defined in Section 18-6-800.3, C.R.S.; or, b. Five (5) misdemeanor convictions of any type, with at least two (2) convictions of 3rd degree assault as described in Section 18-3-204, C.R.S., and/or any misdemeanor, the underlying factual basis of which has been found by any court on the record to include an act of domestic violence as defined in Section 18-6- 800.3, C.R.S.; or,	e. A felony involving physical assault, battery, or a drug-related offense within the five years preceding the date of application for a certificate; ~~4~~3. No certificate to operate a foster care home shall be issued by a county department ~~or~~ OF human/ social services if the person applying for such certificate or a person who resides with the applicant at the foster care home has shown a pattern of misdemeanor convictions within the ten (10) years immediately preceding submission of the application. "Pattern of misdemeanor" shall include consideration of Section ~~26-6-108(2)~~, **26-6-910**, C.R.S., regarding suspension, revocation and denial of a license, and shall be defined as: a. Three (3) or more convictions of 3rd degree assault as described in Section 18- 3- 204, C.R.S., and/or any misdemeanor, the underlying factual basis of which has been found by any court on the record to include an act of domestic violence as defined in Section 18-6-800.3, C.R.S.; or, b. Five (5) misdemeanor convictions of any type, with at least two (2) convictions of 3rd degree assault as described in Section 18-3-204, C.R.S., and/or any misdemeanor, the underlying factual basis of which has been found by any court on the record to include an act of domestic violence as defined in Section 18-6- 800.3, C.R.S.; or, c. Seven (7) misdemeanor convictions of any type. ~~5~~4. Any offense in any other state, the elements of which are substantially similar to the elements listed in ~~2-~~41-3.		

		c. Seven (7) misdemeanor convictions of any type. 5. Any offense in any other state, the elements of which are substantially similar to the elements listed in 2-4.			
7.500.312.E.1-15		E. The application may be denied or the foster care certification suspended, revoked or made probationary for one or more of the following reasons, if the person applying for the certificate or any individual living with the applicant or employed by the applicant has (also see Section 7.708.21): 1. Been convicted in Colorado or in any other state of any felony, or has entered into a deferred judgment agreement or a deferred prosecution agreement in Colorado or in any other state to any felony other than those offenses specified in Section 26-6-104(7), C.R.S., or child abuse, as specified in Section 18-6-401, C.R.S., the record of conviction being conclusive evidence thereof, notwithstanding Section 24-5-101, C.R.S.; or, 2. Been convicted of third degree assault, as described in Section 18-3-204, C.R.S., any misdemeanor, the underlying factual basis of which has been found by the court on any record to include an act of domestic violence, as defined in Section 18-6-800.3, C.R.S., any misdemeanor violation of a restraining order, as described in Section 18-6-803.5, C.R.S., any misdemeanor offense of child abuse as defined in Section 18-6-401, C.R.S., or any misdemeanor offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in this paragraph; or, 3. Used any controlled substance as defined in Section 12-22-303(7), C.R.S. or consumed any alcoholic beverage or been	E. The application may be denied or the foster care certification suspended, revoked or made probationary PURSUANT TO SECTION 26-6-921, C.R.S.,for one or more of the following reasons, if the person applying for the certificate or any individual living with the applicant or employed by the applicant has (also see Section 7.708.21): 1. ~~Been~~ IS convicted in Colorado or in any other state of any felony, or has entered into a deferred judgment agreement or a deferred prosecution agreement in Colorado or in any other state to any felony other than those offenses specified in Section **26-6-905(8)** ~~26-6-104(7)~~, C.R.S., or child abuse, as specified in Section 18-6-401, C.R.S., the record of conviction being conclusive evidence thereof, notwithstanding Section 24-5-101, C.R.S.; or, 2. ~~Been~~ IS convicted of third degree assault, as described in Section 18-3-204, C.R.S., any misdemeanor, the underlying factual basis of which has been found by the court on any record to include an act of domestic violence, as defined in Section 18-6-800.3, C.R.S., any misdemeanor violation of a restraining order, as described in Section 18-6-803.5, C.R.S., any misdemeanor offense of child abuse as defined in Section 18-6-401, C.R.S., or any misdemeanor offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in this paragraph; or,	Technical change	

		under the influence of a controlled substance or alcoholic beverage during the operating hours of the facility. This shall not apply to foster care homes, unless such use or consumption impairs the foster parent's ability to properly care for children; or, 4. Been convicted of unlawful use of a controlled substance as specified in Section 18-18- 404, C.R.S., unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance as specified in Section 18-18-405, C.R.S., or unlawful offenses relating to marijuana or marijuana concentrate as specified in Section 18-18-406, C.R.S.; or, 5. Consistently failed to maintain standards prescribed and published by the Colorado Department of Human Services; or, 6. Furnished or made any misleading or any false statement or report to the Colorado Department of Human Services; or, 7. Refused to submit to the Colorado Department of Human Services any reports or refused to make available to the Department any records required by it in making investigation of the facility for licensing purposes; or, 8. Failed or refused to submit to an investigation or inspection by the Colorado Department of Human Services or to admit authorized representatives of the Department at any reasonable time for the purpose of investigation or inspection; or, 9. Failed to provide, maintain, equip, and keep in safe and sanitary condition premises established or used for child care pursuant to standards prescribed by the Colorado Department of Public Health and Environment and the Colorado Department	3. ~~Used any controlled substance as defined in Section 12-22-303(7), C.R.S. or consumed any alcoholic beverage or been under the influence of a controlled substance or alcoholic beverage during the operating hours of the facility. This shall not apply to foster care homes, unless such use or consumption impairs the foster parent's ability to properly care for children; or,~~ USES ANY CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 8 OF THE COLORADO REVISED STATUTES INCLUDING RETAIL MARIJUANA, OR CONSUMES ANY ALCOHOLIC BEVERAGE DURING THE OPERATING HOURS OF THE FACILITY OR IS UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE OR ALCOHOLIC BEVERAGE DURING THE OPERATING HOURS OF THE FACILITY; OR, 4. ~~Been~~ IS convicted of unlawful use of a controlled substance as specified in Section 18-18-404, C.R.S., unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance as specified in Section **18-18-403.5** OR 18-18-405, C.R.S., or unlawful offenses relating to marijuana or marijuana concentrate as specified in Section 18-18-406, C.R.S.; or, 5. Consistently failS~~ed~~ to maintain standards prescribed and published by the Colorado Department of Human Services; or, 6. FurnisheS~~d~~ or ~~made~~ MAKES any misleading or any false statement or report to the Colorado Department of Human Services; or, 7. RefuseS~~d~~ to submit to the Colorado Department of Human Services any reports or refuseS~~d~~ to make available to the Department any records required by it in making AN investigation of the facility for licensing purposes; or, 8. FailS~~led~~ or refuseS~~d~~ ~~to~~ to submit to an investigation or inspection by the Colorado Department of Human Services or to admit authorized representatives of the Department at any reasonable time for the purpose of investigation or inspection; or,		

		of Human Services or by ordinances of regulations applicable to the location of the foster care home; or, 10. Willfully or deliberately violated any of the provisions of the Child Care Licensing Act; or, 11. Failed to maintain financial resources adequate for the satisfactory care of children served in regard to upkeep of premises and provision for personal care, medical services, clothing, and other essentials in the proper care of children; or, 12. Been charged with the commission of an act of child abuse or an unlawful sexual offense, as specified in Section 18-3-411 (1), C.R.S., if: a. such individual has admitted committing the act or offense and the admission is documented or uncontroverted; or, b. an Administrative Law Judge finds that such charge is supported by substantial evidence; or, 13. Admitted to an act of child abuse or if substantial evidence is found that the licensee, person employed by the licensee, or person who resides with the licensed in the foster home has committed an act of child abuse, as defined at 19-1-103(1), C.R.S.; or, 14. Been the subject of a negative licensing action. 15. Intentionally misused funds: the individual(s) making the expenditure decision had deliberate, willful, and intentional disregard for the fiduciary responsibility for how public funds are to be used for children placed in foster care or adoptive homes.	9. FailS~~ed~~ to provide, maintain, equip, and keep in safe and sanitary condition premises established or used for child care pursuant to standards prescribed by the Colorado Department of Public Health and Environment and the Colorado Department of Human Services or by ordinances of regulations applicable to the location of the foster care home; or, 10. Willfully or deliberately violateS~~d~~ any of the provisions of PART 9 OF FOSTER CARE, RESIDENTIAL, DAY TREATMENT, AND CHILD PLACEMENT AGENCY LICENSING t~~he Child Care Licensing Act~~; or, 11. FailS~~ed~~ to maintain financial resources adequate for the satisfactory care of children served in regard to upkeep of premises and provision for personal care, medical services, clothing, and other essentials in the proper care of children; or, 12. ~~Been~~ IS charged with the commission of an act of child abuse or an unlawful sexual offense, as specified in Section 18-3-411 (1), C.R.S., if: a. THE ~~such~~ individual has admitted committing the act or offense and the admission is documented or uncontroverted; or, b. THE ~~an~~ Administrative Law Judge finds that such charge is supported by substantial evidence; or, 13. AdmitS~~ted~~ to an act of child abuse or if substantial evidence is found that the licenseE~~d~~ person employed by the licensee, or person who resides with the licensed in the foster home has committed an act of child abuse, as defined at 19-1-103(1), C.R.S.; or, 14. ~~Been~~ IS the subject of a negative licensing action. 15 .~~Intentionally misused~~ MISUSES funds: the individual(s) making the expenditure decision had deliberate, willful, and intentional disregard for the fiduciary responsibility for how public funds are to be used for children placed in foster care or adoptive homes.		

7.500.312.F		F. A certified kinship care certificate shall be issued when it is determined the applicant has met requirements outlined in Section 7.500.31.	F. A ~~certified~~ kinship FOSTER care certificate shall be issued when it is determined the applicant has met requirements outlined in Section 7.500.31.		
7.500.312.G		None	G. DENIAL OF AN ORIGINAL OR RENEWAL APPLICATION AND/OR ISSUANCE OF A PROBATIONARY CERTIFICATE. 1. WHEN AN ORIGINAL OR RENEWAL APPLICATION IS DENIED, THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES MUST NOTIFY THE APPLICANT IN WRITING OF THE DENIAL AND MAIL IT TO THE ADDRESS LISTED ON THE APPLICATION. THE DENIAL LETTER SHOULD BE SENT BY CERTIFIED MAIL TO VERIFY THE DATE THE APPLICANT RECEIVED THE DENIAL LETTER. IF THE APPLICANT CHOOSES TO APPEAL THE DECISION, A REQUEST BY THE FOSTER PARENT FOR A HEARING MUST BE MADE IN WRITING TO THE COUNTY DEPARTMENT WITHIN THIRTY (30) CALENDAR DAYS AFTER THE APPLICANT RECEIVED THE NOTICE OF DENIAL. 2. IF THE COUNTY DEPARTMENT DETERMINES THAT AN ORIGINAL ONE YEAR TIME LIMITED CERTIFICATE CANNOT BE ISSUED OR AT THE TIME OF RENEWAL THAT A ONE YEAR TIME LIMITED CERTIFICATE CANNOT BE ISSUED, THE COUNTY MAY ISSUE A PROBATIONARY CERTIFICATE. a. TO ISSUE AN ORIGINAL OR RENEWAL PROBATIONARY CERTIFICATE THE COUNTY DEPARTMENT MUST SEND A DENIAL LETTER LISTING THE REASONS FOR THE DENIAL OF THE ONE YEAR TIME LIMITED CERTIFICATE AND THE REASONS FOR ISSUANCE OF THE ORIGINAL PROBATIONARY CERTIFICATE.THE REASONS FOR ISSUING A PROBATIONARY CERTIFICATE ARE LISTED IN SECTION 26-6-914 (a-p), C.R.S. A	New language to clarify due process	

			PROBATIONARY CERTIFICATE MAY BE ISSUED FOR ANY PERIOD OF TIME. b. THE FOSTER PARENT MUST BE NOTIFIED OF THE RIGHT TO REQUEST A HEARING. THE LETTER AND PROBATIONARY CERTIFICATE SHOULD BE SENT BY CERTIFIED MAIL. THE FOSTER PARENT MUST REQUEST THE HEARING IN WRITING WITHIN 30 DAYS OF RECEIVING THE PROBATIONARY CERTIFICATE AND LETTER. 3. TO CHANGE A ONE YEAR TIME LIMITED CERTIFICATE TO PROBATIONARY THE COUNTY DEPARTMENT MUST FOLLOW SECTION 24-4-104, C.R.S., AND SEND THE REQUIRED INFORMATION BY CERTIFIED MAIL TO THE FOSTER PARENT DETAILING THE SPECIFIC REASONS FOR REVOCATION. THE LETTER MUST BE SENT TO THE ADDRESS INDICATED ON THE APPLICATION. THE PROVIDER IS ALLOWED FIFTEEN (15) CALENDAR DAYS TO RESPOND AND ARTICULATE THEIR VIEW OF THE ISSUES SPECIFIED IN THE DATA VIEWS AND ARGUMENTS LETTER. THE COUNTY DEPARTMENT MUST TAKE INTO CONSIDERATION, THE INFORMATION PROVIDED IN THE RESPONSE BY THE FOSTER PARENT. THE COUNTY DEPARTMENT MAY SEND STIPULATIONS TO THE FOSTER PARENT FOR THE PROBATIONARY CERTIFICATE SPECIFIC TO THE CIRCUMSTANCES. IF THE FOSTER PARENT DOES NOT AGREE THE COUNTY DEPARTMENT CAN REQUEST A HEARING WITH AN ADMINISTRATIVE LAW JUDGE TO DETERMINE IF THE CERTIFICATE SHOULD BE PROBATIONARY.		
7.500.313.		**Supervision [Rev. eff. 1/1/16]**	**Supervision ~~[Rev. eff. 1/1/16]~~**		
7.500.313.A.1-2		A. Supervision and monitoring of the identified needs of the foster home shall be carried out according to the following schedule: 1. A face-to-face contact shall be made in the foster care home with the foster parent(s) at least every month when	A. Supervision and ~~monitoring~~ SUPPORT of 6the identified needs of the foster home shall ~~be carried out~~ OCCUR according to the following ~~schedule~~: A face-to-face contact shall be made in the foster care home with AT LEAST ONE (1) FOSTER PARENT	Changes made to clarify monthly supervision and support visits and recertification visit, and reletter	

		children are in placement. Documentation of such contact shall be entered in the State Department's automated system in the contacts for the provider and/or the foster children placed in the home. The purpose of the contact is to answer questions that the foster parent has about the program, to indicate to the foster parents county department concerns about the operation of the home, and to observe child care. If the face-to-face contact is not possible, the reasons must be documented in the provider file and a telephone contact must be made. In the event face-to-face contact cannot be made, the maximum number of allowable days between face-to-face contacts shall not exceed forty five (45) calendar days. 2. An annual supervisory visit shall be made to the foster home. A written report of the supervisory visit shall be given to the foster parent and a copy maintained in the case file. If a review of the physician's plan indicates a need for an annual examination, a new statement from the physician is required at that time. A written notice of noncompliance with the regulations will be left with the foster parents or sent to the foster parents within fifteen (15) working days of the supervisory visit if there is noncompliance. Compliance must be achieved within the time frames indicated on the written compliance notice.	PRESENT ~~the foster parent(s)~~ at least ONCE A MONTH WHILE ~~every month when~~ children/YOUTH are ~~in placement~~ PLACED IN THE FOSTER CARE HOME. Documentation of such contact shall be entered in the ~~State Department's automated system~~ CCWIS in the contacts for the provider and/or the ~~foster~~ children/YOUTH placed in FOSTER CARE IN the FOSTER CARE home. The purpose of the contact is to PROVIDE SUPPORT AND answer questions that the foster parent has about the program, to indicate to the foster parent~~(s)~~ ANY CONCERNS THE county department OF HUMAN/SOCIAL SERVICES ~~concerns~~ HAS about the operation of the FOSTER CARE home, and to observe child care/INTERACTION WHEN POSSIBLE. ~~If the face-to-face contact is not possible, the reasons must be documented in the provider file and a telephone contact must be made~~. ~~In the event face-to-face contact cannot be made, the maximum number of allowable days between face-to-face contacts shall not exceed forty five (45) calendar days.~~ 1. IF THE FACE-TO-FACE CONTACT IS NOT POSSIBLE, THE REASONS MUST BE DOCUMENTED IN THE PROVIDER RECORD AND AN ALTERNATE CONTACT MUST BE MADE. THE MAXIMUM NUMBER OF ALLOWABLE DAYS BETWEEN FACE-TO-FACE CONTACTS SHALL NOT EXCEED FORTY-FIVE (45) CALENDAR DAYS. 2. FOR A TWO (2) FOSTER PARENT FOSTER CARE HOME, EFFORTS SHOULD BE MADE TO MEET WITH BOTH FOSTER PARENTS. IF A FOSTER PARENT IS UNABLE TO BE PRESENT IN THE FOSTER CARE HOME, THE REASON A FACE-TO-FACE CONTACT IS NOT FEASIBLE SHALL BE DOCUMENTED IN THE CCWIS. ALL FOSTER PARENTS MUST HAVE FACE-TO-FACE CONTACT IN THE FOSTER CARE HOME QUARTERLY DURING THE YEAR AND DOCUMENTED IN THE CCWIS. FOR EXCEPTIONAL CIRCUMSTANCES, A WAIVER MAY BE SUBMITTED.		

			3. IF A CHILD/YOUTH IS NOT PRESENT DURING THE SUPPORT VISIT, AND IT IS DOCUMENTED, THE OBSERVATION OF CHILD CARE/INTERACTION IS NOT NEEDED. AT A MINIMUM ANNUALLY, THE SUPPORT CASEWORKER MUST OBSERVE THE INTERACTION BETWEEN THE FOSTER PARENT, THE/ CHILD/YOUTH IN FOSTER CARE, AND ANY OTHER CHILD/YOUTH LIVING IN THE FOSTER CARE HOME. ~~2~~B. PRIOR TO RECERTIFICATION, An annual ~~supervisory~~ ON-SITE visit ~~shall~~ MUST be made to the foster CARE home TO PREPARE FOR RECERTIFICATION. ~~A~~ W~~w~~ritten ~~report~~ DOCUMENTATION of the ~~supervisory~~ visit ~~shall~~ MUST be given to the foster parent TO DOCUMENT ANY NECESSARY ACTION NEEDED TO COMPLETE RECERTIFICATION. ~~and a copy~~ THE DOCUMENTATION MUST BE maintained in the ~~case~~ PROVIDER file, INCLUDING THE CCWIS. ~~If a review of the physician's plan indicates a need for an annual examination, a new statement from the physician is required at that time~~. ~~A written notice of noncompliance with the regulations will be left with the foster parents or sent to the foster parents within fifteen (15) working days of the supervisory visit if there is noncompliance. Compliance must be achieved within the time frames indicated on the written compliance notice.~~		
7.500.31 3.B.1-4		B. If a county department of social services no longer chooses to place children in the foster home, the county department shall follow one or more of the following procedures: 1. A provisional certificate may be allowed to expire if the foster family chooses not to submit a renewal application; or, 2. The county department must send a written statement to the home explaining that the county will no longer place children in the home for foster care and	~~B~~C. If a county department of HUMAN/ social services no longer chooses to place children/YOUTH in the foster CARE home, the county department shall follow one or more of the following procedures: ~~1. A provisional certificate may be allowed to expire if the foster family chooses not to submit a certification renewal application; or,~~ ~~2~~1. The county department must send a written statement to the FOSTER PARENT ~~home~~ explaining that the county DEPARTMENT will no longer place children/YOUTH in the FOSTER CARE home ~~for foster care~~ and that the FOSTER PARENT ~~home~~	Technical changes, combined 2 rules, added language, and remove unnecessary language	

		that the home must not accept any children for care from other sources; or, 3. The county department must meet with the foster parents and ask them to sign a statement that they are withdrawing from the foster home program; or, 4. The county department must send a letter to the foster parents requesting the foster parents to sign and return a statement that they are withdrawing from the foster home program.	must not accept any children/YOUTH for care from other sources; or, ~~3~~2. The county department must meet with the foster parents and ask them to sign a statement that they are withdrawing from the foster CARE ~~home~~ program~~;~~ or, THE COUNTY DEPARTMENT MUST SEND A LETTER TO THE FOSTER PARENTS REQUESTING THE FOSTER PARENTS TO SIGN AND RETURN A STATEMENT THAT THEY ARE WITHDRAWING FROM THE FOSTER CARE PROGRAM. ~~4~~3. ~~The county department must send a letter to the foster parents requesting the foster parents to sign and return a statement that they are withdrawing from the foster home program.~~ CLOSE THE CERTIFICATION AND PROVIDE THE FOSTER PARENT WITH WRITTEN NOTICE OF THE RIGHT TO APPEAL.		
7.500.314		**Renewal or Continuation Notice [Rev. eff. 4/1/12]** The county department shall send a renewal notice to the foster parents at least ninety (90) calendar days prior to the expiration of a certificate.	**Renewal ~~or Continuation~~ Notice ~~[Rev. eff. 4/1/12]~~** The county department OF HUMAN/SOCIAL SERVICES shall send a renewal notice to the foster parents at least ninety (90) calendar days prior to the expiration of a certificate.	Technical change	
7.500.314.A		A. If the foster parents wish to continue to provide care, the renewal notice shall be completed and returned to the county department prior to the expiration of the certificate.	No change		
7.500.314.B		B. If the renewal notice is received by the county department prior to the expiration of the certificate, the renewal notice is timely and the certificate continues valid until action is taken by the county department.	No change		
7.500.314.C		C. If the renewal notice is received after the expiration of the certificate, the renewal notice is untimely and the certificate is no longer valid. The untimely renewal notice shall be acted upon as an original application.	A. If the renewal notice is received after the expiration of the certificate, the renewal notice is untimely and the certificate is no longer valid. The untimely renewal notice shall be acted upon as A SUBSTITUTE FOR ~~an~~ THE ~~original~~ application.	Technical changes	

7.500.315		**Recertification Action**	**Recertification Action**		
7.500.315.A.1-12		A. Upon receipt of a timely renewal application for a certificate, and prior to the expiration of the current certificate, the county department must complete the following action to determine if continued certification is appropriate: 1. Review the physician's plan. If the governor or local government declares a disaster or emergency, and because of the declared disaster or emergency the medical exams cannot be completed for the foster parent(s), other children, and other adults residing in the foster care home in the required time frame, the medical exam must be completed as soon as possible, but no later than 45 calendar days after the declared conclusion of the disaster or emergency. 2. Complete searches on the CBI sex offender registry and national sex offender public website operated by the United States Department of Justice and include a copy in the provider record using the following criteria, at a minimum: a. Known names and addresses of each adult residing in the home; and, b. Address only, of the foster home. 3. Review the following information, for the applicant(s) and all adults residing in the home: a. Any child abuse and/or neglect allegations or investigations in the previous year; b. Any arrest or conviction records in the previous year; and, c. Any other involvement with the foster family with the county department of human or social services.	A. Upon receipt of a timely renewal application for a certificate, and prior to the expiration of the current certificate, the county department of human/social services must complete the following action to determine if continued certification is appropriate: 1. Review the ~~physician's plan~~ HEALTH ASSESSMENT. If the governor or local government declares a disaster or emergency, and because of the declared disaster or emergency the medical exams for the foster parent(s), other children, and other adults residing in the home cannot be completed for the child/youth in the required time frame, the medical exam(s) must be completed as soon as possible, but no later than 45 calendar days after the declared conclusion of the disaster or emergency. 2. Complete searches on the CBI sex offender registry and THE ~~National Sex Offender Public Website~~ NSOPW operated by the United States Department of Justice and include a copy in the provider record using the following criteria, at a minimum: a. Known name, NICKNAMES, AKA**s**, and addresses of each adult residing in the FOSTER CARE home; and, b. Address only, of the foster CARE home, INCLUDING A MAP FROM THE RESPECTIVE DATABASE TO CONFIRM THAT THE ADDRESS OF THE FOSTER CARE HOME HAS BEEN CHECKED. 3. Review the following information, for the applicant(s) and all adults residing in the FOSTER CARE home. AS APPLICABLE, PROVIDE A COPY IN THE PROVIDER RECORD: a. Any child abuse and/or neglect ~~allegations~~ REFERRALS or ~~investigations~~ ASSESSMENTS in the previous year; b. Any arrest or conviction records in the previous year; ~~and,~~	Technical changes	

		4. If the foster parent or any adult living in the foster home left the state for three (3) consecutive months or longer, a new FBI fingerprint-based criminal history record information check shall be conducted. 5. Evaluate the foster care homes' current and past compliance with the rules regulating foster homes. 6. Conduct a supervisory visit in accordance with Section 7.500.313, A, 2-4; 7. Complete a Structured Analysis Family Evaluation (S.A.F.E.) update to document the status of the foster family, including changes that have occurred. 8. Complete a CWS-7A, "Individual Provider Contract for Purchase of Foster Care Services in a Foster Care Home"; and, 9. A one year time-limited certificate shall be issued. The certificate issue date is the date that the foster home is in compliance with the "Rules Regulating Foster Care Homes"; or, 10. A probationary certificate shall be issued with the specific reasons listed on the certificate and on the CWS-7A, "Individual Provider Contract for Purchase of Foster Care Services in a Foster Care Home"; or, 11. The renewal application for the certificate is denied. The process for denial of a renewal application is the same as the process for denial of an original application. 12. The certificate information shall be entered into the state automated case management system.	c. Any other involvement with the foster family with the county department ~~of human/ or social services~~.;AND, d. THE COLORADO COURT CASE MANAGEMENT SYSTEM. 4. If the foster parent or any adult living in the foster CARE home left the state for three (3) consecutive months or longer, a new FBI fingerprint-based criminal history record information check shall be conducted. 5. Evaluate the foster ~~care~~ PARENT'S ~~homes'~~ current and past compliance with the rules regulating foster CARE homes. 6. Conduct aN ANNUAL ONSITE ~~supervisory~~ visit in accordance with Section 7.500.313~~,~~.A~~,~~.2-4; 7. Complete a ~~Structured Analysis Family Evaluation~~ SAFE™ ~~(S.A.F.E.)~~ update to document the status of the foster family, including changes that have occurred AND SIGNATURE AND DATE FROM SECTION A. OF THE UPDATE FORM. 8. Complete a CWS-7A, "Individual Provider Contract for Purchase of Foster Care Services in a Foster Care Home"; and, 9. A one year time-limited certificate shall be issued. The certificate issue date is the date that the foster CARE home is in compliance with the "Rules Regulating Foster Care Homes"; or, 10. A probationary certificate shall be issued with the specific reasons listed on the certificate and on the CWS-7A, "Individual Provider Contract for Purchase of Foster Care Services in a Foster Care Home"; or, 11. The renewal application for the certificate is denied. The process for denial of a renewal application is the same as the process for denial of an original application.	Technical change	

			12. The certificate information shall be entered into the ~~state automated case management system~~ CCWIS.	Technical change	
7.500.315.B.1-4		B. A foster home certificate is no longer valid whenever one of the following situations exists: 1. A certified foster family moves to a new address. 2. A foster family decides to withdraw from the foster home program and confirms the same in writing. 3. A certificate has been revoked or the renewal application has been denied. 4. A certificate has expired.	B. A foster CARE home certificate is no longer valid whenever one of the following situations exists: 1. A ~~certified~~ foster family moves to a new address. 2. A foster ~~family~~ PARENT decides to withdraw from the foster ~~home~~ CARE program and confirms ~~the same~~ IT in writing. 1. 3. A certificate has been revoked or the renewal 2. application has been denied. 4. A certificate has expired.	Technical change	
7.500.316		**Inter-county Transfer or Move of Foster Home [Rev. eff. 1/1/16]**	**Inter-county Transfer or Move of THE Foster CARE Home ~~[Rev. eff. 1/1/16]~~**	Technical change	
7.500.316.A		A. When a foster family moves to a new location within the county of residence or within a new county, the family must make a timely notification to the certifying county prior to the move by submission of an original application.	A. When a foster family moves to a new location within the county of residence or within a new county, the family must make a timely notification WITHIN 30 CALENDAR DAYS PRIOR TO THE MOVE TO the certifying county ~~prior to the move by~~ submission of an original application.	Technical changes	
7.500.316.B.1-2		B. When a foster family moves to a new residence in the same county, the county department shall inspect the new residence to assure compliance with the Rules Regulating Foster Care Homes, Section 7.708 (12 CCR 2509-8). . Certification action which results in issuance of a certificate shall be dated in the following fashion: 1. A certificate shall commence the date that the county department determines that there is compliance with the Minimum	B. When a foster family moves to a new residence in the same county, the county department OF HUMAN/SOCIAL SERVICES shall inspect the new residence to assure compliance with the Rules Regulating Foster Care Homes, Section 7.708 (12 CCR 2509-8). Certification action which results in issuance of a certificate shall be dated ~~in~~ WITH THE following WAY ~~fashion~~: 1. A certificate shall commence the date that the county department determines that there is compliance with the ~~Minimum~~ Rules ~~and Regulations for~~	Technical changes and clarifies reimbursement from section 7.500.312	

		Rules and Regulations for Foster Homes, Section 7.708. 2. The county department may issue a provisional certificate if the home is temporarily unable to conform to all appropriate rules of the Rules Regulating Foster Care Homes, Section 7.708, upon proof by the foster parents that attempts are being made to comply with the appropriate regulations. The reasons for the issuance of the provisional certificate will be displayed on the certificate. The provisional certificate may not exceed ninety (90) calendar days from the date it is determined that time will be needed to meet the rules. Only one original provisional certificate may be issued to a foster home at one location address.	REGULATING Foster CARE Homes, Section 7.708. 2. The county department may issue a CHILD SPECIFIC provisional certificate if the FOSTER CARE home is temporarily unable to conform to all appropriate rules of the Rules Regulating Foster Care Homes, Section 7.708, upon proof by the foster parents that attempts are being made to comply with the appropriate regulations. The reasons for the issuance of the provisional certificate will be displayed on the certificate. The provisional certificate may not exceed ninety (90) calendar days from the date it is determined that time will be needed to meet the rules. Only one original provisional certificate may be issued to a foster CARE home at one location address. THE DEPARTMENT WILL NOT REIMBURSE FOR CHILDREN/YOUTH PLACED IN A PROVISIONALLY CERTIFIED FOSTER CARE HOME MORE THAN NINETY (90) CALENDAR DAYS FROM THE DATE OF THE APPLICATION.		
7.500.316.C		C. When a foster family who has foster children in placement moves to another county, the county of original residence shall immediately forward to the county where the family moves the record on the foster home and children in placement, and ask that county to certify and supervise the home in the new location.	C. When a foster family who has ~~foster~~ WITH children/YOUTH in FOSTER CARE placement, moves to another county, the county of original residence ~~shall~~ MAY ~~immediately~~ forward to the county where the family moves, the record on the foster CARE home and children/YOUTH in placement, and ask that county to certify and supervise the home in the new location.	Technical changes	
7.500.316.D		D. When a foster family who has foster children in placement moves to an adjoining county, the county of original residence shall immediately notify the adjoining county and may ask permission to continue to certify and supervise the home. Upon notification from the second county of its approval, certification assessment of the foster home shall be completed by the original county, and a permanent or provisional certificate issued.	D. When a foster family ~~who has foster~~ WITH children/YOUTH in FOSTER CARE placement moves to an adjoining county, the county of original residence shall immediately OR WITHIN TWO (2) BUSINESS DAYS notify the adjoining county and may ask permission to continue to certify and supervise the FOSTER CARE home. Upon notification from the second county of its approval, certification assessment of the foster CARE home shall be completed by the original county, and a ~~permanent or~~ a provisional certificate issued.	Technical changes	
7.500.316.E		None	E. IF A FOSTER CARE HOME TRANSFERS TO A COUNTY DEPARTMENT FROM ANOTHER AGENCY OR TRIBAL FOSTER CARE PROGRAM, A SAFE™ ASSESSMENT UPDATE MAY BE COMPLETED IF THE	New language includes tribal foster home program	

			PREVIOUS ENTITY PROVIDES THE ORIGINAL SAFE™ ASSESSMENT AND ALL SUBSEQUENT UPDATES.		
7.500.317		**Complaint Investigations [Rev. eff. 4/1/12]**	**~~COMPLAINT~~ ~~INVESTIGATIONS~~ RESPONSE TO A NOTIFICATION OF AN ALLEGATION OF ABUSE AND/OR NEGLECT OR ANOTHER TYPE OF CONCERN IN A COUNTY FOSTER CARE HOME**	Technical change	
7.500.317.A.1-6 & B	reletter	A. When a complaint of child abuse or neglect is received by the agency about a certified facility, the local investigating authority and placement workers of children in the home shall be notified immediately. Investigation shall be made according to the procedures outlined for investigation of institutional abuse as found in the Program Area 5 Section. 1. A determination shall be made immediately whether children should remain in placement or if other children should be placed in the home while the investigation is in progress. 2. The results of the investigations shall be summarized and included in the foster home facility file. This may be in the form of the final written report completed by the investigating county. 3. Upon receipt of the written report from the investigating county, the certifying county shall make a determination within three working days whether there will continue to be future use of the home. The foster home shall be notified in writing and the notification recorded in the foster home facility file as to the decision regarding future use of the home. If the foster home certificate is closed, suspended or revoked, the county department shall notify the Colorado Department of Human Services in writing. 4. The final decision regarding the future use of the foster home shall be confirmed in writing to the home and recorded in the foster home facility file within ten (10) working days of the receipt by the	~~A. When a complaint of child abuse or neglect is received by the agency about a certified facility, the local investigating authority and placement workers of children in the home shall be notified immediately. Investigation shall be made according to the procedures outlined for investigation of institutional abuse as found in the Program Area 5 Section.~~ ~~1. A determination shall be made immediately whether children should remain in placement or if other children should be placed in the home while the investigation is in progress.~~ ~~2. The results of the investigations shall be summarized and included in the foster home facility file. This may be in the form of the final written report completed by the investigating county.~~ ~~3. Upon receipt of the written report from the investigating county, the certifying county shall make a determination within three working days whether there will continue to be future use of the home. The foster home shall be notified in writing and the notification recorded in the foster home facility file as to the decision regarding future use of the home. If the foster home certificate is closed, suspended or revoked, the county department shall notify the Colorado Department of Human Services in writing.~~ ~~4. The final decision regarding the future use of the foster home shall be confirmed in writing to the home and recorded in the foster home facility file within ten (10) working days of the receipt by the certifying agency of the final written report of a child abuse investigation. If the county department continues to certify a foster home where there has been a confirmed report for medium or severe child abuse or neglect, the county department must notify the State Department in writing within three (3) business days and submit justification for keeping the foster home certified.~~	Significant changes - strike prior language and reletter	

		certifying agency of the final written report of a child abuse investigation. If the county department continues to certify a foster home where there has been a confirmed report for medium or severe child abuse or neglect, the county department must notify the State Department in writing within three (3) business days and submit justification for keeping the foster home certified. 5. Administrative proceedings to modify, limit or revoke the certificate will be initiated by the certifying agency within 30 calendar days of notification of any adverse decision regarding future use of the home. 6. After the State Institutional Abuse Team reviews the investigating county finding, the State Institutional Abuse Team may recommend that a follow-up investigation be completed. The county shall advise the State Department of actions taken by entering a report into the State Department's automated system within thirty (30) calendar days of the receipt of the State Institutional Team's request.	A. WHEN NOTIFICATION OF A REFERRAL ALLEGING ABUSE OR NEGLECT IN A COUNTY FOSTER CARE HOME IS RECEIVED AND IT HAS NOT BEEN ACCEPTED FOR ASSESSMENT THE CERTIFYING COUNTY FOSTER CARE SUPPORT WORKER SHALL TAKE THE FOLLOWING ACTIONS: 1. REVIEW THE REFERRAL TO DETERMINE IF THERE ARE CERTIFICATION CONCERNS IDENTIFIED. a. IF NO CERTIFICATION CONCERNS ARE IDENTIFIED, DOCUMENT RECEIPT OF THE REFERRAL IN RESOURCE NOTES IN THE COMPREHENSIVE CHILD WELFARE INFORMATION SYSTEM (CCWIS). b. b. IF CONCERNS ARE IDENTIFIED, THE FOSTER CARE SUPPORT WORKER WILL COMPLETE A THOROUGH REVIEW OF THE CIRCUMSTANCES AND THE INCIDENT THIS INCLUDES THE FOLLOWING: 1) MEET WITH THE FOSTER PARENT; 2) IDENTIFY ANY CORRECTIONS OR MODIFICATIONS THAT NEED TO BE INCORPORATED AND PROVIDE ANY TRAINING, OR TECHNICAL ASSISTANCE TO MITIGATE CONCERNS; AND, 3) DOCUMENT ANY ACTIONS TAKEN. B. WHEN NOTIFICATION OF A REFERRAL ALLEGING ABUSE AND/OR NEGLECT IN A COUNTY FOSTER CARE HOME HAS BEEN ACCEPTED FOR ASSESSMENT THE CERTIFYING COUNTY'S FOSTER CARE SUPPORT WORKER AND/OR DESIGNATED STAFF SHALL TAKE THE FOLLOWING ACTIONS: 1. A DETERMINATION SHALL BE MADE AS SOON AS POSSIBLE IN CONJUNCTION WITH RECOMMENDATIONS FROM THE ASSESSMENT CASEWORKER, WHETHER CHILDREN/YOUTH SHOULD REMAIN IN PLACEMENT IN THE FOSTER CARE HOME.		

			2. OR, IF OTHER CHILDREN/YOUTH SHOULD BE PLACED IN THE HOME WHILE THE ASSESSMENT IS IN PROGRESS. 3. THE RESULTS OF THE ASSESSMENT SHALL BE SUMMARIZED AND INCLUDED IN THE FOSTER CARE HOME RECORD MAINTAINED BY THE COUNTY DEPARTMENT. THIS MAY BE IN THE FORM OF THE FINAL WRITTEN REPORT COMPLETED BY THE COUNTY RESPONSIBLE FOR THE ASSESSMENT. 4. UPON RECEIPT OF THE WRITTEN REPORT FROM THE COUNTY RESPONSIBLE FOR THE ASSESSMENT OF CHILD ABUSE AND/OR NEGLECT, THE CERTIFYING COUNTY SHALL MAKE A DETERMINATION WITHIN THREE (3) WORKING DAYS REGARDING CONTINUED USE OF THE HOME. THE FOSTER CARE HOME SHALL BE NOTIFIED IN WRITING OF THE DECISION AND THE NOTIFICATION RECORDED IN THE FOSTER CARE HOME RECORD MAINTAINED BY THE CERTIFYING COUNTY. IF THE FOSTER CARE CERTIFICATE IS CLOSED, SUSPENDED, OR REVOKED, THE COUNTY DEPARTMENT SHALL DOCUMENT THIS IN THE CCWIS. 5. THE FINAL DECISION REGARDING FUTURE USE OF THE FOSTER CARE HOME SHALL BE CONFIRMED IN WRITING TO THE FOSTER PARENT AND RECORDED IN THE FOSTER CARE HOME RECORD WITHIN TEN (10) WORKING DAYS OF THE RECEIPT BY THE CERTIFYING AGENCY OF THE FINAL WRITTEN REPORT OF A CHILD ABUSE AND/OR NEGLECT ASSESSMENT. a. IF THE COUNTY DEPARTMENT CONTINUES CERTIFICATION OF A FOSTER CARE HOME WHERE THERE HAS BEEN A CONFIRMED REPORT OF MEDIUM OR SEVERE CHILD ABUSE AND/OR NEGLECT, WRITTEN JUSTIFICATION AND ADDITIONAL FOLLOW-UP MUST BE IDENTIFED. THE COUNTY DIRECTOR OR DESIGNEE MUST SIGN THE STATEMENT. b. THE COUNTY DEPARTMENT MUST NOTIFY THE DIVISION OF CHILD WELFARE DIRECTOR AND		

			FOSTER CARE PROGRAM ADMINISTRATOR AT DCW IN WRITING WITHIN THREE (3) BUSINESS DAYS AND SUBMIT THE JUSTIFICATION AND FOLLOW-UP FOR MAINTAINING THE FOSTER CARE HOME CERTIFICATION. c. THE STATEMENT MUST BE DOCUMENTED IN NOTES IN THE REFERRAL FOR THE PROVIDER. ~~5~~ 6. Administrative proceedings to modify, limit, or revoke the certificate will be initiated by the certifying agency within 30 calendar days of notification of any adverse decision regarding ~~future~~ CONTINUED use of the FOSTER CARE home. ~~6~~ 7. After the State Institutional Abuse REVIEW Team (IART) ~~reviews~~ EVALUATES the ~~investigating county~~ finding, and assessment BY THE COUNTY RESPONSIBLE FOR THE ASSESSMENT, the State Institutional Abuse REVIEW Team may recommend ~~that~~ a follow-up REVIEW ~~investigation~~. A FOLLOW-UP IS A REVIEW OF THE ORIGINAL ASSESSMENT ~~be completed~~ BY THE CERTIFYING COUNTY TO DETERMINE IF THE AGENCY HAS CULPABILITY BASED ON PRACTICES, POLICIES, AND PROCEDURES, IF ANY CERTIFICATION REQUIREMENTS WERE VIOLATED IN THE FOSTER CARE HOME, OR BY THE FOSTER CARE PROVIDERS. The county shall ~~advise the State Department of actions taken by~~ enter~~ing~~ a report in~~to~~ the ~~State Department's automated system~~ CCWIS within thirty (30) calendar days of the receipt of the State Institutional REVIEW Team's request. THE FOLLOW-UP IS DOCUMENTED IN THE PROVIDER RECORD.		
7.500.317.~~B~~C		B. Other types of complaints shall be investigated by the certifying authority. The investigation shall result in a determination whether the complaint is valid and, if so,	~~B~~C. Other types of complaints OR IDENTIFIED CONCERNS shall be ~~investigated~~REVIEWED AND ADDRESSED by the certifying COUNTY. ~~authority~~. The ~~investigation~~ COUNTY'S ~~shall result in a~~ determination of	Relettered and technical changes	

		what corrections or modifications the home must make. The results of the investigation shall be confirmed in writing within ten (10) working days.	THE CONCERNS SHALL BE DOCUMENTED ~~whether the complaint is valid~~ and, if ~~so~~ APPLICABLE, what corrections or modifications the FOSTER CARE home must make. The results ~~investigation~~ shall be confirmed in writing within ten (10) working days TO THE FOSTER PARENT AND DOCUMENTED IN THE PROVIDER RECORD IN THE CCWIS.		
7.500.32		**Specialized Group Facilities [Rev. eff. 1/1/16]**	~~**Specialized Group Facilities [Rev. eff. 1/1/16]**~~	Technical change	
7.500.32. A		A. Specialized group facilities provide long-term or emergency care of children who must live away from their own homes and who can benefit from group interaction, need a more therapeutic setting than that provided in a foster home, and need the experience of strong peer relationships.	~~A. Specialized group facilities provide long-term or emergency care of children who must live away from their own homes and who can benefit from group interaction, need a more therapeutic setting than that provided in a foster home, and need the experience of strong peer relationships.~~	Repeal	
7.500.32. B		B. A specialized group home and specialized group center are defined in the Minimum Rules and Regulations for Specialized Group Facilities. A specialized group home and specialized group center shall be licensed by the state department.	~~B. A specialized group home and specialized group center are defined in the Minimum Rules and Regulations for Specialized Group Facilities. A specialized group home and specialized group center shall be licensed by the state department.~~	Repeal	
7.500.32. C		C. The recruitment of specialized group facilities shall center on the recruitment of primary caregivers who meet the requirements of primary caregiver as stated in the Minimum Rules and Regulations for Specialized Group Facilities and are capable of working closely with the department and a variety of other agencies.	~~C. The recruitment of specialized group facilities shall center on the recruitment of primary caregivers who meet the requirements of primary caregiver as stated in the Minimum Rules and Regulations for Specialized Group Facilities and are capable of working closely with the department and a variety of other agencies.~~	Repeal	
7.500.32. D		D. The county department which establishes and sponsors a specialized group facility shall assign a department staff member to be the supervisor of that facility who meets the requirements as stated in the Minimum Rules and Regulations for Specialized Group Facilities. The supervisor shall develop policies for the facility pursuant to the regulations prior to issuance of the original license.	~~D. The county department which establishes and sponsors a specialized group facility shall assign a department staff member to be the supervisor of that facility who meets the requirements as stated in the Minimum Rules and Regulations for Specialized Group Facilities. The supervisor shall develop policies for the facility pursuant to the regulations prior to issuance of the original license.~~	Repeal	
7.500.32. E.1-3		E. Requirements for the Operation of Specialized Group Homes or Specialized Group Centers	~~E. Requirements for the Operation ofSpecialized Group Homes or Specialized Group Centers~~	Repeal	

		1. The specialized group facility shall be sponsored and supervised by a county department of social/human services or a child placement agency. 2. The supervisory responsibilities of the sponsoring agency are: a. To be knowledgeable with the rules regulating specialized group facilities; and, b. Participate in the development and application process to include verifying that the original application submitted is complete with all required signatures and submitted in a timely manner; and, c. Ongoing assessment of the specialized group facility for quality of care issues; and, d. Annual evaluations of the governing body, unless the governing body and the sponsoring agency are the same agency; and 3. The sponsoring agency shall be responsible to ensure that state rules are followed regarding: a. The hiring, training and scheduling staff; and, b. Placement decisions including, but not limited to, appropriateness of placement and least restrictive environment; and, c. The documentation, reporting and corrective action of critical incidents	~~1. The specialized group facility shall be sponsored and supervised by a county department of social/human services or a child placement agency.~~ ~~2. The supervisory responsibilities of the sponsoring agency are:~~ ~~a. To be knowledgeable with the rules regulating specialized group facilities; and,~~ ~~b. Participate in the development and application process to include verifying that the original application submitted is complete with all required signatures and submitted in a timely manner; and,~~ ~~c. Ongoing assessment of the specialized group facility for quality of care issues; and,~~ ~~d. Annual evaluations of the governing body, unless the governing body and the sponsoring agency are the same agency; and~~ ~~3. The sponsoring agency shall be responsible to ensure that state rules are followed regarding:~~ ~~a. The hiring, training and scheduling staff; and,~~ ~~b. Placement decisions including, but not limited to, appropriateness of placement and least restrictive environment; and,~~ ~~c. The documentation, reporting and corrective~~		
7.500.321		**Application and Study for an Original License [Rev. eff. 4/1/12]**	~~**Application and Study for an Original License [Rev. eff. 4/1/12]**~~	Repeal	
7.500.321.A		A. If the county department establishes and plans to sponsor a specialized group facility and the governing body for the specialized group facility is the applicant for the license, both the county department and the governing body must sign the original application. An original application	~~A. If the county department establishes and plans to sponsor a specialized group facility and the governing body for the specialized group facility is the applicant for the license, both the county department and the governing body must sign the original application. An original application which is totally complete and a fee shall be submitted to the State Department, including a written~~	Repeal	

		which is totally complete and a fee shall be submitted to the State Department, including a written plan for the supervision of the specialized group facility. The name of the supervisor for the specialized group facility must be identified on the application.	~~plan for the supervision of the specialized group facility. The name of the supervisor for the specialized group facility must be identified on the application.~~		
7.500.321.B.1-2		B. The county department shall complete a study of the specialized group facility which shall consist of at least the following: 1. An assessment of character and suitability of the primary caregivers, including at least a review of the State Department's automated system as to the applicant and persons who reside with applicant in the facility, with written approval by such persons, receipt of statements from references and physician, review of existing case records, evaluation by a certified psychologist, psychiatrist or Licensed Clinical Social Worker documented by a written statement that includes all items listed at Section 7.709.22, J, 1-16; and documentation of the prior work experience of the primary caregiver with children in out-of-home care. 2. Statement from references and physician for each staff member working at the specialized group home or center.	~~B. The county department shall complete a study of the specialized group facility which shall consist of at least the following:~~ ~~1. An assessment of character and suitability of the primary caregivers, including at least a review of the State Department's automated system as to the applicant and persons who reside with applicant in the facility, with written approval by such persons, receipt of statements from references and physician, review of existing case records, evaluation by a certified psychologist, psychiatrist or Licensed Clinical Social Worker documented by a written statement that includes all items listed at Section 7.709.22, J, 1-16; and documentation of the prior work experience of the primary caregiver with children in out-of-home care.~~ ~~2. Statement from references and physician for each staff member working at the specialized group home or center.~~	Repeal	
7.500.321.B.3.a-c		3. The State Department shall require any applicant or licensee and any person eighteen (18) years of age or older who resides with the applicant or licensee in the specialized group facility or who works in the specialized group facility to obtain and review: a. Fingerprint-based criminal history record information checks from the CBI and the FBI as required in Section 7.701.33 in all circumstances. b. Child abuse/neglect records in every state where the adult has resided in the	~~3. The State Department shall require any applicant or licensee and any person eighteen (18) years of age or older who resides with the applicant or licensee in the specialized group facility or who works in the specialized group facility to obtain and review:~~ ~~a. Fingerprint-based criminal history record information checks from the CBI and the FBI as required in Section 7.701.33 in all circumstances.~~ ~~b. Child abuse/neglect records in every state where the adult has resided in the five (5) years preceding the date of application;~~	Repeal	

		five (5) years preceding the date of application; c. The CBI sex offender and National Sex Offender public website operated by the United States Department of Justice by: 1) Known names and addresses of each adult residing in the home; and 2) Address only of the home 3) A comparison search on the Court Case Management system at the State Judicial Department, using the name and date of birth with available criminal history information for each adult eighteen (18) years and older living in the home. The purpose is to determine any crime(s) for which an applicant or other adult residing in the home was arrested or convicted and the disposition. This search shall be completed regardless of whether the CBI and FBI fingerprint history and record confirms or does not confirm a criminal history. (See section 7.500.24) 4) All background checks shall be documented in the state automated case management system	~~c. The CBI sex offender and National Sex Offender public website operated by the United States Department of Justice by:~~ ~~1) Known names and addresses of each adult residing in the home; and~~ ~~2) Address only of the home~~ ~~3) A comparison search on the Court Case Management system at the State Judicial Department, using the name and date of birth with available criminal history information for each adult eighteen (18) years and older living in the home. The purpose is to determine any crime(s) for which an applicant or other adult residing in the home was arrested or convicted and the disposition. This search shall be completed regardless of whether the CBI and FBI fingerprint history and record confirms or does not confirm a criminal history. (See section 7.500.24)~~ ~~4) All background checks shall be documented in the state automated case management system~~		
7.500.32 1.B.4-7		4. An on-site facility inspection, documented in writing, which determines that the facility is in compliance with the Minimum Rules and Regulations for Specialized Group Facilities. 5. Written approval received by the county department from the local health, fire, and zoning departments. 6. A CWS-7A, Individual Provider Contract for Purchase of Foster Care Services and Foster Care Facility Agreement, shall be signed by the primary caregivers. 7. Completion of policies for the operation of the specialized group home.	~~4. An on-site facility inspection, documented in writing, which determines that the facility is in compliance with the Minimum Rules and Regulations for Specialized Group Facilities.~~ ~~5. Written approval received by the county department from the local health, fire, and zoning departments.~~ ~~6. A CWS-7A, Individual Provider Contract for Purchase of Foster Care Services and Foster Care Facility Agreement, shall be signed by the primary caregivers.~~ ~~7. Completion of policies for the operation of the specialized group home.~~	Repeal	

7.500.321.C		C. The group home primary caregivers who have not previously received twelve (12) hours of "core" training shall receive twelve (12) hours of training within the first twelve (12) months following the submission of the application.	~~C. The group home primary caregivers who have not previously received twelve (12) hours of "core" training shall receive twelve (12) hours of training within the first twelve (12) months following the submission of the application.~~	Repeal	
7.500.321.D.1-3		D. The application form requires that several attachments be submitted. The application is incomplete and the license cannot be issued until these are submitted. The county department must also submit the following with the application: 1. Documentation of experience, the medical statement, reference statements and written statement from a certified psychologist, psychiatrist or Licensed Clinical Social Worker regarding the primary care giver. 2. The name of each staff member, dates of receipt of medical statements and references. 3. Written and dated documentation that an on-site home inspection has been made and the facility is in compliance with the Minimum Rules and Regulations for Specialized Group Facilities.	~~D. The application form requires that several attachments be submitted. The application is incomplete and the license cannot be issued until these are submitted. The county department must also submit the following with the application:~~ ~~1. Documentation of experience, the medical statement, reference statements and written statement from a certified psychologist, psychiatrist or Licensed Clinical Social Worker regarding the primary care giver.~~ ~~2. The name of each staff member, dates of receipt of medical statements and references.~~ ~~3. Written and dated documentation that an on-site home inspection has been made and the facility is in compliance with the Minimum Rules and Regulations for Specialized Group Facilities~~.	Repeal	
7.500.321.E		E. The license will not be issued until the State Department has received an approving written report from the fire, health, and zoning departments as required by the General Rules for Child Care Facilities, Section 7.701.34. Approvals may be verified by signature of the inspector on the application form.	~~E. The license will not be issued until the State Department has received an approving written report from the fire, health, and zoning departments as required by the General Rules for Child Care Facilities, Section 7.701.34. Approvals may be verified by signature of the inspector on the application form.~~	Repeal	
7.500.322		**Supervision** The group home supervisor shall provide supervision for the group home or group center pursuant to the Minimum Rules and Regulations for Specialized Group Facilities.	~~**Supervision**~~ ~~The group home supervisor shall provide supervision for the group home or group center pursuant to the Minimum Rules and Regulations for Specialized Group Facilities.~~	Repeal	

7.500.323		**Complaint Investigations [Rev. eff. 1/1/16]** Complaints of child abuse or neglect and other complaints about a specialized group facility shall be investigated and documented in the same manner as for foster homes.	~~**Complaint Investigations**~~ ~~Complaints of child abuse or neglect and other complaints about a specialized group facility shall be investigated and documented in the same manner as for foster homes.~~	Repeal	
7.500.324.A.1-5		**Dual Licenses and Certificates [Rev. eff. 1/1/16]**	**Dual Licenses and Certificates ~~[Rev. eff. 1/1/16]~~**	Technical change	
		A. A home may be licensed and certified to provide both day care and foster care simultaneously. This is known as a dual care provider. Dual care providers utilized by county departments of human/social services are certified by the county for foster care and licensed by the State for day care. 1. If a foster home wishes to accept children for day care on a regular basis, the home shall apply for a license for day care from the Colorado Department of Human Services and pay the prescribed fee. 2. If the foster home wishes to provide day care, the certifying agency must approve. a. The county department shall complete a justification statement as to how the needs of all children will be met and protected in this home if certified for foster care and licensed for day care, which shall be filed in the case record. b. The county department shall document in the case record the specific number of children for combined use of the home, specific number of children as a day care home, and a specific number of children in foster care. 3. A home that is licensed for day care may only be certified for foster care for one child or for a group of siblings.	A. A home may be licensed ~~and certified~~ to provide ~~both~~ ~~day~~ CHILD care and CERTIFIED FOR foster care simultaneously. This is known as a dual care provider. Dual care providers utilized by county departments of human/social services are certified by the county for foster care and licensed by the State for ~~day~~ CHILD care. 1. If a foster CARE home wishes to accept children for ~~day~~ CHILD care on a regular basis, the ~~home~~ PROVIDER shall apply for a license for CHILD care from the Colorado Department of ~~Human Services~~ EARLY CHILDHOOD and pay the prescribed fee. 2. If the foster CARE home wishes to provide ~~day~~ CHILD care, the certifying agency must approve. a. The county department shall complete a justification statement ~~as to how~~ DESCRIBING HOW the needs of all children/YOUTH will be met and protected in this home if certified for foster care and licensed for ~~day~~ CHILD care, which shall be filed in the case record. b. The county department shall document in the case record the specific number of children for combined use of the home, specific number of children as a ~~day~~ CHILD care home, and a specific number of children/YOUTH in foster care. 3. A home that is licensed for ~~day~~ CHILD care may only be certified for foster care for one **(1)** child/YOUTH or for a group of siblings. 4. A county DEPARTMENT that has a foster CARE home that is ~~certified for foster care and~~ also licensed for ~~day~~ CHILD care must notify the ~~Division of Child Care~~	Technical changes	

		4. A county that has a foster home that is certified for foster care and also licensed for day care must notify the Division of Child Care when any of the following situations occur in the foster home: a. A complaint is received; or, b. A child abuse investigation occurs; or, c. A Stage II investigation occurs; or, d. A foster child(ren) is removed from the home because of abuse allegations; or, e. The foster home certificate is changed to probationary; or, f. The foster home certificate is revoked or closed. 5. A county that has a foster home that is certified for foster care and also licensed for day care must submit the following reports to the CDHS Division of Child Care: a. All complaint investigation reports; and, b. All child abuse investigation reports; and, c. All Stage II investigation reports.	COLORADO DEPARTMENT OF EARLY CHILDHOOD when any of the following situations occur in the foster CARE home~~:~~. a. A complaint is received; or, b. A child abuse AND/OR NEGLECT ASSESSMENT ~~investigation~~ occurs; or, c. A FOLLOW-UP ~~Stage II~~ REVIEW ~~investigation~~ occurs; or, d. A ~~foster~~ child~~(ren)~~/YOUTH IN FOSTER CARE is removed from the home because of abuse AND/OR NEGLECT allegations; or, e. The foster CARE home certificate is changed to probationary; or, f. The foster CARE home certificate is revoked or closed. 5. A county DEPARTMENT that has a foster CARE home that is ~~certified for foster care and~~ also licensed for ~~day~~ CHILD care must submit the following reports to the COLORADO DEPARTMENT OF EARLY CHILDHOOD~~:~~. a. All complaint ~~investigation~~ reports; and, b. All child abuse/NEGLECT ~~investigation~~ ASSESSMENT reports; and, c. All FOLLOW-UP ~~Stage II~~ REVIEW ~~investigation~~ reports.		
7.500.33		**(None)**	**SAFE™ ASSESSMENT PRACTITIONER QUALIFICATIONS (HOME STUDY)** THE FOLLOWING ARE THE REQUIREMENTS FOR PRACTITIONERS AND THEIR SUPERVISION WHEN COMPLETING HOME STUDY ASSESSMENTS. A. COUNTY DEPARTMENTS OF HUMAN/SOCIAL SERVICES STAFF, CONTRACT	New section moved from adoption services with additional requirements regarding supervision. The requirements align with section 7.7g10.	

			VENDORS, OR CHILD PLACEMENT AGENCY STAFF MUST MEET THE FOLLOWING QUALIFICATIONS. 1. A SAFE™ ASSESSMENT PRACTITIONER MUST HAVE A BACHELOR'S, MASTER'S, OR DOCTORATE DEGREE FROM A COLLEGE OR UNIVERSITY IN A HUMAN SERVICE OR MENTAL/BEHAVIORAL HEALTH RELATED FIELD, SUCH AS PSYCHOLOGY, SOCIOLOGY, HUMAN DEVELOPMENT AND FAMILY STUDIES, SOCIAL WORK, CRIMINAL JUSTICE, AND/OR COUNSELING AND, THREE (3) YEARS EXPERIENCE IN CHILD PLACEMENT, CHILD PROTECTION, FOSTER CARE, OR ADOPTION. 2. CURRENT EMPLOYEES OF THE COUNTY DEPARTMENT OR A CHILD PLACEMENT AGENCY THAT HAVE A MINIMUM OF A BACHELOR OF ARTS (BA) OR BACHELOR'S OF SCIENCE (BS) DEGREE IN A NON-HUMAN SERVICES FIELD AND WITH A MINOR IN PSYCHOLOGY, SOCIOLOGY, MENTAL HEALTH, REHABILITATION, OR EDUCATION FROM A REGIONALLY ACCREDITED COLLEGE OR UNIVERSITY AND FIVE (5) YEARS OF EXPERIENCE IN HUMAN SERVICES, THREE (3) OF WHICH MUST HAVE BEEN IN CHILD PLACEMENT, CHILD PROTECTION, FOSTER CARE, OR ADOPTION MAY APPLY TO BE ON THE CONTRACT VENDOR LIST. B. ALL QUALIFIED INDIVIDUALS PROVIDING SAFE™ SUPERVISION MUST HAVE COMPLETED THE SAFE™ TWO-DAY CERTIFICATION AND SUPERVISOR TRAININGS. C. ALL SAFE™ ASSESSMENT PRACTITIONERS COMPLETING A SAFE™ HOME STUDY MUST RECEIVE SUPERVISION FOR EACH SAFE™ ASSESSMENT BY A QUALIFIED INDIVIDUAL. APPROVED PRACTITIONERS COMPLETING A SAFE™ HOME STUDY MUST UTILIZE THE SAFE™ SUPERVISORY PROCESS AS OUTLINED BY THE CONSORTIUM FOR CHILDREN. IF THE SAFE™ SUPERVISION PROTOCOL IS NOT FOLLOWED IT IS NOT CONSIDERED A VALID SAFE™ HOME STUDY. THERE IS NO EXCEPTION. D. SAFE™ ASSESSMENT PRACTITIONERS WHO ARE SUPERVISORS MUST ALSO RECEIVE		

			SUPERVISION FROM A SEPARATE QUALIFIED SAFE™ SUPERVISOR FOR EACH SAFE™ ASSESSMENT COMPLETED . THE SUPERVISOR VERIFIES THAT THIS HOME STUDY WAS CONDUCTED WITH DUE PROFESSIONAL DILIGENCE AND IN ACCORDANCE WITH COLORADO LAW (§19-5-207.5, C.R.S.) AND THE RULES ADOPTED BY THE COLORADO DEPARTMENT OF HUMAN SERVICES. E. TH E COLORADO DEPARTMENT OF HUMAN SERVICES IS REQUIRED TO MAINTAIN AN APPROVED CONTRACT VENDOR LIST OF INDIVIDUALS QUALIFIED TO COMPLETE SAFE™ ASSESSMENTS. 1. ALL SAFE™ ASSESSMENT PRACTITIONERS THAT ARE ON THE CONTRACT VENDOR LIST MUST PROVIDE VERIFICATION OF A COLLEGE TRANSCRIPT, RESUME, ATTESTATION OF INDIVIDUAL RESPONSIBILITIES, SAFE™ ASSESSMENT TRAINING, SAFE™ SUPERVISOR TRAINING (IF APPLICABLE), AND CURRENT INDIVIDUAL LIABILITY INSURANCE. a. INDIVIDUAL CONTRACT VENDORS MUST SUBMIT PROFESSIONAL LIABILITY INSURANCE IN AN AMOUNT REASONABLE AS RELATED TO THEIR EXPOSURE TO RISK. 2. THE INDIVIDUAL MUST PROVIDE A CURRENT RISK ASSESSMENT TO THE COLORADO DEPARTMENT OF HUMAN SERVICES IF REQUESTED.		
7.500.34		**(NONE)**			
7.500.35		**Adoption Resources**	**Adoption Resources**		
7.500.35 1		**Applications and Adoption Services [Rev.eff. 3/2/11]**	**Applications and Adoption Services ~~[Rev.eff. 3/2/11]~~**	Technical change	
7.500.35 1.A		A. Recruiting and Inquires	A. FOR THE PURPOSE OF CONDUCTING A SAFE™ ASSESSMENT OR SAFE™ UPDATE FOR ADOPTION, IT MUST BE COMPLETED NINETY (90) WORKING DAYS FROM RECEIVING THE COMPLETED BACKGROUND CHECKS. COUNTY DEPARTMENTS OF HUMAN/SOCIAL SERVICES, QUALIFIED INDIVIDUALS, AND CHILD	Moved the language to B	

			PLACEMENT AGENCIES SHALL BE REQUIRED TO REPORT TO THE COURT THE RESULTS OF A FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK WHEN IT REVEALS THAT THE PROSPECTIVE ADOPTIVE PARENT WAS CONVICTED OF A FELONY OR MISDEMEANOR OF: A.		
			1. CHILD ABUSE OR NEGLECT;		
			2. ANY CRIME AGAINST A CHILD, INCLUDING CHILD PORNOGRAPHY;		
			3. ANY CRIME, THE UNDERLYING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY THE COURT ON THE RECORD TO INCLUDE AN ACT OF DOMESTIC VIOLENCE, AS SPECIFIED IN SECTION 18-6- 800.3, C.R.S.;		
			4. VIOLATION OF A PROTECTIVE ORDER, AS DESCRIBED IN SECTION 18-6-803.5, C.R.S.;		
			5. ANY CRIME INVOLVING VIOLENCE, RAPE, SEXUAL ASSAULT, OR HOMICIDE; AND,		
			6. ANY FELONY DRUG-RELATED CONVICTION WITHIN, AT A MINIMUM, THE PAST FIVE (5) YEARS. NO PERSON CONVICTED OF A FELONY OFFENSE SHALL BE ALLOWED TO ADOPT A CHILD/YOUTH, EXCEPT A PERSON MAY BE ALLOWED TO ADOPT A CHILD/YOUTH IF: a. THE APPLICANT HAS HAD NO FURTHER ARRESTS OR CONVICTIONS SUBSEQUENT TO THE ORIGINAL CONVICTION; b. THE APPLICANT HAS NOT BEEN CONVICTED OF A PATTERN OF MISDEMEANORS, AS DEFINED BY RULE OF THE STATE BOARD OF HUMAN SERVICES AT SECTION 7.500.312.D.4.A-C; AND, c. THE COURT ENTERS A FINDING CONSISTENT WITH SECTION 19-5-210(2)(D), C.R.S., THAT THE		

			ADOPTION IS IN THE BEST INTEREST OF THE CHILD.		
7.500.35 1.A.1		1. The county department recruits adoptive homes that reflect the racial, ethnic, cultural, and linguistic backgrounds for all waiting children. The county shall make reasonable efforts to recruit families of the same ethnic, cultural and racial background as the children waiting adoption.	~~A~~B. Recruiting and Inquiries 1. The county department OF HUMAN/SOCIAL SERVICES recruits adoptive homes that reflect the racial, ethnic, cultural, and linguistic backgrounds for all waiting children/YOUTH. The county DEPARTMENT shall make reasonable efforts to recruit families of the same ethnic, cultural, and racial background as the children/YOUTH Awaiting adoption AS REFERENCED IN MULTI-ETHNIC PLACEMENT ACT (P.L.103-82).	Re-letter and technical changes	
7.500.35 1.A.2		2. The county department provides information about adoption services within the county department and services available through other adoption agencies and organizations. Requests for studies for children from private sources shall be referred to private agencies.	2. The county department provides information about adoption services within the county department and services available through other adoption agencies and organizations. Requests for ~~studies~~ SAFE™ ASSESSMENTS for children/YOUTH from private sources shall be referred to private agencies.	Technical change and reletter	

7.500.35 1.A.3		3. Families approved for international adoption and waiting for adoptive placement can be simultaneously approved for adoption with public and private adoption agencies as long as both agencies are aware of the arrangement. a. The family shall inform the public agency of its current relationship with the private agency that approved it for an international adoption. b. The family shall sign a release for information from the private agency to be provided to the county department of their choice. The released information shall include, but not be limited to, the following: 1) Current home study completed in the Structured Analysis Family Evaluation (SAFE) format by the private agency; 2) Documentation of training completed by the family. c. The county shall do an update of the home study using the SAFE home study format and clarify the type of child for whom the family would be approved via the county's approval process. d. The county must obtain the following new information from the family: 1) References; 2) Physicals; 3) Background check for each adult eighteen (18) and older living in the home, for the following: i. Fingerprint-based criminal history checks from the CBI and FBI as required in section 7.701.33 in all circumstances. ii. Child abuse/neglect records in every state where the adult has resided in the	3. PROSPECTIVE ADOPTIVE PARENT(S) ~~Families~~ approved for ~~international~~ INTERCOUNTRY adoption and waiting for adoptive placement can be simultaneously approved for adoption with public and private adoption CHILD PLACEMENT agencies as long as both agencies are aware AND IN AGREEMENT of the arrangement. a. The PROSPECTIVE ADOPTIVE PARENT(S) ~~family~~ shall inform the public agency of its current relationship with the private agency that approved it for ~~an international~~ INTERCOUNTRY adoption. b. The PROSPECTIVE ADOPTIVE PARENT(S) ~~family~~ shall sign a release ~~for~~ OF information from the private CHILD PLACEMENT agency to be provided to the county department of their choice. The released information shall include, but not be limited to, the following: 1) Current SAFE™ ASSESSMENT ~~home study completed in the Structured Analysis Family Evaluation (SAFE™) format~~ by the private agency; 2) Documentation of training completed by the ~~family~~ PROSPECTIVE ADOPTIVE PARENT(S). c. The county DEPARTMENT shall ~~do~~ COMPLETE A SAFE™ UPDATE ~~an update of the home study using the SAFE™ home study format~~ and clarify the ~~type~~ CHARACTERISTICS of child/YOUTH for whom the PROSPECTIVE ADOPTIVE PARENT(S) ~~family~~ would be approved ~~via~~ USING the county~~'s~~ DEPARTMENT'S approval process. d. The county DEPARTMENT must obtain the following new information from the PROSPECTIVE ADOPTIVE PARENT(S) ~~family~~: 1) References; 2) HEALTH ASSESSMENTS ~~Physicals~~; 3) Background check for each adult AGE eighteen (18) and older living in the home, for the following: ~~i.~~a) Fingerprint-based criminal history checks from the	Technical changes and new language regarding time frame for background check	

		five (5) years preceding the date of application. iii. The CBI Sex Offender and National Sex Offender public website operated by the United States Department of Justice by: • Known names and addresses of each adult residing in the home; and • Address only of the home iv. A comparison search on the Court Case Management system at the State Judicial Department, using the name and date of birth with available criminal history information for each adult eighteen (18) years and older living in the home. The purpose is to determine any crime(s) for which an applicant or other adult residing in the home was arrested or convicted and the disposition. This search shall be completed regardless of whether the CBI and FBI fingerprint history and record confirms or does not confirm a criminal history (See section 7.500.24).	CBI and FBI as required in section 7.701.33 in all circumstances. ~~ii.~~b) Child abuse/neglect records in every state where the adult has resided in the five (5) years preceding the date of application. ~~iii.~~c) The CBI Sex Offender and ~~National Sex Offender public website~~ NSOPW operated by the United States Department of Justice by: ~~•~~ i. Known names, NICKNAMES, AKAs, and addresses of each adult residing in the home; and, ~~•~~ ii. Address only of the home, INCLUDING A MAP FROM THE RESPECTIVE DATABASES TO CONFIRM IT HAS BEEN CHECKED. ~~iv.~~d) A comparison search on the COLORADO Court Case Management system at the State Judicial Department, using the name and date of birth with available criminal history information for each adult eighteen (18) years and older living in the home. The purpose is to determine any crime(s) for which an applicant or other adult residing in the home was arrested or convicted and the disposition. This search shall be completed regardless of whether the CBI and FBI fingerprint history and record confirms or does not confirm a criminal history ~~(See section 7.500.24)~~. e) WITHIN 90 DAYS PRIOR TO FINALIZATION OF AN ADOPTION, COMPLETE ALL BACKGROUNDS CHECKS INCLUDING: CCWIS, COLORADO COURT CASE MANAGEMENT SYSTEM, CBI AND FBI FINGERPRINT BASED CRIMINAL HISTORY RECORD INFORMATION CHECK, CBI SEX OFFENDER CHECK AND NSOPW.		
7.500.351.A.3.d.4)		4) All background checks shall be documented in the state automated case management system. i. The county shall continue to follow its regular policies and procedures in considering the family for potential placements.	4) All background checks shall be documented in the ~~state automated case management system.~~ CCWIS. ~~i.~~a) The county DEPARTMENT OF HUMAN/SOCIAL SERVICES shall continue to follow its ~~regular~~ policies and procedures in considering the PROSPECTIVE ADOPTIVE PARENT(S) ~~family~~ for potential placements.	Technical changes and renumber	

		ii. The family shall sign an agreement with both the] public and private agency stating that the family shall inform either agency when there is a potential placement. The agreement shall state the following: 1. All parties understand and agree that the agency not placing the child will put the family "on hold" for a minimum of six months following the date that the child is placed in the family's home; 2. At the end of the six month period "on hold", all parties including the family, the two agencies and any other person or persons who have a vested interest in the adoptive placement of the child, shall meet to discuss whether or not the "on hold" period should continue and the reason(s) behind that decision; 3. The placing agency shall complete a home study update using the SAFE format regarding the progress and appropriateness of the new placement and make recommendations for further adoptive placements in the future; 4. The non-placing agency shall update its home study using the SAFE format, with the same criteria such that the non-placing agency has made its own recommendations for further placements. (numbered incorrectly) **ii.** The public agencies shall advise families that home studies completed for public agencies are not suitable to determine the appropriateness for placement with children from other countries. iii. The public agency shall assure that the required information is included in either the private agency's home study or	~~ii.~~b) The ~~family~~ PROSPECTIVE ADOPTIVE PARENT(S) shall sign an agreement with both the public and private agency stating that the ~~family~~ PROSPECTIVE ADOPTIVE PARENT(S) ~~shall~~ WILL inform either agency when there is a potential placement. The agreement shall state the following: ~~1~~i. All parties understand and agree that the agency not placing the child/YOUTH will put the ~~family~~ PROSPECTIVE ADOPTIVE PARENT(S) "on hold" for a minimum of six (6) months following the date that the child/YOUTH is placed in the ~~family's~~ home; ~~2~~ii. At the end of the six (6) month period "on hold", all parties including the ~~family~~ PROSPECTIVE ADOPTIVE PARENT(S), the two agencies~~, and any other person or persons who have a vested interest in the adoptive placement of the child/YOUTH,~~ shall ~~meet to discuss~~ DETERMINE AND DOCUMENT whether ~~or not~~ the "on hold" period should continue; ~~and the reason(s) behind that decision~~; ~~3~~iii. The placing agency shall complete a ~~home study~~ SAFE™ update ~~using the SAFE format~~ regarding the progress and appropriateness of the new placement and make recommendations for ANY further adoptive placements; ~~in the future~~; ~~4~~iv. The non-placing agency shall COMPLETE A SAFE™ update ~~its home study using the SAFE format,~~ ADDRESSING THE]PLACEMENT OF A CHILD/YOUTH INTO THE PROSPECTIVE ADOPTIVE HOME ~~with the same criteria such that the non-placing agency has made its own recommendations for further placements~~. ~~ii.~~c) The ~~public agencies~~ COUNTY DEPARTMENT shall advise THE PROSPECTIVE ADOPTIVE APPLICANT(S) ~~families~~ that THE SAFE™ ~~home studies~~ ASSESSMENT completed for ~~public agencies~~ COUNTY DEPARTMENTS are not suitable to determine the appropriateness for INTERCOUNTRY ADOPTION. ~~placement with children from other countries.~~ ~~iii.~~d) The ~~public agency~~ COUNTY DEPARTMENT shall assure that the required information is included in either the private agency's ~~home study~~ SAFE™ ASSESSMENT		

		in the update completed by the public agency.	or in the SAFE™update completed by the ~~public agency~~ COUNTY DEPARTMENT.		
7.500.35 1.A.3.d. 5)		5) Applications i. The county department accepts applications for the adoption of children only from persons who meet the requirements of the Colorado statute, who have expressed an interest in the placement of a child who might be available at the time of the application. ii. The applicants shall be informed that submitting an application does not guarantee that an assessment shall be performed or a child placed with them. iii. The county notifies the adoptive parent(s) of the disposition of the application in a timely manner. iv. The county department of human/social services shall require verification of an individual's lawful presence in the United States, as provided in general eligibility requirements as found in Section 3.140.11 (9 CCR 2503-1), in order to approve an application for a child's adoption. v. The county department of human/social services shall require the individual applying to adopt a child(ren) to notify the Department when the Structure Analysis Family Evaluation (SAFE) home study will be used in the next six months for a second parent adoption. vi. Requirements for Adoption 1. A single foster home or adoptive assessment as outlined in Section 7.500. 2 must be completed prior to the child being placed with the intent of adoption.	5) Applications ~~i.~~a) The county department OF HUMAN/SOCIAL SERVICES accepts applications for the adoption of children/YOUTH only from persons who meet the requirements of ~~the~~ Colorado statute, INCLUDING THE FOSTER CARE, RESIDENTIAL, DAY TREATMENT, AND CHILD PLACEMENT AGENCY LICENSING IN 26, C.R.S., who have expressed an interest in the placement of ~~a~~ child/YOUTH THROUGH THE COUNTY DEPARTMENT. ~~who might be available at the time of the application.~~ ~~ii.~~b) The applicants shall be informed that submitting an application does not guarantee that a~~n~~ SAFE™ ASSESSMENT WILL BE COMPLETED ~~assessment shall be performed~~ or a child/YOUTH placed with them. ~~iii.~~c) The county DEPARTMENT notifies the PROSPECTIVE adoptive parent(s) of the disposition of the application in a timely manner. ~~iv.~~d) ~~The county department of human/social services shall require verification of an individual's lawful presence in the United States, as provided in general eligibility requirements as found in Section 3.140.11 (9 CCR 2503-1), in order to approve an application for a child's/YOUTH'S adoption.~~LAWFUL PRESENCE IN THE UNITED STATES IS NO LONGER A REQUIREMENT TO APPROVE AN APPLICATION FOR A CHILD'S OR YOUTH'S ADOPTION. THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES WILL NOT VERIFY AN INDIVIDUAL'S LAWFUL PRESENCE IN ORDER TO APPROVE AN APPLICATION FOR A CHILD'S OR YOUTH'S ADOPTION. ~~v. The county department of human/social services shall require the individual applying to adopt a child(ren) to notify the Department when the Structure Analysis Family Evaluation (SAFE) home study will be used in the next six months for a second parent adoption.~~	Technical changes, renumber, new language regarding statute, lawful presence, home study interviews, and repeal	

		2. The assessment must include a visit to the home and a separate interview of the potential adoptive parents. Other adults living in the home shall be interviewed.	~~vi.~~e) Requirements for Adoption ~~1~~i. A ~~single foster home or adoptive~~ SAFE™ assessment OR OTHER STATE APPROVED HOME STUDYas outlined in Section 7.500.2 must be completed prior to the child/YOUTH being placed with the intent of adoption. ~~2~~ii. The assessment must include a visit to the home and a separate interview of the potential adoptive parent(s)~~.~~ AND ~~O~~ other adults living in the home shall be interviewed. a. AS PART OF THE ASSESSMENT, THE SAFE™ PRACTITIONER MUST CONDUCT A MINIMUM OF ONE (1) JOINT INTERVIEW WITH A COUPLE OR ALL APPLICANTS, ONE (1) INDIVIDUAL INTERVIEW WITH EACH ADULT MEMBER OF THE HOUSEHOLD, AND AN AGE/DEVELOPMENTALLY APPROPRIATE INTERVIEW WITH ALL CHILDREN/YOUTH RESIDING IN THE HOME. FOR A SINGLE APPLICANTS, A MINIMUM OF TWO (2) INTERVIEWS IS REQUIRED; AND, b. ENSURE THE SECOND INTERVIEW, AND ANY SUBSEQUENT INTERVIEWS, OF THE ADULTS SHALL NOT BE PERFORMED UNTIL AT LEAST THREE (3) CALENDAR DAYS AFTER THE PREVIOUS INTERVIEW. a. NSURE THE		
7.500.35.1.A.3.d.6	Numbering error 6) was missing -NEW	Should be **7.500.35.1.A.3.d.6**	6) APPROVAL a) AN APPLICANT(S) SHALL BE MADE AWARE OF THEIR STATUS WITH THE AGENCY. IF THERE ARE SERIOUS CONCERNS DURING THE SAFE™ ASSESSMENT PROCESS WHICH CANNOT BE RESOLVED, THE SAFE™ ASSESSMENT PRACTITIONER SHALL DISCUSS THESE CONCERNS AND THE DECISION TO PROCEED WITH THE APPLICANT(S). THE APPLICANT(S) SHALL BE ENCOURAGED TO WITHDRAW IF THIS IS ADVISABLE AND/OR THE COUNTY DEPARTMENT SHALL SEND A DENIAL LETTER WITH INFORMATION ABOUT THE RIGHT TO APPEAL.	Renumber due to numbering error - moved language from 8)	

			b) WHEN A SAFE™ ADOPTION ASSESSMENT HAS BEEN APPROVED THE COUNTY DEPARTMENT SHALL: ~~i.~~ i. INFORM THE APPLICANT IN WRITING OF THE FINAL DECISION REGARDING THEIR APPLICATION WITHIN FIFTEEN **(**15**)** WORKING DAYS FROM THE DATE THE DECISION IS MADE. ii. SEND WRITTEN NOTIFICATION TO THE APPLICANT, WHICH INCLUDES THE FOLLOWING: a. THE APPLICATION TO ADOPT IS APPROVED. b. THE AGE, GENDER, AND ANY SPECIAL CHARACTERISTICS OF THE CHILD(REN)/YOUTH WHICH WILL BE CONSIDERED. c. ANY OTHER CONDITIONS OF THE APPROVAL THAT PERTAIN. d. THE SAFE™ ADOPTIVE ASSESSMENT IS AVAILABLE ONLY FOR THE ADOPTION OF A CHILD(REN)/YOUTH PLACED BY A COLORADO COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES OR CHILD(REN)/YOUTH PLACED IN COOPERATION WITH AN AGENCY LICENSED TO PLACE CHILDREN/YOUTH FOR ADOPTION. e. THE APPLICANT'S RIGHT TO A REVIEW OF THE DECISION BY THE COUNTY DIRECTOR OR THE DIRECTOR'S DESIGNEE OF THE CHARACTERISTICS OF THE CHILD/YOUTH FOR WHICH THE PROSPECTIVE PARENT(S) IS APPROVED. f. THE APPLICANT'S RESPONSIBILITY TO INFORM THE COUNTY DEPARTMENT OF SIGNIFICANT CHANGES OF CIRCUMSTANCES WHICH COULD IMPACT AN ADOPTION.		

7.500.351.A.3.d.7.a-b		7) Qualifications for Completing Adoptive Home Study Reports a. In the application for inclusion as a vendor to complete adoptive home studies, each county department, qualified individual, or child placement agency must provide documentation concerning education, training, years of experience, and knowledge regarding adoptive placement and supportive services provided to children with special needs or are being supervised by an individual who meets the qualifications. b. Any county department staff, qualified individual, or child placement agency staff shall meet the following qualifications or be supervised by an individual who meets the qualifications to conduct adoptive home studies for children in the custody of county departments being placed for adoption: i. Bachelors, masters, or doctorate in a human service related field, such as psychology, sociology, child development, social work, health and education, from an accredited college or university; and, three years' experience in child placement, child protection, foster care, or adoption. ii. If the individual does not meet the experience requirement, an iii. Individuals presently involved in the field who do not meet the above experience criteria or do not have access to direct supervision in their agency must purchase supervision time by someone who meets the above criteria. Individuals will be given three years from the date of enactment of this rule to obtain the necessary experience.	~~7) Qualifications for Completing Adoptive Home Study Reports~~ ~~a. In the application for inclusion as a vendor to complete adop]tive home studies, each county department, qualified individual, or child placement agency must provide documentation concerning education, training, years of experience, and knowledge regarding adoptive placement and supportive services provided to children with special needs or are being supervised by an individual who meets the qualifications.~~ ~~b. Any county department staff, qualified individual, or child placement agency staff shall meet the following qualifications or be supervised by an individual who meets the qualifications to conduct adoptive home studies for children in the custody of county departments being placed for adoption:~~ ~~i. Bachelors, masters, or doctorate in a human service related field, such as psychology, sociology, child development, social work, health and education, from an accredited college or university; and, three years' experience in child placement, child protection, foster care, or adoption.~~ ~~ii. If the individual does not meet the experience requirement, an~~ ~~iii. Individuals presently involved in the field who do not meet the above experience criteria or do not have access to direct supervision in their agency must purchase supervision time by someone who meets the above criteria. Individuals will be given three years from the date of enactment of this rule to obtain the necessary experience.~~ ~~iv. Individuals who are current employees of the county or a child placement agency and have a BA or BS degree with a minor in psychology, sociology, mental health, rehabilitation, or education and five years of experience in human services, three of which must have been in child placement, child protection, foster care or adoption, may apply to be on the vendor list.~~ ~~v. Individuals who are current employees of the county or a child placement agency with a BA or BS degree and ten years experience , three of which must have been in child~~	Renumber and language moved	

		iv. Individuals who are current employees of the county or a child placement agency and have a BA or BS degree with a minor in psychology, sociology, mental health, rehabilitation, or education and five years of experience in human services, three of which must have been in child placement, child protection, foster care or adoption, may apply to be on the vendor list. v. Individuals who are current employees of the county or a child placement agency with a BA or BS degree and ten years experience , three of which must have been in child placement, child protection, foster care or adoption, may apply to be on the vendor list. vi. A designated qualified individual may conduct a SAFE home study for an individual that is planning a second parent adoption. An individual that is not an employee of a county department of human /social services or a licensed child placement agency, who is involved with the adoption of a child from a county department, must be approved and listed on the State Department's vendor list.	~~placement, child protection, foster care or adoption, may apply to be on the vendor list.~~ ~~vi. A designated qualified individual may conduct a SAFE home study for an individual that is planning a second parent adoption. An individual that is not an employee of a county department of human /social services or a licensed child placement agency, who is involved with the adoption of a child from a county department, must be approved and listed on the State Department's vendor list.~~ 7) DEN IAL OF APPLICANT BASED ON ASSESSMENT THE DECISION TO DENY APPROVAL OF THE APPLICANT'S SAFE™ ADOPTION ASSESSMENT SHALL BE A JOINT DECISION INVOLVING AT LEAST THE CASEWORKER AND THE SUPERVISOR. THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES SHALL COMPLETE THE FOLLOWING: a) SEND THE APPLICANT'S WRITTEN NOTICE OF THE DENIAL WITHIN FIFTEEN (15) WORKING DAYS OF THE DECISION. b). THE COUNTY DEPARTMENT SHALL HAVE A FACE-TO-FACE INTERVIEW TO DISCUSS THE REASONS FOR THE DENIAL IF THE APPLICANT REQUESTS A MEETING. c) NOTIFY THE APPLICANT OF THE RIGHT TO A REVIEW BY THE COUNTY DIRECTOR OR THE DIRECTOR'S DESIGNEE IF THE APPLICANT IS DISSATISFIED WITH THE DECISION.		
7.500.351.A.8.a-c		8) Approval a. The county department director or the director's desiggnated agent shall approve adoptive assessments on the form, Approval of Adoptive Home. The	~~8) Approval~~ ~~a. The county department director or the director's designated agent shall approve adoptive assessments on the form, Approval of Adoptive Home. The assessment and the approval shall not be done by the same person.~~		

		assessment and the approval shall not be done by the same person. b. Applicants shall be kept aware of their status with the agency. If there are serious concerns during the assessment process which cannot be resolved, the study worker shall discuss these concerns and the decision of whether or not to proceed with the family. The clients shall be encouraged to withdraw if this is advisable. c. When an adoptive assessment has been approved the county shall: i. Inform the applicants in writing of the final decision regarding their applications within 15 working days from the date the decision is made. ii. Send written notification to the applicant(s), which includes the following: 1. That the application to adopt is approved. 2. The age, sex, and any special characteristics of the child(ren) which will be considered for them. 3. Any other conditions of the approval which pertain. 4. That the adoptive assessment is available only for the adoption of a child(ren) placed by a Colorado county department of social services or a child(ren) placed in cooperation with an agency licensed to place children for adoption. 5. The applicants' right to a review of the decision by the county director or the director's designee of the type of child for which the parent(s) is approved. 6. The applicants' responsibility to inform the county department of significant	~~b. Applicants shall be kept aware of their status with the agency. If there are serious concerns during the assessment process which cannot be resolved, the study worker shall discuss these concerns and the decision of whether or not to proceed with the family. The clients shall be encouraged to withdraw if this is advisable.~~ ~~c. When an adoptive assessment has been approved the county shall:~~ ~~i. Inform the applicants in writing of the final decision regarding their applications within 15 working days from the date the decision is made.~~ ~~ii. Send written notification to the applicant(s), which includes the following:~~ ~~1. That the application to adopt is approved.~~ ~~2. The age, sex, and any special characteristics of the child(ren) which will be considered for them.~~ ~~3. Any other conditions of the approval which pertain.~~ ~~4. That the adoptive assessment is available only for the adoption of a child(ren) placed by a Colorado county department of social services or a child(ren) placed in cooperation with an agency licensed to place children for adoption.~~ ~~5. The applicants' right to a review of the decision by the county director or the director's designee of the type of child for which the parent(s) is approved.~~ ~~6. The applicants' responsibility to inform the county department of significant changes of circumstances which could impact their adopting.~~ 8) REEVALUATION OF ASSESSMENT IF A CHILD/YOUTH HAS NOT BEEN PLACED IN THE ADOPTIVE HOME WITHIN ONE (1) YEAR FROM THE DATE OF THE APPROVAL OF THE SAFE™ ADOPTION ASSESSMENT, THE ASSESSMENT SHALL BE REEVALUATED TO DETERMINE IF THE HOME IS TO REMAIN ACTIVE FOR CONSIDERATION OF A CHILD/YOUTH, AND ANNUALLY THEREAFTER UNTIL A PLACEMENT IS MADE OR THE CASE IS CLOSED.		

		changes of circumstances which could impact their adopting.	REEVALUATION SHALL CONSIST OF AT LEAST THE FOLLOWING: a) STATEMENT UP TO EVERY TWO (2) YEARS FROM A LICENSED DOCTOR OF MEDICINE OR OSTEOPATHY, PHYSICIAN ASSISTANT, OR NURSE PRACTITIONER REGARDING THE CURRENT PHYSICAL CONDITION OF THE APPLICANT AND OTHERS LIVING IN THE HOME. THE COUNTY DEPARTMENT SHALL HAVE THE DISCRETION TO REQUIRE AN UPDATED MEDICAL REPORT. b) DOCUMENTATION OF ANY CHANGES IN THE HOME AND FAMILY, INCLUDING BUT NOT LIMITED TO FINANCES, EMPLOYMENT, HOUSING, ILLNESSES, PREGNANCY, AND CURRENT INFORMATION, WHERE APPLICABLE, ON GROWTH, DEVELOPMENT, AND ACTIVITIES OF CHILDREN/YOUTH IN THE HOME. c) CHANGES, IF ANY, IN THE PREFERENCES IN THE CHARACTERISTICS OF THE CHILD/YOUTH TO BE RAISED, THE REASON FOR THE CHANGE, AND THE APPLICANT'S CAPACITY TO PROVIDE FOR THE LONG TERM NEEDS OF THE CHILD/YOUTH CURRENTLY IDENTIFIED. d) DETERMINATION WHETHER TO CONTINUE APPROVAL OF THE HOME.		
7.500.351.A.3.d.9.a-c		9) Denial of Applicant Based on Assessment The decision to deny approval of the applicant(s) adoption assessment shall be a joint decision involving at least the worker and the supervisor. The county shall do the following: a. Send the applicant(s) written notice of the denial within fifteen working days of the decision. b. The county shall have a face-to-face interview to discuss the reasons for the denial if the family requests a meeting.	~~9) Denial of Applicant Based on Assessment~~ ~~The decision to deny approval of the applicant(s) adoption assessment shall be a joint decision involving at least the worker and the supervisor. The county shall do the following:~~ ~~a. Send the applicant(s) written notice of the denial within fifteen working days of the decision.~~ ~~b. The county shall have a face-to-face interview to discuss the reasons for the denial if the family requests a meeting.~~	Renumber, move language, and technical changes	

		c. Notify the applicant(s) of their right to a review by the county director or the director's designee if they are dissatisfied with the decision.	~~c. Notify the applicant(s) of their right to a review by the county director or the director's designee if they are dissatisfied with the decision.~~ 9) SECOND OR ADDITIONAL UPDATE TO ASSESSMENTS IF A PROSPECTIVE ADOPTIVE PARENT CHOOSES TO BE CONSIDERED FOR ANOTHER ADOPTION WITH THE SAME LICENSED AGENCY. IF THE PROSPECTIVE ADOPTIVE PARENT APPLIES TO ADOPT ANOTHER CHILD/YOUTH, THE SAFE™ UPDATE ASSESSMENT MUST BE COMPREHENSIVE. a) IF THE LAST SAFE™ ASSESSMENT IS WITHIN THREE (3) YEARS OF THE APPROVAL DATE OF THE ORIGINAL SAFE™ ASSESSMENT, A SUBSEQUENT SAFE™UPDATE SHALL BE COMPLETED. THE UPDATE SHALL INCLUDE AT LEAST ONE (1) JOINT INTERVIEW (IF APPLICABLE), ALONG WITH ONE (1) INTERVIEW THAT IS DOCUMENTED WITH EACH ADULT MEMBER OF THE HOUSEHOLD, AND AN AGE/DEVELOPMENTALLY APPROPRIATE INTERVIEW WITH ALL CHILDREN/YOUTH. AT LEAST ONE (1) INTERVIEW WITH THE FAMILY MUST BE CONDUCTED IN THE HOME. THE INDIVIDUAL INTERVIEWS WITH THE ADOPTIVE APPLICANTS MUST BE COMPLETED ON THE SAME DATE. b) IF THE PERIOD OF TIME SINCE THE APPROVAL OF THE ORIGINAL SAFE™ ASSESSMENT IS LONGER THAN THREE (3) YEARS, A FULL SAFE™ ASSESSMENT SHALL BE COMPLETED. i. A MINIMUM OF ONE (1) FACE-TO-FACE CONTACT WITH THE APPLICANT(S) WHERE THE PARENTS (IF APPLICABLE) ARE INTERVIEWED SEPARATELY, AS WELL AS TOGETHER WITH THE CHILDREN IN ORDER TO ENABLE THE PRACTITIONER TO OBSERVE THE INTERACTION BETWEEN THE PARENT(S) AND THEIR CHILD(REN)/ YOUTH.		

			ii. AN IN-DEPTH DISCUSSION OF MOTIVATION FOR ADOPTION OF ANOTHER CHILD/YOUTH, CHANGES IN FAMILY RELATIONSHIPS SINCE THE LAST ASSESSMENT, THE DEVELOPMENT OF THE APPLICANT'S CHILD OR CHILDREN, THE EFFECT OF ANOTHER ADOPTION ON THE CHILDREN ALREADY IN THE FAMILY, CHARACTERISTICS OF CHILD/YOUTH TO BE CONSIDERED, CURRENT FAMILY INFORMATION, HEALTH ASSESSMENTS, AND PHOTOGRAPHS OF THE FAMILY.		
7.500.35 1.A.3.d. 10.a-c		10) Reevaluation of Assessment If a child has not been placed in the adoptive home within one year from the date of the approval of the adoption assessment, the assessment shall be reevaluated if the home is to remain active for consideration of a child, and annually thereafter until a placement is made or the case is closed. Reevaluation shall consist of at least the following: a. Statement every two years from a licensed doctor of medicine or osteopathy regarding the current physical condition of the applicants and others living in the home. The county department shall have the discretion to require an updated medical report prior to the two year standard. b. Documenta-tion of any changes in the home and family, i.e., finances, employment, housing, illnesses, pregnancy, and current information, where applicable, on growth, development, and activities of children in the home. c. Changes, if any, in the kind of child desired, the reason for the change, and the family's capacity to provide for the child currently requested.	~~10) Reevaluation of Assessment If a child has not been placed in the adoptive home within one year from the date of the approval of the adoption assessment, the assessment shall be reevaluated if the home is to remain active for consideration of a child, and annually thereafter until a placement is made or the case is closed. Reevaluation shall consist of at least the following:~~ ~~a. Statement every two years from a licensed doctor of medicine or osteopathy regarding the current physical condition of the applicants and others living in the home. The county department shall have the discretion to require an updated medical report prior to the two year standard.~~ ~~b. Documenta-tion of any changes in the home and family, i.e., finances, employment, housing, illnesses, pregnancy, and current information, where applicable, on growth, development, and activities of children in the home.~~ ~~c. Changes, if any, in the kind of child desired, the reason for the change, and the family's capacity to provide for the child currently requested.~~ ~~d. Determination of the appropriateness to continue approval of the home.~~ 10) UPDATE TO ASSESSMENTS WHEN THE APPLICANT CHOOSES TO BE CONSIDERED FOR AN ADOPTION THROUGH A DIFFERENT LICENSED AGENCY: a) WHEN THE FULL SAFE™ ASSESSMENT IS RECEIVED DIRECTLY FROM THE ORIGINATING	Renumber and move language	

		d. Determination of the appropriateness to continue approval of the home.	AGENCY WITH AN UPDATE WITH AN APPROVAL DATE OF LESS THAN ONE (1) YEAR, THE NEW AGENCY MAY EITHER COMPLETE: i. A SAFE™ UPDATE OF THE ORIGINAL SAFE™ ASSESSMENT OR, A FULL SAFE™ ASSESSMENT. ii. IF THE SAFE™ ASSESSMENT OR UPDATE APPROVAL DATE IS MORE THAN ONE (1) YEAR, A FULL SAFE™ ASSESSMENT MUST BE COMPLETED. a. A MINIMUM OF ONE (1) FACE-TO-FACE CONTACT WITH EACH APPLICANT WHERE THE PARENTS (IF APPLICABLE) ARE INTERVIEWED SEPARATELY, AS WELL AS TOGETHER WITH THE CHILD(REN) /YOUTH IN ORDER TO ENABLE THE PRACTITIONER TO OBSERVE THE INTERACTION BETWEEN THE PARENT(S) AND THE CHILD(REN)/YOUTH. b. IN-DEPTH DISCUSSION OF THE MOTIVATION FOR ADOPTION OF ANOTHER CHILD/YOUTH, CHANGES IN FAMILY RELATIONSHIPS SINCE THE LAST ASSESSMENT, THE DEVELOPMENT OF THE APPLICANT'S CHILD OR CHILDREN, THE EFFECT OF ANOTHER ADOPTION ON THE CHILDREN ALREADY IN THE FAMILY, CHARACTERISTICS OF CHILD/YOUTH TO BE CONSIDERED, CURRENT FAMILY INFORMATION, HEALTH ASSESSMENTS, AND PHOTOGRAPHS OF THE FAMILY.		
7.500.35 1.A.3.d. 11.a-b		11) Second or Additional Assessments If a family has previously adopted a child and applies to adopt an additional child, the assessment shall be a comprehensive study unless the original assessment is available. The second or any additional assessment shall include the following: a. A minimum of one personal contact with the applicant(s) in which the parents are interviewed alone, as well as together	~~11) Second or Additional Assessments~~ ~~If a family has previously adopted a child and applies to adopt an additional child, the assessment shall be a comprehensive study unless the original assessment is available. The second or any additional assessment shall include the following:~~ ~~a. A minimum of one personal contact with the applicant(s) in which the parents are interviewed alone, as well as together with the children in order to enable the worker to observe the interaction between the parent(s) and child(ren).~~	Renumber and technical changes	

		with the children in order to enable the worker to observe the interaction between the parent(s) and child(ren). b. An in-depth discussion of motivation for adoption of an additional child, changes in family relationships since the last assessment, the development of the applicant's child or children, the effect of another adoption on the children already in the family, kind of child to be considered, current family information, medicals, and photographs of the family.	~~b. An in-depth discussion of motivation for adoption of an additional child, changes in family relationships since the last assessment, the development of the applicant's child or children, the effect of another adoption on the children already in the family, kind of child to be considered, current family information, medicals, and photographs of the family.~~ 11) FOSTER PARENT ASSESSMENTS a) The SAFE™ ASSESSMENT ALONG WITH A SAFE™ UPDATE FOCUSING ON THE ABILITY OF THE PARENT TO MEET THE SPECIFIC NEEDS AND TO PARENT THE CHILDREN/YOUTH PLACED FOR ADOPTION WILL BE ACCEPTED FOR ADOPTION. THE CASEWORKER WILL CHECK THE ADOPTION BOX ON THE STATE PRESCRIBED APPLICATION. b) THE CASEWORKER SHALL DISCUSS THE ADOPTION ASSISTANCE PROGRAM WITH THE FOSTER PARENT, FOCUSING ON THE NEEDS OF THE CHILD/YOUTH AND THE PROSPECTIVE ADOPTIVE PARENT'S ABILITY TO MEET THOSE NEEDS AS ADDRESSED IN SECTION 7.306 (12 CCR 2509-4).		
7.500.35 1.A.3.d. 12.a-b		12) Foster Parent Assessments a. The single assessment completed on a foster family for foster care will be accepted for adoption. The worker will check the adoption box on the single application form and, if appropriate, write a brief update. b. The worker shall discuss the subsidy program with the foster parents, focusing on the child's special needs and the family's ability to meet those needs.	~~12) Foster Parent Assessments~~ ~~a. The single assessment completed on a foster family for foster care will be accepted for adoption. The worker will check the adoption box on the single application form and, if appropriate, write a brief update.~~ ~~b. The worker shall discuss the subsidy program with the foster parents, focusing on the child's special needs and the family's ability to meet those needs.~~ 12) INTERCOUNTRY ADOPTION a. NON-PUBLIC FOREIGN ADOPTIONS SHALL ONLY BE COMPLETED ACCORDING TO THE CHILDREN'S CODE AND SECTION 7.710 (12 CCR 2509-8).	Renumber and technical changes	

7.500.35 1.A.3.d. 13.a-b		13) Inter-country Adoption a. Non-public foreign adoptions shall comply with the Children's Code. b. County departments complete assessments for foreign adoption only on authorization of the state department adoption program supervisor.	~~13) Inter-country Adoption~~ ~~a. Non-public foreign adoptions shall comply with the Children's Code.~~ ~~b. County departments complete assessments for foreign adoption only on authorization of the state department adoption program supervisor.~~	Renumber and repeal	
7.500.35 2		**Fees**	**7.500.352 Fees**		
7.500.35 2.A		A. The county department informs persons applying to adopt what fees may be involved in adopting through the county. Fees are based on the ability to pay for the adoptive services rendered by the county department which provides the home assessment services. Although the fee may be waived, a fee charged to a family cannot exceed $800 for the initial home study and $500 for an update. Fees for the yearly reevaluation shall not exceed $200 unless special circumstances exist and approval is granted by the county director or his/her designee	A. The county department OF HUMAN/SOCIAL SERVICES informs ~~persons~~ INDIVIDUALS applying to adopt ~~what~~ THE fees THAT may be involved in adopting through the county. Fees are based on the ability to pay for the adoptive services rendered by the county department which provides the SAFE™ ~~home~~ assessment ~~services~~. ~~Although~~ ~~the f~~FeeS may be waived.~~,~~ ~~a~~ A fee MAY BE charged to a family AT THE DISCRETION OF THE COUNTY DEPARTMENT ~~cannot exceed $800 for the initial home study and $500 for an update~~. ~~Fees for the yearly reevaluation shall not exceed $200 unless special circumstances exist and approval is granted by the county director or his/her designee~~.	Technical changes	
7.500.35 2.B		B. The fee is established on ability to pay or cost of service, whichever is less.	B. A NON-DISCRIMINATORY FEE STRUCTURE SHALL BE ESTABLISHED. The fee is established on ability to pay or cost of service, whichever is less.	Language added to require a policy	
7.500.35 2.C		C. Fees will be charged to adoptive families coming into Colorado or who receive a child from another state, in accordance with the adoption services provided. If the child being placed is in the custody of a public agency and receiving services through the Interstate Compact on the Placement of Children the family shall not be charged a fee.	C. Fees will be charged to OUT-OF-STATE PROSPECTIVE adoptive ~~families~~ PARENTS ~~coming~~ SEEKING TO ADOPT A CHILD/YOUTH FROM ~~into~~ Colorado or PROSPECTIVE COLORADO PARENTS SEEKING TO ADOPT ~~who receive~~ a child/YOUTH from another state, in accordance with the adoption services provided. If the child/YOUTH being placed is in the custody of a public agency and receiving services through the Interstate Compact on the Placement of Children **(ICPC**) the ~~family~~ PROSPECTIVE ADOPTIVE PARENTS shall not be charged a fee.	Technical changes	
7.500.35 2.D		D. No fee is charged to persons or families whose income is below the poverty level, as established by the United States Department of Agriculture, or who are recipients of Supplemental	D. No fee is charged to ~~persons~~ INDIVIDUALS or families whose income is below the poverty level, as established by the United States Department of Agriculture (**USDA**), or who are recipients of Supplemental Security Income (**SSI**), Colorado ~~Works~~	Technical changes	

		Security Income, Colorado Works, or state- and county-funded assistance payments.	PUBLIC ASSISTANCE PROGRAMS, or state~~/- and~~ county~~-~~funded assistance payments.		
7.500.352.E		E. Fees may be waived in whole or in part by the county department which provides the home assessment services when such fees pose a barrier to the adoption of special needs children for whom a county department is financially responsible. If an adoptive family, for whom the fee has been waived, decides not to adopt a child with special needs, then they are to pay the appropriate fee. If the fee is waived, the waiver should be documented in the county record.	E. Fees may be waived in whole or in part by the county department which provides the ~~home assessment~~ SAFE™ ASSESSMENT AND OTHER RELATED ADOPTION services when such fees pose a barrier to the adoption of ~~special needs~~ children/YOUTH for whom a county department is financially responsible. If a~~n~~ PROSPECTIVE adoptive ~~family~~ PARENT, for whom the fee has been waived, decides not to adopt a child/YOUTH ~~with special needs,~~ then ~~they~~ THE PROSPECTIVE ADOPTIVE PARENT ~~are to~~ MAY BE REQUIRED TO pay the appropriate fee. If the fee is waived, the waiver should be documented in the county record.	Technical changes	
7.500.352.F		F. When an assessment is court ordered, the adoptive parents shall be charged a fee for a home assessment, supervision or a report to the court in accordance with the above fees.	F. When an assessment is court ordered, the PROSPECTIVE adoptive parent~~s~~ ~~shall~~ MAY be charged a fee for a home assessment, supervision**,** or a report to the court in accordance with the above fees.	Technical changes	
7.500.353		**Case Records [Rev. eff. 8/1/06]**	**7.500.353 Case Records ~~[Rev. eff. 8/1/06]~~**	Technical change	
7.500.353.A		A. The Adoptive Family Record will contain all documentation required for approval for adoption, such as application, home assessment, and medicals.	A. The Adoptive Family Record will contain all documentation required for approval for adoption, INCLUDING BUT NOT LIMITED TO ~~such as~~ THE application, SAFE™ ~~home~~ ASSESSMENT, SAFE™ UPDATES, REQUIRED BACKGROUND CHECKS, ~~assessment~~, and medical~~s~~ INFORMATION.	Technical changes	
7.500.353.B		B. The county department maintains a record for each adoptive family approved for the placement of a child. Upon completion of the legal adoption of a child(ren), the family's record shall be closed and maintained in a secure location at the county in order to preserve confidentiality as required by statute.	B. The county department maintains a record for each adoptive family approved for the placement of a child/YOUTH. Upon completion of the legal adoption of a child(ren)/YOUTH, the ~~family's~~ record shall be closed and maintained in a secure location at the county DEPARTMENT in order to preserve confidentiality as required by statute **(§19-5-305, C.R.S.).**	Technical changes	
7.500.353.C		C. Any material contained in the family's record regarding a child placed with and adopted by the family shall be maintained at the county with the family's adoption record. After the decree of adoption has been issued, the county department shall	C. Any material contained in the ~~family's~~ record regarding a child/YOUTH placed with and adopted by the family shall be maintained at the county DEPARTMENT with the ~~family's~~ adoption record. After the decree of adoption has been issued, the county department shall not retain information in an open record	Technical changes	

		not retain information in an open record which will link the adoptive family with the child's original identity except information necessary to maintain the subsidized adoption record.	which will link the adoptive family with the child's/YOUTH'S original identity except information necessary to maintain the ~~subsidized~~ adoption ASSISTANCE record.		
7.500.353.D		D. Access to Adoption Assessments	D. Access to Adoption Assessments INFORMATION AND RECORDS		
7.500.353.D.1.a-d		1. Prior to filing petition to adopt: a. The records of prospective adoptive parents are confidential, as provided in Section 26-1-114(1), C.R.S., as amended. b. The county department shall not provide records of prospective adoptive parents to an individual or agency, other than another Colorado county department involved in the adoptive process, without the written permission of the prospective parents, including husband and wife, if both are involved in the adoption process. c. The county shall not release a copy of the home assessment to the prospective adoptive parents. Adoptive parents who wish to read their home assessment must make a written request to the county department signed by husband and wife, if both are involved in the adoptive process. The parts of the home assessment to be made available shall include any information provided by the prospective parents and the written social assessment made by the county department or licensed child placement agency. d. The following shall not be made available to the prospective adoptive parents: 1) Medical and health reports. 2) Reports of psychiatric and psychological evaluations.	1. 1. Prior to filing A petition to adopt: a. The records of prospective adoptive parents are confidential, as provided in ~~Section~~ §26-1-114(1), C.R.S., as amended. b. The county department shall not provide records of prospective adoptive parent(S) to an individual or agency, other than another Colorado county department involved in the adoptive process, without the written permission of ~~the~~ EACH prospective ADOPTIVE parent~~s~~, ~~including husband and wife,~~ if both are involved in the adoption process. c. The county department shall ~~not release~~ PROVIDE a copy of the SAFE™ ~~home~~ assessment to the prospective adoptive parent~~s~~ FOR THE PURPOSE OF REVIEWING THE ACCURACY OF THE ASSESSMENT. ~~Adoptive parents who wish to read their home assessment must make a written request to the county department signed by husband and wife, if both are involved in the adoptive process. The parts of the home assessment to be made available shall include any information provided by the prospective parents and the written social assessment made by the county department or licensed child placement agency.~~ ~~d. The following shall not be made available to the prospective adoptive parents:~~ ~~1) Medical and health reports.~~ ~~2) Reports of psychiatric and psychological evaluations.~~ ~~3) Scholastic records of the prospective adoptive couple or members of the family.~~ ~~4) Reports of contacts with references.~~	Technical changes and repeal language	

		3) Scholastic records of the prospective adoptive couple or members of the family. 4) Reports of contacts with references. 5) Any other pertinent third party information.	~~5) Any other pertinent third party information.~~		
7.500.353.D.2.a-b		2. After filing petition to adopt: a. The county department will provide court reports on adoptions outlined in Colorado statute. b. Records and papers in relinquishment and in adoption proceedings shall be confidential as outlined in Colorado statute.	2. After filing A petition to adopt: a. The county department OF HUMAN/SOCIAL SERVICES will provide court reports on adoptions TO THE ADOPTIVE PARENTS AS outlined in Colorado statute §19-5-209 (2), C.R.S.) b. Records ~~and papers~~ AND INFORMATION LEARNED DURING ~~in~~ relinquishment and/OR TERMINATION OF PARENTAL RIGHTS in adoption proceedings shall be confidential as outlined in Colorado statute ~~Section~~§ 26-1-114(1), C.R.S.	Technical changes	
7.500.354		**Correspondence with Out of State Agencies [Rev. eff./8/1/06]** All correspondence with out of state child placement agencies regarding adoption shall be forwarded to the selected agency for routing to an out of state child placement agency.	**Correspondence with Out of State Agencies ~~[Rev. eff. 8/1/06]~~** All correspondence with AN out-of-state child placement agencies regarding adoption shall be forwarded to the selected COLORADO CHILD PLACEMENT agency for routing to ~~an~~ THE out-of-state child placement agency.		
7.500.355		**Purchase of Adoption Services from Agency Providers [Rev. eff. 8/1/06]** On behalf of a child, the county department may elect to purchase from agency providers any one or all of the following: pre-placement services, recruitment services, home assessment/evaluation services, placement services, post-placement services, post-finalization services.	**Purchase of Adoption Services from LICENSED CHILD PLACEMENT Agency Providers ~~[Rev. eff. 8/1/06]~~** ~~On behalf of a child,~~ T~~t~~he county department OF HUMAN/SOCIAL SERVICES may elect to purchase ~~from agency providers~~ any ~~one or all~~ of the following FROM LICENSED CHILD PLACEMENT AGENCY PROVIDERS: pre-placement services, ~~recruitment services, home assessment/evaluation~~ SAFE™ ASSESSMENT services, placement services, post-placement services, AND post-finalization/PERMANENCY services. THE COUNTY DEPARTMENT MUST HAVE A WRITTEN AND SIGNED CONTRACT WITH THE LICENSED CHILD PLACEMENT AGENCY THAT DETAILS THE SERVICES TO BE PROVIDED, THE FEES TO BE PAID FOR THE SERVICES, AND THE APPROPRIATE TIME FRAMES FOR THE SERVICES TO BE CONCLUDED.	Technical changes and new language to clarify the allowable providers and requirements in a contract	

7.500.355.A.1-4		A. Eligible Cases 1. Children for whom adoption services may be purchased by a county department shall be children freed for adoption, for whom an adoptive home is not available and who are listed with the Colorado Adoption Resource Registry (CARR). 2. All children in need of adoptive placement must be listed with the CARR or a request for exclusion must be submitted to the CARR. 3. The county department wishes to purchase a pre-placement assessment from an agency provider, in a case of a child whose functioning, in the judgment of the county department, is particularly difficult to assess and/or services to legally free the child, prior to the child's information being submitted to the CARR. 4. Services for special needs children not yet freed for adoption may be purchased by a county department when in the judgment of that department it is anticipated and likely that the child will become freed for adoption. Adoption services purchased for these children shall be limited to pre-placement, recruitment, and home assessment services.	A. Eligible Cases 1. Children/YOUTH for whom adoption services may be purchased by a county department shall be children/YOUTH WHO ARE freed AND AVAILABLE for adoption, for whom an adoptive home is not available, and who are listed with the Colorado Adoption Resource Registry (CARR). 2. All children/YOUTH in need of adoptive placement must be listed with the CARR or a request for exclusion must be submitted to the CARR **(See Section 7.306.13 IN 12 CCR 2509-04).** 3. The county department wishes to purchase a pre-placement assessment from an agency provider~~,~~ in a case of a child/YOUTH whose functioning, in the judgment of the county department, is particularly difficult to assess and/or services to legally free the child/YOUTH, prior to the child's/YOUTH'S information being submitted to the CARR. 4. Services for ~~special needs~~ children/YOUTH WITH SPECIAL NEEDS WHO ARE not yet freed for adoption may be purchased by a county department when in the judgment of that department it is anticipated and likely that the child/YOUTH will become freed for adoption. Adoption services purchased for these children/YOUTH shall be limited to pre-placement, recruitment, and home assessment services.	Technical changes	
7.500.355.B.1-2		B. Case Referral 1. Eligible cases shall be referred to the agency provider for purchase of part or all of the adoption process. 2. In its agreement, the county department shall require that the agency provider shall write a case plan for providing adoptive services to the referred child reflecting the joint planning. This plan shall include objectives, specific desired outcomes, and target dates.	No Change	No change	

		Regular progress reports shall be submitted to the county department by the agency provider, and shall address all of the requirements of the case plan.			
7.500.355.C		C. Service Hour Rate Payment for purchased adoption services shall be on an actual cost basis, up to a specified maximum for each adoption component. The rate shall be based on the base service hour cost of the agency provider, which is the allowable program costs divided by case service hours in the program (i.e., hours spent by professional staff in performing adoption services on a case).	No Change	No Change	
7.500.353.D.1-2		D. Provider Billing and Fees 1. Billing for adoption services provided shall be case-specific and component-specific. That is, the county department shall accept bills from the agency provider only on those cases on which it has entered into an agreement with the county department and only for the component(s) of the adoption process which the county department has agreed to purchase. 2. In its agreement with the agency provider for a given client, the county department shall require that payment by the department shall be the sole payment the provider shall receive from any source for the services provided to the department's client under the contract. This provision shall not affect the assessment of client fees by the agency provider for other clients and for other services not included in the agreement with the department.	No ChangeG	No Change	
7.500.355.E.1-3		E. Payment to Provider 1. Payment shall be made to the agency provider for those components provided and billed.	No Change	No Change	

		2. Payment to the provider shall be for satisfactory completion of the duties required by the agreement. 3. In the case of disrupted placements, the agency provider shall be paid for actual time spent on the case, not to exceed the maximum allowed for the component(s) utilized to that point in the placement. This payment shall be at the rate of the approved service hour cost as reflected in the component computation.			
7.500.355.F		Reimbursement to County Department F. The State Department of Human Services shall reimburse the county department for purchase of adoption service expenditures under approved agreements.	Reimbursement to THE County Department OF HUMAN/SOCIAL SERVICES F. The ~~State~~ COLORADO Department of Human Services shall reimburse the county department for purchase of adoption service expenditures under approved agreements AS OUTLINED IN SECTION 7.406.1.NN (12 CCR 2509-5).	Technical changes	

7.500.355.G.1-5		G. Provider Agreement and Requirements 1. The county department and the agency provider shall enter into a provider agreement for adoption services to be purchased. 2. The county department shall monitor the provision of services under the purchase of adoption services agreement. 3. The agency provider shall be responsible to the county department for the quality of services provided under the agreement. For pre-placement, home assessment/evaluation, placement, and post-placement service components, the agency provider shall meet the standards for service quality as per the licensing regulations for adoption agencies. 4. County departments shall purchase adoption services only from agency providers who give assurance in their agreement that the purchased services shall be delivered only by staff who meet the following minimum qualifications: 5. For non-direct service components e.g. recruitment and legal services, providers shall have: a. Some background showing awareness of and sensitivity to adoption issues; and, b. At least one year of experience and/or a degree appropriate to the service being purchased and (for legal services) a license to practice in their specialty field.	No Change No Change No Change No Change G. 4. County departments shall purchase adoption services only from agency providers who give assurance in their agreement that the purchased services shall be delivered only by staff who meet the following minimum qualifications.~~:~~ No Change	Technical change	
7.500.356		**[Repealed eff. 11/01/2015]**	No change	No Change	

STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

Sheila Dalton, Adoption Administrator (DCW), Cheryl Estrick, Private Adoption Administrator (DCW), Tim Russell, Manager (Administrative Review Division [ARD]), James Martinez (ARD), Permanency Task Group, Michelle Lopez and Michele Craig (HCPF) participants in the Foster Care Quarterly meeting (June 18, 2021), stakeholders listed below in feedback section

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

Child placement agencies (foster care and adoption), Colorado Association of Family and Children's Agencies (CAFCA), Colorado Coalition of Adoptive Families (COCAF), Colorado Department of Human Services (CDHS) Administrative Review Division (ARD), Colorado Human Services Directors Association (CHSDA), Colorado State Foster Parent Association, Colorado Trails User Group (CTUG), County Adoption Supervisors, County Foster Care Caseworkers and Supervisors, Division of Child Welfare (DCW) Child Protection, Ongoing, Provider, Training and Development, and Youth Services Teams, Fostering Colorado, Foster Source, Office of the Child's Representative (OCR), Office of the Respondent Parent Counsel (ORPC), and the Permanency Task Group

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

[X] Yes [ ] No

If yes, who was contacted and what was their input?

Michele Craig, Complex and Supportive Service Manager, HCPF. Language was crafted to reflect existing HCPF rules related to capacity in a foster care home with children, youth, and adults receiving home and community-based (HCBS) waiver services.

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[ ] Yes [X] No

Name of Sub-PAC	Child Welfare - Introduction		
Date presented	November 4, 2021 and August 4, 2022		
What issues were raised?	Noted in stakeholder feedback (November 2021) - allow applicants a voice in location of home study interviews and require fingerprint checks within 30 days from arrival date for new adults staying of visiting the home for 30 consecutive days. August 4, Sub-PAC - additional information provided about the revised rules - 10/6/2023 - approval to take to PAC		
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

[ ] Yes [X] No

Date presented			
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

[X] Yes [ ] No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

06/18/2021 - Foster care quarterly meeting: Primarily attended by county department and child placement agency certification staff. There were 70+ participants: Agency representation was as follows:

- Adams County, Alamosa County, Boulder County, Broomfield County, Chaffee County, Collaborative Foster Care Program (Arapahoe, Douglas, Jefferson), Custer County, Denver County, El Paso County, Fremont County, Garfield County, Huerfano County, Kiowa County, Kit Carson County, La Plata County, Larimer County, Las Animas County, Lincoln County, Mesa County, Montezuma County, Pitkin County, Saguache County, Sedgwick County, Teller County, Washington County, Weld County, Yuma County, Southern Ute, and ARD
- Bethany Christian Services, Hope and Home, Hope's Promise, Kairos, Kids Crossing, Kin Connect, Lutheran Family Services-Rocky Mountain, Maplestar Colorado, Mount St. Vincent, Sample Supports, Savio, Specialized Alternatives for Families and Youth (SAFY), Special Kids Special Families, Strong Foundation

Only the foster care rules in Section 7.500 were discussed due to time constraints.
7.500.2 - Rule included county staff requirements for completing home studies. Feedback received: The requirement conflicts with the requirements elsewhere in rule. The language was removed.

7.500.2.1 - All home study interviews must be completed in the applicant's home. Feedback received: Concern on behalf of private adoption agencies that requiring all home study interviews to be completed in the applicant's home is problematic. For adoption applicants that are a long distance away, this will drive up the cost of the adoption. This will need to be revised in Section 7.710 too. The rule was revised to reduce the number of required interviews in the applicant's home to reduce hardship for all home study practitioners.

7.500.313.A.1 - Monthly supervision in the foster home. Feedback received: Requested revision to add clarity for monthly contact with each foster parent.

7.500.313.A.2 - Annual onsite supervisory visit - Feedback received: There was feedback that the rule needed further revision to prepare the foster parent for recertification. The rule was revised.

07/09/2021 - Permanency Task Group: Draft written rules were provided in advance and an overview of the proposed changes in the foster care section. There was limited time for a presentation.

7.500.313.A.1 - Annual onsite supervisory visit - Feedback received: Requiring an unannounced supervisory visit prior to recertification will impact counties that have to travel significant distances. If the foster parents aren't home, it won't count. Consider counting attempts and not require a certain number of attempts. Consider flexibility with kinship foster homes.

7/09/2021 - Stakeholder Group - More refreshers are needed, possibly self-guided training, virtual classroom, and web-based training.

7.500.33.A -Requirement that all SAFE practitioners are supervised. There were varying opinions regarding the supervision requirement. It was suggested the 3 year experience requirement be removed because everyone is supervised. Another participant said the rules should apply to all SAFE practitioners regardless of whether it is a county, child placement agency, or a contractor. There was a question from a contractor that if supervision was needed, it was unclear whether the contracting agency would provide supervision or if the person had to hire someone. Another person said it could be difficult supervising someone that is not familiar with the person's work, especially if they are long distances apart. It was raised that if there is a contract to provide a product, there was no legal ability for the payer of service to go back and make changes. There isn't a supervision loop inherent in the process. Providing supervision outside of the county is commensurate with being an employee. A stakeholder from a large county has been supervising home studies for several years. It is in the contract that the county provides supervision and they meet regularly. Another person from a large county said that once the home study is completed it is reviewed and if there are items needing clarification or changes, they meet to make sure the home study is in compliance.

8/13/2021 - Permanency Task Group: Major areas of interest were presented. No feedback was received.

9/10/2021 - Permanency Task Group: Major areas of interest were presented. No feedback was received.

9/17/2021 - Foster care quarterly meeting: Primarily attended by county department and CHILD PLACEMENT AGENCY certification staff. There were 80+ participants: Agency representation was as follows:

- Adams County, Alamosa County, Bent County, Boulder County, Broomfield County, Collaborative Foster Care Program (Arapahoe, Douglas, Jefferson), Denver County, El Paso County, Fremont County, Garfield County, Gunnison County, Kiowa County, Kit Carson County, La Plata County, Larimer County, Las Animas County, Lincoln County, Logan County, Mesa County, Otero County, Ouray County, Saguache County, Teller County, Washington County, Weld County, Yuma County, Southern Ute, and ARD

- A New World, Ariel Clinical Services, Bethany Christian Services, Courage Community, Family Resource Network, Hope and Home, Hope's Promise, Kairos, Kids Crossing, Kin Connect, Lutheran Family Services-Rocky Mountain, Maple Star Colorado, Mount St. Vincent, Nightlight Christian Adoptions, Sample Supports, Savio, Specialized Alternatives for Families and Youth (SAFY), Special Kids Special Families, Strong Foundation, Whimspire
- Foster Source and Project 1.27

7.500.2.A.1 - A SAFE (Structured Analysis Family Evaluation) refresher course is required every 3 years. There were questions asking if SAFE supervisors must take the course as well as a SAFE Supervisor refresher. The latter has not been an offering and a question was sent to the Consortium for Children whether it could be developed.

7.500.2.A.2 - Documentation required for the home study regarding the location, persons interviewed, and length of time for interviews. Feedback received: The rule does not delineate between the original assessment and update. This applies to the original home study format. The Update does not include the location of the interviews. The rule was revised to reflect this.

7.500.2.A.6.a - This rule requires the SAFE Compatibility Inventory is completed with the initial home study. There were questions about the timing, is it completed only initially, annually, or whether kinship foster parents should be exempted. The most agreement was for the Inventory to be completed initially, including for kinship foster homes. It should be optional annually, though foster parents may change their preferences over time.

7.500.2.A.11.v - This rule requires new individuals visiting or residing in the home for 14 consecutive days or longer, to complete CBI and FBI fingerprints within 5 calendar days of the county learning about it or being notified. The county is required to complete checks on the CCWIS (child abuse/neglect), CBI and national sex offender registry checks, and Colorado judicial database within 24 hours. If the person is in the home for 30 days, they are required to get a health assessment. Feedback was also sought nationally.

Feedback received: Revise the rule to require fingerprints and health evaluations at 30 days. There were 15 comments in the chat suggesting this in addition to verbal feedback during the discussion of the rule. The majority of comments were in agreement with the database checks being done quickly.

7.500.313A.1: Supervision and monitoring of foster homes: The revised rule shouldn't require both providers (in a 2 parent foster home) to be there. Suggest doing a write-up if not there and then follow-up.

7.500.313.A.1 - Monthly supervision in the foster care home. The rule was revised to clarify the purpose of the meeting and expectations. It addresses monthly support visits in one and two foster parent homes. Feedback received: Joint visits needed further revision related to two parent foster care homes when one parent may not be in the home routinely, such as deployed military and over-the-road truck drivers. It was suggested to allow alternative contacts and exceptions. The changes were made and feedback on the changes was requested on 9/27/2021.

10/8/2021 - Permanency Task Group

7.500.2.A.11.b.5 - Requirements for new adults visiting or residing in the home for 14 consecutive days

Suggestions included having the fingerprint scans scheduled within fifteen (15) days of the adult coming into the home. A member from a small county said her county has had problems having people go to a fingerprinting vendor due to the distance between the office location and the home where the person resides or is visiting. Another member said that some people visiting the house may only be in the house for 21 days and how to address those kinds of scenarios since those individuals may have left before the 30-day period.

It was proposed to change the word "checks" in 7.500.2.A.11.b.v.4.c. to "scans" since the fingerprint scan, not the report, would need to be completed within the time frame prescribed by the proposed rule. The change was made. A member supported a 30-day time frame since the person who is staying at the home may not be a household resident and is solely a visitor, like a grandparent. A member said that other checks can be completed for these short-term visitors instead of also having the fingerprint check be a requirement. Concern was expressed that there would not be out-of-state background information without the fingerprint checks. It was proposed to have the fingerprint scans submitted by the 21st day as a compromise.

Comments from other states:

- Louisiana: IN LA: If an adult moves in the home, the agency has 12 days to complete all of the checks. If an adult is visiting then no checks have to be done, however if a visitor stays longer than 30 days we consider that person living there and the checks have to be completed.
- Iowa: We do not have any specific language requiring anything of a "visitor". All language in our rules pertain to "household members".
- Nevada: If a family member is staying for a few weeks, that is fine; we just ask that the foster family let us know ahead of time (i.e. adult kids visiting for the holidays, etc.).

If it's going to be a *temporary* or longer stay than a few weeks, we need to know for how long so that we can document it – then we can do a local law enforcement check and a local CANs. We cannot fingerprint them though unless they actually ***live*** in the home. If the visitor will be staying indefinitely, then they have to complete the Live-in Adult Packet, Fingerprints, etc. It is also made very clear to foster families that these visitors cannot be put in charge of foster children unless/until they've been cleared by the agency.

- Ohio has the following rules: *OAC 5101:2-7-14 (A) A foster caregiver shall notify the recommending agency in writing prior to allowing any person to reside for more than two weeks in the foster home.*

This is simply a notification to the agency for further inquiry. If this individual is determined to be a new household member, then Ohio requires all checks. If the individual is only temporarily in the home, such as a grandparent visiting for a month during the summer, Ohio doesn't necessarily require the checks, however, an agency can have a policy requiring it.

10/8/2021 - 7.500.33 - SAFE Assessment Practitioner Qualifications -The proposed rule was specifically sent to home study contractors. Of four responses, three were in agreement and one contractor said it would be cost and time prohibitive and because agencies signed off, that it seemed redundant to have another supervisor sign off too.

11/4/2021 - Child Welfare Sub-PAC recommended:
7.500.2.A.2 - Applicants have a voice in the location of interviews

7.500.2.A.11.b.v - When a new adult is visiting or living in the foster care home, the fingerprint based criminal history record check scan is required by the 30th day from the date of arrival.

11/5/2021 - Permanency Task Group
Agreement with Sub-PAC recommendations
Additional information - Changes were required in 7.500.317 to align with proposed rules regarding institutional assessments. Internal staff, including a manager, child protective service staff, and permanency staff revised the rule.

3/11/2022 - Permanency Task Group
Discussion about changes in Section 7.500.317 regarding abuse/neglect allegations, assessments, and follow-up were discussed. Suggested revisions to roles, reporting, moderate to severe abuse/neglect were adopted. The SAFE™ Compatibility Inventory was briefly discussed.

3/18/2022 - Foster Care Quarterly - Information was provided by the Institutional Abuse Review Team about revisions in institutional assessments. Revisions in Section 7.500.317 were discussed. The SAFE™ Compatibility Inventory was discussed with a recommendation that it is completed with the initial SAFE™ home study and on alternate years thereafter.

Stakeholder feedback sessions offered on May 23,May 25, and May 26, 2022 regarding the institutional allegations rule revision. It was a blog post on CO4kids. Four county staff attended and no foster parents.

4/8/2022 - Permanency Task Group - Approval of Section 7.500.317, recommendation that the SAFE™ Compatibility Inventory be administered a minimum at the initial SAFE™ home study and alternate years thereafter. A revision in the diligent recruitment rule was briefly discussed. Suggestions were made to have prescriptive language about content. The rule was revised to add language that requires the content and format to be prescribed by DCW to limit necessary rule changes in the future

IM-OCYF-2022-0003 provided notification of SAFE™ Compatibility Inventory training on June 28 &30, 2022 and July 12 & 14, 2022. There were 259 in attendance over the four sessions.

(12 CCR 2509-6)

DEPARTMENT OF HUMAN SERVICES Social Services Rules RESOURCE DEVELOPMENT

[Note: Changes to rule text are identified as follows: deletions are shown as “strikethrough”,additions are in “All Caps”, and changes made between initial review and final adoption are in[brackets] or highlighted yellow]

7.500.1 MISSION STATEMENT

To develop and coordinate the external resources necessary to fulfill the objectives of the COUNTY HUMAN/social services programs.

7.500.11 Target Groups ~~[Rev. eff. 4/1/12]~~

Target groups served by this program area are the individuals who will be serving the department's clients in such roles as foster or kinship foster parents for children/YOUTH or adults or CHILD~~day~~ care providers or adoptive parents.

7.500.2 ASSESSMENT OF FOSTER CARE HOMES AND ADOPTIVE HOMES

A. The family assessment must be completeD using the Structured Analysis Family Evaluation (SAFE™) OR OTHER STATE APPROVED homes study ~~format~~. The SAFE™ ~~home study tool~~ assessment must be completed by using all tools and processes required by the SAFE™ ~~format~~ PROTOCOL INCLUDING THE SAFE™ USER’S DESK GUIDE. Persons completing the home studies must be qualified~~, as a minimum, as a placement caseworker, with a Bachelor’s degree in the social or behavioral sciences,~~ and must complete the ~~Department~~ required SAFE™ TWO (2) DAY training prior to ~~performing~~ COMPLETING the ~~home studies~~ ASSESSMENT. THE SAFE™ASSESSMENT MUST BE COMPLETED PRIOR TO CERTIFICATION OF A FOSTER PARENT OR A ADOPTIVE PARENT.

A SAFE™ REFRESHER TRAINING IS REQUIRED EVERY THREE (3) YEARS FROM THE DATE OF THE INITIAL SAFE™ TRAINING RECEIVED OR PREVIOUS REFRESHER TRAINING. THIS INCLUDES HOME STUDY PRACTITIONERS AND THEIR SUPERVISORS.

1. ~~As part of~~ T~~t~~he ~~assessment the home study worker~~ SAFE™ PRACTITIONER must~~:~~ CONDUCT A MINIMUM OF ONE (1) JOINT INTERVIEW WITH A COUPLE OR ALL APPLICANTS, ONE (1) INDIVIDUAL INTERVIEW WITH EACH ADULT MEMBER OF THE HOUSEHOLD, AND AN AGE/DEVELOPMENTALLY APPROPRIATE INTERVIEW WITH ALL CHILDREN/YOUTH RESIDING IN THE HOME. A MINIMUM OF TWO (2) INTERVIEWS IS REQUIRED WITH A SINGLE APPLICANT.

~~a. Conduct a minimum of one (1) joint interview with a couple, one (1) individual interview with each adult member of the household and an [age]/developmentally appropriate interview with all children residing in the home. For single applicants, a minimum of two (2) interviews will be required~~.

~~b. Conduct at least one (1) interview in the applicant’s home.~~

~~c. Ensure the second interview, and any subsequent interviews, of the adults shall not be performed until at least three (3) calendar days after the previous interview.~~

~~2. Relationship with the County Department~~

~~Discuss the applicant’s ability to work with the child welfare system, court, birth parents, and others in the child’s life, including willingness to obtain help from professionals involved.~~

2. INTERVIEW REQUIREMENTS

THE ORIGINAL SAFE™ ASSESSMENT MUST INCLUDE THE DATE, PERSON

INTERVIEWED, LENGTH OF INTERVIEW (HOURS AND MINUTES), LOCATION OF EACH INTERVIEW, AND MUST BE DOCUMENTED IN THE SAFE™ ASSESSMENT. IF THE CERTIFYING AGENCY PROPOSES HAVING INTERVIEWS CONDUCTED OUTSIDE OF THE RESIDENCE, AN APPLICANT MUST BE CONSULTED AND BE IN AGREEMENT. THE CONVERSATION MUST BE DOCUMENTED IN THE SAFE™ ASSESSMENT.

a. A MINIMUM OF TWO INTERVIEWS MUST BE COMPLETED IN THE APPLICANT'S HOME ON SEPARATE DAYS. QUESTIONNAIRE II MUST BE COMPLETED IN THE HOME.

b. ENSURE THE SECOND INTERVIEW, AND ANY SUBSEQUENT INTERVIEWS, OF THE ADULTS IS NOT COMPLETED UNTIL AT LEAST THREE (3) CALENDAR DAYS AFTER THE PREVIOUS INTERVIEW.

~~3. Post-Adoptive Services~~

~~The applicant's ability and willingness to assist with possible post-adoptive issues of the child, including, but not limited to:~~

~~a. Questions about the birth family.~~

~~b. Locating and obtaining non-identifying information about the birth family.~~

~~c. Search and possible reunification of the adopted child with the birth family~~.

~~d. Willingness to assist adopted child with counseling, if needed, related to adoption issues.~~

3. THE PRACTITIONER MUST DOCUMENT THE RELATIONSHIP WITH THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES, INCLUDING A DISCUSSION ABOUT THE APPLICANT'S ABILITY AND WILLINGNESS TO WORK WITH THE CHILD WELFARE SYSTEM, COURT, GUARDIAN AT LITEM (GAL), LEGAL PARENT/LEGAL CUSTODIAN, AND OTHERS IN THE CHILD'S/YOUTH'S LIFE.

~~4. Kinship Foster Care~~

~~The applicant's ability to provide a permanent home through adoption, guardianship or permanent custody. The ability to meet the individualized needs of the specified child(ren), and assessment of the relationship with birth parents and extended family members as they impact capacity of the applicants to care for the child(ren). The ability to set boundaries with birth parents to maintain safety for the child(ren) in care.~~

~~When completing the assessment, Section 7.708, "Rules Regulating Foster Care Homes" shall also apply.~~

4. THE SIGNATURE PAGE OF THE SAFE™ ASSESSMENT MUST BE SIGNED AND DATED BY THE PERSON COMPLETING THE ASSESSMENT AND SUPERVISOR/DESIGNEE. THE APPLICANT MUST SIGN THE SAFE™ ASSESSMENT/UPDATE SECTION INDICATING THE INDIVIDUAL READ AND REVIEWED THE FINAL DRAFT OF THE ASSESSMENT. ALL SIGNATURES MUST BE DATED PRIOR TO OR ON THE ISSUANCE OF THE FOSTER CARE HOME CERTIFICATE.

5. ~~State Automated Case Management System,~~ COMPREHENSIVE CHILD WELFARE INFORMATION SYSTEM (CCWIS), Colorado Bureau of Investigation (CBI), Federal Bureau of Investigation (FBI), and the Colorado ~~State Courts Data Access~~ COURT CASE MANAGEMENT SYSTEM AT THE STATE JUDICIAL DEPARTMENT

a. Prior to full certification of a foster CARE home, there shall be a review and documentation in the provider record of:

~~i.~~1) Complete a background check for each adult living In the home for the following:

~~1.~~a) Child abuse/neglect records check in every state where the adult has resided in the five (5) years immediately preceding the date of application for each adult (18 years and older) living in the home.

~~2.~~b) A fingerprint-based criminal history record information check of CBI and FBI records~~; and,~~:

i. A NEW FBI FINGERPRINT-BASED CRIMINAL HISTORY INFORMATION RECORD MUST BE COMPLETED EVERY FIVE (5) YEARS FROM THE ORIGINAL FINGERPRINT DATE AS REQUIRED IN SECTION 7.701.33.D.5.

~~3.~~c) A comparison search on the court case management system at the State Judicial Department, using the name and date of birth with available criminal history information for each adult eighteen (18) years and older living in the home. This search must be completed regardless of whether the CBI and FBI fingerprint history confirms or does not confirm a criminal history. THESE CHECKS ARE VALID FOR ONE YEAR PRIOR TO CERTIFICATION.

~~4.~~d) The CBI sex offender registry and national sex offender public website **(NSOPW)** operated by the United States Department of Justice by:

~~a.~~i. Known names, NICKNAMES, ALSO KNOWN AS (AKA), and addresses of each adult residing in the FOSTER CARE home~~; and,~~. CHECKS MUST BE COMPLETED PRIOR TO EACH RECERTIFICATION.

~~b.~~ii. Address only of the FOSTER CARE home, INCLUDING A COPY OF THE MAP FROM THE RESPECTIVE DATABASE TO CONFIRM THAT THE ADDRESS OF THE FOSTER CARE HOME HAS BEEN CHECKED.

iii. SEX OFFENDER CHECKS MUST BE COMPLETED PRIOR TO EACH RECERTIFICATION.

~~ii~~2) COMPLETE SAFE™ REFERENCE LETTERS WITH SIGNATURES; ~~Written statements from references;~~

~~iii.~~3) Health information INCLUDING A HEALTH ASSESSMENT COMPLETED BY A PHYSICIAN, DOCTOR OF OSTEOPATHIC MEDICINE, PHYSICIAN ASSISTANT, OR A NURSE PRACTITIONER;

~~iv.~~4) The review of existing agency case records, including the CCWIS, ~~automated system~~, for prior foster CARE home certifications or denials; and,

~~v.~~5) ~~Investigations~~ ASSESSMENTS of any concerns raised from the application and/or ~~aforementioned~~ OTHER sources of information.

~~vi.~~6) The results of the face-to-face interviews ~~on~~ WITH all members of the household.

b. THE COLORADO DEPARTMENT OF HUMAN SERVICES ORIGINAL APPLICATION TO CARE FOR CHILDREN AND YOUTH EXPIRES ONE YEAR FROM THE DATE OF APPLICANT(S) SIGNATURE(S) IF THE FOSTER CARE HOME IS NOT CERTIFIED.

~~b~~c. FBI fingerprint-based criminal history record information checks shall be initiated for all prospective foster and adoptive parents and each adult eighteen (18) years and older living in the FOSTER CARE home. The FBI reports shall be made available to the county department of human/ ~~or~~ social services submitting the request for information.

1) FOLLOWING REVIEW OF FBI INFORMATION, THE FINDINGS MAY ONLY BE IDENTIFIED AS ELIGIBLE, NOT ELIGIBLE, MEETS CRITERIA, DOES NOT MEET CRITERIA, OR INCONCLUSIVE.

~~c~~d. All CBI and FBI fingerprint-based criminal HISTORY record information reports, including court dispositions, if applicable, and results from the five-year child abuse and/or neglect checks shall remain confidential in the county department records~~, except as provided in Section 7.500,2.C,3~~.

~~d~~e. A county department ~~of human or social services~~ shall not place a child and/or youth in the FOSTER CARE home if the foster parent or any adult eighteen (18) years of age or older who resides in the home:

1) l~~i~~s a registered sex offender, or,

2) H~~h~~as a finding of child abuse and/or neglect in the ~~state automated case management system~~ CCWIS or another state's child abuse and neglect registry, unless it is determined following a review of the finding that the placement is safe.

~~6. Other Requirements~~

~~a. Assessment of the ability of the applicant(s) to foster or adopt a child and to preserve continuity of the child's identity in a positive manner. Factors should include, but are not limited to, consideration of the child's family, community, neighborhood, faith or religious beliefs, school activities, friends, and child's and family's primary language. Documentation of the assessment of this requirement shall be in the case file.~~

~~b. The application for adoption or foster care shall be denied for reasons listed in Section 7.500.312,D, and may be denied for reasons listed in Section 7.500.312,E. If the applicant has ever been rejected as a prospective adoptive or foster parent or has been the subject of an unfavorable finding, the home study safe assessment must address the reasons for the unfavorable finding and any resolution of disagreements concerning the finding.~~

~~c. For the purposes of conducting an adoptive home study, the county department, qualified individual, and child placement agencies shall be required to report to the court the results of a fingerprint-based criminal history records check when it reveals that the prospective adoptive parent was convicted of a felony or misdemeanor of:~~

~~i. Child abuse or neglect;~~

~~ii. Any crime against a child, including child pornography;~~

iii. Any crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as specified in Section 18-6- 800.3, C.R.S.;

iv. Violation of a protective order, as described in Section 18-6-803.5, C.R.S.;

v. Any crime involving violence, rape, sexual assault, or homicide;

vi. Any felony drug-related conviction within, at a minimum, the past five (5) years.

No person convicted of a felony offense shall be allowed to adopt a child, except a person may be allowed to adopt a child if:

1. The applicant has had no further arrests or convictions subsequent to the original conviction;

2. The applicant has not been convicted of a pattern of misdemeanors, as defined by rule of the State Board of Human Services at Section 7.500.312,D,4,a-c; and,

3. The court enters a finding consistent with Section 19-5-210(2)(d), C.R.S., that the adoption is in the best interest of the child.

d. As part of the assessment, the agency must:

i. Conduct a minimum of one joint face-to-face interview with a couple, one individual face-to-face interview with each adult member of the household, and, if applicable, one individual face-to-face interview with any person considering a second parent adoption of the child(ren), and an age/developmental appropriate face-to-face interview with all children residing in the home. For single applicants, a minimum of two interviews will be required.

ii. Conduct at least one face-to-face interview in the applicant's home.

iii. Perform an on-site inspection for foster homes to determine compliance with the Rules and Regulations for Foster Homes, Section 7.708. Approval of local zoning, health, or fire departments must be documented in the foster home file when the situation warrants.

iv. Spread out interviews over a period of not less than seven (7) consecutive days.

v. Complete an annual SAFE update. This shall include at least one home visit and a review of the current medical status. Applicants shall be questioned regarding any child abuse/ investigations during the previous year.

e. The application and medical records will be reviewed; any issues that are identified will be discussed with the applicants. No physical examination shall be required of any person who in good faith relies upon spiritual means or prayer in the free exercise of religion to prevent or cure a disease unless there is a reason to believe such person's physical condition is such that he/she would be unable to care for a child, or such person has a communicable illness.

f. The county department shall not perform a foster- home or adoptive home assessment on a member of its own staff. The worker should check with the supervisor for county policies and procedures regarding completing assessments on county staff.

~~g. Water, if from any source other than a regular municipal water supply, shall be tested for compliance with water quality requirements.~~

~~h. A current photograph of the family shall be requested and maintained in the file.~~

~~i. For the purposes of conducting an adoptive home study, the home study is to be completed ninety (90) working days from receiving the completed background checks.~~

~~j. The county department shall not deny to any person the opportunity to become an adoptive or foster parent on the basis of race, color, or national origin of the person, or of the child involved.~~

6. KINSHIP FOSTER CARE

a. ASSESSMENT INCLUDES THE APPLICANT'S ABILITY TO PROVIDE A PERMANENT HOME THROUGH ADOPTION, GUARDIANSHIP, OR PERMANENT CUSTODY. ALSO INCLUDED ARE THE ABILITY TO MEET THE INDIVIDUALIZED NEEDS OF THE SPECIFIED CHILD(REN)/YOUTH, THE RELATIONSHIP WITH BIRTH PARENTS/LEGAL CUSTODIANS AND EXTENDED FAMILY MEMBERS AS IT IMPACTS THE APPLICANT'S ABILITY TO CARE FOR THE CHILD(REN)/YOUTH, AND THEIR ABILITY TO SET BOUNDARIES WITH THE BIRTH PARENTS/LEGAL CUSTODIAN TO MAINTAIN SAFETY FOR THE CHILD(REN)/YOUTH.

b. APPLICANTS ARE NOT PREVENTED FROM FOSTERING IF THEY ARE NOT ABLE TO PROVIDE A PERMANENT HOME. WHEN COMPLETING THE ASSESSMENT, SECTION 7.708, "RULES REGULATING FOSTER CARE HOMES" SHALL ALSO APPLY.

~~7. Additional Requirements~~

~~List characteristics of child(ren) THAT the home is approved for: age, sex, race, legal risk, and special needs (such as medical, physical, emotional). Following the completion of the assessment, a narrative report that summarizes and evaluates the information obtained must be completed. It shall be attached to the SAFE questionnaires 1 and 2.~~

7. WHEN THERE IS A SIGNIFICANT CHANGE IN THE COMPOSITION OF THE HOUSEHOLD, AN UPDATE MUST BE COMPLETED ON THE UPDATE TEMPLATE OR WRITTEN IN A WORD DOCUMENT. THE UPDATE MUST BE COMPLETED WITHIN 45 CALENDAR DAYS FROM THE DATE THE COUNTY DEPARTMENT BECOMES AWARE OF THE CHANGE. EXPECTATIONS FOR TIME FRAMES FOR COMPLETING BACKGROUND CHECKS IS LOCATED IN 7.500.2 A.11.b.5).

WHEN THE CHANGE OCCURS 45 CALENDAR DAYS OR LESS FROM THE EXPIRATION DATE OF THE CERTIFICATE, THE CHANGE MAY BE ADDRESSED IN THE SAFE™ UPDATE. THE ADDENDUM NEEDS TO BE SIGNED BY ALL PARTIES. THESE CHANGES MAY INCLUDE BUT ARE NOT LIMITED TO:

a. NEW INDIVIDUALS THAT ARE 18 YEARS OF AGE OR OLDER, LIVING IN THE FOSTER CARE HOME (INCLUDING RESULTS OF THE BACKGROUND CHECKS);

b. WHEN A HOUSEHOLD MEMBER MOVES OUT OF THE FOSTER CARE HOME;

c. THE AGE, GENDER, GENDER IDENTITY, AND/OR SPECIAL CHARACTERISTICS OF THE CHILD(REN)/YOUTH WHICH WILL BE CONSIDERED FOR THE FOSTER CARE HOME. A RE-EVALUATION OF THE FOSTER CARE HOME WILL BE COMPLETED AND THE ASSESSMENT REVISED;

d. NEW LOCATION OF THE FOSTER CARE HOME;

e. MARITAL/DOMESTIC RELATIONSHIP; OR,

f. HEALTH ISSUES, INCAPACITATION, OR DEATH OF A FOSTER PARENT OR HOUSEHOLD MEMBER.

~~8. Assessment Update~~

~~a. If there are changes in the age, sex, and special characteristics of the child(ren) which will be considered for the family, a re-evaluation of the family will be completed and the assessment revised.~~

~~b. For any individual eighteen (18) years of age or older entering the home with the intent of residing in the home or providing caretaker services in the home, there shall be a review and documentation in the provider record of the following:~~

~~i. Child abuse or neglect records check in every state where the adult has resided in the previous five (5) years.~~

~~ii. A fingerprint-based criminal history check completed for the CBI and FBI, and,~~

~~iii. A comparison search in the Colorado State Courts Data Access, using the name and date of birth with available criminal history information for each adult eighteen (18) years and older entering the home. The purpose is to determine any crime(s) for which the adult residing in the home was arrested or convicted and the disposition. This search must be completed regardless of whether the CBI and FBI fingerprint history confirms or does not confirm a criminal history.~~

8. SAFE™ REQUIREMENTS WHEN CERTIFICATION STATUS CHANGES.

a. A FULL SAFE™ ASSESSMENT IS REQUIRED WHEN A FOSTER CARE HOME WAS CLOSED LONGER THAN 365 DAYS. THIS INCLUDES ADMINISTRATION OF QUESTIONNAIRES I AND II, PSYCHOSOCIAL INVENTORY, AND PERSONAL REFERENCES.

b. WHEN THE FOSTER CARE HOME WAS CLOSED LESS THAN 365 DAYS, A COMPREHENSIVE UPDATE, INCLUDING ADMINISTRATION OF THE SAFE™ UPDATE QUESTIONNAIRE IS REQUIRED TO IDENTIFY NEW RELEVANT INFORMATION. ALL RELEVANT DOMAINS AND/OR ANY GAPS IN CONTENT FROM THE ORIGINAL HOME STUDY AND SUBSEQUENT UPDATES, AS WELL AS THE COMPLETION OF NEW UPDATE QUESTIONNAIRES, MUST BE INCLUDED.

1) WHEN ALL HISTORIC SAFE™ DOCUMENTS, INCLUDING ORIGINAL SAFE™, QUESTIONNAIRES I AND II, UPDATE QUESTIONNAIRES, SAFE™ UPDATES, REFERENCES, AND PSYCHOSOCIAL INVENTORIES, ARE NOT AVAILABLE, A NEW SAFE™ ASSESSMENT MUST BE COMPLETED.

~~9. At any time after the placement of a child, the placing agency may review the written family assessment, home study, and background checks of the foster parents.~~

9. OTHER REQUIREMENTS

a. ASSESSMENT OF THE ABILITY OF THE APPLICANT(S) TO FOSTER AND/OR ADOPT A CHILD/YOUTH AND TO PRESERVE CONTINUITY OF THE CHILD'S/YOUTH'S IDENTITY IN A POSITIVE AND AFFIRMING MANNER. FACTORS SHOULD INCLUDE, BUT ARE NOT LIMITED TO, CONSIDERATION

OF THE CHILD'S/YOUTH'S SEXUAL ORIENTATION, GENDER IDENTITY, AND EXPRESSION, RACIAL AND ETHNIC IDENTITY, FAMILY, COMMUNITY, NEIGHBORHOOD, FAITH OR RELIGIOUS BELIEFS, SCHOOL ACTIVITIES, FRIENDS, AND THE CHILD'S/YOUTH'S AND FAMILY'S PRIMARY LANGUAGE. DOCUMENTATION OF THE ASSESSMENT OF THIS REQUIREMENT SHALL BE IN THE CASE FILE.

b. THE APPLICATION FOR FOSTER CARE OR ADOPTION SHALL BE DENIED FOR REASONS LISTED IN SECTION 7.500.312.D AND MAY BE DENIED FOR REASONS LISTED IN SECTION 7.500.312.E. IF THE APPLICANT HAS EVER BEEN DENIED AS A PROSPECTIVE FOSTER AND/OR ADOPTIVE PARENT, THE SAFE™ ASSESSMENT MUST ADDRESS THE REASON FOR THE DENIAL AND ANY RESOLUTION OF DISAGREEMENTS CONCERNING THE DECISION.

c. FOR THE PURPOSES OF CONDUCTING AN ADOPTIVE HOME STUDY, THE COUNTY DEPARTMENT, QUALIFIED INDIVIDUAL, AND CHILD PLACEMENT AGENCIES SHALL BE REQUIRED TO REPORT TO THE COURT THE RESULTS OF A FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK WHEN IT REVEALS THAT THE PROSPECTIVE ADOPTIVE PARENT WAS CONVICTED OF A FELONY OR MISDEMEANOR OF:

1) CHILD ABUSE OR NEGLECT;

2) ANY CRIME AGAINST A CHILD, INCLUDING CHILD PORNOGRAPHY;

3) ANY CRIME, THE UNDERLYING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY THE COURT ON THE RECORD TO INCLUDE AN ACT OF DOMESTIC VIOLENCE, AS SPECIFIED IN SECTION 18-6- 800.3, C.R.S.;

4) VIOLATION OF A PROTECTIVE ORDER, AS DESCRIBED IN SECTION 18-6-803.5, C.R.S.;

5) ANY CRIME INVOLVING VIOLENCE, RAPE, SEXUAL ASSAULT, OR HOMICIDE; OR,

6) ANY FELONY DRUG-RELATED CONVICTION WITHIN, AT A MINIMUM, THE PAST FIVE (5) YEARS.

NO PERSON CONVICTED OF A FELONY OFFENSE SHALL BE ALLOWED TO ADOPT A CHILD/YOUTH, EXCEPT A PERSON MAY BE ALLOWED TO ADOPT A CHILD/YOUTH IF:

a) THE APPLICANT HAS HAD NO FURTHER ARRESTS OR CONVICTIONS SUBSEQUENT TO THE ORIGINAL CONVICTION;

b) THE APPLICANT HAS NOT BEEN CONVICTED OF A PATTERN OF MISDEMEANORS, AS DEFINED BY RULE OF THE STATE BOARD OF HUMAN SERVICES AT SECTION 7.500.312.D.4.A-C; AND,

c) THE COURT ENTERS A FINDING CONSISTENT WITH SECTION 19-5-210(2)(D), C.R.S., THAT THE ADOPTION IS IN THE BEST INTEREST OF THE CHILD/YOUTH.

d. AS PART OF THE ASSESSMENT, THE AGENCY MUST:

1) COMPLETE A MINIMUM OF ONE JOINT FACE-TO-FACE INTERVIEW WITH A COUPLE, ONE INDIVIDUAL FACE-TO-FACE INTERVIEW WITH EACH ADULT MEMBER OF THE HOUSEHOLD, AND, IF APPLICABLE, ONE INDIVIDUAL FACE-TO-FACE INTERVIEW WITH ANY PERSON CONSIDERING A SECOND PARENT ADOPTION OF THE

CHILD(REN)/YOUTH, AND AN AGE/DEVELOPMENTALLY APPROPRIATE FACE-TO-FACE INTERVIEW WITH ALL CHILDREN/YOUTH RESIDING IN THE HOME. FOR SINGLE APPLICANTS, A MINIMUM OF TWO INTERVIEWS WILL BE REQUIRED.

2) COMPLETE AT LEAST ONE FACE-TO-FACE INTERVIEW IN THE APPLICANT'S HOME.

3) COMPLETE AN ON-SITE INSPECTION FOR FOSTER CARE HOMES TO DETERMINE COMPLIANCE WITH THE “RULES AND REGULATIONS FOR FOSTER CARE HOMES”, SECTION 7.708. APPROVAL OF LOCAL ZONING, HEALTH, OR FIRE DEPARTMENTS MUST BE DOCUMENTED IN THE FOSTER CARE HOME FILE WHEN THE SITUATION WARRANTS.

4) COMPLETE INTERVIEWS OVER A PERIOD OF NOT LESS THAN THREE (3) CONSECUTIVE DAYS.

5) COMPLETE AN ANNUAL SAFE™ UPDATE. THIS SHALL INCLUDE AT LEAST ONE VISIT IN THE FOSTER CARE HOME AND A REVIEW OF THE CURRENT MEDICAL STATUS. ANY CHILD ABUSE/NEGLECT ASSESSMENTS COMPLETED DURING THE PREVIOUS YEAR SHALL BE DISCUSSED WITH THE APPLICANT(S).

IF THE GOVERNOR OR LOCAL GOVERNMENT DECLARES A DISASTER OR EMERGENCY, AND BECAUSE OF THE DECLARED DISASTER OR EMERGENCY THE MEDICAL EXAMS FOR THE FOSTER PARENT(S), OTHER CHILDREN, AND OTHER ADULTS RESIDING IN THE HOME CANNOT BE COMPLETED FOR THE CHILD/YOUTH IN THE REQUIRED TIME FRAME, THE MEDICAL EXAM(S) MUST BE COMPLETED AS SOON AS POSSIBLE, BUT NO LATER THAN 45 CALENDAR DAYS AFTER THE DECLARED CONCLUSION OF THE DISASTER OR EMERGENCY.

e. THE APPLICATION AND MEDICAL RECORDS MUST BE REVIEWED; ANY ISSUES THAT ARE IDENTIFIED WILL BE DISCUSSED WITH THE APPLICANT. NO PHYSICAL EXAMINATION SHALL BE REQUIRED OF ANY PERSON WHO IN GOOD FAITH RELIES UPON SPIRITUAL MEANS OR PRAYER IN THE FREE EXERCISE OF RELIGION TO PREVENT OR CURE A DISEASE UNLESS THERE IS A REASON TO BELIEVE THE INDIVIDUAL’S PHYSICAL CONDITION IS SUCH THAT THE PERSON WOULD BE UNABLE TO CARE FOR A CHILD/YOUTH.

f. THE COUNTY DEPARTMENT SHALL NOT COMPLETE A FOSTER CARE HOME OR ADOPTIVE HOME ASSESSMENT ON A MEMBER OF ITS OWN STAFF. THE WORKER SHOULD CHECK WITH THE SUPERVISOR FOR COUNTY POLICIES AND PROCEDURES REGARDING COMPLETING ASSESSMENTS ON COUNTY STAFF.

g. WATER, IF FROM ANY SOURCE OTHER THAN A REGULAR MUNICIPAL WATER SUPPLY, SHALL BE TESTED FOR COMPLIANCE WITH WATER QUALITY REQUIREMENTS.

h. A CURRENT PHOTOGRAPH TAKEN WITHIN ONE (1) YEAR OF THE FOSTER FAMILY SHALL BE REQUESTED AND MAINTAINED IN THE PROVIDER RECORD .

i. PURSUANT TO SECTION 19-1-130, C.R.S., A SERVICE PROVIDER MEANS THE STATE DEPARTMENT OF HUMAN SERVICES, A COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES, OR A CHILD PLACEMENT AGENCY. THIS INCLUDES A CONTRACTOR OR SUBCONTRACTOR THAT PROVIDES PLACEMENT-RELATED SERVICES ON A SERVICE PROVIDER'S BEHALF.

1) A SERVICE PROVIDER SHALL PROVIDE PLACEMENT-RELATED SERVICES IN A MANNER THAT IS CULTURALLY RESPONSIVE TO THE COMPLEX SOCIAL IDENTITY OF THE INDIVIDUAL RECEIVING SUCH SERVICES. COMPLEX SOCIAL IDENTITIES INCLUDE BUT ARE NOT LIMITED TO RACE, ETHNICITY, NATIONALITY, AGE, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, GENDER EXPRESSION, SOCIOECONOMIC STATUS, PHYSICAL OR COGNITIVE ABILITY, LANGUAGE, BELIEFS, VALUES, BEHAVIOR PATTERNS, AND CUSTOMS.

a) NONE OF THESE CHARACTERISTICS MAY BE USED TO CAUSE THE DELAY OR DENIAL OF AN OUT-OF-HOME PLACEMENT OF A CHILD OR YOUTH, UNLESS THE DELAY OR DENIAL OF THE PLACEMENT IS NOT DETRIMENTAL TO THE HEALTH OR WELFARE OF THE CHILD OR YOUTH.

2) THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES MUST NOT DENY ANY PERSON THE OPPORTUNITY TO BECOME A FOSTER OR AN ADOPTIVE PARENT SOLELY ON THE BASIS OF A REAL OR PERCEIVED DISABILITY, RACE, CREED, RELIGION, COLOR, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, GENDER EXPRESSION, MARITAL STATUS, NATIONAL ORIGIN, ANCESTRY, OR ANY COMMUNICABLE DISEASE, INCLUDING HIV, OF THE PERSON OR A MEMBER OF THE PERSON'S HOUSEHOLD; AND,

a) ANY DENIAL TO CARE FOR A SPECIFIC CHILD OR YOUTH THAT INCLUDES ONE OF THE FACTORS ABOVE AS THE BASIS FOR THE DENIAL MUST BE DOCUMENTED, MUST HAVE A CLEAR CONNECTION TO THE ABILITY TO MEET THE NEEDS OF THE CHILD/YOUTH, AND THE DENIAL TO CARE MUST NOT BE DETRIMENTAL TO THE HEALTH OR WELFARE OF THE CHILD OR YOUTH; OR,

3) DELAY OR DENY THE PLACEMENT OF A CHILD OR YOUTH FOR ADOPTION OR INTO FOSTER CARE ON THE BASIS OF A REAL OR PERCEIVED DISABILITY, RACE, CREED, RELIGION, COLOR, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, GENDER EXPRESSION, NATIONAL ORIGIN, ANCESTRY, OR ANY COMMUNICABLE DISEASE, INCLUDING HIV, OF THE CHILD OR YOUTH.

~~10. County departments are required to share approved adoptive home assessments within the county system if there is a child(ren) whom the family wants to be considered for possible placement. The family shall make a request in writing providing the name of the county department or child placement agency, address and name of the person who is to receive the home assessment, and appropriate documents. When the county department or child placement agency that completed the home assessment receives the written request, the written home assessment and appropriate documents shall be sent to the other county within five (5) working days at no cost to the family. The county receiving the home assessment shall notify the family within five (5) days that the county department has received the information. The county department placing the child for adoption will be responsible for post placement supervision until the adoption is finalized, unless otherwise negotiated in the placement agreement between the county and the child placement agency.~~

10. ADDITIONAL REQUIREMENTS

BASED ON THE RECOMMENDATION OF THE SAFE™ ASSESSMENT PRACTITIONER AND IN CONJUNCTION WITH THE APPLICANT'S COMPLETION OF THE SAFE™ COMPATIBILITY INVENTORY, LIST CHARACTERISTICS OF CHILD(REN)/YOUTH THAT THE FOSTER PARENT(S) ARE APPROVED AND/OR CAN BEST SERVE. INFORMATION OBTAINED FROM THE COMPATIBILITY INVENTORY INCLUDING BUT NOT LIMITED TO AGE, RACE, LEGAL RISK, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, AND SPECIAL NEEDS (SUCH AS MEDICAL, PHYSICAL, AND EMOTIONAL). THIS MUST BE IN COMPLIANCE WITH SECTION 7.500.2.A.9.i ABOVE. THESE CHARACTERISTICS MUST BE DISCUSSED IN THE RECOMMENDATIONS IN THE SAFE™ ASSESSMENT. THE INFORMATION MUST BE EVALUATED AND SUMMARIZED AND ATTACHED TO THE SAFE™ QUESTIONNAIRES I AND II.

AT A MINIMUM, THE SAFE™ COMPATIBILITY INVENTORY MUST BE COMPLETED WITH EACH APPLICANT AT INITIAL CERTIFICATION AND THEN EVERY OTHER YEAR THEREAFTER. IT IS ENCOURAGED THAT SOMEONE WITH KNOWLEDGE ABOUT THE CHILD/YOUTH BEING CONSIDERED FOR PLACEMENT IN A FOSTER CARE HOME COMPLETE THE CHILD/YOUTH INVENTORY.

~~11. Child Placement Agencies (CPAs) shall share their home assessments with the county department when a CPA family is providing foster care and wants to be considered for a possible adoptive placement.~~

~~a. The family shall make a written request to the Child Placement Agency, identifying the county department, and the name and address of the county contact that is to receive the home assessment and appropriate documents.~~

~~b. When the Child Placement Agency receives the written request, the written home assessment and appropriate documents shall be sent to the identified county department within five (5) working days.~~

~~c. The county department receiving the home assessment shall notify the prospective adoptive family within five (5) working days that the county department has received the information.~~

11. ASSESSMENT UPDATE

a. IF THERE ARE CHANGES IN THE AGE AND/OR SPECIAL CHARACTERISTICS OF THE CHILD(REN)/YOUTH WHICH WILL BE CONSIDERED FOR THE FOSTER PARENT(S), A RE-EVALUATION OF THE FAMILY WILL BE COMPLETED AND THE ASSESSMENT REVISED.

b. FOR ANY INDIVIDUAL EIGHTEEN (18) YEARS OF AGE OR OLDER ENTERING THE HOME WITH THE INTENT OF RESIDING IN THE HOME OR PROVIDING CARE IN THE HOME, THERE SHALL BE A REVIEW AND DOCUMENTATION IN THE PROVIDER RECORD OF THE FOLLOWING:

1) CHILD ABUSE OR NEGLECT RECORDS CHECK IN EVERY STATE WHERE THE ADULT HAS RESIDED IN THE PREVIOUS FIVE (5) YEARS.

2) A FINGERPRINT-BASED CRIMINAL HISTORY RECORD INFORMATION CHECK COMPLETED FOR THE CBI AND FBI, AND,

3) A COMPARISON SEARCH IN THE COURT CASE MANAGEMENT SYSTEM AT THE STATE JUDICIAL DEPARTMENT, USING THE NAME AND DATE OF BIRTH WITH AVAILABLE CRIMINAL HISTORY INFORMATION FOR EACH ADULT EIGHTEEN (18)

YEARS AND OLDER ENTERING THE HOME. THE PURPOSE IS TO DETERMINE ANY CRIME(S) FOR WHICH THE ADULT RESIDING IN THE HOME WAS ARRESTED OR CONVICTED AND THE DISPOSITION. THIS SEARCH MUST BE COMPLETED REGARDLESS OF WHETHER THE CBI AND FBI FINGERPRINT HISTORY CONFIRMS OR DOES NOT CONFIRM A CRIMINAL HISTORY.

4) CBI SEX OFFENDER AND NSOPW, INCLUDING KNOWN NAMES, NICKNAMES, AKA**s**, ADDRESSES, AND A MAP OF THE LOCATION FROM THE RESPECTIVE DATABASE TO CONFIRM THAT THE ADDRESS OF THE FOSTER CARE HOME WAS CHECKED.

5) IF A NEW ADULT IS VISITING OR LIVING IN THE FOSTER CARE OR KINSHIP FOSTER CARE HOME FOR 14 CONSECUTIVE DAYS AND INTENDS TO STAY THIRTY (30) CONSECUTIVE DAYS OR LONGER, THE FOLLOWING MUST BE COMPLETED NO LATER THAN THE TIME FRAMES LISTED BELOW FROM THE DATE THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES LEARNED THAT THE ADULT WAS IN THE FOSTER CARE HOME:

a) WITHIN 24 HOURS THE COUNTY MUST COMPLETE CBI AND NSOPW SEX OFFENDER REGISTRY CHECKS AND DOCUMENT THE INFORMATION INTO THE PROVIDER RECORD IN THE CCWIS AND FOSTER CARE HOME RECORD.

b) WITHIN 24 HOURS A COLORADO CHILD ABUSE/NEGLECT CHECK AND A CHECK IN THE STATE JUDICIAL DATABASE MUST BE COMPLETED AND DOCUMENTED IN THE PROVIDER RECORD IN THE CCWIS AND THE FOSTER CARE HOME RECORD.

c) WITHIN THIRTY (30) CALENDAR DAYS ~~OF THE ARRIVAL DATE~~, A CBI AND FBI FINGERPRINT BASED CRIMINAL HISTORY RECORD SCAN MUST BE SUBMITTED. DOCUMENTATION, INCLUDING THE DATES OF THE CBI AND FBI CHECKS, MUST BE ENTERED INTO THE PROVIDER RECORD IN THE CCWIS. DOCUMENTATION MUST INDICATE THE RESULTS WERE REVIEWED AND THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES DID NOT HAVE ANY CONCERNS. THIS MAY BE A RECORD OF CONTACT (ROC) NOTE. THE HARD COPY RECORDS MUST BE LOCATED IN THE FOSTER CARE HOME RECORD.

d) IF THE ADULT HAS NOT BEEN IN THE FOSTER CARE HOME OR KINSHIP FOSTER CARE HOME FOR 14 CONSECUTIVE DAYS AT THE TIME THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES LEARNS THAT THE PERSON IS IN THE HOME, AND THE INDIVIDUAL INTENDS TO STAY IN THE HOME THIRTY (30) CONSECUTIVE DAYS OR LONGER FROM THE ARRIVAL DATE, THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES MUST COMPLETE AND DOCUMENT THE FOLLOWING IN THE PROVIDER RECORD IN THE CCWIS AND THE FOSTER HOME RECORD:

i. WITHIN 24 HOURS, THE CBI AND NSOPW SEX OFFENDER REGISTRY CHECKS;

ii. WITHIN 24 HOURS, A COLORADO CHILD ABUSE/NEGLECT CHECK AND A CHECK IN THE STATE JUDICIAL DATABASE; AND,

iii. WITHIN THIRTY (30) CALENDAR DAYS ~~OF THE ARRIVAL DATE~~, A CBI AND FBI FINGERPRINT BASED CRIMINAL HISTORY RECORD CHECKS SCAN MUST BE SUBMITTED. DOCUMENTATION, INCLUDING THE DATES OF THE CBI AND FBI CHECKS, MUST BE ENTERED INTO THE PROVIDER RECORD IN THE CCWIS. DATES MAY BE ENTERED INTO THE REQUIREMENTS SECTION OF THE PROVIDER RECORD. DOCUMENTATION MUST INDICATE THE RECORDS WERE REVIEWED AND THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES DID NOT HAVE CONCERNS. THIS COULD BE IN THE FORM OF A RECORD OF CONTACT (ROC) NOTE. THE HARD COPY RESULTS MUST BE LOCATED IN THE FOSTER CARE HOME RECORD.

12. AT ANY TIME AFTER THE PLACEMENT OF A CHILD/YOUTH, THE PLACING AGENCY MAY REVIEW THE SAFE™ ASSESSMENT, UPDATES, AND ALL BACKGROUND CHECKS OF THE FOSTER PARENT EXCEPT THE FBI CRIMINAL HISTORY RECORD INFORMATION REPORT UNLESS THE APPLICANT AUTHORIZES IT IN WRITING.

13. COUNTY DEPARTMENTS OF HUMAN/SOCIAL SERVICES ARE REQUIRED TO SHARE APPROVED ADOPTIVE HOME STUDIES WITHIN THE COUNTY SYSTEM IF THERE IS A CHILD(REN)/YOUTH WHOM THE FOSTER PARENT(S) WANTS TO BE CONSIDERED FOR POSSIBLE PLACEMENT. THE FOSTER PARENT(S) SHALL MAKE A REQUEST IN WRITING PROVIDING THE NAME OF THE COUNTY DEPARTMENT OR CHILD PLACEMENT AGENCY, ADDRESS, AND NAME OF THE PERSON WHO IS TO RECEIVE THE HOME ASSESSMENT, AND APPROPRIATE DOCUMENTS. WHEN THE COUNTY DEPARTMENT OR CHILD PLACEMENT AGENCY THAT COMPLETED THE HOME ASSESSMENT RECEIVES THE WRITTEN REQUEST, THE WRITTEN HOME ASSESSMENT AND APPROPRIATE DOCUMENTS SHALL BE SENT TO THE OTHER COUNTY WITHIN FIVE (5) WORKING DAYS AT NO COST TO THE FOSTER PARENT(S). THE COUNTY RECEIVING THE HOME ASSESSMENT SHALL NOTIFY THE FOSTER PARENT(S) WITHIN FIVE (5) WORKING DAYS THAT THE COUNTY DEPARTMENT HAS RECEIVED THE INFORMATION.

THE COUNTY DEPARTMENT PLACING THE CHILD/YOUTH FOR ADOPTION WILL BE RESPONSIBLE FOR POST- PLACEMENT SUPERVISION UNTIL THE ADOPTION IS FINALIZED, UNLESS OTHERWISE NEGOTIATED IN THE PLACEMENT AGREEMENT BETWEEN THE COUNTY AND THE CHILD PLACEMENT AGENCY.

14. A CHILD PLACEMENT AGENCY SHALL SHARE THE SAFE™ ASSESSMENT WITH THE COUNTY DEPARTMENT WHEN A CHILD PLACEMENT AGENCY FOSTER PARENT WANTS TO BE CONSIDERED FOR A POSSIBLE ADOPTIVE PLACEMENT.

a. THE FOSTER PARENT SHALL MAKE A WRITTEN REQUEST TO THE CHILD PLACEMENT AGENCY, IDENTIFYING THE COUNTY DEPARTMENT, AND THE NAME, AND ADDRESS OF THE COUNTY CONTACT THAT IS TO RECEIVE THE SAFE™ ASSESSMENT AND APPROPRIATE DOCUMENTS.

b. WHEN THE CHILD PLACEMENT AGENCY RECEIVES THE WRITTEN REQUEST, THE SAFE™ ASSESSMENT AND APPROPRIATE DOCUMENTS SHALL BE SENT TO THE IDENTIFIED COUNTY DEPARTMENT WITHIN FIVE (5) WORKING DAYS.

c. THE COUNTY DEPARTMENT RECEIVING THE SAFE™ ASSESSMENT SHALL NOTIFY THE PROSPECTIVE ADOPTIVE PARENT(S) WITHIN FIVE (5) WORKING DAYS THAT THE COUNTY DEPARTMENT HAS RECEIVED THE INFORMATION.

d. THE COUNTY DEPARTMENT PLACING THE CHILD/YOUTH FOR ADOPTION WILL BE RESPONSIBLE FOR POST PLACEMENT SUPERVISION UNTIL THE ADOPTION IS FINALIZED, UNLESS OTHERWISE NEGOTIATED IN THE PLACEMENT AGREEMENT BETWEEN THE COUNTY AND THE CHILD PLACEMENT AGENCY.

15. POST-ADOPTIVE SERVICES AND CONNECTIONS

THE APPLICANT'S ABILITY AND WILLINGNESS TO ASSIST WITH POSSIBLE POST-ADOPTIVE QUESTIONS AND CONCERNS OF THE CHILD/YOUTH SHOULD BE ASSESSED, INCLUDING, BUT NOT LIMITED TO:

a. QUESTIONS ABOUT THE BIRTH FAMILY;

b. LOCATING AND OBTAINING NON-IDENTIFYING INFORMATION ABOUT THE BIRTH FAMILY;

c. SEARCH AND POSSIBLE REUNIFICATION OF THE CHILD/YOUTH WITH THE BIRTH FAMILY; AND,

d. WILLINGNESS TO ASSIST THE CHILD/YOUTH WHO WAS ADOPTED WITH COUNSELING, IF NEEDED, REGARDING ISSUES RELATED TO ADOPTION.

7.500.3 CHILDREN'S/YOUTH'S RESOURCES ~~[Rev. eff. 1/1/16]~~

A. Resources for children/YOUTH to be developed by the county department of ~~social or~~ human/SOCIAL services are NON-RELATIVE foster care homes, KINSHIP FOSTER CARE HOMES, receiving homes IF APPLICABLE, ~~specialized group facilities,~~ and adoption resources.

B. A DILIGENT RECRUITMENT PLAN SHALL BE SUBMITTED TO THE DIVISION OF CHILD WELFARE WITH THE CONTENT, FORMAT, AND TIME FRAMES PRESCRIBED. THE COUNTY DEPARTMENT SHALL IMPLEMENT THE PLAN AND DEMONSTRATE good faith efforts and due diligence ~~shall be used~~ to recruit AND RETAIN families ~~who~~ THAT reflect the DIVERSE communities AND IDENTITIES of all children/YOUTH ~~in care~~ SERVED BY THE CHILD WELFARE AGENCY.

C. Facilities for children/YOUTH shall be utilized solely by children/YOUTH, shall be ~~licensed or~~ certified, and shall meet necessary local requirements and hold local ~~licenses or~~ permits, AS APPLICABLE. In order to support youth with an independent living stipend, a foster care home may provide a home for a youth that previously resided in foster care in the home on or before the youth's eighteenth (18^{th}) birthday. The youth shall solely occupy a bedroom and shall not occupy a bedroom with a child and/or youth in foster care. The foster care home may accept a negotiated portion of the independent living stipend. Negotiation shall include the youth, caseworker, and foster parent(s).

D. The county department of ~~social/~~human/SOCIAL services shall audit all current foster care files ~~on an~~ annualLY ~~basis~~ to verify that all required information is present in the file. Following the annual audit, the county department shall attest in writing that all the required information is present.

E. The county department OF HUMAN/SOCIAL SERVICES shall develop resources for the twenty-four (24) hour out-of-home care of children/YOUTH who otherwise would be inappropriately placed in jail or detention.

F. A foster CARE home or receiving home certified by the county department of ~~social or~~ human/SOCIAL services ~~or a specialized group facility sponsored by a county department~~ shall receive children/YOUTH only from a county department ~~of social or human services~~, and the certifying county shall approve ~~of~~ each placement.

G. The county department OF HUMAN/SOCIAL SERVICES shall maintain a directory of current, accurate information to identify ALL available placements. The directory shall include available vacancies, licensed or certified capacity, ages, and gender IDENTITY of children/YOUTH accepted by the FOSTER CARE home, or facility, a description of the level of

care which the FOSTER CARE home or facility can provide, and ~~a listing of~~ any special services that ~~it can~~ ARE provideD.

H. CARE OF CHILDREN/YOUTH IN FOSTER CARE HOMES WHEN CARE IS ALSO PROVIDED FOR ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES

1. NO AGENCY SHALL ACCEPT A CHILD/YOUTH FOR PLACEMENT FROM ANY SOURCE OTHER THAN THE CHILD'S/YOUTH'S PARENT(S) OR GUARDIAN(S), A COURT OF COMPETENT JURISDICTION, A COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES, OR TRIBAL HUMAN/SOCIAL SERVICES AND UPON A SPECIFIC WRITTEN AUTHORIZATION BY ONE OF THESE ENTITIES TO PLACE THE CHILD/YOUTH. THE WRITTEN AUTHORIZATION MUST CONTAIN NOTIFICATION THAT THE CHILD/YOUTH IS TO BE PLACED IN A FOSTER CARE HOME WHERE ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES ARE ALSO RECEIVING CARE.

2. THE FOSTER CARE HOME SHALL MEET ALL CERTIFICATION AND RECERTIFICATION REQUIREMENTS IN SECTION 7.500.

3. THE CAPACITY OF THE FOSTER CARE HOME WHEN ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES ARE ALSO IN CARE SHALL NOT EXCEED A TOTAL OF FOUR (4) PERSONS REQUIRING CARE THROUGH THE FOSTER CARE SYSTEM ANGD/OR THE ADULT INTELLECTUAL AND DEVELOPMENTAL DISABILITIES SYSTEM.

a. WHEN A YOUTH IN FOSTER CARE TURNS EIGHTEEN (18) YEARS OF AGE AND IS ELIGIBLE FOR THE ADULT RESIDENTIAL SYSTEM THROUGH THE DEPARTMENT OF HEALTH CARE POLICY & FINANCING (HCPF), THE YOUTH SHALL BE CONSIDERED AN ADULT RECEIVING CARE FOR THE PURPOSE OF CAPACITY. IF THE COUNTY OR STATE DEPARTMENT OF HUMAN/SOCIAL SERVICES HAS LEGAL RESPONSIBILITY FOR THE CARE AND PLACEMENT OF THE YOUTH TURNING EIGHTEEN (18) YEARS OF AGE, THE INDIVIDUAL WILL BE CONSIDERED A CHILD FOR THE PURPOSE OF CAPACITY.

b. CHILDREN/YOUTH IN FOSTER CARE AND WHO ARE ENROLLED IN THE CHILDREN'S HABILITATION RESIDENTIAL PROGRAM (CHRP), MAY HAVE A COMBINED MAXIMUM OF THREE (3) INDIVIDUALS RECEIVING HOME AND COMMUNITY BASED (HCBS) WAIVER SERVICES. THIS MAY INCLUDE ONE (1) HCBS-CHRP CLIENT AND TWO (2) HCBS-PERSONS WITH DEVELOPMENTAL DISABILITIES (DD) OR HCBS-SUPPORTED LIVING SERVICES (SLS) WAIVER PARTICIPANTS, OR TWO (2) HCBS-CHRP PARTICIPANTS AND ONE (1) HCBS-DD OR HCBS-SLS WAIVER PARTICIPANTS LIVING IN THE SAME FOSTER CARE HOME.

c. ALL CHILDREN/YOUTH UNDER THE AGE OF EIGHTEEN (18) RESIDING IN THE FOSTER CARE HOME COUNT IN THE TOTAL FOSTER CARE HOME CAPACITY OF EIGHT (8) CHILDREN, YOUTH, AND ADULTS.

4. WHEN A YOUTH IN FOSTER CARE IN THE HOME TURNS EIGHTEEN (18) YEARS OF AGE (18), IF THE YOUTH IS ELIGIBLE FOR THE ADULT RESIDENTIAL SYSTEM, THE YOUTH MUST COMPLETE BACKGROUND CHECKS IN SECTION 7.500.2.A.5.a.1), AND A SAFE™ UPDATE AS IDENTIFIED IN 7.500.A.7 MUST BE COMPLETED.

7.500.31 Foster Care Homes ~~[Rev. eff. 1/1/16]~~

Foster care homes are certified by county departments of human/ ~~or~~ social services, ~~foster care homes associated with~~,Child Placement Agencies ~~are certified by the~~, OR A FEDERALLY RECOGNIZED TRIBE WITH A FOSTER CARE PROGRAM.

A. A foster care home provides temporary ~~or long-term~~ care for children/YOUTH who must live outside their own homes and are in need of protection and/or supervision, including those children/YOUTH with physical handicaps or developmental disabilities when target group eligibility and out-of-home placement criteria are met. Receiving homes are a type of foster care home which provide temporary care of children/YOUTH.

B. Foster parents shall be recruited who demonstrate a genuine interest in and knowledge of children/YOUTH and a concern for their ~~proper~~ care and well-being. A county department OF HUMAN/SOCIAL SERVICES shall recruit within its own county and may recruit in adjacent counties ~~with the approval of the director of the county department of the adjacent county~~.

C. Within five **(5)** working days after initial inquiry, the CASE worker shall discuss with THE prospective applicant**(s)** general information regarding foster ~~parenting~~ CARE requirements and the DATE OF THE upcoming orientation/INFORMATION MEETING.

D. An orientation/INFORMATION MEETING shall be held to discuss the application and certification process for prospective foster parent applicants within six **(6)** weeks after THE initial inquiry. THE ORIENTATION/INFORMATION MEETING MAY BE COMPLETED INDIVIDUALLY.

E. A foster CARE home must be certified~~.~~ AND p~~P~~ursuant to an application for CERTIFICATION ~~a certificate~~, the county department of human/ ~~or~~ social services shall assess a foster CARE home; ~~however~~ EXCEPT:

1. A staff member of a county department of human/social services shall not be certified by the county in which ~~he/she~~ THE INDIVIDUAL is employed to operate a foster CARE home due to conflict of interest. A HARDSHIP WAIVER CAN BE FILED IF THERE IS AN UNDUE HARDSHIP WHICH CREATES A SUBSTANTIAL AND UNNECESSARY BURDEN ON THE APPLICANT OR THE FAMILIES OR COMMUNITY SERVED.

2. A staff member of a county department of human/ ~~or~~ social services may be certified by another county, but may not receive children/YOUTH placed by the county in which ~~he/she~~THE INDIVIDUAL is employed.

3. No county department OF HUMAN/SOCIAL SERVICES shall certify a foster CARE home of a relative of any staff member of the Child Welfare Division or unit. If the foster CARE home is certified by another county department, the referring county department may place children/YOUTH in the foster CARE home upon written agreement of the two **(2)** county department directors or designeeS.

4. If a relative of a staff member of the county who is not an employee of the county Child Welfare Division or unit, makes application to be a foster care home for the county department, then the application shall be reviewed by the county department director OR DESIGNEE to determine ~~whither~~ WHETHER a conflict of interest exists and the director OR DESIGNEE shall provide written approval or denial and the justification for the decision. The documentation shall be attached to the application.

F. A county department OF HUMAN/SOCIAL SERVICES may receive an application for ~~a certificate~~ CERTIFICATION and complete a ~~foster home~~ SAFE™ assessment for an applicant living in an adjacent county only after the county director of the adjacent county or ~~his/her~~ designee gives approval for the other county department to complete the SAFE™ assessment and issue the certificate. County departments may only certify a foster home in a nonadjacent county with the written permission of both county directors or THEIR designees.

G. ~~The county department of human or social services shall require verification of an individual's lawful presence in the United States, as provided in general eligibility requirements as found in Section 3.140.11 (9 CCR 2503-1), in order to approve an application to operate a foster home.~~ LAWFUL PRESENCE IN THE UNITED STATES IS NO LONGER A REQUIREMENT TO OPERATE A FOSTER CARE HOME. THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES WILL NOT VERIFY AN INDIVIDUAL'S LAWFUL PRESENCE IN ORDER TO APPROVE AN APPLICATION TO OPERATE A FOSTER CARE HOME.

H. A county department of human/ ~~or~~ social services shall not accept an application to operate a foster CARE home from an individual who is currently certified by a child placement agency to operate a ~~family~~ FOSTER care home until that individual has terminated the certification by the child placement agency.

I. Reference checks for the applicant and all adults residing in the home:

AnY ~~applicant~~ APPLICATION ACCEPTED BY THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES FOR AN INDIVIDUAL(S) OR COUPLE WHO WISHES TO BE CERTIFIED TO OPERATE A ~~for certification for~~ a foster care home SHALL BE ON THE DEPARTMENT'S APPROVED FORM. ~~and all adults residing in the home shall provide the county department of human or social services from whom the certification is sought with a list of all child placement agencies and county departments of human or social services that previously certified the applicant or any adult residing in the home.~~

Each adult shall sign a release of information; and, the county department of human/ ~~or~~ social services from whom the certification is sought shall conduct a reference check of each adult residing in the home by contacting all of the child placement agencies and county departments ~~of human or social services~~ identified before issuing the ~~certification~~ CERTIFICATE for the foster care home. THIS SHOULD INCLUDE AND IS NOT LIMITED TO:

1. THE NAMES AND ADDRESSES OF CHILD PLACEMENT AGENCIES AND COUNTY DEPARTMENTS WHERE THE APPLICANT PREVIOUSLY APPLIED OR WAS CERTIFIED, INFORMATION ABOUT PRIOR OR CURRENT LICENSING FOR CHILD CARE AT THE TIME OF THE APPLICATION, THE AGENCY THAT ISSUED THE CERTIFICATE OR LICENSE, AND THE TYPE OF CARE THE CERTIFICATE OR LICENSE AUTHORIZES.

J. No director or staff member of a county department OF HUMAN/SOCIAL SERVICES or CHILD PLACEMENT AGENCY ~~governing body for a Specialized Group Facility (SGF) sponsored by the county department~~ shall contact or recruit foster CARE homes currently certified by another county department or child placement agency for the purpose of becoming a foster CARE home ~~or specialized group facility~~.

K. A county director or ~~his/her~~ THE designee may take the following actions for prospective or current kinship foster care home providers. Decisions shall be made case-by-case and the safety and well-being of a child/YOUTH ~~and/or youth~~ placed in the FOSTER CARE home shall not be compromised,THE COUNTY DIRECTOR OR THE DESIGNEE MAY:

1. Waive non-safety certification standards for kinship foster care providers defined in Section 7.708.11 and referenced in 7.708.7 (12 CCR 2509-8);

2. Require special conditions for certification that address the safety or well-being needs for a child/YOUTH ~~or youth~~;

3. Limit or restrict a certificate; and/or,

4. Require a written agreement for compliance that addresses safety and well-being needs for a child/YOUTH ~~or youth~~.

7.500.311 Training ~~and Foster Home Assessment [Rev. eff. 1/1/16]~~

~~A. Prior to certification, the county department of human or social services shall complete the single SAFE assessment of foster and adoptive homes as outlined in Section 7.500.2.~~

~~B~~A. Training, Colorado Bureau of Investigation (CBI), Federal Bureau of Investigation (FBI), and Five-Year Child Abuse and Neglect Records Check Requirements.

1. Prior to the placement of a child and/or youth, initial training shall be provided through the statewide core curriculum, county department of human/~~ or~~ social services, ~~or~~ LICENSED COLORADO CHILD PLACEMENT AGENCY, OR AN ORGANIZATION APPROVED BY THE DIVISION OF CHILD WELFARE (DCW).

a. Each applicant shall complete twelve hours of core training. Core training shall include, at a minimum, the following ~~ten~~ primary ~~topic~~ CONTENT areas:

1) General overview of foster care;

2) Administrative, LAWS, and legal issues;

3) ~~Why children and youth get placed in out-of-home care~~ THE IMPACT OF CHILD ABUSE AND NEGLECT ON CHILD DEVELOPMENT;

4) Parenting and family dynamics;

5) Key concepts of child growth and development;

6) ~~Importance of the team approach;~~ ADDRESSING CHILD/YOUTH BEHAVIORS;

7) ~~Individual differences, such as ethnicity and culture~~ IMPORTANCE OF THE TEAM APPROACH;

8) ~~Discipline~~ CULTURAL RESPONSIVENESS IDENTIFIED IN SECTION 7.701 (12 CCR 2509-8), INCLUDING individual differences, such as RACE, ethnicity, SEXUAL ORIENTATION, GENDER IDENTITY, AND EXPRESSION, ABLEISM, and culture;

9) ~~Effects of fostering on the foster family; and,~~ DISCIPLINE;

10) ~~Working with the biological family~~ EFFECTS OF FOSTERING ONTHE FOSTER FAMILY;

11) LEGAL PARENTS/LEGAL CUSTODIANS, INCLUDING THE IMPORTANCE OF MAINTAINING MEANINGFUL RELATIONSHIPS BETWEEN CHILDREN/YOUTH AND PARENTS, INCLUDING REGULAR VISITATION;

12) REASONABLE AND PRUDENT PARENT STANDARD;

13) TRAUMA-INFORMED CARE AS IDENTIFIED IN SECTION 7.701.400;

14) MEDICATION ADMINISTRATION;

15) HEALTH ISSUES IN FOSTER CARE, INCLUDING HEALTH SERVICES AVAILABLE TO CHILDREN AND YOUTH IN FOSTER CARE;

16) THE RIGHT OF A CHILD OR YOUTH IN FOSTER CARE TO HAVE FAIR AND EQUAL ACCESS TO ALL AVAILABLE SERVICES, PLACEMENT, CARE, TREATMENT, AND BENEFITS, AND TO NOT BE SUBJECTED TO DISCRIMINATION OR HARASSMENT ON THE BASIS OF ACTUAL OR PERCEIVED DISABILITY, RACE, CREED, RELIGION, COLOR, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, GENDER EXPRESSION, NATIONAL ORIGIN, ANCESTRY, OR ANY COMMUNICABLE DISEASE, INCLUDING HIV, OF THE CHILD OR YOUTH;

17) THE RIGHTS OF SIBLINGS IN FOSTER CARE, LOCATED IN SECTION §19-7-203, C.R.S.; AND,

18) UNDERSTANDING THE ROLE OF A CHILD WELFARE EDUCATION LIAISON, AS DESCRIBED IN § 22-32-13 8 (2), C.R.S.

b. In addition to twenty-seven hours of pre-certification training, which includes twelve hours of core training, each foster parent shall be certified in First Aid ~~or the equivalent,~~ and CPR for the ages of the children and/or youth in placement. INITIAL CPR TRAINING MUST BE COMPLETED IN A CLASSROOM WITH MANUAL DEMONSTRATION OF RESUSCITATION. INDIVIDUALS IN THE DIRECT MEDICAL OR EMERGENCY RESPONDER FIELD MAY HAVE CPR AND FIRST AID WAIVED IF THEIR IMMEDIATE SUPERVISOR AFFIRMS THAT THE APPLICANT IS A MEDICAL PROFESSIONAL THAT PERFORMS THESE SKILLS.

1) If the governor or local government declares a disaster or emergency, and because of the declared disaster or emergency, the foster parent(s) cannot take the First Aid class in a classroom with the first aid trainer, the First Aid training may be completed online. The foster parent(s) must then complete the classroom training with the first aid trainer as soon as possible, but no later than 45 calendar days after the declared conclusion of the disaster or emergency.

2) If the governor or local government declares a disaster or emergency, and because of the declared disaster or emergency, the foster parent(s) cannot take the CPR class in a classroom with the CPR trainer, and the foster parent(s) has successfully completed a CPR class within the last five (5) years, the foster parent(s) may take the CPR class online. The foster parent(s) must then complete the classroom training with a CPR instructor as soon as possible, but no later than 45 calendar days after the declared conclusion of the disaster or emergency.

c. Complete a background check required in Section 7.500.2~~,~~.A~~,~~.8.

d. The county department of human/~~ or~~ social services shall train foster parents how to determine whether to approve the child's/YOUTH'S ~~or youth's~~ participation in an extracurricular, enrichment, cultural, or social activity is consistent with the reasonable and prudent parent standard, based upon criteria in section 7.701.200 (12 CCR 2509-8).

2. Ongoing Training

a. Each applicant shall have twenty (20) hours of ongoing training every year, except specialized providers outlined in Section 7.708.65~~,~~.E (12 CCR 2509-8). The training shall be relevant to fostering the children and/or youth being served in the foster care home or kinship foster care home.

b. If there are children and/or youth in the home and training is not completed, no additional children and/or youth shall be placed until training is complete. Children and/or youth who are currently in placement shall not be disrupted due to this requirement.

~~C~~B. Exceptions to the Training and CBI, FBI, and Five-Year Child Abuse and Neglect Records Check Requirements

An exception to the rules may be made for emergency "child specific" placements identified in Section 7.304.21~~,~~.D~~,~~.2~~,~~.f, and for non-emergency "child specific" placements in Section 7.500.312~~,~~ .E. These are defined as placements where the child/YOUTH has a prior relationship to the applicant.

1. The applicant may have NINETY ~~sixty~~ (~~6~~90) calendar days from the date of application to complete training.

2. In the event of an emergency child specific placement in a previously uncertified home, prior to or at the time of the placement the county department ~~of human or social services~~ shall receive the completed Original Application to Care for Children AND YOUTH. In addition, the county staff and the applicant shall review and sign the CWS-7A, "Individual Provider Contract for Purchase of Foster Care Services in a Foster Care Home".

~~D~~C. If a provisional certificate will be issued because a "child specific" emergency placement is required in a previously non-certified home, prior to or at the time of the placement the county department of human/~~ or~~ social services shall receive the completed Original Application to Care for Children AND YOUTH, and the county staff and the applicant shall review and sign the CWS-7A, "Individual Provider Contract for Purchase of Foster Care Services in a Foster Care Home", and submit fingerprints and current processing fee to the Colorado Bureau of Investigation. WHEN A CHILD/YOUTH THAT WAS IN FOSTER CARE WITH A FOSTER PARENT THAT IS NO LONGER CERTIFIED, A PROVISIONAL CERTIFICATE MAY BE ISSUED IF IT IS IN THE CHILD'S/YOUTH'S BEST INTEREST TO RETURN TO THE FOSTER CARE HOME.

The following shall be ~~initiated~~ COMPLETED by the county department ~~of human/ or social services as soon as possible for~~ PRIOR TO an emergency "child specific" placement of a child/YOUTH ~~and/or youth~~. Complete a background check for each adult (18 years and older) living in the home for the following:

1. Child abuse/neglect records in every state where any adult residing in the home has lived in the five (5) years immediately preceding the date of application SHALL BE INITIATED NO LATER THAN SEVEN BUSINESS DAYS FOLLOWING PLACEMENT;

2. Fingerprint-based criminal history record information checks from the CBI and the FBI as soon as possible WITHIN FIVE (5) BUSINESS DAYS FOLLOWING THE REMOVAL AND NO LATER THAN 15 BUSINESS DAYS IN URGENT CIRCUMSTANCES and consistent with Section 7.304.21~~,~~.D~~,~~.2~~,~~.f (12 CCR 2509-4);

3. Review the court case management system at the State Judicial Department and include a copy in the provider record; and,

4. The CBI sex offender registry, ~~and~~ the ~~national sex offender public website~~ NSOPW operated by the United States Department of Justice, and include a copy in the provider record using:

a. Known names, NICKNAMES, AKAs, and addresses of each adult residing in the FOSTER CARE home; and,

b~~B~~. Address only, of the provider's home WITH A MAP FROM THE RESPECTIVE DATABASES TO CONFIRM THAT THE ADDRESS OF THE HOME HAS BEEN CHECKED.

5. CCWIS (TRAILS) SCREEN PRINTS, INCLUDING PRIOR NAMES, NICKNAMES, AND AKAs.

~~E~~D. If a provisional certificate will be issued because a non-emergency "child specific" placement is required in a previously non-certified home:

1. The county department of human/~~ or~~ social services shall submit fingerprints to CBI and FBI and complete all other background checks prior to placement of the child/YOUTH ~~and/or youth~~, consistent with Section 7.500.2~~,~~.B~~,~~.1, except that child abuse and neglect records in other states where an adult has resided in the five (5) years preceding the application shall be initiated no later than seven (7) working days following placement; and,

2. Review the completed "Original Application to Care for Children AND YOUTH" and the CWS-7A "Individual Provider Contract for Purchase of Foster Care Services in a Foster Care Home" with the provider, and collect the signed documents.

7.500.312 Issuance/Denial of Certificate ~~[Rev. eff. 1/1/16]~~

Every application used in the state of Colorado for employment with a child care provider or facility, or for the certification of a foster home, shall include the following notice to the applicant:

"Any applicant who knowingly or willfully makes a false statement of any material fact or thing in the application is guilty of perjury in the second degree as defined in Section 18-8-503, C.R.S., and, upon conviction thereof, shall be punished accordingly."

EACH APPLICANT MUST PROVIDE VERIFICATION OF A SOCIAL SECURITY NUMBER (SSN) OR AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER (ITIN) ISSUED BY THE FEDERAL GOVERNMENT.

After the completion of the ~~home~~ SAFE™ assessment, the county department shall take one of the following certification actions:

A. A one (1) year time-limited certificate shall be issued when it is determined that the applicant ~~is competent,~~ has completed the necessary training, and is in compliance with the Rules Regulating Foster Care Homes, Section 7.708. The certificate issue date is the date that the assessment is completed and the foster CARE home is in compliance. ~~with Rules Regulating Foster Care Homes, Section 7.708.~~

1. The number and age of children/YOUTH for whom the FOSTER CARE home is certified shall be determined by the size of the home and the rules regulating foster care homes, the applicant's previous experience, ~~and~~ parenting skills, AND INPUT FROM THE FOSTER PARENT.

2. Before a certificate is issued, the county department shall review the foster care ~~facility~~ contract and agreement with the foster parents. The contract and agreement must be signed by each applicant prior to certification. If a child/YOUTH is placed and care paid by the county department, rules found in the provider rules IN section 7.417.1 (12 CCR 2509-5) ~~of this manual~~ shall be utilized.

B. A provisional certificate shall be issued for child specific homes if the home is temporarily unable to conform to all appropriate regulations upon proof by the applicant that attempts are being made to comply with the appropriate regulations.

1. A provisional certificate may be issued to complete required training or in the event that an emergency placement into a previously uncertified home is required. If the applicant does not complete training within six months after application, no additional children/YOUTH can be placed in the home until this requirement is met. The reasons for the issuance of a provisional certificate shall be displayed on the certificate. The Department will not reimburse for children/YOUTH placed in a provisionally certified foster care home more than ninety (90) calendar days from the date of application.

2. The provisional certificate shall be issued for no more than six months from the date it is determined that time will be needed to complete the regulations or that care is to begin. Only one original provisional certificate may be issued to a foster home at one location address. The Department will not reimburse for children/YOUTH placed in a provisionally certified foster care home more than ninety (90) calendar days from the date of application.

C. The application shall be ~~withdrawn~~ CLOSED when the applicant no longer chooses to pursue certification.

D. The application shall be denied for one or more of the following reasons:

~~1. When it is determined that the applicant is not competent to operate a family foster home,or is unable or unwilling to comply with the regulations within three months of application.~~

~~2~~1. PURSUANT TO SECTION 26-6-905(10)C.R.S., w~~W~~hen the individual or person who resides with the applicant has been determined to be insane or mentally incompetent by a court of competent jurisdiction and, should a court enter an order pursuant to Part 3 or Part 4 of Article 14 of Title 15, C.R.S., or Section 27- 65-109(4) or 27-65-127, C.R.S., AN ORDER specifically finding that the mental incompetency or insanity is of such degree that the applicant is incapable of operating a RESIDENTIAL OR DAY TREATMENT CHILD CARE FACILITY, ~~family child care home,~~ foster care home,~~ child care center,~~ or child placement agency, the record of such determination and entry of such order being conclusive evidence thereof.

~~3~~2. If the person applying for the certificate OR A PERSON WHO RESIDES AT THE HOME has been convicted of any of the crimes defined in a-e, below. “Convicted” means a conviction by a jury or a court and ~~shall~~ also include a deferred judgment and sentence agreement, a deferred prosecution agreement, a deferred adjudication agreement, an adjudication, and a plea of guilty or nolo contendere. This does not apply to a diversion, deferral or plea for a juvenile who participated in diversion (defined in Section ~~19-1-103(44),~~ 19-2.5-102, C.R.S.), and does not apply to an adult who successfully completed the child abuse and/or neglect diversion program (defined in Section 19-3-310, C.R.S.).

a. Child abuse, as specified in Section 18-6-401, C.R.S.

b. A crime of violence, as defined in Section 18-1.3-406, C.R.S.

c. An offense involving unlawful sexual behavior, as defined in Section 16-22-102(9), C.R.S.

d. A felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in Section 18-6-800.3, C.R.S.

e. A felony involving physical assault, battery or a drug-related offense within the five years immediately preceding the date of application for a certificate.

~~4~~3. No certificate to operate a foster care home shall be issued by a county department ~~or~~ OF human/ ~~or~~ social services if the person applying for such certificate or a person who resides with the applicant at the foster care home has shown a pattern of misdemeanor convictions within the ten (10) years immediately preceding submission of the application. "Pattern of misdemeanor" shall include consideration of Section ~~26-6-108(2)~~ **26-6-910**, C.R.S., regarding suspension, revocation and denial of a license, and shall be defined as:

a. Three (3) or more convictions of 3rd degree assault as described in Section 18-3- 204, C.R.S., and/or any misdemeanor, the underlying factual basis of which has been found by any court on the record to include an act of domestic violence as defined in Section 18-6-800.3, C.R.S.; or,

b. Five (5) misdemeanor convictions of any type, with at least two (2) convictions of 3rd degree assault as described in Section 18-3-204, C.R.S., and/or any misdemeanor, the underlying factual basis of which has been found by any court on the record to include an act of domestic violence as defined in Section 18-6-800.3, C.R.S.; or,

c. Seven (7) misdemeanor convictions of any type.

~~5~~4. Any offense in any other state, the elements of which are substantially similar to the elements listed in ~~2-4~~ 1-3.

E. The application may be denied or the foster care certification suspended, revoked or made probationary PURSUANT TO SECTION 26-6-921, C.R.S., for one or more of the following reasons, if the person applying for the certificate or any individual living with the applicant or employed by the applicant has (also see Section 7.708.21):

1. ~~Been~~ IS convicted in Colorado or in any other state of any felony, or has entered into a deferred judgment agreement or a deferred prosecution agreement in Colorado or in any other state to any felony other than those offenses specified in Section **26-6-905(8)** ~~26-6-104(7)~~ , C.R.S., or child abuse, as specified in Section 18-6-401, C.R.S., the record of conviction being conclusive evidence thereof, notwithstanding Section 24-5-101, C.R.S.; or,

2. ~~Been~~ IS convicted of third degree assault, as described in Section 18-3-204, C.R.S., any misdemeanor, the underlying factual basis of which has been found by the court on any record to include an act of domestic violence, as defined in Section 18-6-800.3, C.R.S., any misdemeanor violation of a restraining order, as described in Section 18-6-803.5, C.R.S., any misdemeanor offense of child abuse as defined in Section 18-6-401, C.R.S., or any misdemeanor offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in this paragraph; or,

3. ~~Used any controlled substance as defined in Section 12-22-303(7), C.R.S. or consumed any alcoholic beverage or been under the influence of a controlled substance or alcoholic beverage during the operating hours of the facility. This shall not apply to foster care homes, unless such use or consumption impairs the foster parent's ability to properly care for children; or,~~ USES ANY CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 8 OF THE COLORADO REVISED STATUTES INCLUDING RETAIL MARIJUANA, OR CONSUMES ANY ALCOHOLIC BEVERAGE DURING THE OPERATING HOURS OF THE FACILITY OR IS UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE OR ALCOHOLIC BEVERAGE DURING THE OPERATING HOURS OF THE FACILITY; OR,

4. ~~Been~~ IS convicted of unlawful use of a controlled substance as specified in Section 18-18-404, C.R.S., unlawful distribution, manufacturing, dispensing, sale, or possession

of a controlled substance as specified in Section **18-18-403.5** OR 18-18-405, C.R.S., or unlawful offenses relating to marijuana or marijuana concentrate as specified in Section 18-18-406, C.R.S.; or,

5. Consistently fails~~ed~~ to maintain standards prescribed and published by the Colorado Department of Human Services; or,

6. Furnishes~~d~~ or ~~made~~ MAKES any misleading or any false statement or report to the Colorado Department of Human Services; or,

7. Refuses~~d~~ to submit to the Colorado Department of Human Services any reports or refuses~~d~~ to make available to the Department any records required by it in making AN investigation of the facility for licensing purposes; or,

8. Fails~~ed~~ or refuses~~d~~ to submit to an investigation or inspection by the Colorado Department of Human Services or to admit authorized representatives of the Department at any reasonable time for the purpose of investigation or inspection; or,

9. Fails~~ed~~ to provide, maintain, equip, and keep in safe and sanitary condition premises established or used for child care pursuant to standards prescribed by the Colorado Department of Public Health and Environment and the Colorado Department of Human Services or by ordinances of regulations applicable to the location of the foster care home; or,

10. Willfully or deliberately violates~~d~~ any of the provisions of PART 9 OF FOSTER CARE, RESIDENTIAL, DAY TREATMENT, AND CHILD PLACEMENT AGENCY LICENSING ~~the Child Care Licensing Act~~; or,

11. Fails~~ed~~ to maintain financial resources adequate for the satisfactory care of children served in regard to upkeep of premises and provision for personal care, medical services, clothing, and other essentials in the proper care of children; or,

12. ~~Been~~ IS charged with the commission of an act of child abuse or an unlawful sexual offense, as specified in Section 18-3-411 (1), C.R.S., if:

a. THE ~~such~~ individual has admitted committing the act or offense and the admission is documented or uncontroverted; or,

b. THE ~~an~~ Administrative Law Judge finds that such charge is supported by substantial evidence; or,

13. Admit~~ted~~ to an act of child abuse or if substantial evidence is found that the licensee, person employed by the licensee, or person who resides with the license~~d~~ in the foster home has committed an act of child abuse, as defined at 19-1-103(1), C.R.S.; or,

14. ~~Been~~ IS the subject of a negative licensing action.

15. ~~Intentionally misused~~ MISUSES funds: the individual(s) making the expenditure decision had deliberate, willful, and intentional disregard for the fiduciary responsibility for how public funds are to be used for children placed in foster care or adoptive homes.

F. A ~~certified~~ kinship FOSTER care certificate shall be issued when it is determined the applicant has met requirements outlined in Section 7.500.31.

G. DENIAL OF AN ORIGINAL OR RENEWAL APPLICATION AND/OR ISSUANCE

OF A PROBATIONARY CERTIFICATE.

1. WHEN AN ORIGINAL OR RENEWAL APPLICATION IS DENIED, THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES MUST NOTIFY THE APPLICANT IN WRITING OF THE DENIAL AND MAIL IT TO THE ADDRESS LISTED ON THE APPLICATION. THE DENIAL LETTER SHOULD BE SENT BY CERTIFIED MAIL TO VERIFY THE DATE THE APPLICANT RECEIVED THE DENIAL LETTER. IF THE APPLICANT CHOOSES TO APPEAL THE DECISION, A REQUEST BY THE FOSTER PARENT FOR A HEARING MUST BE MADE IN WRITING TO THE COUNTY DEPARTMENT WITHIN THIRTY (30) CALENDAR DAYS AFTER THE APPLICANT RECEIVED THE NOTICE OF DENIAL.

2. IF THE COUNTY DEPARTMENT DETERMINES THAT AN ORIGINAL ONE YEAR TIME LIMITED CERTIFICATE CAN NOT BE ISSUED OR AT THE TIME OF RENEWAL THAT A ONE YEAR TIME LIMITED CERTIFICATE CAN NOT BE ISSUED, THE COUNTY MAY ISSUE A PROBATIONARY CERTIFICATE.

a. TO ISSUE AN ORIGINAL OR RENEWAL PROBATIONARY CERTIFICATE THE COUNTY DEPARTMENT MUST SEND A DENIAL LETTER LISTING THE REASONS FOR THE DENIAL OF THE ONE YEAR TIME LIMITED CERTIFICATE AND THE REASONS FOR ISSUANCE OF THE ORIGINAL PROBATIONARY CERTIFICATE. THE REASONS FOR ISSUING A PROBATIONARY CERTIFICATE ARE LISTED IN SECTION 26-6-914 (a-p), C.R.S. A PROBATIONARY CERTIFICATE MAY BE ISSUED FOR ANY PERIOD OF TIME.

b. THE FOSTER PARENT MUST BE NOTIFIED OF THE RIGHT TO REQUEST A HEARING. THE LETTER AND PROBATIONARY CERTIFICATE SHOULD BE SENT BY CERTIFIED MAIL. THE FOSTER PARENT MUST REQUEST THE HEARING IN WRITING WITHIN 30 DAYS OF RECEIVING THE PROBATIONARY CERTIFICATE AND LETTER.

3. TO CHANGE A ONE YEAR TIME LIMITED CERTIFICATE TO PROBATIONARY THE COUNTY DEPARTMENT MUST FOLLOW SECTION 24-4-104, C.R.S., AND SEND THE REQUIRED INFORMATION BY CERTIFIED MAIL TO THE FOSTER PARENT DETAILING THE SPECIFIC REASONS FOR REVOCATION. THE LETTER MUST BE SENT TO THE ADDRESS INDICATED ON THE APPLICATION. THE PROVIDER IS ALLOWED FIFTEEN (15) CALENDAR DAYS TO RESPOND AND ARTICULATE THEIR VIEW OF THE ISSUES SPECIFIED IN THE DATA VIEWS AND ARGUMENTS LETTER. THE COUNTY DEPARTMENT MUST TAKE INTO CONSIDERATION, THE INFORMATION PROVIDED IN THE RESPONSE BY THE FOSTER PARENT. THE COUNTY DEPARTMENT MAY SEND STIPULATIONS TO THE FOSTER PARENT OUTLINING THE STIPULATIONS FOR THE PROBATIONARY CERTIFICATE, SPECIFIC TO THE CIRCUMSTANCES. IF THE FOSTER PARENT DOES NOT AGREE THE COUNTY DEPARTMENT CAN REQUEST A HEARING WITH AN ADMINISTRATIVE LAW JUDGE TO DETERMINE IF THE CERTIFICATE SHOULD BE PROBATIONARY.

7.500.313 Supervision AND SUPPORT ~~[Rev. eff. 1/1/16]~~

A. Supervision and ~~monitoring~~ SUPPORT of the identified needs of the foster home shall ~~be carried out~~ OCCUR according to the following ~~schedule~~:

A face-to-face contact shall be made in the foster care home with AT LEAST ONE (1) FOSTER PARENT PRESENT ~~the foster parent(s)~~ at least ONCE A MONTH WHILE ~~every month when~~ children/YOUTH are ~~in placement~~ PLACED IN THE FOSTER CARE HOME. Documentation of such contact shall be entered in the ~~State Department's automated system~~ CCWIS in the contacts for the provider and/or the ~~foster~~ children/YOUTH placed in FOSTER

CARE IN the FOSTER CARE home. The purpose of the contact is to PROVIDE SUPPORT AND answer questions that the foster parent has about the program, to indicate to the foster parent~~(s)~~ ANY CONCERNS THE county department OF HUMAN/SOCIAL SERVICES HAS ~~concerns~~ about the operation of the FOSTER CARE home, and to observe child care/INTERACTION WHEN POSSIBLE. ~~If the face-to-face contact is not possible, the reasons must be documented in the provider file and a telephone contact must be made~~. ~~In the event face-to-face contact cannot be made, the maximum number of allowable days between face-to-face contacts shall not exceed forty five (45) calendar days.~~

1. IF THE FACE-TO-FACE CONTACT IS NOT POSSIBLE, THE REASONS MUST BE DOCUMENTED IN THE PROVIDER RECORD AND AN ALTERNATE CONTACT MUST BE MADE. THE MAXIMUM NUMBER OF ALLOWABLE DAYS BETWEEN FACE-TO-FACE CONTACTS SHALL NOT EXCEED FORTY-FIVE (45) CALENDAR DAYS.

2. FOR A TWO (2) FOSTER PARENT FOSTER CARE HOME, EFFORTS SHOULD BE MADE TO MEET WITH BOTH FOSTER PARENTS. IF A FOSTER PARENT IS UNABLE TO BE PRESENT IN THE FOSTER CARE HOME, THE REASON A FACE-TO-FACE CONTACT IS NOT FEASIBLE SHALL BE DOCUMENTED IN THE CCWIS. ALL FOSTER PARENTS MUST HAVE FACE-TO-FACE CONTACT IN THE FOSTER CARE HOME QUARTERLY DURING THE YEAR AND DOCUMENTED IN THE CCWIS. FOR EXCEPTIONAL CIRCUMSTANCES, A WAIVER MAY BE SUBMITTED.

3. IF A CHILD/YOUTH IS NOT PRESENT DURING THE SUPPORT VISIT, AND IT IS DOCUMENTED, THE OBSERVATION OF CHILD CARE/INTERACTION IS NOT NEEDED. AT A MINIMUM ANNUALLY, THE SUPPORT CASEWORKER MUST OBSERVE THE INTERACTION BETWEEN THE FOSTER PARENT, THE CHILD/YOUTH IN FOSTER CARE, AND ANY OTHER CHILD/YOUTH LIVING IN THE FOSTER CARE HOME.

~~2~~B. PRIOR TO RECERTIFICATION, ~~A~~an annual ~~supervisory~~ ON-SITE visit ~~shall~~ MUST be made to the foster CARE home TO PREPARE FOR RECERTIFICATION. ~~A~~ W~~w~~ritten ~~report~~ DOCUMENTATION of the ~~supervisory~~ visit ~~shall~~ MUST be given to the foster parent TO DOCUMENT ANY NECESSARY ACTION NEEDED TO COMPLETE RECERTIFICATION. ~~and a copy~~ THE DOCUMENTATION MUST BE maintained in the ~~case~~ PROVIDER file, INCLUDING THE CCWIS. ~~If a review of the physician's plan indicates a need for an annual examination, a new statement from the physician is required at that time~~. ~~A written notice of noncompliance with the regulations will be left with the foster parents or sent to the foster parents within fifteen (15) working days of the supervisory visit if there is noncompliance. Compliance must be achieved within the time frames indicated on the written compliance notice.~~

~~B~~C. If a county department of HUMAN/social services no longer chooses to place children/YOUTH in the foster CARE home, the county department shall follow one or more of the following procedures:

~~1. A provisional certificate may be allowed to expire if the foster family chooses not to submit a certification renewal application; or,~~

~~2~~1. The county department must send a written statement to the FOSTER PARENT ~~home~~ explaining that the county DEPARTMENT will no longer place children/YOUTH in the FOSTER CARE home ~~for foster care~~ and that the FOSTER PARENT ~~home~~ must not accept any children/YOUTH for care from other sources; or,

~~3~~2. The county department must meet with the foster parents and ask them to sign a statement that they are withdrawing from the foster CARE ~~home~~ program~~;~~ or, THE COUNTY DEPARTMENT MUST SEND A LETTER TO THE FOSTER PARENTS REQUESTING THE

FOSTER PARENTS TO SIGN AND RETURN A STATEMENT THAT THEY ARE WITHDRAWING FROM THE FOSTER CARE PROGRAM.

~~43. The county department must send a letter to the foster parents requesting the foster parents to sign and return a statement that they are withdrawing from the foster home program.~~ CLOSE THE CERTIFICATION AND PROVIDE THE FOSTER PARENT WITH WRITTEN NOTICE OF THE RIGHT TO APPEAL.

7.500.314 Renewal ~~or Continuation~~ Notice ~~[Rev. eff. 4/1/12]~~

The county department OF HUMAN/SOCIAL SERVICES shall send a renewal notice to the foster parents at least ninety (90) calendar days prior to the expiration of a certificate.

A. If the foster parents wish to continue to provide care, the renewal notice shall be completed and returned to the county department prior to the expiration of the certificate.

B. If the renewal notice is received by the county department prior to the expiration of the certificate, the renewal notice is timely and the certificate continues valid until action is taken by the county department.

C. If the renewal notice is received after the expiration of the certificate, the renewal notice is untimely and the certificate is no longer valid. The untimely renewal notice shall be acted upon as A SUBSTITUTE FOR ~~an~~ THE ~~original~~ application.

7.500.315 Recertification Action

A. Upon receipt of a timely renewal application for a certificate, and prior to the expiration of the current certificate, the county department of human/social services must complete the following action to determine if continued certification is appropriate:

1. Review the ~~physician's plan~~ HEALTH ASSESSMENT.

If the governor or local government declares a disaster or emergency, and because of the declared disaster or emergency the medical exams for the foster parent(s), other children, and other adults residing in the home cannot be completed for the child/youth in the required time frame, the medical exam(s) must be completed as soon as possible, but no later than 45 calendar days after the declared conclusion of the disaster or emergency.

2. Complete searches on the CBI sex offender registry and THE ~~national sex offender public website~~ NSOPW operated by the United States Department of Justice and include a copy in the provider record using the following criteria, at a minimum:

a. Known names, NICKNAMES, AKA**s**, and addresses of each adult residing in the FOSTER CARE home; and,

b. Address only, of the foster CARE home, INCLUDING A MAP FROM THE RESPECTIVE DATABASE TO CONFIRM THAT THE ADDRESS OF THE FOSTER CARE HOME HAS BEEN CHECKED.

3. Review the following information, for the applicant(s) and all adults residing in the FOSTER CARE home. AS APPLICABLE, PROVIDE A COPY IN THE PROVIDER RECORD:

a. Any child abuse and/or neglect ~~allegations~~ REFERRALS or ~~investigations~~ ASSESSMENTS in the previous year;

b. Any arrest or conviction records in the previous year; ~~and,~~

c. Any other involvement with the foster family with the county department ~~of human or social services.~~; AND,

d. THE COLORADO COURT CASE MANAGEMENT SYSTEM.

4. If the foster parent or any adult living in the foster CARE home left the state for three (3) consecutive months or longer, a new FBI fingerprint-based criminal history record information check shall be conducted.

5. Evaluate the foster ~~care~~ PARENT'S ~~homes'~~ current and past compliance with the rules regulating foster CARE homes.

6. Conduct aN ANNUAL ONSITE ~~supervisory~~ visit in accordance with Section 7.500.313~~,~~.A~~,~~.2-4;

7. Complete a ~~Structured Analysis Family Evaluation~~ SAFE™ ~~(S.A.F.E.)~~ update to document the status of the foster family, including changes that have occurred AND SIGNATURE AND DATE FROM SECTION A OF THE UPDATE FORM.

8. Complete a CWS-7A, "Individual Provider Contract for Purchase of Foster Care Services in a Foster Care Home"; and,

9. A one year time-limited certificate shall be issued. The certificate issue date is the date that the foster CARE home is in compliance with the "Rules Regulating Foster Care Homes"; or,

10. A probationary certificate shall be issued with the specific reasons listed on the certificate and on the CWS-7A, "Individual Provider Contract for Purchase of Foster Care Services in a Foster Care Home"; or,

11. The renewal application for the certificate is denied. The process for denial of a renewal application is the same as the process for denial of an original application.

12. The certificate information shall be entered into the ~~state automated case management system~~ CCWIS.

B. A foster CARE home certificate is no longer valid whenever one of the following situations exists:

1. A ~~certified~~ foster family moves to a new address.

2. A foster ~~family~~ PARENT decides to withdraw from the foster ~~home~~ CARE program and confirms ~~the same~~ IT in writing.

3. A certificate has been revoked or the renewal application has been denied.

4. A certificate has expired.

7.500.316 Inter-county Transfer or Move of A Foster CARE Home ~~[Rev. eff. 1/1/16]~~

A. When a foster family moves to a new location within the county of residence or within a new county, the family must make a timely notification WITHIN 30 CALENDAR

DAYS PRIOR TO THE MOVE TO the certifying county ~~prior to the move~~ by submission of an original application.

B. When a foster family moves to a new residence in the same county, the county department OF HUMAN/SOCIAL SERVICES shall inspect the new residence to assure compliance with the Rules AND RegulatiNG Foster CARE Homes, Section 7.708 (12 CCR 2509-8).

Certification action which results in issuance of a certificate shall be dated ~~in~~ WITH the following ~~fashion~~:

1. A certificate shall commence the date that the county department determines that there is compliance with the ~~Minimum~~ Rules ~~and Regulations~~ ~~for~~ REGULATING Foster CARE Homes, Section 7.708.

2. The county department may issue a CHILD SPECIFIC provisional certificate if the FOSTER CARE home is temporarily unable to conform to all appropriate rules of the Rules Regulating Foster Care Homes, Section 7.708, upon proof by the foster parents that attempts are being made to comply with the appropriate regulations. The reasons for the issuance of the provisional certificate will be displayed on the certificate. The provisional certificate may not exceed ninety (90) calendar days from the date it is determined that time will be needed to meet the rules. Only one original provisional certificate may be issued to a foster CARE home at one location address. THE DEPARTMENT WILL NOT REIMBURSE FOR CHILDREN/YOUTH PLACED IN A PROVISIONALLY CERTIFIED FOSTER CARE HOME MORE THAN NINETY (90) CALENDAR DAYS FROM THE DATE OF THE APPLICATION.

C. When a foster family ~~who has foster~~ WITH children/YOUTH in FOSTER CARE placement, moves to another county, the county of original residence ~~shall immediately~~ MAY forward to the county where the family moves, the record on the foster CARE home and children/YOUTH in placement, and ask that county to certify and supervise the home in the new location.

D. When a foster family ~~who has foster~~ WITH children/YOUTH in FOSTER CARE placement moves to an adjoining county, the county of original residence shall immediately OR WITHIN TWO (2) BUSINESS DAYS, notify the adjoining county and may ask permission to continue to certify and supervise the FOSTER CARE home. Upon notification from the second county of its approval, certification assessment of the foster CARE home shall be completed by the original county, and a ~~permanent or~~ provisional certificate issued.

E. IF A FOSTER CARE HOME TRANSFERS TO A COUNTY DEPARTMENT FROM ANOTHER AGENCY OR TRIBAL FOSTER CARE PROGRAM, A SAFE™ ASSESSMENT UPDATE MAY BE COMPLETED IF THE PREVIOUS ENTITY PROVIDES THE ORIGINAL SAFE™ ASSESSMENT AND ALL SUBSEQUENT UPDATES.

7.500.317 ~~Complaint Investigations~~ ~~[Rev. eff. 4/1/12]~~ RESPONSE TO A NOTIFICATION OF AN ALLEGATION OF ABUSE AND/OR NEGLECT OR ANOTHER TYPE OF CONCERN IN A COUNTY FOSTER CARE HOME

~~A. When a complaint of child abuse and/or neglect is received by the agency county department about a certified facility, the local investigating authority and the placement workers of children in the home shall be notified immediately. Investigation shall be made according to the procedures outlined for investigation of institutional abuse as found in the Program Area 5 Section..~~

~~1. A determination shall be made immediately whether children should remain in placement or if other children should be placed in the home while the investigation is in progress.~~

~~2. The results of the investigations shall be summarized and included in the foster home facility file. This may be in the form of the final written report completed by the investigating county.~~

~~3. Upon receipt of the written report from the investigating county, the certifying county shall make a determination within three working days whether there will continue to be future use of the home. The foster home shall be notified in writing and the notification recorded in the foster home facility file as to the decision regarding future use of the home. If the foster home certificate is closed, suspended or revoked, the county department shall notify the Colorado Department of Human Services in writing.~~

~~4. The final decision regarding the future use of the foster home shall be confirmed in writing to the home and recorded in the foster home facility file within ten (10) working days of the receipt by the certifying agency of the final written report of a child abuse investigation. If the county department continues to certify a foster home where there has been a confirmed report for medium or severe child abuse or neglect, the county department must notify the State Department in writing within three (3) business days and submit justification for keeping the foster home certified.~~

A. WHEN NOTIFICATION OF A REFERRAL ALLEGING ABUSE OR NEGLECT IN A COUNTY FOSTER CARE HOME IS RECEIVED AND IT HAS NOT BEEN ACCEPTED FOR ASSESSMENT THE CERTIFYING COUNTY FOSTER CARE SUPPORT WORKER SHALL TAKE THE FOLLOWING ACTIONS:

1. REVIEW THE REFERRAL TO DETERMINE IF THERE ARE CERTIFICATION CONCERNS IDENTIFIED.

a. IF NO CERTIFICATION CONCERNS ARE IDENTIFIED, DOCUMENT RECEIPT OF THE REFERRAL IN RESOURCE NOTES IN THE COMPREHENSIVE CHILD WELFARE INFORMATION SYSTEM (CCWIS).

b. IF CONCERNS ARE IDENTIFIED, THE FOSTER CARE SUPPORT WORKER WILL COMPLETE A THOROUGH REVIEW OF THE CIRCUMSTANCES AND THE INCIDENT. THIS INCLUDES THE FOLLOWING:

1) MEET WITH THE FOSTER PARENT;

2) IDENTIFY ANY CORRECTIONS OR MODIFICATIONS THAT NEED TO BE INCORPORATED AND PROVIDE ANY TRAINING, OR TECHNICAL ASSISTANCE TO MITIGATE CONCERNS; AND,

3) DOCUMENT ANY ACTIONS TAKEN.

B. WHEN NOTIFICATION OF A REFERRAL ALLEGING ABUSE AND/OR NEGLECT IN A COUNTY FOSTER CARE HOME HAS BEEN ACCEPTED FOR ASSESSMENT THE CERTIFYING COUNTY'S FOSTER CARE SUPPORT WORKER AND/OR DESIGNATED STAFF SHALL TAKE THE FOLLOWING ACTIONS:

1. A DETERMINATION SHALL BE MADE AS SOON AS POSSIBLE IN CONJUNCTION WITH RECOMMENDATIONS FROM THE ASSESSMENT CASEWORKER, WHETHER CHILDREN/YOUTH SHOULD REMAIN IN PLACEMENT IN THE FOSTER CARE HOME.

2. OR, IF OTHER CHILDREN/YOUTH SHOULD BE PLACED IN THE HOME WHILE THE ASSESSMENT IS IN PROGRESS.

3. THE RESULTS OF THE ASSESSMENT SHALL BE SUMMARIZED AND INCLUDED IN THE FOSTER CARE HOME RECORD MAINTAINED BY THE COUNTY DEPARTMENT. THIS MAY BE IN THE FORM OF THE FINAL WRITTEN REPORT COMPLETED BY THE COUNTY RESPONSIBLE FOR THE ASSESSMENT.

4. UPON RECEIPT OF THE WRITTEN REPORT FROM THE COUNTY RESPONSIBLE FOR THE ASSESSMENT OF CHILD ABUSE AND/OR NEGLECT, THE CERTIFYING COUNTY SHALL MAKE A DETERMINATION WITHIN THREE (3) WORKING DAYS REGARDING CONTINUED USE OF THE HOME. THE FOSTER CARE HOME SHALL BE NOTIFIED IN WRITING OF THE DECISION AND THE NOTIFICATION RECORDED IN THE FOSTER CARE HOME RECORD MAINTAINED BY THE CERTIFYING COUNTY. IF THE FOSTER CARE CERTIFICATE IS CLOSED, SUSPENDED, OR REVOKED, THE COUNTY DEPARTMENT SHALL DOCUMENT THIS IN THE CCWIS.

5. THE FINAL DECISION REGARDING FUTURE USE OF THE FOSTER CARE HOME SHALL BE CONFIRMED IN WRITING TO THE FOSTER PARENT AND RECORDED IN THE FOSTER CARE HOME RECORD WITHIN TEN (10) WORKING DAYS OF THE RECEIPT BY THE CERTIFYING AGENCY OF THE FINAL WRITTEN REPORT OF A CHILD ABUSE AND/OR NEGLECT ASSESSMENT.

a. IF THE COUNTY DEPARTMENT CONTINUES CERTIFICATION OF A FOSTER CARE HOME WHERE THERE HAS BEEN A CONFIRMED REPORT OF MEDIUM OR SEVERE CHILD ABUSE AND/OR NEGLECT, WRITTEN JUSTIFICATION AND ADDITIONAL FOLLOW-UP MUST BE IDENTIFIED. THE COUNTY DIRECTOR OR DESIGNEE MUST SIGN THE STATEMENT THAT INCLUDES THE JUSTIFICATION AND FOLLOW-UP.

b. THE COUNTY DEPARTMENT MUST NOTIFY THE DIVISION OF CHILD WELFARE DIRECTOR AND FOSTER CARE PROGRAM ADMINISTRATOR AT DCW IN WRITING WITHIN THREE (3) BUSINESS DAYS AND SUBMIT THE JUSTIFICATION AND FOLLOW-UP FOR MAINTAINING THE FOSTER CARE HOME CERTIFICATION.

c. THE STATEMENT MUST BE DOCUMENTED IN NOTES IN THE REFERRAL FOR THE PROVIDER.

~~5~~6. Administrative proceedings to modify, limit, or revoke the certificate will be initiated by the certifying agency within 30 calendar days of notification of any adverse decision regarding ~~future~~ CONTINUED use of the FOSTER CARE home.

~~6~~7. After the State Institutional Abuse REVIEW Team (IART) ~~reviews~~ EVALUATES the ~~investigating county~~ finding AND ASSESSMENT BY THE COUNTY RESPONSIBLE FOR THE ASSESSMENT, the State Institutional Abuse REVIEW Team may recommend ~~that~~ a follow-up REVIEW ~~investigation~~. A FOLLOW-UP IS A REVIEW OF THE ORIGINAL ASSESSMENT ~~be completed~~ BY THE CERTIFYING COUNTY TO DETERMINE IF THE AGENCY HAS CULPABILITY BASED ON PRACTICES, POLICIES, AND PROCEDURES, IF ANY CERTIFICATION REQUIREMENTS WERE VIOLATED IN THE FOSTER CARE HOME, OR BY THE FOSTER CARE PROVIDERS. The county shall ~~advise the State Department of actions taken by~~ enter~~ing~~ a report int~~o~~ the ~~State Department's automated system~~ CCWIS within thirty (30) calendar days of the receipt of the State Institutional REVIEW Team's request. FOLLOW-UP IS DOCUMENTED IN THE PROVIDER RECORD.

~~B~~C. Other types of complaints OR IDENTIFIED CONCERNS shall be ~~investigated~~ REVIEWED AND ADDRESSED by the certifying COUNTY ~~authority~~. The ~~investigation~~ COUNTY'S ~~shall result in a~~ determination of THE CONCERNS SHALL BE DOCUMENTED ~~whether the complaint is valid~~ and, if ~~so~~ APPLICABLE, what corrections or modifications the FOSTER CARE home must make. The results ~~of the~~ ~~investigation~~ shall be confirmed in writing within ten (10) working days TO THE FOSTER PARENT AND DOCUMENTED IN THE PROVIDER RECORD IN THE CCWIS.

~~**7.500.32 Specialized Group Facilities [Rev. eff. 1/1/16]**~~

~~A. Specialized group facilities provide long-term or emergency care of children who must live away from their own homes and who can benefit from group interaction, need a more therapeutic setting than that provided in a foster home, and need the experience of strong peer relationships.~~

~~B. A specialized group home and specialized group center are defined in the Minimum Rules and Regulations for Specialized Group Facilities. A specialized group home and specialized group center shall be licensed by the state department.~~

~~C. The recruitment of specialized group facilities shall center on the recruitment of primary caregivers who meet the requirements of primary caregiver as stated in the Minimum Rules and Regulations for Specialized Group Facilities and are capable of working closely with the department and a variety of other agencies.~~

~~D. The county department which establishes and sponsors a specialized group facility shall assign a department staff member to be the supervisor of that facility who meets the requirements as stated in the Minimum Rules and Regulations for Specialized Group Facilities. The supervisor shall develop policies for the facility pursuant to the regulations prior to issuance of the original license.~~

~~E. Requirements for the Operation of Specialized Group Homes or Specialized Group Centers~~

~~1. The specialized group facility shall be sponsored and supervised by a county~~

department of social/human services or a child placement agency.

2. The supervisory responsibilities of the sponsoring agency are:

a. To be knowledgeable with the rules regulating specialized group facilities; and,

b. Participate in the development and application process to include verifying that the original application submitted is complete with all required signatures and submitted in a timely manner; and,

c. Ongoing assessment of the specialized group facility for quality of care issues; and,

d. Annual evaluations of the governing body, unless the governing body and the sponsoring agency are the same agency; and

3. The sponsoring agency shall be responsible to ensure that state rules are followed regarding:

a. The hiring, training and scheduling staff; and,

b. Placement decisions including, but not limited to, appropriateness of placement and least restrictive environment; and,

c. The documentation, reporting and corrective action of critical incidents.

7.500.321 Application and Study for an Original License [Rev. eff. 4/1/12]

A. If the county department establishes and plans to sponsor a specialized group facility and the governing body for the specialized group facility is the applicant for the license, both the county department and the governing body must sign the original application. An original application which is totally complete and a fee shall be submitted to the State Department, including a written plan for the supervision of the specialized group facility. The name of the supervisor for the specialized group facility must be identified on the application.

B. The county department shall complete a study of the specialized group facility which shall consist of at least the following:

1. An assessment of character and suitability of the primary caregivers, including at least a review of the State Department's automated system as to the applicant and persons who reside with applicant in the facility, with written approval by such persons, receipt of statements from references and physician, review of existing case records, evaluation by a certified psychologist, psychiatrist or Licensed Clinical Social Worker documented by a written statement that includes all items listed at Section 7.709.22, J, 1-16; and documentation of the prior work experience of the primary caregiver with children in out-of-home care.

2. Statement from references and physician for each staff member working at the specialized group home or center.

3. The State Department shall require any applicant or licensee and any person eighteen
(18) years of age or older who resides with the applicant or licensee in the specialized group facility or who works in the specialized group facility to obtain and review:

a. Fingerprint-based criminal history record information checks from the CBI and the FBI as required in Section 7.701.33 in all circumstances.

b. Child abuse/neglect records in every state where the adult has resided in the five (5) years preceding the date of application;

c. The CBI sex offender and National Sex Offender public website operated by the United States Department of Justice by:

1) Known names and addresses of each adult residing in the home; and

2) Address only of the home

3) A comparison search on the Court Case Management system at the State Judicial Department, using the name and date of birth with available criminal history information for each adult eighteen (18) years and older living in the home. The purpose is to determine any crime(s) for which an applicant or other adult residing in the home was arrested or convicted and the disposition. This search shall be completed regardless of whether the CBI and FBI fingerprint history and record confirms or does not confirm a criminal history. (See section 7.500.24)

4) All background checks shall be documented in the state automated case management system

4. An on-site facility inspection, documented in writing, which determines that the facility is in compliance with the Minimum Rules and Regulations for Specialized Group Facilities.

5. Written approval received by the county department from the local health, fire, and zoning departments.

6. A CWS-7A, Individual Provider Contract for Purchase of Foster Care Services and Foster Care Facility Agreement, shall be signed by the primary caregivers.

7. Completion of policies for the operation of the specialized group home.

C. The group home primary caregivers who have not previously received twelve (12) hours of "core" training shall receive twelve (12) hours of training within the first twelve (12) months following the submission of the application.

D. The application form requires that several attachments be submitted. The application is incomplete and the license cannot be issued until these are submitted. The county department must also submit the following with the application:

1. Documentation of experience, the medical statement, reference statements and written statement from a certified psychologist, psychiatrist or Licensed Clinical Social Worker regarding the primary care giver.

2. The name of each staff member, dates of receipt of medical statements and references.

3. Written and dated documentation that an on-site home inspection has been made and the facility is in compliance with the Minimum Rules and Regulations for Specialized Group Facilities.

~~E. The license will not be issued until the State Department has received an approving written report from the fire, health, and zoning departments as required by the General Rules for Child Care Facilities, Section 7.701.34. Approvals may be verified by signature of the inspector on the application form.~~

~~7.500.322 Supervision~~

~~The group home supervisor shall provide supervision for the group home or group center pursuant to the Minimum Rules and Regulations for Specialized Group Facilities.~~

~~7.500.323 Complaint Investigations [Rev. eff. 1/1/16]~~

~~Complaints of child abuse or neglect and other complaints about a specialized group facility shall be investigated and documented in the same manner as for foster homes.~~

7.500.324 Dual Licenses and Certificates ~~[Rev. eff. 1/1/16]~~

A. A home may be licensed ~~and certified~~ to provide ~~both~~ ~~day~~ CHILD care and CERTIFIED FOR foster care simultaneously. This is known as a dual care provider. Dual care providers utilized by county departments of human/social services are certified by the county for foster care and licensed by the State for ~~day~~ CHILD care.

1. If a foster CARE home wishes to accept children for ~~day~~ CHILD care on a regular basis, the ~~home~~ PROVIDER shall apply for a license for ~~day~~ CHILD care from the Colorado Department of ~~Human Services~~ EARLY CHILDHOOD and pay the prescribed fee.

2. If the foster CARE home wishes to provide ~~day~~ CHILD care, the certifying agency must approve.

a. The county department shall complete a justification statement ~~as to how~~ DESCRIBING HOW the needs of all children/YOUTH will be met and protected in this home if certified for foster care and licensed for ~~day~~ CHILD care, which shall be filed in the case record.

b. The county department shall document in the case record the specific number of children for combined use of the home, specific number of children as a ~~day~~ CHILD care home, and a specific number of children/YOUTH in foster care.

3. A home that is licensed for ~~day~~ CHILD care may only be certified for foster care for one **(1)** child/YOUTH or for a group of siblings.

4. A county DEPARTMENT that has a foster CARE home that is ~~certified for foster care and~~ also licensed for ~~day~~ CHILD care must notify the ~~Division of Child Care~~ COLORADO DEPARTMENT OF EARLY CHILDHOOD when any of the following situations occur in the foster CARE home~~:~~.

a. A complaint is received; or,

b. A child abuse AND/OR NEGLECT ASSESSMENT ~~investigation~~ occurs; or,

c. A ~~Stage II~~ FOLLOW-UP REVIEW ~~investigation~~ occurs; or,

d. A ~~foster~~ child~~(ren)~~/YOUTH IN FOSTER CARE is removed from the home

because of abuse AND/OR NEGLECT allegations; or,

e. The foster CARE home certificate is changed to probationary; or,

f. The foster CARE home certificate is revoked or closed.

5. A county DEPARTMENT that has a foster CARE home that is ~~certified for foster care and~~ also licensed for ~~day~~ CHILD care must submit the following reports to the COLORADO DEPARTMENT OF EARLY CHILDHOOD~~:~~.

a. All complaint ~~investigation~~ reports; and,

b. All child abuse/NEGLECT ~~investigation~~ ASSESSMENT reports; and,

c. All FOLLOW-UP ~~Stage II~~ REVIEW ~~investigation~~ reports.

~~**7.500.33 - 7.500.34 (None)**~~

7.500.33 SAFE™ ASSESSMENT PRACTITIONER QUALIFICATIONS (HOME STUDY)

THE FOLLOWING ARE THE REQUIREMENTS FOR PRACTITIONERS AND THEIR SUPERVISION WHEN COMPLETING HOME STUDY ASSESSMENTS.

A. COUNTY DEPARTMENTS OF HUMAN/SOCIAL SERVICES STAFF, CONTRACT VENDORS, OR CHILD PLACEMENT AGENCY STAFF MUST MEET THE FOLLOWING QUALIFICATIONS.

1. A SAFE™ ASSESSMENT PRACTITIONER MUST HAVE A BACHELOR'S, MASTER'S, OR DOCTORATE DEGREE FROM A COLLEGE OR UNIVERSITY IN A HUMAN SERVICE OR MENTAL/BEHAVIORAL HEALTH RELATED FIELD, SUCH AS PSYCHOLOGY, SOCIOLOGY, HUMAN DEVELOPMENT, AND FAMILY STUDIES, SOCIAL WORK, CRIMINAL JUSTICE, AND/OR COUNSELING AND, THREE (3) YEARS EXPERIENCE IN CHILD PLACEMENT, CHILD PROTECTION, FOSTER CARE, OR ADOPTION.

2. CURRENT EMPLOYEES OF THE COUNTY DEPARTMENT OR A CHILD PLACEMENT AGENCY THAT HAVE A MINIMUM OF A BACHELOR OF ARTS (BA) OR BACHELOR'S OF SCIENCE (BS) DEGREE IN A NON-HUMAN SERVICES FIELD AND WITH A MINOR IN PSYCHOLOGY, SOCIOLOGY, MENTAL HEALTH, REHABILITATION, OR EDUCATION FROM A REGIONALLY ACCREDITED COLLEGE OR UNIVERSITY AND FIVE (5) YEARS OF EXPERIENCE IN HUMAN SERVICES, THREE (3) OF WHICH MUST HAVE BEEN IN CHILD PLACEMENT, CHILD PROTECTION, FOSTER CARE, OR ADOPTION MAY APPLY TO BE ON THE CONTRACT VENDOR LIST.

B. ALL QUALIFIED INDIVIDUALS PROVIDING SAFE™ SUPERVISION MUST HAVE COMPLETED THE SAFE™ TWO-DAY CERTIFICATION AND SUPERVISOR TRAININGS.

C. ALL SAFE™ ASSESSMENT PRACTITIONERS COMPLETING A SAFE™ HOME STUDY MUST RECEIVE SUPERVISION FOR EACH SAFE™ ASSESSMENT BY A QUALIFIED INDIVIDUAL. APPROVED PRACTITIONERS COMPLETING A SAFE ™ HOME STUDY MUST UTILIZE THE SAFE™ SUPERVISORY PROCESS AS OUTLINED BY THE CONSORTIUM FOR CHILDREN. IF THE SAFE™ SUPERVISION PROTOCOL IS NOT FOLLOWED IT IS NOT CONSIDERED A VALID SAFE™ HOME STUDY. THERE IS NO EXCEPTION.

D. SAFE™ ASSESSMENT PRACTITIONERS WHO ARE SUPERVISORS MUST ALSO RECEIVE SUPERVISION FROM A SEPARATE QUALIFIED SAFE™ SUPERVISOR FOR EACH SAFE™ ASSESSMENT COMPLETED. THE SUPERVISOR VERIFIES THAT THIS HOME STUDY WAS CONDUCTED WITH DUE PROFESSIONAL DILIGENCE AND IN ACCORDANCE WITH COLORADO LAW (§19-5-207.5, C.R.S.) AND THE RULES ADOPTED BY THE COLORADO DEPARTMENT OF HUMAN SERVICES.

E. THE COLORADO DEPARTMENT OF HUMAN SERVICES IS REQUIRED TO MAINTAIN AN APPROVED CONTRACT VENDOR LIST OF INDIVIDUALS QUALIFIED TO COMPLETE SAFE™ ASSESSMENTS.

1. ALL SAFE™ ASSESSMENT PRACTITIONERS THAT ARE ON THE CONTRACT VENDOR LIST MUST PROVIDE VERIFICATION OF A COLLEGE TRANSCRIPT, RESUME, ATTESTATION OF INDIVIDUAL RESPONSIBILITIES, SAFE™ ASSESSMENT TRAINING, SAFE™ SUPERVISOR TRAINING (IF APPLICABLE), AND CURRENT INDIVIDUAL LIABILITY INSURANCE.

a. INDIVIDUAL CONTRACT VENDORS MUST SUBMIT PROFESSIONAL LIABILITY INSURANCE IN AN AMOUNT REASONABLE AS RELATED TO THEIR EXPOSURE TO RISK.

2. THE INDIVIDUAL MUST PROVIDE A CURRENT RISK ASSESSMENT TO THE COLORADO DEPARTMENT OF HUMAN SERVICES IF REQUESTED.

7.500.34 (NONE)

7.500.35 Adoption Resources

7.500.351 Applications and Adoption Services ~~[Rev. eff. 3/2/11]~~

A. FOR THE PURPOSE OF CONDUCTING A SAFE™ ASSESSMENT OR SAFE™ UPDATE FOR ADOPTION, IT MUST BE COMPLETED NINETY (90) WORKING DAYS FROM RECEIVING THE COMPLETED BACKGROUND CHECKS.

COUNTY DEPARTMENTS OF HUMAN/SOCIAL SERVICES, QUALIFIED INDIVIDUALS, AND CHILD PLACEMENT AGENCIES SHALL BE REQUIRED TO REPORT TO THE COURT THE RESULTS OF A FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK WHEN IT REVEALS THAT THE PROSPECTIVE ADOPTIVE PARENT WAS CONVICTED OF A FELONY OR MISDEMEANOR OF:

1 CHILD ABUSE OR NEGLECT;

2. ANY CRIME AGAINST A CHILD, INCLUDING CHILD PORNOGRAPHY;

3. ANY CRIME, THE UNDERLYING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY THE COURT ON THE RECORD TO INCLUDE AN ACT OF DOMESTIC VIOLENCE, AS SPECIFIED IN SECTION 18-6-800.3, C.R.S.;

4. VIOLATION OF A PROTECTIVE ORDER, AS DESCRIBED IN SECTION 18-6-803.5, C.R.S.;

5. ANY CRIME INVOLVING VIOLENCE, RAPE, SEXUAL ASSAULT, OR HOMICIDE; AND,

6. ANY FELONY DRUG-RELATED CONVICTION WITHIN, AT A MINIMUM, THE PAST FIVE (5) YEARS.

NO PERSON CONVICTED OF A FELONY OFFENSE SHALL BE ALLOWED TO ADOPT A CHILD/YOUTH, EXCEPT A PERSON MAY BE ALLOWED TO ADOPT A CHILD/YOUTH IF:

a. THE APPLICANT HAS HAD NO FURTHER ARRESTS OR CONVICTIONS SUBSEQUENT TO THE ORIGINAL CONVICTION;

b. THE APPLICANT HAS NOT BEEN CONVICTED OF A PATTERN OF MISDEMEANORS, AS DEFINED BY RULE OF THE STATE BOARD OF HUMAN SERVICES AT SECTION 7.500.312.D.4.A-C; AND,

c. THE COURT ENTERS A FINDING CONSISTENT WITH SECTION 19-5-210(2)(D), C.R.S., THAT THE ADOPTION IS IN THE BEST INTEREST OF THE CHILD.

~~A~~B. Recruiting and Inquiries

1. The county department OF HUMAN/SOCIAL SERVICES recruits adoptive homes that reflect the racial, ethnic, cultural, and linguistic backgrounds for all waiting children/YOUTH. The county DEPARTMENT shall make reasonable efforts to recruit families of the same ethnic, cultural, and racial background as the children/YOUTH Awaiting adoption AS REFERENCED IN THE MULTI-ETHNIC PLACEMENT ACT (P.L.103-82).

2. The county department provides information about adoption services within the county department and services available through other adoption agencies and organizations. Requests for ~~studies~~ SAFE™ ASSESSMENTS for children/YOUTH from private sources shall be referred to private agencies.

3. PROSPECTIVE ADOPTIVE PARENT(S) ~~Families~~ approved for ~~international~~ INTERCOUNTRY adoption and waiting for adoptive placement can be simultaneously approved for adoption with public and LICENSED private adoption agencies as long as both agencies are aware AND IN AGREEMENT of the arrangement.

a. The PROSPECTIVE ADOPTIVE PARENT(S) ~~family~~ shall inform the public agency of its current relationship with the private agency that approved it for ~~an international~~ INTERCOUNTRY adoption.

b. The PROSPECTIVE ADOPTIVE PARENT(S) ~~family~~ shall sign a release ~~for~~ OF information from the private CHILD PLACEMENT agency to be provided to the county department of their choice. The released information shall include, but not be limited to, the following:

1) Current SAFE™ ASSESSMENT ~~home study completed in the Structured Analysis Family Evaluation (SAFE™) format~~ by the private agency;

2) Documentation of training completed by the ~~family~~ PROSPECTIVE ADOPTIVE PARENT(S).

c. The county DEPARTMENT shall ~~do~~ COMPLETE A SAFE™ UPDATE ~~an update of the home study using the SAFE™ home study format~~ and clarify the ~~type~~ CHARACTERISTICS of child/YOUTH for whom the PROSPECTIVE ADOPTIVE PARENT(S) ~~family~~ would be approved ~~via~~ USING the county~~'s~~ DEPARTMENT'S approval process.

d. The county DEPARTMENT must obtain the following new information from the PROSPECTIVE ADOPTIVE PARENT(S) ~~family~~:

1) References;

2) HEALTH ASSESSMENTS ~~Physicals~~;

3) Background check for each adult AGE eighteen (18) and older living in the home, for the following:

~~.i~~a) Fingerprint-based criminal history checks from the CBI and FBI as required in section 7.701.33 in all circumstances.

~~ii.~~b) Child abuse/neglect records in every state where the adult has resided in the five (5) years preceding the date of application.

~~iii.~~c) The CBI Sex Offender and ~~National Sex Offender public website~~ NSOPW operated by the United States Department of Justice by:

- i. Known names, NICKNAMES, AKAs, and addresses of each adult residing in the home; and,
- ii. Address only of the home, INCLUDING A MAP FROM THE RESPECTIVE DATABASES TO CONFIRM IT HAS BEEN CHECKED.

~~iv.~~d) A comparison search on the COLORADO Court Case Management system at the State Judicial Department, using the name and date of birth with available criminal history information for each adult eighteen (18) years and older living in the home. The purpose is to determine any crime(s) for which an applicant or other adult residing in the home was arrested or convicted and the disposition. This search shall be completed regardless of whether the CBI and FBI fingerprint history and record confirms or does not confirm a criminal history ~~(See section 7.500.24)~~.

e) WITHIN 90 DAYS PRIOR TO FINALIZATION OF AN ADOPTION, COMPLETE ALL BACKGROUNDS CHECKS INCLUDING: CCWIS, COLORADO COURT CASE MANAGEMENT SYSTEM, CBI AND FBI FINGERPRINT BASED CRIMINAL HISTORY RECORD INFORMATION CHECK, CBI SEX OFFENDER CHECK AND NSOPW.

4) All background checks shall be documented in the ~~state automated case management system~~ CCWIS.

~~i.~~a) The county DEPARTMENT OF HUMAN/SOCIAL SERVICES shall continue to follow its ~~regular~~ policies and procedures in considering the PROSPECTIVE ADOPTIVE PARENT(S) ~~family~~ for potential placements.

~~ii.~~b) The ~~family~~ PROSPECTIVE ADOPTIVE PARENT(S) shall sign an agreement with both the public and private agency stating that the ~~family~~ PROSPECTIVE ADOPTIVE PARENT(S) WILL ~~shall~~ inform either agency when there is a potential placement. The agreement shall state the following:

~~1~~i. All parties understand and agree that the agency not placing the child/YOUTH will put the ~~family~~ PROSPECTIVE ADOPTIVE PARENT(S) “on hold” for a minimum of six (6) months following the date that the child/YOUTH is placed in the ~~family's~~ home;

~~2~~ii. At the end of the six (6) month period “on hold”, all parties including the ~~family~~ THE PROSPECTIVE ADOPTIVE PARENT(S), the two

agency,and any other person or persons who have a vested interest in the adoptive placement of the child/YOUTH, shall meet to discuss DETERMINE AND DOCUMENT whether or not the "on hold" period should continue; and the reason(s) behind that decision;

3iii. The placing agency shall complete a home study SAFE™ update using the SAFE format regarding the progress and appropriateness of the new placement and make recommendations for ANY further adoptive placements; in the future;

4iv. The non-placing agency shall COMPLETE A SAFE™ update its home study using the SAFE format, ADDRESSING THE PLACEMENT OF A CHILD/YOUTH INTO THE PROSPECTIVE ADOPTIVE HOME with the same criteria such that the non-placing agency has made its own recommendations for further placements.

ii.c) The public agencies COUNTY DEPARTMENT shall advise THE PROSPECTIVE ADOPTIVE APPLICANT(S) families that THE SAFE™ home studies ASSESSMENT completed for public agencies COUNTY DEPARTMENTS are not suitable to determine the appropriateness for INTERCOUNTRY ADOPTION. placement with children from other countries.

iii.d) The public agency COUNTY DEPARTMENT shall assure that the required information is included in either the private agency's home study SAFE™ ASSESSMENT or in the SAFE™ update completed by the public agency COUNTY DEPARTMENT.

5) Applications

i.a) The county department OF HUMAN/SOCIAL SERVICES accepts applications for the adoption of children/YOUTH only from persons who meet the requirements of the Colorado statute, INCLUDING THE FOSTER CARE, RESIDENTIAL, DAY TREATMENT, AND CHILD PLACEMENT AGENCY LICENSING IN TITLE 26, C.R.S., who have expressed an interest in the placement of a child/YOUTH THROUGH THE COUNTY DEPARTMENT. who might be available at the time of the application.

ii.b) The applicants shall be informed that submitting an application does not guarantee that an SAFE™ ASSESSMENT WILL BE COMPLETED assessment shall be performed or a child/YOUTH placed with them.

iii.c) The county DEPARTMENT notifies the PROSPECTIVE adoptive parent(s) of the disposition of the application in a timely manner.

iv.d) The county department of human/social services shall require verification of an individual's lawful presence in the United States, as provided in general eligibility requirements as found in Section 3.140.11 (9 CCR 2503-1), in order to approve an application for a child's adoption. LAWFUL PRESENCE IN THE UNITED STATES IS NO LONGER A REQUIREMENT TO APPROVE AN APPLICATION FOR A CHILD'S OR YOUTH'S ADOPTION. THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES WILL NOT VERIFY AN INDIVIDUAL'S LAWFUL PRESENCE IN ORDER TO APPROVE AN APPLICATION FOR A CHILD'S OR YOUTH'S ADOPTION.

v.) The county department of human/social services shall require the individual applying to adopt a child(ren) to notify the Department when the Structure Analysis Family Evaluation (SAFE) home study will be used in the next six months for a second parent adoption.

vi.e) Requirements for Adoption

1i. A single foster home or adoptive SAFE™ assessment OR OTHER STATE APPROVED

HOME STUDY as outlined in Section 7.500.2 must be completed prior to the child/YOUTH being placed with the intent of adoption.

~~2~~ii. The assessment must include a visit to the home and a separate interview of the potential adoptive parent**(s).** ~~.~~AND ~~O~~other adults living in the home shall be interviewed.

a. AS PART OF THE ASSESSMENT, THE SAFE™ PRACTITIONER MUST CONDUCT A MINIMUM OF ONE (1) JOINT INTERVIEW WITH A COUPLE OR ALL APPLICANTS, ONE (1) INDIVIDUAL INTERVIEW WITH EACH ADULT MEMBER OF THE HOUSEHOLD, AND AN AGE/DEVELOPMENTALLY APPROPRIATE INTERVIEW WITH ALL CHILDREN/YOUTH RESIDING IN THE HOME. FOR A SINGLE APPLICANT, A MINIMUM OF TWO (2) INTERVIEWS IS REQUIRED; AND,

b. ENSURE THE SECOND INTERVIEW, AND ANY SUBSEQUENT INTERVIEWS, OF THE ADULTS SHALL NOT BE PERFORMED UNTIL AT LEAST THREE (3) CALENDAR DAYS AFTER THE PREVIOUS INTERVIEW.

6) APPROVAL

a) AN APPLICANT(S) SHALL BE MADE AWARE OF THEIR STATUS WITH THE AGENCY. IF THERE ARE SERIOUS CONCERNS DURING THE SAFE™ ASSESSMENT PROCESS WHICH CANNOT BE RESOLVED, THE SAFE™ ASSESSMENT PRACTITIONER SHALL DISCUSS THESE CONCERNS AND THE DECISION TO PROCEED WITH THE APPLICANT(S). THE APPLICANT(S) SHALL BE ENCOURAGED TO WITHDRAW IF THIS IS ADVISABLE AND/OR THE COUNTY DEPARTMENT SHALL SEND A DENIAL LETTER WITH INFORMATION ABOUT THE RIGHT TO APPEAL.

b) WHEN A SAFE™ ADOPTION ASSESSMENT HAS BEEN APPROVED THE COUNTY DEPARTMENT SHALL:

i. INFORM THE APPLICANT IN WRITING OF THE FINAL DECISION REGARDING THEIR APPLICATION WITHIN FIFTEEN **(**15**)** WORKING DAYS FROM THE DATE THE DECISION IS MADE.

ii. SEND WRITTEN NOTIFICATION TO THE APPLICANT, WHICH INCLUDES THE FOLLOWING:

a. THE APPLICATION TO ADOPT IS APPROVED.

b. THE AGE, GENDER, AND ANY SPECIAL CHARACTERISTICS OF THE CHILD(REN)/YOUTH WHICH WILL BE CONSIDERED.

c. ANY OTHER CONDITIONS OF THE APPROVALTHAT PERTAIN.

d. THE SAFE™ ADOPTION ASSESSMENT IS AVAILABLE ONLY FOR THE ADOPTION OF A CHILD(REN)/YOUTH PLACED BY A COLORADO COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES OR CHILD(REN)/YOUTH PLACED IN COOPERATION WITH AN AGENCY LICENSED TO PLACE CHILDREN/YOUTH FOR ADOPTION.

e. THE APPLICANT'S RIGHT TO A REVIEW OF THE DECISION BY THE COUNTY DIRECTOR OR THE DIRECTOR'S DESIGNEE OF THE CHARACTERISTICS OF THE CHILD/YOUTH FOR WHICH THE PROSPECTIVE PARENT(S) IS APPROVED.

f. THE APPLICANT'S RESPONSIBILITY TO INFORM THE COUNTY DEPARTMENT OF SIGNIFICANT CHANGES OF

CIRCUMSTANCES WHICH COULD IMPACT AN ADOPTION.

~~7) Qualifications for Completing Adoptive Home Study Reports~~

~~a. In the application for inclusion as a vendor to complete adoptive home studies, each county department, qualified individual, or child placement agency must provide documentation concerning education, training, years of experience, and knowledge regarding adoptive placement and supportive services provided to children/YOUTH with special needs or are being supervised by an individual who meets the qualifications.~~

~~b. Any county department staff, qualified individual, or child placement agency staff shall meet the following qualifications or be supervised by an individual who meets the qualifications to conduct adoptive home studies for children/YOUTH in the custody of county departments being placed for adoption:~~

~~i. Bachelors, masters, or doctorate degrees) in a human service related field, such as psychology, sociology, child development, social work, health and education, from an accredited college or university; and, three years' experience in child placement, child protection, foster care, or adoption.~~

~~ii. If an individual that does not meet the experience requirement, an individual who meets the above criteria must be supervised BY. him or her.~~

~~iii. Individuals presently involved in the field who do not meet the above experience criteria or do not have access to direct supervision in their agency must purchase supervision time by someone who meets the above criteria. Individuals will be given three years from the date of enactment of this rule to obtain the necessary experience.~~

~~iv. Individuals who are current employees of the county department or a child placement agency and have a BA or BS degree with a minor in psychology, sociology, mental health, rehabilitation, or education and five years of experience in human services, three of which must have been in child placement, child protection, foster care or adoption, may apply to be on the vendor list.~~

~~v. Individuals who are current employees of the county department or a child placement agency with a BA or BS degree and ten years OF experience, three **(3)** of which must have been in child placement, child protection, foster care or adoption, may apply to be on the vendor list.~~

~~vi. A designated qualified individual may conduct a SAFE home study for an individual that is planning a second parent adoption. An individual that is not an employee of a county department of human /social services or a licensed child placement agency, who is involved with the adoption of a child/YOUTH from a county department, must be approved and listed on the State Department's vendor list.~~

7) DENIAL OF APPLICANT BASED ON ASSESSMENT

THE DECISION TO DENY APPROVAL OF THE APPLICANT'S SAFE™ ADOPTION ASSESSMENT SHALL BE A JOINT DECISION INVOLVING AT LEAST THE CASEWORKER AND THE SUPERVISOR. THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES SHALL COMPLETE THE FOLLOWING:

a) SEND THE APPLICANT(S) WRITTEN NOTICE OF THE DENIAL WITHIN FIFTEEN (15) WORKING DAYS OF THE DECISION.

b) THE COUNTY DEPARTMENT SHALL HAVE A FACE-TO-FACE INTERVIEW TO DISCUSS THE REASONS FOR THE DENIAL IF THE APPLICANT REQUESTS A MEETING.

c). NOTIFY THE APPLICANT OF THE RIGHT TO A REVIEW BY THE COUNTY DIRECTOR OR THE DIRECTOR'S DESIGNEE IF THE APPLICANT IS DISSATISFIED WITH THE DECISION.

~~8) Approval~~

~~a~~. ~~The county department director or the director's designated agent shall approve adoptive assessments on the form, Approval of Adoptive Home. The assessment and the approval shall not be done by the same person.~~

~~b.~~ ~~Applicants shall be kept aware of their status with the agency. If there are serious concerns during the assessment process which cannot be resolved, the study worker shall discuss these concerns and the decision of whether or not to proceed with the family. The clients shall be encouraged to withdraw if this is advisable~~.

~~c~~. ~~When an adoptive assessment has been approved the county shall:~~

~~i. Inform the applicants in writing of the final decision regarding their applications within 15 working days from the date the decision is made.~~

~~ii. Send written notification to the applicant(s), which includes the following:~~

~~1. That the application to adopt is approved.~~

~~2. The age, sex, and any special characteristics of the child(ren) which will be considered for them.~~

~~3. Any other conditions of the approval which pertain.~~

~~4. That the adoptive assessment is available only for the adoption of a child(ren) placed by a Colorado county department of social services or a child(ren) placed in cooperation with an agency licensed to place children for adoption.~~

~~5. The applicants' right to a review of the decision wby the county director or the director's designee of the type of child for which the parent(s) is approved.~~

~~6. The applicants' responsibility to inform the county department of significant changes of circumstances which could impact their adopting.~~

8) REEVALUATION OF ASSESSMENT

IF A CHILD/YOUTH HAS NOT BEEN PLACED IN THE ADOPTIVE HOME WITHIN ONE (1) YEAR FROM THE DATE OF THE APPROVAL OF THE SAFE™ ADOPTION ASSESSMENT, THE ASSESSMENT SHALL BE REEVALUATED TO DETERMINE IF THE HOME IS TO REMAIN ACTIVE FOR CONSIDERATION OF A CHILD/YOUTH, AND ANNUALLY THEREAFTER UNTIL A PLACEMENT IS MADE OR THE CASE IS CLOSED. REEVALUATION SHALL CONSIST OF AT LEAST THE FOLLOWING:

a) STATEMENT UP TO EVERY TWO (2) YEARS FROM A LICENSED DOCTOR OF MEDICINE OR OSTEOPATHY, PHYSICIAN ASSISTANT, OR NURSE PRACTITIONER REGARDING THE CURRENT PHYSICAL CONDITION OF THE APPLICANT AND OTHERS LIVING IN THE HOME. THE COUNTY DEPARTMENT SHALL HAVE THE DISCRETION TO REQUIRE AN UPDATED MEDICAL REPORT.

b) DOCUMENTATION OF ANY CHANGES IN THE HOME AND FAMILY, INCLUDING BUT NOT LIMITED TO FINANCES, EMPLOYMENT, HOUSING, ILLNESSES, PREGNANCY, AND CURRENT INFORMATION, WHERE APPLICABLE, ON GROWTH, DEVELOPMENT, AND ACTIVITIES OF CHILDREN/YOUTH IN THE HOME.

c). CHANGES, IF ANY, IN THE PREFERENCES IN THE CHARACTERISTICS OF THE CHILD/YOUTH TO BE RAISED, THE REASON FOR THE CHANGE, AND THE APPLICANT'S CAPACITY TO PROVIDE FOR THE LONG TERM NEEDS OF THE CHILD/YOUTH CURRENTLY IDENTIFIED.

d) DETERMINATION WHETHER TO CONTINUE APPROVAL OF THE HOME.

~~9) Denial of Applicant Based on Assessment~~

~~The decision to deny approval of the applicant(s) adoption assessment shall be a joint decision involving at least the worker and the supervisor. The county shall do the following:~~

~~a. Send the applicant(s) written notice of the denial within fifteen working days of the decision.~~

~~b. The county shall have a face-to-face interview to discuss the reasons for the denial if the family requests a meeting.~~

~~c. Notify the applicant(s) of their right to a review by the county director or the director's designee if they are dissatisfied with the decision.~~

9) SECOND OR ADDITIONAL UPDATE TO ASSESSMENTS

IF A PROSPECTIVE ADOPTIVE PARENT CHOOSES TO BE CONSIDERED FOR ANOTHER ADOPTION WITH THE SAME LICENSED AGENCY.

IF THE PROSPECTIVE ADOPTIVE PARENT APPLIES TO ADOPT ANOTHER CHILD/YOUTH, THE SAFE™ UPDATE ASSESSMENT MUST BE COMPREHENSIVE.

a) IF THE LAST SAFE™ ASSESSMENT IS WITHIN THREE (3) YEARS OF THE APPROVAL DATE OF THE ORIGINAL SAFE™ ASSESSMENT, A SUBSEQUENT SAFE™ UPDATE SHALL BE COMPLETED. THE UPDATE SHALL INCLUDE AT LEAST ONE (1) JOINT INTERVIEW (IF APPLICABLE), ALONG WITH ONE (1) INTERVIEW THAT IS DOCUMENTED WITH EACH ADULT MEMBER OF THE HOUSEHOLD, AND AN AGE/DEVELOPMENTALLY APPROPRIATE INTERVIEW WITH ALL CHILDREN/YOUTH. AT LEAST ONE (1) INTERVIEW WITH THE FAMILY MUST BE CONDUCTED IN THE HOME. THE INDIVIDUAL INTERVIEWS WITH THE ADOPTIVE APPLICANTS MUST BE COMPLETED ON THE SAME DATE.

b) IF THE PERIOD OF TIME SINCE THE APPROVAL OF THE ORIGINAL SAFE™ ASSESSMENT IS LONGER THAN THREE (3) YEARS, A FULL SAFE™ ASSESSMENT SHALL BE COMPLETED.

i. A MINIMUM OF ONE (1) FACE-TO-FACE CONTACT WITH THE APPLICANT(S) WHERE THE PARENTS (IF APPLICABLE) ARE INTERVIEWED SEPARATELY, AS WELL AS TOGETHER WITH THE CHILDREN IN ORDER TO ENABLE THE PRACTITIONER TO OBSERVE THE INTERACTION BETWEEN THE PARENT(S) AND THEIR CHILD(REN)/YOUTH.

ii. AN IN-DEPTH DISCUSSION OF MOTIVATION FOR ADOPTION OF ANOTHER CHILD/YOUTH, CHANGES IN FAMILY RELATIONSHIPS SINCE THE LAST ASSESSMENT, THE DEVELOPMENT OF THE APPLICANT'S CHILD OR CHILDREN, THE EFFECT OF ANOTHER ADOPTION ON THE CHILDREN ALREADY IN THE FAMILY, CHARACTERISTICS OF CHILD/YOUTH TO BE CONSIDERED, CURRENT FAMILY INFORMATION, HEALTH ASSESSMENTS, AND PHOTOGRAPHS OF THE FAMILY.

~~10) Reevaluation of Assessment~~

~~If a child has not been placed in the adoptive home within one year from the date of the approval of the adoption assessment, the assessment shall be reevaluated if the home is to remain active for consideration of a child, and annually thereafter until a placement is made or the case is closed. Reevaluation shall consist of at least the following:~~

~~a. Statement every years from a licensed doctor of medicine or osteopathy, regarding the current physical condition of the applicants and others living in the home. The county department shall have the discretion to require an updated medical report prior to the two year standard.~~

~~b. Documentation of any changes in the home and family, finances, employment, housing, illnesses, pregnancy, and current information, where applicable, on growth, development, and activities of children in the home.~~

~~c. Changes, if any, in the kind of child desired, the reason for the change, and the family's capacity to provide for the child currently requested.~~

~~d. Determination of the appropriateness to continue approval of the home.~~

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10) UPDATE TO ASSESSMENTS WHEN THE APPLICANT CHOOSES TO BE CONSIDERED FOR AN ADOPTION THROUGH A DIFFERENT LICENSED AGENCY:

a) WHEN THE FULL SAFE™ ASSESSMENT IS RECEIVED DIRECTLY FROM THE ORIGINATING AGENCY WITH AN UPDATE WITH AN APPROVAL DATE OF LESS THAN ONE (1) YEAR, THE NEW AGENCY MAY EITHER COMPLETE:

i. A SAFE™ UPDATE OF THE ORIGINAL SAFE™ ASSESSMENT OR, A FULL SAFE™ ASSESSMENT.

ii. IF THE SAFE™ ASSESSMENT OR UPDATE APPROVAL DATE IS MORE THAN ONE (1) YEAR, A FULL SAFE™ ASSESSMENT MUST BE COMPLETED.

a. A MINIMUM OF ONE (1) FACE-TO-FACE CONTACT WITH EACH APPLICANT WHERE THE PARENTS (IF APPLICABLE) ARE INTERVIEWED SEPARATELY, AS WELL AS TOGETHER WITH THE CHILDREN/YOUTH IN ORDER TO ENABLE THE PRACTITIONER TO OBSERVE THE INTERACTION BETWEEN THE PARENT(S) AND THE CHILD(REN)/YOUTH.

b. IN-DEPTH DISCUSSION OF THE MOTIVATION FOR ADOPTION OF ANOTHER CHILD/YOUTH, CHANGES IN FAMILY CHANGES IN FAMILY RELATIONSHIPS SINCE THE LAST ASSESSMENT, THE DEVELOPMENT OF THE APPLICANT'S CHILD OR CHILDREN, THE EFFECT OF ANOTHER ADOPTION ON THE CHILDREN ALREADY IN THE FAMILY, CHARACTERISTICS OF CHILD/YOUTH TO BE CONSIDERED, CURRENT FAMILY INFORMATION, HEALTH ASSESSMENTS, AND PHOTOGRAPHS OF THE FAMILY.

~~11) Second or Additional Assessments~~

~~If a family has previously adopted a child and applies to adopt an additional child, the assessment shall be a comprehensive study unless the original assessment is available. The second or any additional assessment shall include the following:~~

~~a. A minimum of one personal contact with the applicant(s) in which the parents are interviewed alone, as well as together with the children in order to enable the worker to observe the interaction between the parent(s) and child(ren).~~

~~b. An in-depth discussion of motivation for adoption of an additional child, changes in family relationships since the last assessment, the development of the applicant's child or children, the effect of another adoption on the children already in the family, kind of child to be considered, current family information, medicals, and photographs of the family.~~

11) FOSTER PARENT ASSESSMENTS

a) The SAFE™ ASSESSMENT ALONG WITH A SAFE™ UPDATE FOCUSING ON THE ABILITY OF THE PARENT TO MEET THE SPECIFIC NEEDS AND TO PARENT THE CHILDREN/YOUTH PLACED FOR ADOPTION WILL BE ACCEPTED FOR ADOPTION. THE CASEWORKER WILL CHECK THE ADOPTION BOX ON THE STATE PRESCRIBED APPLICATION.

b) THE CASEWORKER SHALL DISCUSS THE ADOPTION ASSISTANCE PROGRAM WITH THE FOSTER PARENT, FOCUSING ON THE NEEDS OF THE CHILD/YOUTH AND THE FOSTER PARENT'S ABILITY TO MEET THOSE NEEDS AS ADDRESSED IN SECTION 7.306 (12 CCR 2509-4).

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~~12) Foster Parent Assessments~~

~~a. The single assessment completed on a foster family for foster care will be accepted for adoption. The worker will check the adoption box on the single application form and, if appropriate, write a brief update.~~

~~b. The worker shall discuss the subsidy program with the foster parents, focusing on the child's special needs and the family's ability to meet those needs.~~

12) INTERCOUNTRY ADOPTION

a) NON-PUBLIC FOREIGN ADOPTIONS SHALL ONLY BE COMPLETED ACCORDING TO THE CHILDREN'S CODE AND SECTION 7.710 (12 CCR 2509-8).

~~13) Inter-country Adoption a. Non-public foreign adoptions shall comply with the Children's Code. b. County departments complete assessments for foreign adoption only on authorization of the state department adoption program supervisor.~~

7.500.352 Fees

A. The county department OF HUMAN/SOCIAL SERVICES informs ~~persons~~ INDIVIDUALS applying to adopt ~~what~~ THE fees THAT may be involved in adopting through the county. Fees are based on the ability to pay for the adoptive services rendered by the county department which provides the SAFE™ ~~home~~ assessment~~ services~~. ~~Although the f~~FeeS may be waived.~~,~~ ~~a~~ A fee MAY BE charged to a family AT THE DISCRETION OF THE COUNTY DEPARTMENT ~~cannot exceed $800 for the initial home study and $500 for an update~~. ~~Fees for the yearly reevaluation shall not exceed $200 unless special circumstances exist and approval is granted by the county director or his/her designee~~.

B. A NON-DISCRIMINATORY FEE STRUCTURE SHALL BE ESTABLISHED. The fee is established on ability to pay or cost of service, whichever is less.

C. Fees will be charged to OUT-OF-STATE PROSPECTIVE adoptive PARENTS ~~families coming~~ SEEKING TO ADOPT A CHILD/YOUTH FROM ~~into~~ Colorado or PROSPECTIVE COLORADO PARENTS SEEKING TO ADOPT ~~who receive~~ a child/YOUTH from another state, in accordance with the adoption services provided. If the child/YOUTH being placed is in the custody of a public agency and receiving services through the Interstate Compact on the Placement of Children **(ICPC)** the ~~family~~ PROSPECTIVE ADOPTIVE PARENTS shall not be charged a fee.

D. No fee is charged to ~~persons~~ INDIVIDUALS or families whose income is below the poverty level, as established by the United States Department of Agriculture **(USDA)**, or who are recipients of Supplemental Security Income **(SSI)**, Colorado ~~Works~~ PUBLIC ASSISTANCE PROGRAMS, or state~~/ and~~ county~~-~~funded assistance payments.

E. Fees may be waived in whole or in part by the county department which provides the ~~home assessment~~ SAFE™ ASSESSMENT AND OTHER RELATED ADOPTION services when such fees pose a barrier to the adoption of ~~special needs~~ children/YOUTH for whom a county department is financially responsible. If a~~n~~ PROSPECTIVE adoptive ~~family~~ PARENT, for whom the fee has been waived, decides not to adopt a child/YOUTH ~~with special needs,~~ then ~~they~~ THE PROSPECTIVE ADOPTIVE PARENT ~~are to~~ MAY BE REQUIRED TO pay the appropriate fee. If the fee is waived, the waiver should be documented in the county record.

F. When an assessment is court ordered, the PROSPECTIVE adoptive parent~~s~~ ~~shall~~ MAY be charged a fee for a home assessment, supervision, or a report to the court in accordance with the above fees.

7.500.353 Case Records ~~[Rev. eff. 8/1/06]~~

A. The Adoptive Family Record will contain all documentation required for approval for adoption, INCLUDING BUT NOT LIMITED TO ~~such as~~ THE application, SAFE™ ~~home~~ ASSESSMENT, SAFE™ UPDATES, REQUIRED BACKGROUND CHECKS, ~~assessment~~, and medical~~s~~ INFORMATION.

B. The county department maintains a record for each adoptive family approved for the placement of a child/YOUTH. Upon completion of the legal adoption of a child(ren)/YOUTH, the ~~family's~~ record shall be closed and maintained in a secure location at the county DEPARTMENT in order to preserve confidentiality as required by statute **(§19-5-305, C.R.S.)**.

C. Any material contained in the ~~family's~~ record regarding a child/YOUTH placed with and adopted by the family shall be maintained at the county DEPARTMENT with the ~~family's~~ adoption record. After the decree of adoption has been issued, the county department shall not retain information in an open record which will link the adoptive family with the child's/YOUTH'S original identity except information necessary to maintain the ~~subsidized~~ adoption ASSISTANCE record.

D. Access to Adoption ~~Assessments~~ INFORMATION AND RECORDS

1. Prior to filing A petition to adopt:

a. The records of prospective adoptive parents are confidential, as provided in ~~Section~~ **§**26-1-114(1), C.R.S., as amended.

b. The county department shall not provide records of prospective adoptive parent(S) to an individual or agency, other than another Colorado county department involved in the adoptive process, without the written permission of ~~the~~ EACH prospective ADOPTIVE parent~~s~~, ~~including husband and wife,~~ if both are involved in the adoption process.

c. The county department shall ~~not release~~ PROVIDE a copy of the SAFE™ ~~home~~ assessment to the prospective adoptive parent~~s~~ FOR THE PURPOSE OF REVIEWING THE ACCURACY OF THE ASSESSMENT. ~~Adoptive parents who wish to read their home assessment must make a written request to the county department signed by husband and wife, if both are involved in the adoptive process. The parts of the home assessment to be made available shall include any information provided by the prospective parents and the written social assessment made by the county department or licensed child placement agency.~~

~~d. The following shall not be made available to the prospective adoptive parents:~~

~~1) Medical and health reports.~~

~~2) Reports of psychiatric and psychological evaluations.~~

~~3) Scholastic records of the prospective adoptive couple or members of the family.~~

~~4) Reports of contacts with references.~~
~~5) Any other pertinent third party information.~~

2. After filing A petition to adopt:

a. The county department OF HUMAN/SOCIAL SERVICES will provide court reports on adoptions TO THE ADOPTIVE PARENTS AS outlined in Colorado statute **§**19-5-209 (2), C.R.S.)

b. Records ~~and papers~~ AND INFORMATION LEARNED DURING ~~in~~ relinquishment and/OR TERMINATION OF PARENTAL RIGHTS in adoption proceedings shall be confidential as outlined in Colorado statute ~~Section~~ **§**26-1-114(1), C.R.S.

7.500.354 Correspondence with Out of State Agencies ~~[Rev. eff. 8/1/06]~~

All correspondence with AN out-of-state child placement agencies regarding adoption shall be forwarded to the selected COLORADO CHILD PLACEMENT agency for routing to ~~an~~ THE out-of-state child placement agency.

7.500.355 Purchase of Adoption Services from LICENSED CHILD PLACEMENT Agency Providers ~~[Rev. eff. 8/1/06]~~

~~On behalf of a child/YOUTH,~~ T~~t~~he county department OF HUMAN/SOCIAL SERVICES may elect to purchase ~~from agency providers~~ any ~~one or all of~~ the following FROM LICENSED CHILD PLACEMENT AGENCY PROVIDERS: pre-placement services, ~~recruitment services, home assessment/evaluation~~ SAFE™ ASSESSMENT services, placement services, post-placement services, AND post-finalization/PERMANENCY services.

THE COUNTY DEPARTMENT MUST HAVE A WRITTEN AND SIGNED CONTRACT WITH THE LICENSED CHILD PLACEMENT AGENCY THAT DETAILS THE SERVICES TO BE PROVIDED, THE FEES TO BE PAID FOR THE SERVICES, AND THE APPROPRIATE TIME FRAMES FOR THE SERVICES TO BE CONCLUDED.

A. Eligible Cases

1. Children/YOUTH for whom adoption services may be purchased by a county department shall be children/YOUTH WHO ARE freed for adoption AND AVAILABLE, for whom an adoptive home is not available, and who~~m~~ are listed with the Colorado Adoption Resource Registry (CARR).

2. All children/YOUTH in need of adoptive placement must be listed with the CARR or a request for exclusion must be submitted to the CARR **(See Section 7.306.13 IN 12 CCR 2509-04)**.

3. The county department wishes to purchase a pre-placement assessment from an agency provider~~,~~ in a case of a child/YOUTH whose functioning, in the judgment of the county department, is particularly difficult to assess and/or services to legally free the child/YOUTH, prior to the child's/YOUTH'S information being submitted to the CARR.

4. Services for ~~special needs~~ children/YOUTH WITH SPECIAL NEEDS WHO ARE not yet freed for adoption may be purchased by a county department when in the judgment of that department it is anticipated and likely that the child/YOUTH will become freed for adoption. Adoption services purchased for these children/YOUTH shall be limited to pre-placement, recruitment, and home assessment services.

B. Case Referral

1. Eligible cases shall be referred to the agency provider for purchase of part or all of the adoption process.

2. In its agreement, the county department shall require that the agency provider shall write a case plan for providing adoptive services to the referred child reflecting the joint planning. This plan shall include objectives, specific desired outcomes, and target dates. Regular progress reports shall be submitted to the county department by the agency provider, and shall address all of the requirements of the case plan.

C. Service Hour Rate

Payment for purchased adoption services shall be on an actual cost basis, up to a specified maximum for each adoption component. The rate shall be based on the base service hour cost of the agency provider, which is the allowable program costs divided by case service hours in the program (i.e., hours spent by professional staff in performing adoption services on a case).

D. Provider Billing and Fees

1. Billing for adoption services provided shall be case-specific and component-specific. That is, the county department shall accept bills from the agency provider only on those cases on which it has entered into an agreement with the county department and only for the component(s) of the adoption process which the county department has agreed to purchase.

2. In its agreement with the agency provider for a given client, the county department shall require that payment by the department shall be the sole payment the provider shall receive from any source for the services provided to the department's client under the contract. This provision shall not affect the assessment of client fees by the agency provider for other clients and for other services not included in the agreement with the department.

E. Payment to Provider

1. Payment shall be made to the agency provider for those components provided and billed.

2. Payment to the provider shall be for satisfactory completion of the duties required by the agreement.

3. In the case of disrupted placements, the agency provider shall be paid for actual time spent on the case, not to exceed the maximum allowed for the component(s) utilized to that point in the placement. This payment shall be at the rate of the approved service hour cost as reflected in the component computation.

F. Reimbursement to THE County Department OF HUMAN/SOCIAL SERVICES

The ~~State~~ COLORADO Department of Human Services shall reimburse the county department for purchase of adoption service expenditures under approved agreements AS OUTLINED IN SECTION 7.406.1.NN (12 CCR 2509-5).

G. Provider Agreement and Requirements

1. The county department and the agency provider shall enter into a provider agreement for adoption services to be purchased.

2. The county department shall monitor the provision of services under the purchase of adoption services agreement.

3. The agency provider shall be responsible to the county department for the quality of services provided under the agreement. For pre-placement, home assessment/evaluation, placement, and post-placement service components, the agency provider shall meet the standards for service quality as per the licensing regulations for adoption agencies.

4. County departments shall purchase adoption services only from agency providers who give assurance in their agreement that the purchased services shall be delivered only by staff who meet the following minimum qualifications.~~:~~

5. For non-direct service components e.g. recruitment and legal services, providers shall have:

a. Some background showing awareness of and sensitivity to adoption issues; and,

b. At least one year of experience and/or a degree appropriate to the service being purchased and (for legal services) a license to practice in their specialty field.

7.500.356 [Repealed eff.11/01/2015}

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Notice of Proposed Rulemaking

Tracking number

2022-00692

Department

500,1008,2500 - Department of Human Services

Agency

2509 - Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-8

Rule title

CHILD CARE FACILITY LICENSING

Rulemaking Hearing

Date

12/09/2022

Time

08:30 AM

Location

1575 Sherman Street, Denver, CO 80203

Subjects and issues involved

House Bill 22-1038 Concerning client-directed legal representation for youth in court proceedings for youth was signed into law in April 2022. Current law requires the appointment of a guardian ad litem for children or youth in dependency and neglect cases. The bill requires that client-directed counsel for youth be appointed for children or youth 12 years of age or older to provide specialized client-directed legal representation. The new law prohibits the waiver of a child's or youth's right to counsel in dependency and neglect proceedings. The bill also allows a child or youth to be a party in a dependency and neglect proceeding. For a child or youth 12 years of age or older with diminished capacity, a guardian ad litem shall remain in the role and separate counsel for the child or youth must be appointed. Due to changes from this new law the rules that govern child welfare practice will need to be updated. This packet will include updates to 12 CCR-2509-04 to include counsel for youth and guardian ad litem and includes rule updates to incorporate language regarding the new law.

Statutory authority

26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 26-1-111, C.R.S.

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Title of Proposed Rule: SB22-1038 (Right to Counsel) 2509-8
CDHS Tracking #:

Office, Division, & Program: OCYF/ DCW/ Permanency
Rule Author: Korey Elger
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RULEMAKING PACKET

Type of Rule: *(complete a and b, below)*

a. [x] Board [ ] Executive Director

b. [x] Regular [ ] Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

[x] AG Initial Review
[ ] Initial Board Reading
[ ] AG 2nd Review
[ ] Second Board Reading / Adoption

This package contains the following types of rules: *(check all that apply)*

Number	
1	Amended Rules
16	New Rules
	Repealed Rules
	Reviewed Rules

What month is being requested for this rule to first go before the State Board? April 2023

What date is being requested for this rule to be effective?	June 30, 2023
Is this date legislatively required?	No

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ Date: _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION

Comments:

Estimated Dates:	1st Board	2nd Board	Effective Date

Title of Proposed Rule: SB22-1038 (Right to Counsel) 2509-8

CDHS Tracking #:

Office, Division, & Program: OCYF/ DCW/ Permanency

Rule Author: Korey Elger

Phone: 303-249-5662

E-Mail: Korey.Elger@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. ***1500 Char max***

House Bill 22-1038 “Concerning client-directed legal representation for youth in court proceedings for youth” was signed into law in April 2022. Current law requires the appointment of a guardian ad litem for children or youth in dependency and neglect cases. The bill requires that client-directed counsel for youth be appointed for children or youth 12 years of age or older to provide specialized client-directed legal representation.

The new law prohibits the waiver of a child's or youth's right to counsel in dependency and neglect proceedings. The bill also allows a child or youth to be a party in a dependency and neglect proceeding. For a child or youth 12 years of age or older with diminished capacity, a guardian ad litem shall remain in the role and separate counsel for the child or youth must be appointed. Due to changes from this new law the rules that govern child welfare practice will need to be updated. This packet will include updates to 12 CCR-2509-04 to include counsel for youth and guardian ad litem and includes rule updates to incorporate language regarding the new law.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

x	to comply with state/federal law and/or
	to preserve public health, safety and welfare

Justification for emergency:

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2015)	State Board to promulgate rules.
26-1-109, C.R.S. (2015)	State department rules to coordinate with federal programs.
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Does the rule incorporate material by reference? ☐ Yes x No

Does this rule repeat language found in statute? ☐ Yes x No

If yes, please explain.

REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

Child welfare sub pac, Perm Task Group, Stakeholder meetings, Office of the Child Representative, Office of Respondent parent counsel.

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

This rule will impact the practice of stakeholders to understand that they will allow for youth over the age of twelve to have counsel and a voice for themselves in Dependency and Neglect and Juvenile Justice cases. The short and long term consequences will result in compliance with Colorado law.

3. Fiscal Impact

For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources. ***Answer should NEVER be just "no impact" answer should include "no impact because…."***

State Fiscal Impact *(Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)*

No State impact as this is providing guidance and there are no costs associated with these changes needed to modify state systems and rule changes is a planned for and absorbable impact for the state department.

County Fiscal Impact

No County impact as this is providing guidance and there are no costs associated with this change for counties.

Federal Fiscal Impact

No Federal Impact as this is providing guidance and there are no costs associated with this change.

Other Fiscal Impact *(such as providers, local governments, etc.)*

Office of Child Representative because they are developing that they are incurring to address training for Guardians Ad Litems due to and

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

This is not applicable as this is new law so no time has passed for data to be collected.

5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative. **Answer should NEVER be just "no alternative" answer should include "no alternative because…"**

There is not an alternative to rulemaking as the rules will need to have a definition through the statute about how and what a Guardian Ad Litem and a Counsel for Youth will be doing in child welfare cases.

Title of Proposed Rule: _____

CDHS Tracking #: _____

Office, Division, & Program: OCYF/ DCW/ Permanency

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OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
7.000	*Incorrect Statutory Reference*	*Section 26.5.103 C.R.S.*	*Section 26.5-101(3) C.R.S.*		
7.704.11 Treatment Team		7.704.11 Treatment Team The treatment team members may include, and are not limited to: biological or adoptive parents, treatment foster parent(s), legal custodian(s), Guardian ad Litem (GAL), Court Appointed Special Advocate (CASA), county department of human/social services caseworker or designee, child placement agency staff, current or previous treatment providers, juvenile justice staff, school district personnel, and the child/youth If the child/youth is unable to or it is inappropriate to participate, the child/youth voice shall be represented in decision making.	7.704.11 Treatment Team The treatment team members may include, and are not limited to: biological or adoptive parents, treatment foster parent(s), legal custodian(s), Guardian ad Litem (GAL) AND/OR COUNSEL FOR YOUTH, Court Appointed Special Advocate (CASA), county department of human/social services caseworker or designee, child placement agency staff, current or previous treatment providers, juvenile justice staff, school district personnel, and the child/youth ~~when appropriate~~. If the child/youth is unable to or it is inappropriate to participate, the child/youth voice shall be represented in decision making.	To include Counsel for yout	

7.708.2 Requirements for certification of family foster care homes 7.708.21 Character, Suitability, and Qualifications of Family		P. A foster parent must be able to communicate sufficiently to provide care for the child/youth, including the ability to communicate with the guardian ad litem (GAL) and case worker. If needed, a foster parent may use an interpreter to assist. A child may not be used to interpret. This must be documented in the home study and updated annually.	P. A foster parent must be able to communicate sufficiently to provide care for the child/youth, including the ability to communicate with the guardian ad litem (GAL) AND/OR COUNSEL FOR YOUTH and case worker. If needed, a foster parent may use an interpreter to assist. A child may not be used to interpret. This must be documented in the home study and updated annually.	To include Counsel for yout	

Foster Parents, P 7.708.31.1 substitute care, respite care, and alternative care		A. Substitute care is provided in the foster care home where the child/youth in foster care resides. Respite care is provided in another foster home. Alternative care is provided in the home of a natural support identified by the foster parent. These caregiving services provide opportunities for foster parents to have or take breaks of varying lengths. The following apply: 1. At least 72 business hours' notice must be provided to the caseworker, If an emergency or an urgent situation arises, the foster parent or the certifying agency shall provide notice to the caseworker,as soon as possible. 2. Caregivers may not consent to activities requiring a consent form or safety gear for high risk activities as defined by the custodial county. Current procedures must be followed by the foster parent to obtain these permissions prior to the activity occurring. 3. Caregivers must ensure that all requirements related to family time, sibling time, treatment for the child/youth placed in foster care, school for the child/youth placed in foster care, and contact between child/youth and county department caseworker and GAL, are met unless other arrangements are agreed upon and consistent with court orders. B. Substitute care in the foster care home occurs when a foster parent is	A. Substitute care is provided in the foster care home where the child/youth in foster care resides. Respite care is provided in another foster home. Alternative care is provided in the home of a natural support identified by the foster parent. These caregiving services provide opportunities for foster parents to have or take breaks of varying lengths. The following apply: 1. At least 72 business hours' notice must be provided to the caseworker, GAL AND/OR COUNSEL FOR YOUTH, AND CHILD/YOUTH. If an emergency or an urgent situation arises, the foster parent or the certifying agency shall provide notice to the caseworker, GAL AND/OR COUNSEL FOR YOUTH, AND CHILD/YOUTH as soon possible. 2. Caregivers may not consent to activities requiring a consent form or safety gear for high risk activities as defined by the custodial county. Current procedures must be followed by the foster parent to obtain these permissions prior to the activity occurring. 3. Caregivers must ensure that all requirements related to family time, sibling time, treatment for the child/youth placed in foster care, school for the child/youth placed in foster care, and contact between child/youth and county department caseworker and GAL, are met unless other arrangements are agreed upon and consistent with court orders. B. Substitute care in the foster care home occurs when a foster parent is unable to provide supervision and care. The foster parent shall arrange for a qualified substitute who is familiar with these rules and with the children/youth in foster care in order to provide temporary supervision and care to the children/youth in the identified foster care home.		

		unable to provide supervision and care. The foster parent shall arrange for a qualified substitute who is familiar with these rules and with the children/youth in foster care in order to provide temporary supervision and care to the children/youth in the identified foster care home. 1. If care is to be provided for up to eight (8) hours in the foster care home, the substitute care provider must be at least sixteen (16) years of age. Exceptions based on age and maturity of the potential substitute care provider and the individual needs of the child/youth placed in foster care can be made with concurrence of the foster parent and the certifying authority, but in no case should the provider of substitute care be less than fourteen (14) years of age. The age exception must be documented in the foster parent's file. 2. If care is provided for more than eight (8) hours in the foster care home or for overnight care in the foster care home, the substitute care provider must be at least eighteen (18) years of age, currently certified in First Aid and CPR, and the following completed checks of the substitute care provider must be placed in the foster parent's file:	1. If care is to be provided for up to eight (8) hours in the foster care home, the substitute care provider must be at least sixteen (16) years of age. Exceptions based on age and maturity of the potential substitute care provider and the individual needs of the child/youth placed in foster care can be made with concurrence of the foster parent and the certifying authority, but in no case should the provider of substitute care be less than fourteen (14) years of age. The age exception must be documented in the foster parent's file. 2. If care is provided for more than eight (8) hours in the foster care home or for overnight care in the foster care home, the substitute care provider must be at least eighteen (18) years of age, currently certified in First Aid and CPR, and the following completed checks of the substitute care provider must be placed in the foster parent's file: a. Colorado Bureau of Investigation (CBI); b. Federal Bureau of Investigation (FBI); c. Comprehensive Child Welfare Information System (CCWIS); and, d. CBI sex offender name and address check and National Sex Offender Public Website name and address check. 3. A copy of the substitute care provider's driver's license, vehicle registration, and insurance must be		

		a. Colorado Bureau of Investigation (CBI); b. Federal Bureau of Investigation (FBI); c. Comprehensive Child Welfare Information System (CCWIS); and, d. CBI sex offender name and address check and National Sex Offender Public Website name and address check. 3. A copy of the substitute care provider's driver's license, vehicle registration, and insurance must be given to the certifying agency before the substitute care provider can drive the child/youth in foster care. 4. Potential caregivers with background checks consistent with Section 7.701.33.d.7 cannot be used. C. Respite Care Respite care is provided in a foster care home, other than the current foster care home where the child/youth in foster care resides. Respite care is used to allow the foster parent a temporary break from providing care. Respite care is also used when children/youth in foster care need a temporary break from their current foster care home. 1. A non-emergency respite care occasion may not exceed 30 calendar days, with a maximum of 60 days per calendar year. Exceptions in excess of 60	given to the certifying agency before the substitute care provider can drive the child/youth in foster care. 4. Potential caregivers with background checks consistent with Section 7.701.33.d.7 cannot be used. C. Respite Care Respite care is provided in a foster care home, other than the current foster care home where the child/youth in foster care resides. Respite care is used to allow the foster parent a temporary break from providing care. Respite care is also used when children/youth in foster care need a temporary break from their current foster care home. 1. A non-emergency respite care occasion may not exceed 30 calendar days, with a maximum of 60 days per calendar year. Exceptions in excess of 60 days per year may be allowed and must be approved by the certifying agency, caseworker, CHILD/YOUTH, and guardian ad litem. 2. Non-emergency respite care may not exceed the identified capacity of the respite foster care home. a. A sibling group may be considered a single placement; and, b. Space requirements in Section 7.708.22.b.8 apply. 3. Emergency respite care that causes the foster care home to exceed the identified capacity shall not occur for more than seven (7) consecutive days per month and not exceed 28 days in a calendar year. The respite foster care home may not exceed more than two (2)		

		days per year may be allowed and must be approved by the certifying agency, caseworker, CHILD/YOUTH, and guardian ad litem. 2. Non-emergency respite care may not exceed the identified capacity of the respite foster care home. a. A sibling group may be considered a single placement; and, b. Space requirements in Section 7.708.22.b.8 apply. 3. Emergency respite care that causes the foster care home to exceed the identified capacity shall not occur for more than seven (7) consecutive days per month and not exceed 28 days in a calendar year. The respite foster care home may not exceed more than two (2) children/youth in foster care above their identified capacity and age range. 4. The respite foster care home must be in compliance with all other applicable rules regulating foster care homes. D. Alternative Care is Provided Outside of the Foster Care Home An alternative care provider is an individual with whom the foster parent has a personal association or relationship that is typically developed in the community. This is known as a natural support and it enhances the quality and security of life, including but not limited to, family relationships, friendships, and	children/youth in foster care above their identified capacity and age range. 4. The respite foster care home must be in compliance with all other applicable rules regulating foster care homes. D. Alternative Care is Provided Outside of the Foster Care Home An alternative care provider is an individual with whom the foster parent has a personal association or relationship that is typically developed in the community. This is known as a natural support and it enhances the quality and security of life, including but not limited to, family relationships, friendships, and relationships developed through participation in clubs, organizations, and other civic activities. 1. Alternative care (natural support) may be provided outside of the foster care home for up to 72 consecutive hours with a maximum of seven (7) days a month, unless approved by the certifying agency, caseworker, CHILD/YOUTH, and GAL AND/OR COUNSEL FOR YOUTH. a. An alternative care (natural support) provider must be familiar with the child/youth placed in foster care; and, b. Be at least eighteen (18) years of age. 2. Before alternative care (natural support) is used overnight, the foster parent shall introduce the alternative care provider and the child/youth placed in foster care and arrange for the child/youth to visit the alternative care provider’s home. 3. An alternative care (natural support) consent form (state prescribed) must be completed between the foster		

		relationships developed through participation in clubs, organizations, and other civic activities. 1. Alternative care (natural support) may be provided outside of the foster care home for up to 72 consecutive hours with a maximum of seven (7) days a month, unless approved by the certifying agency, caseworker. a. An alternative care (natural support) provider must be familiar with the child/youth placed in foster care; and, b. Be at least eighteen (18) years of age. 2. Before alternative care (natural support) is used overnight, the foster parent shall introduce the alternative care provider and the child/youth placed in foster care and arrange for the child/youth to visit the alternative care provider's home. 3. An alternative care (natural support) consent form (state prescribed) must be completed between the foster parent and the alternative care provider prior to the care being provided to the child/youth. 4. The certifying agency must review the consent form and complete background checks for all adults residing in the home in Colorado Courts (state judicial database), CBI sex offender name and address check, and National Sex Offender Public Website name and address check. A CBI and FBI	parent and the alternative care provider prior to the care being provided to the child/youth. 4. The certifying agency must review the consent form and complete background checks for all adults residing in the home in Colorado Courts (state judicial database), CBI sex offender name and address check, and National Sex Offender Public Website name and address check. A CBI and FBI fingerprint-based criminal history record information check is required only if the adult has resided in Colorado less than five (5) years. a. When the county department is the certifying agency, staff will complete a child abuse/neglect background check in the CCWIS for the alternative care (natural support). b. When the foster parent is certified by a child placement agency, the alternative care (natural support) must submit a request for a CCWIS check from the Background Investigation Unit. 5. A copy of the alternative care (natural support) provider's driver's license, vehicle registration, and insurance must be given to the certifying agency before the alternative care provider can drive the child/youth. 6. Potential alternative care (natural support) with background checks consistent with Section 7.701.33.d.7 cannot be used.		

		fingerprint-based criminal history record information check is required only if the adult has resided in Colorado less than five (5) years. a. When the county department is the certifying agency, staff will complete a child abuse/neglect background check in the CCWIS for the alternative care (natural support). b. When the foster parent is certified by a child placement agency, the alternative care (natural support) must submit a request for a CCWIS check from the Background Investigation Unit. 5. A copy of the alternative care (natural support) provider's driver's license, vehicle registration, and insurance must be given to the certifying agency before the alternative care provider can drive the child/youth. 6. Potential alternative care (natural support) with background checks consistent with Section 7.701.33.d.7 cannot be used.			
7.708.32 Foster Children's Rights		7.708.32 Foster Children's Rights A. The certifying authority shall have written policies and procedures that address and ensure the availability of	7.708.32 Foster Children's Rights A. The certifying authority shall have written policies and procedures that address and ensure the availability of each of the following core rights for foster children in residence. These rights may not be restricted or denied	To include Counsel for yout	

		each of the following core rights for foster children in residence. These rights may not be restricted or denied by the foster care home or certifying authority. Every foster child has the right to: 1. Enjoy freedom of thought, conscience, cultural and ethnic practice, and religion. 2. A reasonable degree of privacy. 3. Have his or her opinions heard and considered, to the greatest extent possible, when any decisions are being made affecting his/her life. 4. Receive appropriate and reasonable adult guidance, support and supervision. 5. Be free from physical abuse or neglect and inhumane treatment. Every foster child has the right to be protected from all forms of sexual exploitation. 6. Receive adequate and appropriate medical care. 7. Receive adequate and appropriate food, clothing, and housing. 8. Live in clean, safe surroundings. 9. Participate in an educational program that will maximize his/her potential in accordance with existing law.	by the foster care home or certifying authority. Every foster child has the right to: 1. Enjoy freedom of thought, conscience, cultural and ethnic practice, and religion. 2. A reasonable degree of privacy. 3. Have his or her opinions heard and considered, to the greatest extent possible, when any decisions are being made affecting his/her life. 4. Receive appropriate and reasonable adult guidance, support and supervision. 5. Be free from physical abuse or neglect and inhumane treatment. Every foster child has the right to be protected from all forms of sexual exploitation. 6. Receive adequate and appropriate medical care. 7. Receive adequate and appropriate food, clothing, and housing. 8. Live in clean, safe surroundings. 9. Participate in an educational program that will maximize his/her potential in accordance with existing law. 10. Communicate with “significant others” outside the foster care home, such as a parent or guardian, caseworker, attorney or guardian ad litem AND/OR COUNSEL FOR YOUTH, current therapist, physician, religious advisor, and, if appropriate, probation officer.		

		10. Communicate with “significant others” outside the foster care home, such as a parent or guardian, caseworker, attorney or guardian ad litem, current therapist, physician, religious advisor, and, if appropriate, probation officer.			
7.708.5 Records and Reports 7/708.51 Records		7.708.5 RECORDS AND REPORTS 7.708.51 Records [Rev. eff. 1/1/16] A. The foster care home, in conjunction with the certifying authority, shall maintain complete records as required for the licensing or certification of the foster care home in accordance with the rules regulating foster care homes. B. Records for foster children shall be retained for at least three years. Retention of records for a longer period may be desirable when they reflect an accident, injury or other unusual circumstance. C. A record of admission shall be completed for each foster child in care prior to or at the time of placement. The admission record shall be maintained at the foster care home where the foster child resides and shall contain: 1. Foster child’s name, date and place of birth (verified by a birth certificate when possible), gender, race, religious preferences of parent(s) or foster child, date and reason for placement.	7.708.5 RECORDS AND REPORTS 7.708.51 Records [Rev. eff. 1/1/16] A. The foster care home, in conjunction with the certifying authority, shall maintain complete records as required for the licensing or certification of the foster care home in accordance with the rules regulating foster care homes. B. Records for foster children shall be retained for at least three years. Retention of records for a longer period may be desirable when they reflect an accident, injury or other unusual circumstance. C. A record of admission shall be completed for each foster child in care prior to or at the time of placement. The admission record shall be maintained at the foster care home where the foster child resides and shall contain: 1. Foster child’s name, date and place of birth (verified by a birth certificate when possible), gender, race, religious preferences of parent(s) or foster child, date and reason for placement. 2. Foster child’s address and telephone number, parent(s) or guardian(s) address and telephone number if different from the foster child. 3. Name, address, day and nighttime telephone number of individual or agency	To include Counsel for yout	

		2. Foster child's address and telephone number, parent(s) or guardian(s) address and telephone number if different from the foster child. 3. Name, address, day and nighttime telephone number of individual or agency placing the foster child with the name of individual arranging the placement. 4. Any documents pertaining to the foster child's legal status such as court orders, including the appointment of a Guardian ad litem, legal guardianship, or custody agreements. 5. A copy of the placement agreement pursuant to 7.708.61, K. 6. Health records including a health history, chronic medical problems of the foster child, illnesses the foster child has had during the last six months and a complete list of all medications the foster child is taking.	placing the foster child with the name of individual arranging the placement. 4. Any documents pertaining to the foster child's legal status such as court orders, including the appointment of a Guardian ad litem AND/OR COUNSEL FOR YOUTH, legal guardianship, or custody agreements. 5. A copy of the placement agreement pursuant to 7.708.61, K. 6. Health records including a health history, chronic medical problems of the foster child, illnesses the foster child has had during the last six months and a complete list of all medications the foster child is taking.		

7.714.31 Children's Rights		A. The facility shall have written policies and procedures that address and ensure the availability of each of the following core rights for children in residence. These rights may not be restricted or denied by the facility. 1. Every child has the right to enjoy freedom of thought, conscience, cultural and ethnic practice, and religion. 2. Every child has the right to a reasonable degree of privacy. 3. Every child has the right to have his or her opinions heard and considered, to the greatest extent possible, when any decisions are being made affecting his/her life. 4. Every child has the right to receive appropriate and reasonable adult guidance, support and supervision. 5. Every child has the right to be free from physical abuse or neglect and inhumane treatment. Every child has the right to be protected from all forms of sexual exploitation. 6. Every child has the right to receive adequate and appropriate medical and mental health and psychiatric care in the least restrictive setting possible, suited to meet individual needs. 7. Every child has the right to receive adequate and appropriate food, clothing, and housing.	A. The facility shall have written policies and procedures that address and ensure the availability of each of the following core rights for children in residence. These rights may not be restricted or denied by the facility. 1. Every child has the right to enjoy freedom of thought, conscience, cultural and ethnic practice, and religion. 2. Every child has the right to a reasonable degree of privacy. 3. Every child has the right to have his or her opinions heard and considered, to the greatest extent possible, when any decisions are being made affecting his/her life. 4. Every child has the right to receive appropriate and reasonable adult guidance, support and supervision. 5. Every child has the right to be free from physical abuse or neglect and inhumane treatment. Every child has the right to be protected from all forms of sexual exploitation. 6. Every child has the right to receive adequate and appropriate medical and mental health and psychiatric care in the least restrictive setting possible, suited to meet individual needs. 7. Every child has the right to receive adequate and appropriate food, clothing, and housing. 8. Every child has the right to live in clean, safe surroundings.	To include Counsel for yout	

		8. Every child has the right to live in clean, safe surroundings. 9. Every child has the right to participate in an educational program that will maximize his/her potential in accordance with existing law. 10. Every child has the right to communicate with “significant others” outside the facility, such as a parent or guardian, caseworker, attorney or guardian ad litem, current therapist, physician, religious advisor, and, if appropriate, probation officer. 11. No foster child shall be fingerprinted for the purpose of a criminal background check unless required by law enforcement. 12. A child may be photographed upon admission for identification and administrative purposes of the facility pursuant to Section 19-3-306, C.R.S. Such photographs shall be confidential and shall not be released by the facility except pursuant to court order. No other non-medical photographs or videotaping shall be taken or used without the written consent of the child’s parent or legal guardian except in the case of a child abuse or police investigation. 13. Every child has the right to the same consideration for care and treatment as anyone else regardless of race, color, national origin, religion, age,	9. Every child has the right to participate in an educational program that will maximize his/her potential in accordance with existing law. 10. Every child has the right to communicate with “significant others” outside the facility, such as a parent or guardian, caseworker, attorney or guardian ad litem AND/OR COUNSEL FOR YOUTH, current therapist, physician, religious advisor, and, if appropriate, probation officer. 11. No foster child shall be fingerprinted for the purpose of a criminal background check unless required by law enforcement. 12. A child may be photographed upon admission for identification and administrative purposes of the facility pursuant to Section 19-3-306, C.R.S. Such photographs shall be confidential and shall not be released by the facility except pursuant to court order. No other non-medical photographs or videotaping shall be taken or used without the written consent of the child’s parent or legal guardian except in the case of a child abuse or police investigation. 13. Every child has the right to the same consideration for care and treatment as anyone else regardless of race, color, national origin, religion, age, sex, political affiliation, sexual orientation, financial status or disability. 14. Every child has the right to be given the names and professional status of the staff members responsible for his/her care. 15. Every child has the right to receive assistance from the resident representative in filing a grievance and to receive copies of the grievance procedure.		

		sex, political affiliation, sexual orientation, financial status or disability. 14. Every child has the right to be given the names and professional status of the staff members responsible for his/her care. 15. Every child has the right to receive assistance from the resident representative in filing a grievance and to receive copies of the grievance procedure. 16. Every child fifteen (15) years of age and older has the right to request his or her own medical records, to see the records at reasonable times, and to be given written reasons if the request is denied. 17. Every child fifteen (15) years of age and older, who is not in the custody of human services, has the right to accept treatment of his/her own free will and may sign in as a voluntary resident. The child has the right to refuse to sign the consent for voluntary treatment at the time of admission or may take back the consent at a later date pursuant to Section 27-10-103, C.R.S.	16. Every child fifteen (15) years of age and older has the right to request his or her own medical records, to see the records at reasonable times, and to be given written reasons if the request is denied. 17. Every child fifteen (15) years of age and older, who is not in the custody of human services, has the right to accept treatment of his/her own free will and may sign in as a voluntary resident. The child has the right to refuse to sign the consent for voluntary treatment at the time of admission or may take back the consent at a later date pursuant to Section 27-10-103, C.R.S.		

7.714.31 Children's Rights D		D. If the facility enforces any restrictions upon the child's rights as listed at 7.714.31, B, the facility must, in compliance with the written policy and procedure of the facility: 1. Inform the child and the child's family and custodian or legal guardian, in a language or mode of communication the child can understand, of the conditions of and reasons for restriction or termination, of his/her rights. 2. Place a written report summarizing the conditions of and reasons for restriction, denial, or termination of the child's rights in that child's case record or treatment record. Information pertaining to a restriction, denial, or termination of a child's rights contained in the child's treatment or case record must be made available, upon request, to the child or the child's guardian ad litem (GAL) 3. When a restriction of a child's rights affects another individual, the individual shall be informed, in a language or mode of communication the individual can understand, of the conditions of and reasons for the action.	D. If the facility enforces any restrictions upon the child's rights as listed at 7.714.31, B, the facility must, in compliance with the written policy and procedure of the facility: 1. Inform the child and the child's family and custodian or legal guardian, in a language or mode of communication the child can understand, of the conditions of and reasons for restriction or termination, of his/her rights. 2. Place a written report summarizing the conditions of and reasons for restriction, denial, or termination of the child's rights in that child's case record or treatment record. Information pertaining to a restriction, denial, or termination of a child's rights contained in the child's treatment or case record must be made available, upon request, to the child or the child's guardian ad litem (GAL) AND/OR COUNSEL FOR YOUTH. 3. When a restriction of a child's rights affects another individual, the individual shall be informed, in a language or mode of communication the individual can understand, of the conditions of and reasons for the action.	To include Counsel for yout	
7.714.52 Discipline F 10		F. A facility shall prohibit all cruel and unusual discipline including, but not limited to, the following: 1. Any type of physical hitting or any type of physical punishment inflicted in any manner upon the body of the child such as spanking, striking, swatting, punching, shaking, biting, hair pulling,	F. A facility shall prohibit all cruel and unusual discipline including, but not limited to, the following: 1. Any type of physical hitting or any type of physical punishment inflicted in any manner upon the body of the child such as spanking, striking, swatting, punching, shaking, biting, hair pulling, roughly handling a child, striking with an inanimate object, or any humiliating	To include Counsel for yout	

		roughly handling a child, striking with an inanimate object, or any humiliating or frightening method of discipline to control the actions of any child or group of children. 2. Discipline that is designed to, or likely to, cause physical pain. 3. Physical exercises such as running or walking laps, push-ups, or carrying or stacking heavy rocks, bricks, or lumber when used solely as a means of punishment. 4. Assignment of physically strenuous or harsh work that could result in harm to the child. 5. Requiring or forcing a child to take an uncomfortable position such as squatting or bending, or requiring a child to stay in a position for an extended length of time such as standing with nose to the wall, holding hands over head, or sitting in a cross-legged position on the floor, or requiring or forcing a child to repeat physical movements when used solely as a means of punishment. 6. Group discipline except in accordance with the facility's written policy and these rules. 7. Verbal abuse or derogatory remarks about the child, his/her family, his/her race; religion, or cultural background.	or frightening method of discipline to control the actions of any child or group of children. 2. Discipline that is designed to, or likely to, cause physical pain. 3. Physical exercises such as running or walking laps, push-ups, or carrying or stacking heavy rocks, bricks, or lumber when used solely as a means of punishment. 4. Assignment of physically strenuous or harsh work that could result in harm to the child. 5. Requiring or forcing a child to take an uncomfortable position such as squatting or bending, or requiring a child to stay in a position for an extended length of time such as standing with nose to the wall, holding hands over head, or sitting in a cross-legged position on the floor, or requiring or forcing a child to repeat physical movements when used solely as a means of punishment. 6. Group discipline except in accordance with the facility's written policy and these rules. 7. Verbal abuse or derogatory remarks about the child, his/her family, his/her race; religion, or cultural background. 8. Denial of any essential/basic program service solely for disciplinary purposes. 9. Deprivation of meals or snacks, although scheduled meals or snacks may be provided individually. 10. Denial of visiting or communication privileges with family, clergy, attorney, Guardian Ad Litem (GAL)		

		8. Denial of any essential/basic program service solely for disciplinary purposes. 9. Deprivation of meals or snacks, although scheduled meals or snacks may be provided individually. 10. Denial of visiting or communication privileges with family, clergy, attorney, Guardian Ad Litem (GAL) AND/OR COUNSEL FOR YOUTH or caseworker solely as a means of punishment. 11. Releasing noxious, toxic, or otherwise unpleasant sprays, mists, or aerosol substances in proximity to the child's face. 12. Denial of sleep. 13. Requiring the child to remain silent for a period of time inconsistent with the child's age, developmental level, or medical condition. 14. Denial of shelter, clothing or bedding. 15. Withholding of emotional response or stimulation. 16. Discipline associated with toileting, toileting accidents or lapses in toilet training. 17. Sending a child to bed as punishment. This does not prohibit a	AND/OR COUNSEL FOR YOUTH or caseworker solely as a means of punishment. 11. Releasing noxious, toxic, or otherwise unpleasant sprays, mists, or aerosol substances in proximity to the child's face. 12. Denial of sleep. 13. Requiring the child to remain silent for a period of time inconsistent with the child's age, developmental level, or medical condition. 14. Denial of shelter, clothing or bedding. 15. Withholding of emotional response or stimulation. 16. Discipline associated with toileting, toileting accidents or lapses in toilet training. 17. Sending a child to bed as punishment. This does not prohibit a facility from setting individual bedtimes for children. 18. Force feeding a child. 19. Use of physical management, restraint or seclusion as discipline for a child.		

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7.714.932 Records C, 4		C. A record of admission shall be completed for each child in care prior to or at the time of placement. The admission record shall be maintained at the facility where the child resides and shall contain: 1. Child's legal name, date and place of birth (verified by a birth certificate when possible), gender, race, religious preferences of parent(s) or child, date and reason for placement. 2. Child's address and telephone number, parent(s) or guardian(s) address and telephone number if different from the child. 3. Name, address, day and nighttime telephone number of individual or agency placing the child with the name of individual arranging the placement. 4. Any documents pertaining to the child's legal status such as court orders, including the appointment of a Guardian Ad Litem,legal guardianship, custody agreements, or the termination of parental rights.	C. A record of admission shall be completed for each child in care prior to or at the time of placement. The admission record shall be maintained at the facility where the child resides and shall contain: 1. Child's legal name, date and place of birth (verified by a birth certificate when possible), gender, race, religious preferences of parent(s) or child, date and reason for placement. 2. Child's address and telephone number, parent(s) or guardian(s) address and telephone number if different from the child. 3. Name, address, day and nighttime telephone number of individual or agency placing the child with the name of individual arranging the placement. 4. Any documents pertaining to the child's legal status such as court orders, including the appointment of a Guardian Ad Litem AND/OR COUNSEL FOR YOUTH, legal guardianship, custody agreements, or the termination of parental rights. 5. A copy of the placement agreement pursuant to 7.714.2, G. 6. Health records including a health history, chronic medical problems of the child, illnesses the child has had	To include Counsel for yout	

		5. A copy of the placement agreement pursuant to 7.714.2, G. 6. Health records including a health history, chronic medical problems of the child, illnesses the child has had during the last six months and a complete list of all medications the child is taking. 7. Current medical and dental reports, accident, injury, or illness reports, record of medication administered and necessary medical care provided to the child while in placement. Psychiatric and psychological reports, when available. 8. Copies of educational records, including the Individualized Educational Plan (IEP) where applicable, and reports of school work, including scholastic performance, certificates of achievement or award, and extracurricular interests. 9. The Individual Child's Plan (ICP) and Family Service Plan (FSP) when developed or Individualized Treatment Plan (ITP) for committed youth, a summary of the periodic evaluations of the child's progress and resultant changes in the ICP, FSP or ITP. 10. Summary recording of significant contacts with parent(s), guardian(s) and other involved agencies. 11. Documentation of all transfers and reasons for transfers within the authorized facility.	during the last six months and a complete list of all medications the child is taking. 7. Current medical and dental reports, accident, injury, or illness reports, record of medication administered and necessary medical care provided to the child while in placement. Psychiatric and psychological reports, when available. 8. Copies of educational records, including the Individualized Educational Plan (IEP) where applicable, and reports of school work, including scholastic performance, certificates of achievement or award, and extracurricular interests. 9. The Individual Child's Plan (ICP) and Family Service Plan (FSP) when developed or Individualized Treatment Plan (ITP) for committed youth, a summary of the periodic evaluations of the child's progress and resultant changes in the ICP, FSP or ITP. 10. Summary recording of significant contacts with parent(s), guardian(s) and other involved agencies. 11. Documentation of all transfers and reasons for transfers within the authorized facility.		

7/715.44 Youth Rights		A. The shelter shall have written policies and procedures that address and ensure the availability of each of the following core rights for youth in residence. These rights may not be restricted or denied by the shelter. 1. Every youth has the right to enjoy freedom of thought, conscience, cultural and ethnic practice, and religion. 2. Every youth has the right to a reasonable degree of privacy. 3. Every youth has the right to have his or her opinions heard and considered, to the greatest extent possible, when any decisions are being made affecting his/her life. 4. Every youth has the right to receive appropriate and reasonable adult guidance, support and supervision. 5. Every youth has the right to be free from physical abuse or neglect and inhumane treatment. Every youth has the right to be protected from all forms of sexual exploitation. 6. Every youth has the right to receive adequate, appropriate, and timely emergency medical care. 7. Every youth has the right to receive adequate and appropriate food, clothing, and housing. 8. Every youth has the right to live in clean, safe surroundings.	A. The shelter shall have written policies and procedures that address and ensure the availability of each of the following core rights for youth in residence. These rights may not be restricted or denied by the shelter. 1. Every youth has the right to enjoy freedom of thought, conscience, cultural and ethnic practice, and religion. 2. Every youth has the right to a reasonable degree of privacy. 3. Every youth has the right to have his or her opinions heard and considered, to the greatest extent possible, when any decisions are being made affecting his/her life. 4. Every youth has the right to receive appropriate and reasonable adult guidance, support and supervision. 5. Every youth has the right to be free from physical abuse or neglect and inhumane treatment. Every youth has the right to be protected from all forms of sexual exploitation. 6. Every youth has the right to receive adequate, appropriate, and timely emergency medical care. 7. Every youth has the right to receive adequate and appropriate food, clothing, and housing. 8. Every youth has the right to live in clean, safe surroundings. 9. Every youth has the right to participate in an educational program that will maximize his/her potential in accordance with existing law. 10. Every youth has the right to communicate with others outside the shelter, such as a parent or guardian,	To include Counsel for yout	

		9. Every youth has the right to participate in an educational program that will maximize his/her potential in accordance with existing law. 10. Every youth has the right to communicate with others outside the shelter, such as a parent or guardian, caseworker, attorney or guardian ad litem, current therapist, physician, religious advisor, and, if appropriate, probation officer.	caseworker, attorney or guardian ad litem AND/OR COUNSEL FOR YOUTH, current therapist, physician, religious advisor, and, if appropriate, probation officer.		
7/721.5 Youth Rights		A. The child placement agency or county shall have written policies and procedures that address and ensure the availability of each of the following core rights for youth in host family home. These rights may not be restricted or denied by the host family home. 1. Every youth has the right to enjoy freedom of thought, conscience, cultural and ethnic practice, and religion. 2. Every youth has the right to receive adequate and appropriate food, clothing, and housing. 3. Every youth has the right to live in clean, safe surroundings 4. Every youth has the right to participate in an educational program that will maximize his/her potential in accordance with existing law. 5. Every youth has the right to communicate with others outside the host family home, such as a parent or	A. The child placement agency or county shall have written policies and procedures that address and ensure the availability of each of the following core rights for youth in host family home. These rights may not be restricted or denied by the host family home. 1. Every youth has the right to enjoy freedom of thought, conscience, cultural and ethnic practice, and religion. 2. Every youth has the right to receive adequate and appropriate food, clothing, and housing. 3. Every youth has the right to live in clean, safe surroundings 4. Every youth has the right to participate in an educational program that will maximize his/her potential in accordance with existing law. 5. Every youth has the right to communicate with others outside the host family home, such as a parent or guardian, caseworker, attorney or guardian ad litem AND/OR COUNSEL FOR YOUTH, current therapist, physician, religious advisor, and, if appropriate, probation officer	To include Counsel for yout	

		guardian, caseworker, attorney or guardian ad litem, current therapist, physician, religious advisor, and, if appropriate, probation officer			

Title of Proposed Rule: SB22-1038 (Right to Counsel) 2509-8
CDHS Tracking #:

Office, Division, & Program: OCYF/ DCW/ Permanency
Rule Author: Korey Elger
Phone: 303-249-5662
E-Mail: Korey.Elger@state.co.us

STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

Cara Nord, Office of the Child's Representative

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

[ ] Yes [X] No

If yes, who was contacted and what was their input?

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[x] Yes [ ] No

Name of Sub-PAC Date presented			
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

[ ] Yes [ ] No

Date presented What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

[ ] Yes [ ] No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

EXAMPLE OF RULES WITH SECRETARY OF STATE'S STYLE CODING
REPLACE WITH YOUR OWN RULES

(10 CCR 2506-1)

<Title2>

[Note: Changes to rule text are identified as follows: deletions are shown as "strikethrough", additions are in "All Caps", and changes made between initial review and final adoption are in [brackets] or highlighted yellow]

7.704.11 Treatment Team

The treatment team members may include, and are not limited to: biological or adoptive parents, treatment foster parent(s), legal custodian(s), Guardian ad Litem (GAL) AND/OR COUNSEL FOR YOUTH, Court Appointed Special Advocate (CASA), county department of human/social services caseworker or designee, child placement agency staff, current or previous treatment providers, juvenile justice staff, school district personnel, and the child/youth ~~when appropriate~~. If the child/youth is unable to or it is inappropriate to participate, the child/youth voice shall be represented in decision making.

7.708.2 REQUIREMENTS FOR CERTIFICATION OF FAMILY FOSTER CARE HOMES

7.708.21 Character, Suitability, and Qualifications of Family Foster Parents

P. A foster parent must be able to communicate sufficiently to provide care for the child/youth, including the ability to communicate with the guardian ad litem (GAL) AND/OR COUNSEL FOR YOUTH and case worker. If needed, a foster parent may use an interpreter to assist. A child may not be used to interpret. This must be documented in the home study and updated annually.

7.708.31.1 SUBSTITUTE CARE, RESPITE CARE, AND ALTERNATIVE CARE

A. Substitute care is provided in the foster care home where the child/youth in foster care resides. Respite care is provided in another foster home. Alternative care is provided in the home of a natural support identified by the foster parent. These caregiving services provide opportunities for foster parents to have or take breaks of varying lengths. The following apply:

1. At least 72 business hours' notice must be provided to the caseworker, GAL AND/OR COUNSEL FOR YOUTH, AND CHILD/YOUTH. If an emergency or an urgent situation arises, the foster parent or the certifying agency shall provide notice to the caseworker, GAL AND/OR COUNSEL FOR YOUTH, AND CHILD/YOUTH as soon possible.

C. Respite Care

Respite care is provided in a foster care home, other than the current foster care home where the child/youth in foster care resides. Respite care is used to allow the foster parent a temporary break from providing care. Respite care is also used when children/youth in foster care need a temporary break from their current foster care home.

1. A non-emergency respite care occasion may not exceed 30 calendar days, with a maximum of 60 days per calendar year. Exceptions in excess of 60 days per year may be allowed and must be approved by the certifying agency, caseworker, CHILD/YOUTH, and guardian ad litem.

D. Alternative Care is Provided Outside of the Foster Care Home

An alternative care provider is an individual with whom the foster parent has a personal association or relationship that is typically developed in the community. This is known as a natural support and it enhances the quality and security of life, including but not limited to, family relationships, friendships, and relationships developed through participation in clubs, organizations, and other civic activities.

1. Alternative care (natural support) may be provided outside of the foster care home for up to 72 consecutive hours with a maximum of seven (7) days a month, unless approved by the certifying agency, caseworker, CHILD/YOUTH, and GAL AND/OR COUNSEL FOR YOUTH.

7.708.33 Foster Children's Rights

A. The certifying authority shall have written policies and procedures that address and ensure the availability of each of the following core rights for foster children in residence. These rights may not be restricted or denied by the foster care home or certifying authority. Every foster child has the right to:

1. Enjoy freedom of thought, conscience, cultural and ethnic practice, and religion.\

2. A reasonable degree of privacy.

3. Have his or her opinions heard and considered, to the greatest extent possible, when any decisions are being made affecting his/her life.

4. Receive appropriate and reasonable adult guidance, support and supervision.

5. Be free from physical abuse or neglect and inhumane treatment. Every foster child has the right to be protected from all forms of sexual exploitation.

6. Receive adequate and appropriate medical care.

7. Receive adequate and appropriate food, clothing, and housing.

8. Live in clean, safe surroundings.

9. Participate in an educational program that will maximize his/her potential in accordance with existing law.

10. Communicate with "significant others" outside the foster care home, such as a parent or guardian, caseworker, attorney or guardian ad litem AND/OR COUNSEL FOR YOUTH, current therapist, physician, religious advisor, and, if appropriate, probation officer.

7.708.51 Records

A. The foster care home, in conjunction with the certifying authority, shall maintain complete records as required for the licensing or certification of the foster care home in accordance with the rules regulating foster care homes.

B. Records for foster children shall be retained for at least three years. Retention of records for a longer period may be desirable when they reflect an accident, injury or other unusual circumstance.

C. A record of admission shall be completed for each foster child in care prior to or at the time of placement. The admission record shall be maintained at the foster care home where the foster child resides and shall contain:

1. Foster child's name, date and place of birth (verified by a birth certificate when possible), gender, race, religious preferences of parent(s) or foster child, date and reason for placement.

2. Foster child's address and telephone number, parent(s) or guardian(s) address and telephone number if different from the foster child.

3. Name, address, day and nighttime telephone number of individual or agency placing the foster child with the name of individual arranging the placement.

4. Any documents pertaining to the foster child's legal status such as court orders, including the appointment of a Guardian ad litem AND/OR COUNSEL FOR YOUTH, legal guardianship, or custody agreements.

5. A copy of the placement agreement pursuant to 7.708.61, K.

6.Health records including a health history, chronic medical problems of the foster child, illnesses the foster child has had during the last six months and a complete list of all medications the foster child is taking.

7.714.31 Children's Rights

A. The facility shall have written policies and procedures that address and ensure the availability of each of the following core rights for children in residence. These rights may not be restricted or denied by the facility.

1. Every child has the right to enjoy freedom of thought, conscience, cultural and ethnic practice, and religion.

2. Every child has the right to a reasonable degree of privacy.

3. Every child has the right to have his or her opinions heard and considered, to the greatest extent possible, when any decisions are being made affecting his/her life.

4. Every child has the right to receive appropriate and reasonable adult guidance, support and supervision.

5. Every child has the right to be free from physical abuse or neglect and inhumane treatment. Every child has the right to be protected from all forms of sexual exploitation.

6. Every child has the right to receive adequate and appropriate medical and mental health and psychiatric care in the least restrictive setting possible, suited to meet individual needs.

7. Every child has the right to receive adequate and appropriate food, clothing, and housing.

8. Every child has the right to live in clean, safe surroundings.

9. Every child has the right to participate in an educational program that will maximize his/her potential in accordance with existing law.

10. Every child has the right to communicate with "significant others" outside the facility, such as a parent or guardian, caseworker, attorney or guardian ad litem AND/OR COUNSEL FOR YOUTH, current therapist, physician, religious advisor, and, if appropriate, probation officer.

11. No foster child shall be fingerprinted for the purpose of a criminal background check unless required by law enforcement.

12. A child may be photographed upon admission for identification and administrative purposes of the facility pursuant to Section 19-3-306, C.R.S. Such photographs shall be confidential and shall not be released by the facility except pursuant to court order. No other non-medical photographs or videotaping shall be taken or used without the written consent of the child's parent or legal guardian except in the case of a child abuse or police investigation

13. Every child has the right to the same consideration for care and treatment as anyone else regardless of race, color, national origin, religion, age, sex, political affiliation, sexual orientation, financial status or disability.

14. Every child has the right to be given the names and professional status of the staff members responsible for his/her care.

15. Every child has the right to receive assistance from the resident representative in filing a grievance and to receive copies of the grievance procedure.

16. Every child fifteen (15) years of age and older has the right to request his or her own medical records, to see the records at reasonable times, and to be given written reasons if the request is denied.

17. Every child fifteen (15) years of age and older, who is not in the custody of human services, has the right to accept treatment of his/her own free will and may sign in as a voluntary resident. The child has the right to refuse to sign the consent for voluntary treatment at the time of admission or may take back the consent at a later date pursuant to Section 27-10-103, C.R.S.

D. If the facility enforces any restrictions upon the child's rights as listed at 7.714.31, B, the facility must, in compliance with the written policy and procedure of the facility:

1. Inform the child and the child's family and custodian or legal guardian, in a language or mode of communication the child can understand, of the conditions of and reasons for restriction or termination, of his/her rights.

2. Place a written report summarizing the conditions of and reasons for restriction, denial, or termination of the child's rights in that child's case record or treatment record. Information pertaining to a restriction, denial, or termination of a child's rights contained in the child's treatment or case record must be made available, upon request, to the child or the child's guardian ad litem (GAL) AND/OR COUNSEL FOR YOUTH.

3. When a restriction of a child's rights affects another individual, the individual shall be informed, in a language or mode of communication the individual can understand, of the conditions of and reasons for the action.

7.714.52 Discipline

F. A facility shall prohibit all cruel and unusual discipline including, but not limited to, the following:

1. Any type of physical hitting or any type of physical punishment inflicted in any manner upon the body of the child such as spanking, striking, swatting, punching, shaking, biting, hair pulling, roughly handling a child, striking with an inanimate object, or any humiliating or frightening method of discipline to control the actions of any child or group of children.

2. Discipline that is designed to, or likely to, cause physical pain.

3. Physical exercises such as running or walking laps, push-ups, or carrying or stacking heavy rocks, bricks, or lumber when used solely as a means of punishment.

4. Assignment of physically strenuous or harsh work that could result in harm to the child.

5. Requiring or forcing a child to take an uncomfortable position such as squatting or bending, or requiring a child to stay in a position for an extended length of time such as standing with nose to the wall, holding hands over head, or sitting in a cross-legged position on the floor, or requiring or forcing a child to repeat physical movements when used solely as a means of punishment.

6. Group discipline except in accordance with the facility's written policy and these rules.

7. Verbal abuse or derogatory remarks about the child, his/her family, his/her race; religion, or cultural background.

8. Denial of any essential/basic program service solely for disciplinary purposes.

9. Deprivation of meals or snacks, although scheduled meals or snacks may be provided individually.

10. Denial of visiting or communication privileges with family, clergy, attorney, Guardian Ad Litem (GAL) AND/OR COUNSEL FOR YOUTH or caseworker solely as a means of punishment.

11. Releasing noxious, toxic, or otherwise unpleasant sprays, mists, or aerosol substances in proximity to the child's face.

12. Denial of sleep.

13. Requiring the child to remain silent for a period of time inconsistent with the child's age, developmental level, or medical condition.

14. Denial of shelter, clothing or bedding.

15. Withholding of emotional response or stimulation

16. Discipline associated with toileting, toileting accidents or lapses in toilet training.

17. Sending a child to bed as punishment. This does not prohibit a facility from setting individual bed times for children.

18. Force feeding a child.

19. Use of physical management, restraint or seclusion as discipline for a child.

7.714.932 Records

C .

A record of admission shall be completed for each child in care prior to or at the time of placement. The admission record shall be maintained at the facility where the child resides and shall contain:

1. Child's legal name, date and place of birth (verified by a birth certificate when possible), gender, race, religious preferences of parent(s) or child, date and reason for placement.

2. Child's address and telephone number, parent(s) or guardian(s) address and telephone number if different from the child.

3. Name, address, day and nighttime telephone number of individual or agency placing the child with the name of individual arranging the placement.

4. Any documents pertaining to the child's legal status such as court orders, including the appointment of a Guardian Ad Litem AND/OR COUNSEL FOR YOUTH, legal guardianship, custody agreements, or the termination of parental rights.

5. A copy of the placement agreement pursuant to 7.714.2, G.

6. Health records including a health history, chronic medical problems of the child, illnesses the child has had during the last six months and a complete list of all medications the child is taking.

7. Current medical and dental reports, accident, injury, or illness reports, record of medication administered and necessary medical care provided to the child while in placement. Psychiatric and psychological reports, when available.

8. Copies of educational records, including the Individualized Educational Plan (IEP) where applicable, and reports of school work, including scholastic performance, certificates of achievement or award, and extracurricular interests.

9. The Individual Child's Plan (ICP) and Family Service Plan (FSP) when developed or Individualized Treatment Plan (ITP) for committed youth, a summary of the periodic evaluations of the child's progress and resultant changes in the ICP, FSP or ITP.

10. Summary recording of significant contacts with parent(s), guardian(s) and other involved agencies.

11. Documentation of all transfers and reasons for transfers within the authorized facility.

7.715.44 Youths Rights

A. The shelter shall have written policies and procedures that address and ensure the availability of each of the following core rights for youth in residence. These rights may not be restricted or denied by the shelter.

1. Every youth has the right to enjoy freedom of thought, conscience, cultural and ethnic practice, and religion.

2. Every youth has the right to a reasonable degree of privacy.

3. Every youth has the right to have his or her opinions heard and considered, to the greatest extent possible, when any decisions are being made affecting his/her life.

4. Every youth has the right to receive appropriate and reasonable adult guidance, support and supervision.

5. Every youth has the right to be free from physical abuse or neglect and inhumane treatment. Every youth has the right to be protected from all forms of sexual exploitation.

6. Every youth has the right to receive adequate, appropriate, and timely emergency medical care.

7. Every youth has the right to receive adequate and appropriate food, clothing, and housing.

8. Every youth has the right to live in clean, safe surroundings.

9. Every youth has the right to participate in an educational program that will maximize his/her potential in accordance with existing law.

10. Every youth has the right to communicate with others outside the shelter, such as a parent or guardian, caseworker, attorney or guardian ad litem AND/OR COUNSEL FOR YOUTH, current therapist, physician, religious advisor, and, if appropriate, probation officer.

7.721.51 Youth Rights

A. The child placement agency or county shall have written policies and procedures that address and ensure the availability of each of the following core rights for youth in host family home. These rights may not be restricted or denied by the host family home.

1. Every youth has the right to enjoy freedom of thought, conscience, cultural and ethnic practice, and religion.

2. Every youth has the right to receive adequate and appropriate food, clothing, and housing.

3. Every youth has the right to live in clean, safe surroundings.

4. Every youth has the right to participate in an educational program that will maximize his/her potential in accordance with existing law.

5. Every youth has the right to communicate with others outside the host family home, such as a parent or guardian, caseworker, attorney or guardian ad litem AND/OR COUNSEL FOR YOUTH, current therapist, physician, religious advisor, and, if appropriate, probation officer.

Notice of Proposed Rulemaking

Tracking number

2022-00696

Department

500,1008,2500 - Department of Human Services

Agency

2509 - Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-8

Rule title

CHILD CARE FACILITY LICENSING

Rulemaking Hearing

Date

12/09/2022

Time

08:30 AM

Location

1575 Sherman Street, Denver, CO 80203

Subjects and issues involved

The Office of Children Youth and Families (OCYF) requested the AGs office reexamine the requirement that a foster parent be legally/lawfully present after reviewing information from the Childrens Bureaus Child Welfare Policy, Colorado Revised Statutes Title 24, and the repeal of previous language in Colorado statute. On September 22, 2022 the Assistant Attorney General issued a Memorandum concluding that Colorado law prohibits the consideration of lawful presence when determining eligibility to receive state or local public benefits, unless a determination is required by federal law. Colorado law no longer requires those receiving state and local public benefits to be lawfully present and the federal government considers the payment made to a foster parent to be a benefit to the child and not the foster parent. The Department revising rule to align with federal and state laws.

Statutory authority

26-1-107(5)(b), C.R.S.; 26-1-109(1), C.R.S.

Contact information

Name

Cheryl Estrick

Title

Adoption Provider Administrator

Telephone

303.801.8681

Email

cheryl.estrick@state.co.us

Title of Proposed Rule:	Lawful Presence for Foster Homes	
CDHS Tracking #:	22-09-27-01	
Office, Division, & Program:	Rule Author:	Phone: 303.801.8681
OCYF, DCW	Cheryl Estrick	Email: cheryl.estrick@state.co.us

RULEMAKING PACKET

Type of Rule: *(complete a and b, below)*

a.___ [X] Board [ ] Executive Director

b. [X] Regular [ ] Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

	AG Initial Review		X	Initial Board Reading			AG 2nd Review		Second Board Reading / Adoption

This package contains the following types of rules: *(check all that apply)*

Number	
X	Amended Rules
X	New Rules
	Repealed Rules
	Reviewed Rules

What month is being requested for this rule to first go before the State Board?	December 2022

What date is being requested for this rule to be effective?	March 2023
Is this date legislatively required?	No

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ Date: _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION
Comments:

Estimated Dates: 1st Board Dec 2022 _____ 2nd Board Jan 2023 _____ Effective Date March 2023 _____

Title of Proposed Rule:	Lawful Presence for Foster Homes	
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STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.
Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. ***1500 Char max***

The Office of Children Youth and Families (OCYF) requested the AG's office reexamine the requirement that a foster parent be legally/lawfully present after reviewing information from the Children's Bureau's Child Welfare Policy, Colorado Revised Statutes Title 24, and the repeal of previous language in Colorado statute. On September 22, 2022 the Assistant Attorney General issued a Memorandum concluding that Colorado law prohibits the consideration of lawful presence when determining eligibility to receive state or local public benefits, unless a determination is required by federal law. Colorado law no longer requires those receiving state and local public benefits to be lawfully present and the federal government considers the payment made to a foster parent to be a benefit to the child and not the foster parent. The Department revising rule to align with federal and state laws.

State Board Authority for Rule:

Code	Description
26-1-107(5)(b), C.R.S. (2020)	State Board to promulgate rules for programs administered and services provided by the state department
26-1-109(1), C.R.S. (2020)	State department rules to coordinate with federal programs

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
26-6-901(1), C.R.S. (2022)	State Department board to promulgate rules for child care facility licensing
8 USC Section 1101	US State Department Code – Immigration and Nationality

Does the rule incorporate material by reference?		Yes		X	No
Does this rule repeat language found in statute?		Yes		X	No
If yes, please explain.					

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REGULATORY ANALYSIS

1. List of groups impacted by this rule.
Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

County departments of human/social services; licensed child placement agencies; certified family foster care applicants and providers.

2. Describe the qualitative and quantitative impact.
How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

It is anticipated the rule change will allow more people to apply to become certified foster parents, and will increase the availability of certified family foster homes for both county departments of human services, and licensed child placement agencies.

3. Fiscal Impact
For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources.

No fiscal impact is anticipated.

State Fiscal Impact *(Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)*

No fiscal impact is anticipated.

County Fiscal Impact:

No fiscal impact is anticipated.

Federal Fiscal Impact

No fiscal impact is anticipated.

Other Fiscal Impact *(such as providers, local governments, etc.)*

4. Data Description
List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

SB 21-077 and SB 21-199; Children's Bureau's Child Welfare Policy

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5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative.

No other alternatives available at this time.

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Public Comment No / Detail
7.701.31, A	Delete lawful presence affidavit no longer required.	A completed original application accompanied by the appropriate fee and proof of lawful presence in the United States (see Section 3.140.11) must be submitted to the State Department a minimum of sixty (60) days prior to the proposed opening date for the facility. For 24-hour agencies or facilities, the addendum with specific requirements must be completed and submitted with the application.	A completed original application accompanied by the appropriate fee ~~and proof of lawful presence in the United States (see Section 3.140.11)~~ must be submitted to the State Department a minimum of sixty (60) days prior to the proposed opening date for the facility. For 24-hour agencies or facilities, the addendum with specific requirements must be completed and submitted with the application.	None

7.710.33, A, 5	Add federal tax or social security number requirement for foster care provider applicants	None	Any application accepted by the CPA from an individual(s) or couple who wishes to be certified to operate a foster care home shall be on the Department approved form and shall include: 1. The names and addresses of child placement agencies and county departments of social services that had previously certified the applicant. Information as to whether the applicant has been licensed or certified for child care in the past or is licensed or certified for child care at the time of the application, what agency issued the certificate or license, and the type of child care the license or certificate authorizes. 2. Information about an applicant or individual living in the proposed foster care home who has been	

			convicted of a felony or charged or convicted of child abuse or an unlawful sexual offense. 3. Information about whether the applicant is currently licensed by the State Department to provide day care. 4. Include a statement on the application for certification as a foster care home that states: "Any applicant who knowingly or willfully makes a false statement of any material fact or thing in this application is guilty of perjury in the second (2nd) degree as defined in Section 18-8-503, C.R.S., and, upon conviction thereof, shall be punished accordingly. 5. THE SOCIAL SECURITY NUMBER OR INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER ISSUED BY THE FEDERAL GOVERNMENT FOR EACH APPLICANT.	

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STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

Division of Child Welfare Permanency Unit

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

None

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

[ ] Yes [X] No

If yes, who was contacted and what was their input?

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[ ] Yes [X] No

Name of Sub-PAC			
Date presented	To be presented 10.6.2022		
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

[ ] Yes [X] No

Date presented	To be presented 11.3.22		
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

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☐ Yes ☒ No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

7.701.3 APPLICATION PROCESS

7.701.31 Original Application

A. A completed original application accompanied by the appropriate fee ~~and proof of lawful presence in the United States (see Section 3.140.11)~~ must be submitted to the State Department a minimum of sixty (60) days prior to the proposed opening date for the facility. For 24-hour agencies or facilities, the addendum with specific requirements must be completed and submitted with the application.

B. A licensing evaluation will occur only after the State Department has received the complete application and appropriate fee.

C. If a county or agency establishes and plans to sponsor a Specialized Group Facility, the governing body for the Specialized Group Facility is the licensee. A written plan for the supervision of the Specialized Group Facility must accompany the application.

7.701.32 Use of Records and Reports of Child Abuse or Neglect for Background and Employment Inquiries

A. An operator of a licensed facility, guest child care facility as defined in Section 26-6-102(16), C.R.S., or an exempt family child care home provider must submit a request to determine if an operator, applicant for employment or current employee has been found responsible for a confirmed report of child abuse or neglect in the State Department's automated system (Trails).

B. Foster Homes must also obtain a child abuse or neglect records check for each adult eighteen (18) years of age or older living in the home in every state where the adult has resided in the five 5 years immediately preceding the date of application.

C. An child abuse or neglect records check is not necessary regarding out-of-state employees of a children's resident camp or school-age child care center for a camp or center that is in operation for fewer than ninety (90) calendar days; out-of-state employees operating under this exemption must be supervised at all times by a staff member who has successfully completed all background checks.

D. The Trails child abuse or neglect records request must be made on the State prescribed form, accompanied by the required fee (for fee assessment see Section 7.000.73) within the following required time frames:

1. Child care centers (less than 24-hour care), school-aged child care facilities, family child care homes, and qualified exempt providers must meet the following:

a. For all individuals whose activities involve the care or supervision of children or who have unsupervised access to children, requests must be submitted and successfully completed prior to caring for children or allowing unsupervised access to children.

1) Individuals who have obtained a successfully completed CBI or FBI record check may care for children, for no longer than ninety (90) calendar days, while waiting for all other required background checks to be completed. The individual must be supervised at all times by an individual who has successfully completed all required background checks.

7.710.33 Application and Inspection for Certification of Foster Care Homes

A. Any application accepted by the CPA from an individual(s) or couple who wishes to be certified to operate a foster care home shall be on the Department approved form and shall include:

1. The names and addresses of child placement agencies and county departments of social services that had previously certified the applicant. Information as to whether the applicant has been licensed or certified for child care in the past or is licensed or certified for child care at the time of the application, what agency issued the certificate or license, and the type of child care the license or certificate authorizes.

2. Information about an applicant or individual living in the proposed foster care home who has been convicted of a felony or charged or convicted of child abuse or an unlawful sexual offense.

3. Information about whether the applicant is currently licensed by the State Department to provide day care.

4. Include a statement on the application for certification as a foster care home that states:

"Any applicant who knowingly or willfully makes a false statement of any material fact or thing in this application is guilty of perjury in the second (2nd) degree as defined in Section 18-8-503, C.R.S., and, upon conviction thereof, shall be punished accordingly.

5. THE SOCIAL SECURITY NUMBER OR INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER ISSUED BY THE FEDERAL GOVERNMENT FOR EACH APPLICANT.

B. No application shall knowingly be accepted from an individual who is currently certified by another county or CPA to operate a foster care home until that individual has terminated the certification by the other county or CPA, or the current certifying CPA has given written notice to the foster homes of the agency's closure.

C. No board member, director or staff member of a CPA shall knowingly contact or recruit foster homes currently certified by another county department or CPA.

D. A CPA must take an application from an applicant(s) before the CPA has authority to complete the family assessment, and background checks.

E. An applicant may apply to become a dual care provider to operate a family child care home as well as a foster care home. The foster home will be certified by the CPA and the family child care home will be licensed by the Colorado Department of Human Services. Both sets of standards shall be met. The CPA will monitor the foster care standards and the State Department will monitor the family child care home standards. The CPA shall counsel the family if it believes such a situation is not in the best interest of any foster child who may be placed in the home. The CPA must approve the home to be licensed as a family child care home when the home is certified for foster care.

F. A home that is licensed as a family child care home may only be certified for foster care for one child or for a group of siblings. A foster care home dually licensed as a family child care home shall not be certified as a host family home providing shelter to homeless youth.

G. A CPA that has a foster/adoptive home that is certified for foster care and also licensed as a family child care home must notify the Division of Child Care when any of the following situations occur in the foster/adoptive home:

Permanent Rules Adopted

Department

Department of Revenue

Agency

Marijuana Enforcement Division

CCR number

1 CCR 212-3

Rule title

1 CCR 212-3 COLORADO MARIJUANA RULES 1 - eff 12/01/2022

Effective date

12/01/2022

COLORADO
Department of Revenue
Marijuana Enforcement Division

Final Adopted Rules

Colorado Marijuana Rules
1 CCR 212-3

Part 1 – General Applicability

Basis and Purpose – 1-105

The statutory authority for this rule includes but is not limited to sections 44-10-102(3), 44-10-202(1)(c), and 44-10-701(2)(a), C.R.S. Unless such activity is authorized by the Colorado Constitution, article XVIII, Section 14 or Section 16, the Colorado Marijuana Code, section 25-1.5-106.5, C.R.S., or these rules, any Person who buys, Transfers, or acquires Regulated Marijuana outside the requirements of the Colorado Marijuana Code is engaging in illegal activity pursuant to Colorado law. This rule clarifies that those engaged in the business of possessing, cultivating, dispensing, Transferring, transporting, or testing Medical Marijuana or Retail Marijuana must be properly licensed to be in compliance with Colorado law. This Rule 1-105 was previously Rules M and R 101, 1 CCR 212-1 and 1 CCR 212-2.

1-105 – Engaging in Business

A. Except as authorized by the Colorado Constitution, article XVIII, sections 14 or 16, the Colorado Marijuana Code, or section 25-1.5-106.5, C.R.S., no person shall possess, cultivate, dispense, Transfer, transport, offer to sell, manufacture, or test Regulated Marijuana unless said person is duly licensed by the State Licensing Authority and approved by the relevant Local Jurisdiction(s) and/or licensed by the relevant Local Licensing Authority(-ies).

B. Public Health Orders and Executive Orders.

1. All Licensees, their agents, and their employees shall comply with any applicable public health orders issued by any agency of the State of Colorado including, but not limited to the Colorado Department of Public Health and Environment.

2. All Licensees, their agents, and their employees, shall comply with any and all executive orders issued by the Governor pursuant to the Governor's disaster emergency powers under section 24-33.5-704, C.R.S.

3. A violation of this Rule by a Licensee, or by any of the agents or employees of a Licensee, is a license violation affecting public safety, which may result in disciplinary action up to and including license revocation and summary suspension pursuant to sections 44-10-901(1), C.R.S. and 44-10-901(2), C.R.S., and these Rules.

Basis and Purpose – 1-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), C.R.S. The purpose of this rule is to clarify that each rule is independent of the others, so if one is found to be invalid, the remainder will stay in effect. This will give the regulated community confidence in the rules even if one is challenged. This Rule 1-110 was previously Rules M and R 102, 1 CCR 212-1 and 1 CCR 212-2.

1-110 – Severability

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

Basis and Purpose – 1-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(j), and 44-10-103, C.R.S., and all of the Marijuana Code. The purpose of this rule is to provide necessary definitions of terms used throughout the rules. Defined terms are capitalized where they appear in the rules, to let the reader know to refer back to these definitions. When a term is used in a conventional sense, and is not intended to be a defined term, it is not capitalized. This Rule 1-115 was previously Rules M and R 103, 1 CCR 212-1 and 1 CCR 212-2.

1-115 – Definitions

Definitions. The following definitions of terms, in addition to those set forth in section 44-10-103, C.R.S., apply to all rules promulgated pursuant to the Marijuana Code, unless the context requires otherwise:

"Accelerator Cultivator" means a Social Equity Licensee qualified to participate in the accelerator program established pursuant to the Marijuana Code and authorized to exercise the privileges of a Retail Marijuana Cultivation Facility on the premises of an Accelerator-Endorsed Retail Marijuana Cultivation Facility Licensee. The premises can be either the same premises or a separate Licensed Premises possessed by an Accelerator-Endorsed Licensee.

"Accelerator-Endorsed Licensee" means a Retail Marijuana Cultivation Facility Licensee, Retail Marijuana Products Manufacturer Licensee, or a Retail Marijuana Store Licensee who has, pursuant to these rules, been endorsed to host and offer technical and capital support to a Social Equity Licensee pursuant to the requirements of the accelerator program established pursuant to the Code.

"Accelerator Licensee" means an Accelerator Cultivator, Accelerator Manufacturer, or Accelerator Store.

"Accelerator Manufacturer" means a Social Equity Licensee qualified to participate in the accelerator program established pursuant to the Marijuana Code and authorized to exercise the privileges of a Retail Marijuana Products Manufacturer on the premises of an Accelerator-Endorsed Retail Marijuana Products Manufacturer Licensee. The premises can be either the same premises or a separate Licensed Premises possessed by an Accelerator-Endorsed Licensee.

"Accelerator Store" means a Social Equity Licensee qualified to participate in the accelerator program established pursuant to the Marijuana Code and authorized to exercise the privileges of a Retail Marijuana Store on the premises of an Accelerator-Endorsed Retail Marijuana Store Licensee. The premises can be either the same premises or a separate Licensed Premises possessed by an Accelerator-Endorsed Licensee.

"Acquire," when used in connection with the acquisition of an Owner's Interest of a Regulated Marijuana Business, means obtaining ownership, Control, power to vote, or sole power of disposition of the Owner's Interest, directly or indirectly through one or more transactions or subsidiaries, through purchase, assignment, transfer, exchange, succession or other means.

"Acting in Concert" means knowing participation in a joint activity or interdependent conscious parallel action toward a common goal, whether or not pursuant to an express agreement.

"Additive" means any non-marijuana derived substance added to Regulated Marijuana to achieve a specific technical and/or functional purpose during processing, storage, or packaging. Additives

may be direct or indirect. Direct additives are used to impart specific technological or functional qualities. Indirect additives are not intentionally added but may be present in trace amounts as a result of processing, packaging, shipping, or storage. Botanically Derived Compounds which have been isolated or enriched and subsequently added back into cannabis products are additives.

"Adverse Health Event" means any untoward health condition or occurrence associated with the use of marijuana—this could include any unfavorable and unintended sign (including a hospitalization, emergency department visit, medical visit, abnormal laboratory finding, outbreak, death [non-motor vehicle]), symptom, or disease temporally associated with the use of a marijuana product, and may include concerns or reports on the quality, labeling, or possible adverse reactions to a specific marijuana (or hemp) product Transferred or manufactured at a Regulated Marijuana Business.

"Adverse Weather Event" means:

a. Damaging weather, which involves a drought, a freeze, hail, excessive moisture, excessive wind, or a tornado; or

b. An adverse natural occurrence, which involves an earthquake, wildfire, or flood.

"Advertising" means the act of providing consideration for the publication, dissemination, solicitation, or circulation, of visual, oral, or written communication, to directly induce any Person to patronize a particular Medical Marijuana Business or Retail Marijuana Business, or to purchase particular Regulated Marijuana. "Advertising" does not include packaging and labeling, Consumer Education Materials, or Branding.

"Affiliate" of, or Person affiliated with, a specified Person, means a Person that directly or indirectly through one or more intermediaries, Controls or is Controlled by, or is under common Control with, the Person specified.

"Alarm Installation Company" means a Person engaged in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing a Security Alarm System in a Licensed Premises.

"Alternative Use Designation" means a designation approved by the State Licensing Authority, permitting a Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer to manufacture and Transfer Alternative Use Product.

"Alternative Use Product" means Regulated Marijuana that has at least one intended use that is not included in the list of intended uses in Rule 3-1015(B). Alternative Use Product may raise public health concerns that outweigh approval of the Alternative Use Product, or that require additional safeguards and oversight. Alternative Use Product cannot be Transferred except as permitted by Rule 5-325 or Rule 6-325 after obtaining an Alternative Use Designation. Rule 5-325 permits a Medical Marijuana Products Manufacturer to Transfer Alternative Use Product to a Medical Marijuana Testing Facility prior to receiving an Alternative Use Designation. Rule 6-325 permits a Retail Marijuana Products Manufacturer to Transfer Alternative Use Product to a Retail Marijuana Testing Facility prior to receiving an Alternative Use Designation. Except where the context otherwise clearly requires, rules applying to Regulated Marijuana Concentrate or Regulated Marijuana Product apply to Alternative Use Product.

"Applicant" means a Person that has submitted an application for licensure, permit, or registration, or for renewal of licensure, permit, or registration, pursuant to these rules that was accepted by the Division for review but has not been approved or denied by the State Licensing Authority.

"Approved Training Program" means a responsible vendor program that received approval from the Division prior to being offered to a Licensee.

"Audited Product" means a Regulated Marijuana Product with an intended use of: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration. Audited Product types may raise public health concerns requiring additional safeguards and oversight. These product types may only be manufactured and Transferred by a Medical Marijuana Products Manufacturer in strict compliance with Rule 5-325 or Retail Marijuana Products Manufacturer in strict compliance with Rule 6-325. Prior to the first Transfer of an Audited Product to a Medical Marijuana Store, Medical Marijuana Cultivation Facility that has a Centralized Distribution Permit, Retail Marijuana Store or Retail Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit, the Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer shall submit to the Division and, if applicable, to the Local Licensing Authority or Local Jurisdiction an independent third-party audit verifying compliance with Rule 5-325 or Rule 6-325. All rules regarding Regulated Marijuana Product apply to Audited Product except where Rules 5-325, 6-325, 4-115, 3-1010, and 3-1015 apply different requirements.

"Bad Actor" means a Person who:

a. Has been convicted, within the previous ten years (or five years, in the case of issuers, their predecessors and affiliated issuers), of any felony or misdemeanor:

   i. In connection with the purchase or sale of any Security;

   ii. Involving the making of any false filing with the Federal Securities Exchange Commission; or

   iii. Arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser, or paid solicitor of purchasers of Securities;

b. Is subject to any order, judgment or decree of any court of competent jurisdiction, entered within the previous five years, that restrains or enjoins such Person from engaging or continuing to engage in any conduct or practice:

   i. In connection with the purchase or sale of any Security;

   ii. Involving the making of any false filings with the Federal Securities Exchange Commission; or

   iii. Arising out of conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser, or paid solicitor of purchasers of Securities:

c. Is subject to a final order of a state securities commission (or an agency or officer of a state performing like functions); a state authority that supervises or examines banks, savings associations, or credit unions; a state insurance commission (or an agency or officer of a state performing like functions); an appropriate federal banking agency; the U.S. Commodity Futures Trading Commission; or the National Credit Union Administration that:

   i. Bars the Person from:

      A. Association with an Entity regulated by such commission, authority, agency, or officer;

B. Engaging in the business of Securities, insurance, or banking; or

C. Engaging in savings association or credit union activities; or

ii. Constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct entered within the previous ten years;

d. Is subject to an order of the Federal Securities Exchange Commission entered pursuant to section 15(b) or 15B(c) of the Securities Exchange Act of 1934, or section 203(e) or (f) of the Investment Advisers Act of 1940 that:

i. Suspends or revokes such Person's registration as a broker, dealer, municipal securities dealer, or investment adviser;

ii. Places limitations on the activities, functions or operations of such Person; or

iii. Bars such Person from being associated with any Entity, or from participating in the offering of any Penny Stock;

e. Is subject to any order of the Federal Securities Exchange Commission entered within the previous five years that orders the Person to cease and desist from committing or causing a violation or future violation of:

i. Any scienter-based anti-fraud provision of the federal securities laws, including without limitations section 17(a)(1) of the Securities Act of 1933, section 10(b) of the Securities Exchange Act of 1934 and 17 C.F.R. 240.10b-5, section 15(c)(1) of the Securities Exchange Act of 1934 and section 206(1) of the Investment Advisers Act of 1940, or any other rule or regulation thereunder; or

ii. Section 5 of the Securities Act of 1933.

f. Is suspended or expelled from membership in, or suspended or barred from association with a member of, a registered national securities exchange or a registered national or affiliated securities association for any act or omission to act constituting conduct inconsistent with just and equitable principles of trade;

g. Has filed (as a registrant or issuer), or was named as an underwriter in, any registration statement or Regulation A offering statement filed with the federal Securities Exchange Commission that, within the previous five years, was the subject of a refusal order, stop order, or order suspending the Regulation A exemption, or is the subject of an investigation or proceeding to determine whether a stop order or suspension order should be issued; or

h. Is subject to a United States Postal Service false representation order entered with the previous five years, or is subject to a temporary restraining order or preliminary injunction with respect to conduct alleged by the United States Postal Service to constitute a scheme or device for obtaining money or property through the mail by means of false representations.

"Batch Number" means any distinct group of numbers, letters, or symbols, or any combination thereof, assigned by a Medical Marijuana Cultivation Facility or Medical Marijuana Products Manufacturer to a specific Harvest Batch or Production Batch of Medical Marijuana, or by a Retail

Marijuana Cultivation Facility or Retail Marijuana Products Manufacturer to a specific Harvest Batch or Production Batch of Retail Marijuana.

"Beneficial Owner" includes the terms "beneficial ownership", or "beneficially owns" and means:

a. Any Person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

i. Voting power which includes the power to vote, or to direct the voting of, an Owner's Interest; and/or,

ii. Investment power which includes the power to dispose, or to direct the disposition of, an Owner's Interest.

b. Any Person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement or any other contract, arrangement, or device with the purpose of effect of divesting such Person of beneficial ownership of an Owner's Interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of section 13(d) or (g) of the Securities Act of 1933 shall be deemed for purposes of such sections to be the beneficial owner of such Owner's Interest.

c. All Owner's Interests of the same class beneficially owned by a Person, regardless of the form which such beneficial ownership takes, shall be aggregated in calculating the number of shares beneficially owned by such Person.

d. Notwithstanding the provisions of paragraphs (a) and (c) of this rule:

i.

A. A Person shall be deemed to be the beneficial owner of an Owner's Interest, subject to the provisions of paragraph (b) of this rule, if that Person has the right to acquire beneficial ownership of such Owner's Interest, as defined in Rule 13d-3(a) (§ 240.13d-3(a)) within sixty days, including but not limited to any right to acquire: (1) Through the exercise of any option, warrant or right; (2) through the conversion of an Owner's Interest; (3) pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or (4) pursuant to the automatic termination of a trust, discretionary account or similar arrangement; provided, however, any person who acquires an Owner's Interest or power specified in paragraphs (d)(i)(A)(1), (2) or (3), of this section, with the purpose or effect of changing or influencing the control of the issuer, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the Owner's Interests which may be acquired through the exercise or conversion of such Owner's Interests or power. Any Owner's Interests not outstanding which are subject to such options, warrants, rights or conversion privileges shall be deemed to be outstanding for the purpose of computing the percentage of outstanding Owner's Interests of the class owned by such Person but shall not be deemed to be outstanding for

the purpose of computing the percentage of the class by any other Person.

B. Paragraph (d)(i)(A) of this section remains applicable for the purpose of determining the obligation to file with respect to the underlying Owner's Interests even though the option, warrant, right or convertible Owner's Interests is of a class of equity Owner's Interest, as defined in § 240.13d-1(i), and may therefore give rise to a separate obligation to file.

ii. A member of a national securities exchange shall not be deemed to be a beneficial owner of an Owner's Interest held directly or indirectly by it on behalf of another Person solely because such member is the record holder of such Owner's Interests and, pursuant to the rules of such exchange, may direct the vote of such Owner's Interests, without instruction, on other than contested matters or matters that may affect substantially the rights or privileges of the holders of the Owner's Interests to be voted, but is otherwise precluded by the rules of such exchange from voting without instruction.

iii. A person who in the ordinary course of his business is a pledgee of Owner's Interests under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged Owner's Interests until the pledgee has taken all formal steps necessary which are required to declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged Owner's Interests will be exercised, provided, that:

A. The pledgee agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the issuer, nor in connection with any transaction having such purpose or effect, including any transaction subject to Rule 13d-3(b);

B The pledgee is a Person specified in Rule 13d-1(b)(ii), including Persons meeting the conditions set forth in paragraph (G) thereof; and

C The pledgee agreement, prior to default, does not grant to the pledgee;

1. The power to vote or to direct the vote of the pledged Owner's Interests; or

2. The power to dispose or direct the disposition of the pledged Owner's Interests, other than the grant of such power(s) pursuant to a pledge agreement under which credit is extended subject to regulation T (12 CFR 220.1 to 220.8) and in which the pledgee is a broker or dealer registered under section 15 of the Securities Act of 1933.

iv. A Person engaged in business as an underwriter of Owner's Interests who acquires Owner's Interests through his participation in good faith in a firm commitment underwriting registered under the Securities Act of 1933 shall not be deemed to be the beneficial owner of such Owner's

Interests until the expiration of forty days after the date of such acquisition.

"Blank Check Company" means an Entity that:

a. Is a development stage company that has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other Entity or Person; and

b. Is issuing Penny Stock.

"Botanically Derived Compounds" are organic chemicals that typically have a high vapor pressure at room temperature and are likely to be dispersed into the air. Botanically Derived Compounds include, but are not limited to terpenes, terpenoids, ketones, esters, and other molecules which are naturally occurring in plants and are used to affect the flavor and aroma of Regulated Marijuana.

"Branding" means promotion of a Regulated Marijuana Business's brand through publicizing the Regulated Marijuana Business's name, logo, or distinct design feature of the brand.

"Cannabinoid" means any of the chemical compounds that are the active principles of marijuana.

"Centralized Distribution Permit" means a permit issued to a Medical Marijuana Cultivation Facility pursuant to section 44-10-502, C.R.S., or a Retail Marijuana Cultivation Facility pursuant to section 44-10-602, C.R.S., authorizing temporary storage of Medical Marijuana Concentrate and Medical Marijuana Product received from a Medical Marijuana Products Manufacturer or Retail Marijuana Concentrate and Retail Marijuana Product received from a Retail Marijuana Products Manufacturer for the sole purpose of Transfer to commonly owned Medical Marijuana Stores or Retail Marijuana Stores. For purposes of a Centralized Distribution Permit only, the term "commonly owned" means at least one natural person has a minimum of five percent ownership in both the Medical Marijuana Cultivation Facility possessing the Centralized Distribution Permit and the Medical Marijuana Store, or in both the Retail Marijuana Cultivation Facility possessing the Centralized Distribution Permit and the Retail Marijuana Store.

"Child-Resistant" means special packaging that is:

a. Designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995). Note that this Rule does not include any later amendments or editions to the Code of Federal Regulations. The Division has maintained a copy of the applicable federal regulations, which is available to the public;

b. Opaque so that the packaging does not allow the product to be seen without opening the packaging material; and

c. Resealable for any product intended for more than a single use or containing multiple servings.

"Commercially Reasonable Royalty" means a right to compensation in the form of a royalty payment for the use of intellectual property with a direct nexus to the cultivation, manufacture, Transfer or testing of Regulated Marijuana. A Commercially Reasonable Royalty must be limited to specific intellectual property the Commercially Reasonable Royalty interest owns or is otherwise authorized to license or to a product or line of products. A Commercially Reasonable Royalty must not cause reasonable consumer confusion or violate any federal copyright,

trademark or patent law or regulation will not be approved. To determine whether the Commercially Reasonable Royalty is reasonable, the Division will consider the totality of the circumstances, including but not limited to the following factors:

a. The percentage of royalties received by the recipient for the licensing of the intellectual property.

b. The rates paid by the Licensee for the use of other intellectual property.

c. The nature and scope of the license, as exclusive or non-exclusive; or as restricted or non-restricted in terms of territory or with respect to whom the product may be sold.

d. The licensor's established policy and marketing program to maintain an intellectual property monopoly by not licensing others or by granting licenses under special conditions designed to preserve that monopoly.

e. The commercial relationship between the recipient and Licensee, such as, whether they are competitors in the same territory in the same line of business.

f. The effect of selling the intellectual property in promoting sales of other products of the Licensee; the existing value of the intellectual property to the recipient as a generator of sales of his non-intellectual property items; and the extent of such derivative sales.

g. The duration of the term of the license for use of the intellectual property.

h. The established or projected profitability of the product made using the intellectual property; its commercial success; and its current popularity.

i. The utility and advantages of the intellectual property over products or businesses without the intellectual property.

j. The nature of the intellectual property; the character of the commercial embodiment of it as owned and produced by the licensor; and the benefits to those who have used the intellectual property.

k. The portion of the profit or of the selling price that may be customary in the particular business or in comparable businesses to allow for the use of the intellectual property.

l. The portion of the realizable profit that should be credited to the intellectual property as distinguished from non-intellectual property elements, the manufacturing process, business risks, or significant features or improvements added by the Licensee.

"Consumer Education Materials" means any informational materials that seek to educate consumers about Regulated Marijuana generally, including but not limited to education regarding the safe consumption of marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Products, provided it is not distributed or made available to individuals under twenty-one years of age.

"Consumption Area" means a designated and secured area within the Licensed Premises of a Licensed Hospitality Business where consumers can use and consume marijuana and where no

one under the age of 21 is permitted. A Consumption Area may, but is not required to, be part of a Restricted Access Area.

"Container" means the receptacle directly containing Regulated Marijuana that is labeled according to the requirements in the 3-1000 Series Rules.

"Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting Owner's Interests, by contract, or otherwise. This definition of Control includes Controls, Controlled, Controlling, Controlled by, and under common Control with.

"Controlling Beneficial Owner" or "CBO" means a Person that satisfies one or more of the following criteria:

a. A natural person, an Entity that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia, a trust, the trustee of a trust, a Publicly Traded Corporation, or a Qualified Private Fund that is not a Qualified Institutional Investor:

   i. Acting alone or Acting In Concert, that owns or Acquires Beneficial Ownership of ten percent or more of the Owner's Interest of a Regulated Marijuana Business;

   ii. That is an Affiliate that Controls a Regulated Marijuana Business and includes, without limitation, any Manager; or

   iii. That is otherwise in a position to Control the Regulated Marijuana Business except as authorized in section 44-10-506 or 44-10-606, C.R.S.; or

b. A Qualified Institutional Investor acting alone or Acting In Concert that owns or Acquires Beneficial Ownership of more than thirty percent of the Owner's Interest of a Regulated Marijuana Business.

c. Unless the context otherwise requires, the defined term Controlling Beneficial Owner includes Direct Beneficial Interest Owner.

"Corrective Action" means a reactive action implemented to eliminate the root cause of a Nonconformance and to prevent recurrence.

"Court Appointee" means a Person appointed by a court as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person; acting in accordance with section 44-10-401(3), C.R.S., and these rules; and authorized by court order to take possession of, operate, manage, or control a licensed Regulated Marijuana Business.

"Covered Securities" means:

a. A Security designated as qualified for trading in the national market system pursuant to section 78k-1(a)(2) of the Securities Act of 1933 that is listed, or authorized for listing, on a national securities exchange (or tier or segment thereof); or a Security of the same issuer that is equal in seniority or that is a senior Security to a Security designated as qualified for trading in the national market system.

b. A Security issued by an investment company that is registered, or that has filed a registration statement under the federal Investment Company Act of 1940.

c. A Security as defined by the Federal Securities Exchange Commission by rule pursuant to 15 U.S.C. §77r(b)(3).

d. A Security pursuant to 15 U.S.C. §77r(b)(4).

"Decontamination" means the process of neutralization or removal of dangerous substances or other contaminants from regulated marijuana without changing the product type of the Regulated Marijuana.

"Delivery Motor Vehicle" means any self-propelled vehicle that is designed primarily for travel on the public highways, that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle that is used for delivery of Regulated Marijuana to patients or consumers; except that the term does not include electric assisted bicycles, wheelchairs, or vehicles moved solely by human power.

"Denied Applicant" means any Person whose application for licensure, permit, or registration pursuant to the Marijuana Code has been denied, any Person whose application for a responsible vendor program has been denied, or any Licensee whose application for any of the following non-exhaustive list has been denied: An initial license application pursuant to Rule 2-220, a renewal application pursuant to Rule 2-225, the request for a finding of suitability pursuant to Rule 2-235, a change of owner pursuant to Rule 2-245; a change of location of the Licensed Premises pursuant to Rule 2-255; a change, alteration, or modification of the Licensed Premises pursuant to Rule 2-260; or a production management tier increase request pursuant to Rule 5-225 or 6-220.

"Department" means the Colorado Department of Revenue.

"Designated Test Batch Collection Area" means an area that has been designated within the Limited Access Area of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Medical Marijuana Products Manufacturer that is under surveillance and used for purposes of organizing and combining Sample Increments to create Test Batches, and which has been cleaned and sanitized prior to preparing Test Batches.

"Designated Test Batch Collector" means an Owner Licensee or an Employee Licensee who has been designated by a Regulated Marijuana Business and completed training required by Rule 4-110 to engage in Sample Increment Collection for the purpose of creating Test Batches.

"Director" means the Senior Director of the Marijuana Enforcement Division.

"Disproportionate Impacted Area" means a census tract in the top 15th percentile for that state in at least two of the following categories as measured by the United States Census Bureau:

a. the percent of residents in the census tract receiving public assistance;

b. the percent of residents in the census tract falling below the federal poverty level;

c. the percent of residents in the census tract failing to graduate from High School; and

d. the percent of residents in the census tract who are unemployed.

"Division" means the Marijuana Enforcement Division.

"Edible Medical Marijuana Product" means any Medical Marijuana Product for which the intended use is oral consumption, including but not limited to, any type of food, drink, or pill.

"Edible Retail Marijuana Product" means any Retail Marijuana Product for which the intended use is oral consumption, including but not limited to, any type of food, drink, or pill.

"Employee License" means a license granted by the State Licensing Authority pursuant to section 44-10-401, C.R.S., to a natural person who is not a Controlling Beneficial Owner. Any person who possesses, cultivates, manufactures, tests, dispenses, sells, serves, transports, or delivers Regulated Marijuana, who is authorized to input data into a Regulated Marijuana Business's Inventory Tracking System or point-of-sale system, or who has unescorted access in the Restricted Access Area or Limited Access Area must hold an Employee License. Employee License includes both Key Licenses and Support Licenses.

"Entity" means a domestic or foreign corporation, cooperative, general partnership, limited liability partnership, limited liability company, limited partnership, limited liability limited partnership, limited partnership association, nonprofit association, nonprofit corporation, or any other organization or association that is formed under a statute or common law of the state of Colorado or any other jurisdiction as to which the laws of this state of Colorado or the laws of any other jurisdiction governs relations among owners and between the owners and the organization or association and that is recognized under the laws of the state of Colorado or the other jurisdiction as a separate legal entity.

"Executive Officer" means the president, any vice president in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy making function, or any other person who performs similar policy-making functions for the Regulated Marijuana Business.

"Exit Package" means an Opaque bag or other similar Opaque covering provided at the point of sale, in which Regulated Marijuana already in a Container is placed. If Regulated Marijuana flower, trim, or seeds are placed into a Container that is not Child-Resistant, then the Exit Package must be Child-Resistant. The Exit Package is not required to be labeled in accordance with the 3-100 Series Rules.

"Fibrous Waste" means any roots, stalks, and stems from a Regulated Marijuana plant.

"Final Agency Order" means an Order of the State Licensing Authority issued in accordance with the Marijuana Code and the State Administrative Procedure Act. The State Licensing Authority will issue a Final Agency Order following review of the Initial Decision and any exceptions filed thereto or at the conclusion of the declaratory order process. A Final Agency Order is subject to judicial review.

"Flammable Solvent" means a liquid that has a flash point below 100 degrees Fahrenheit.

"Flowering" means the reproductive state of the cannabis plant in which there are physical signs of flower budding out of the nodes of the stem.

"Food-Based Medical Marijuana Concentrate" means a Medical Marijuana Concentrate that was produced by extracting Cannabinoids from Medical Marijuana through the use of propylene glycol, glycerin, butter, olive oil, or other typical cooking fats.

"Food-Based Retail Marijuana Concentrate" means a Retail Marijuana Concentrate that was produced by extracting Cannabinoids from Retail Marijuana through the use of propylene glycol, glycerin, butter, olive oil or other typical cooking fats.

"Foreign Private Issuer" means any foreign issuer other than a foreign government except an issuer meeting the following conditions as of the last business day of its most recently completed second fiscal quarter:

a. More than 50 percent of the outstanding voting Securities of such issuer are directly or indirectly owned of record by residents of the United States; and

b. Any of the following:

i. The majority of the executive officers or directors are United States citizens or residents;

ii. More than 50 percent of the assets of the issuer are located in the United States; or

iii. The business of the issuer is administered principally in the United States.

"Good Cause" for purposes of denial of an initial, renewal, or reinstatement of a license, registration, or permit application, means:

a. The Licensee or Applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Marijuana Code, any rules promulgated pursuant to the Marijuana Code, or any supplemental relevant state or local law, rule, or regulation;

b. The Licensee or Applicant has failed to comply with any special terms or conditions that were placed upon the license pursuant to an order of the State Licensing Authority or the relevant local jurisdiction; or

c. The Licensee's Licensed Premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

"Good Moral Character" means having a criminal history that demonstrates honesty, fairness, and respect for the rights of others and for the law.

"Greenhouse" means a hoop house or other structure with non-rigid walls that utilizes natural light, in whole or in part, for the cultivation of Regulated Marijuana.

"Harvest Batch" means a specifically identified quantity of processed Regulated Marijuana that is uniform in strain, cultivated utilizing the same Pesticide and other agricultural chemicals and harvested at the same time. A Harvest Batch may also include a Manicure Batch that was harvested prior to the creation of the Harvest Batch.

"Harvested Marijuana" means Regulated Marijuana flower reported as a package in the Inventory Tracking System or post-harvest Regulated Marijuana not including wet whole plant, trim, concentrate, waste, or Fibrous Waste that remains on the premises of the Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility or its off-premises storage location beyond 90 days from harvest.

"Heat/Pressure-Based Medical Marijuana Concentrate" means a Medical Marijuana Concentrate that was produced by extracting Cannabinoids from Medical Marijuana through the use of heat and/or pressure. The method of extraction may be used by only a Medical Marijuana Products Manufacturer and can be used alone or on a Production Batch that also includes Physical Separation-Based Medical Marijuana Concentrate or Solvent-Based Medical Marijuana Concentrate.

"Heat/Pressure-Based Retail Marijuana Concentrate" means Retail Marijuana Concentrate that was produced by extracting Cannabinoids from Retail Marijuana through the use of heat and/or pressure. This method of extraction may be used by only a Retail Marijuana Products Manufacturer and can be used alone or on a Production Batch that also includes Physical Separation-Based Retail Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate.

"Identification Badge" means a physical badge issued by the Division to any natural person possessing an Owner License or Employee License, used to verify the identity and license status of the natural persons on the Licensed Premises of a Regulated Marijuana Business.

"Identity Statement" means the name of the business as it is commonly known and used in any Advertising.

"Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no wider than eight inches produced from a cutting, clipping or seedling and is in a cultivating container.

"Indirect Financial Interest Holder" means a Person that is not an Affiliate, a Controlling Beneficial Owner, or a Passive Beneficial Owner of a Regulated Marijuana Business and that:

a. Holds a Commercially Reasonable Royalty in exchange for a Regulated Marijuana Business's use of the Person's intellectual property;

b. Holds a Permitted Economic Interest that was issued prior to January 1, 2020, and that has not been converted into an Owner's Interest or holds any unsecured convertible debt option, option agreement or warrant that establishes a right for a Person to obtain an interest that might convert to an ownership interest in a Regulated Marijuana Business obtained after January 1, 2020;

c. Is a contract counterparty with a Regulated Marijuana Business, other than a customary employment agreement, that has a direct nexus to the cultivation, manufacture, sale, or testing of Regulated Marijuana, including, but not limited to, a lease of real property on which the Regulated Marijuana Business operates, a lease of equipment used in the cultivation, manufacture, or testing of Regulated Marijuana, a secured or unsecured financing agreement with the Regulated Marijuana Business, a security contract with the Regulated Marijuana Business, or a management agreement with the Regulated Marijuana Business, provided that no such contract compensates the contract counterparty with a percentage of revenue for profits of the Regulated Marijuana Business.

    i. Any secured interest in Regulated Marijuana must expressly provide that it is subject to all required suitability and application requirements.

d. Unless the context otherwise requires, the defined term Indirect Financial Interest Holder includes Indirect Beneficial Interest Owner.

"Industrial Fiber Products" means intermediate or finished products made from Fibrous Waste that are not intended for human or animal consumption and are not usable or recognizable as

Regulated Marijuana. Industrial Fiber Products include, but are not limited to, cordage, paper, fuel, textiles, bedding, insulation, construction materials, compost materials, and industrial materials.

"Industrial Fiber Products Producer" means a Person who produces Industrial Fiber Products using Fibrous Waste.

"Industrial Hemp" means a plant of the genus Cannabis and any part of the plant, whether growing or not, containing a delta-9 tetrahydrocannabinol (THC) concentration of no more than three-tenths of one percent (0.3%) on a dry weight basis.

"Industrial Hemp Product" means a finished product containing Industrial Hemp that:

a. Is a cosmetic, food, food additive, or herb;

b. Is for human use or consumption;

c. Contains any part of the hemp plant, including naturally occurring Cannabinoids, compounds, concentrates, extracts, isolates, resins, or derivatives; and

d. Contains a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent.

"Industrial Hygienist" means a natural person who has obtained a baccalaureate or graduate degree in industrial hygiene, biology, chemistry, engineering, physics, or a closely related physical or biological science from an accredited college or university.

a. The special studies and training of such persons must be sufficient in the cognate sciences to provide the ability and competency to:

   i. Anticipate and recognize the environmental factors and stresses associated with work and work operations and to understand their effects on individuals and their well-being;

   ii. Evaluate on the basis of training and experience and with the aid of quantitative measurement techniques the magnitude of such environmental factors and stresses in terms of their ability to impair human health and well-being;

   iii. Prescribe methods to prevent, eliminate, control, or reduce such factors and stresses and their effects.

b. Any person who has practiced within the scope of the meaning of industrial hygiene for a period of not less than five years immediately prior to July 1, 1997, is exempt from the degree requirements set forth in the definition above.

c. Any person who has a two-year associate of applied science degree in environmental science from an accredited college or university and in addition not less than four years practice immediately prior to July 1, 1997, within the scope of the meaning of industrial hygiene is exempt from the degree requirements set forth in the definition above.

"Ineligible Issuer" means:

a. Any issuer that is required to file reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 that has not filed all reports and other materials required to be filed during the preceding 12 months, other than reports on Form 8-K required solely pursuant to an item specified in General Instruction I.A.3(b) of Form S-3;

b. The issuer is, or during the past three years the issuer or any of its predecessors was:

   i. A Blank Check Company;

   ii. A Shell Company;

   iii. An issuer of an offering of Penny Stock;

c. The issuer is a limited partnership that is offering and selling its Securities other than through a firm commitment underwriting;

d. Within the past three years, a petition under the federal bankruptcy laws or any state insolvency law was filed by or against the issuer, or a court-appointed a receiver, fiscal agent, or similar officer with respect to the business or property of the issuer subject to the following:

   i. In the case of an involuntary bankruptcy in which a petition was filed against the issuer, ineligibility will occur upon the earlier to occur of:

      A. 90 days following the date of the filing of the involuntary petition (if the case has not been earlier dismissed); or

      B. The conversion of the case to a voluntary proceeding under federal bankruptcy or state insolvency laws; and

   ii. Ineligibility will terminate if an issuer has filed an annual report with audited financial statements subsequent to its emergence from that bankruptcy, insolvency, or receivership process;

e. Within the past three years, the issuer or any Entity that at the time was a subsidiary of the issuer was convicted of any felony or misdemeanor described in paragraphs (i) through (iv) of section 15(b)(4)(B) of the Securities Exchange Act of 1934;

f. Within the past three years, the issuer or any Entity that at the time was a subsidiary of the issuer was made the subject of any judicial or administrative decree or order arising out of a governmental action that:

   i. Prohibits certain conduct or activities regarding, including future violations of, the anti-fraud provisions of the federal securities laws;

   ii. Requires that the Person cease and desist from violating the anti-fraud provisions of the federal securities laws; or

   iii. Determines that the Person violated the anti-fraud provisions of the federal securities laws;

g. The issuer has filed a registration statement that is the subject of any pending proceeding or examination under section 8 of the Securities Act of 1933 or has been the subject of any refusal order or stop order under section 8 of the Securities Act of 1933 within the past three years; or

h. The issuer is the subject of any pending proceeding under section 8A of the Securities Act of 1933 in connection with an offering.

"Infused Pre-Rolled Marijuana" means Regulated Marijuana that was produced by rolling, filling, or stuffing Harvested Marijuana flower, shake, and/or trim with Regulated Marijuana Concentrate(s) into paper, leaves, or an equivalent wrapper and is intended for consumption by inhalation.

"Ingredient" means any non-marijuana derived substance that is added to Regulated Marijuana to achieve a desired effect. The term Ingredient includes all Additives.

"Initial Decision" means a decision of a hearing officer in the Department following a licensing, disciplinary, or other administrative hearing. Either party may file exceptions to the Initial Decision. The State Licensing Authority will review the Initial Decision and any exceptions filed thereto, and will issue a Final Agency Order.

"Inventory Tracking System" means the required seed-to-sale tracking system that tracks Regulated Marijuana from either the seed or immature plant stage until the Regulated Marijuana is sold to a patient at a Medical Marijuana Store or to a consumer at a Retail Marijuana Store, Transferred to a Medical Marijuana Testing Facility or Retail Marijuana Testing Facility, Transferred to a Sampling Manager, Transferred to an Industrial Fiber Products Producer, Transferred to a Pesticide Manufacturer, or destroyed by a Regulated Marijuana Business, or used in a Research Project by a Marijuana Research and Development Facility.

"Inventory Tracking System Trained Administrator" means an Owner Licensee of a Regulated Marijuana Business or an Employee Licensee employed by a Regulated Marijuana Business, each of whom has attended and successfully completed Inventory Tracking System training and has completed any additional training required by the Division.

"Inventory Tracking System User" means an Owner Licensee of a Regulated Marijuana Business or an Employee Licensee employed by a Regulated Marijuana Business, who is granted Inventory Tracking System User account access for the purposes of performing inventory tracking functions in the Inventory Tracking System. Each Inventory Tracking System User must have been successfully trained by an Inventory Tracking System Trained Administrator in the proper and lawful use of Inventory Tracking System.

"Kief" means a subset of Physical Separation-Based Marijuana Concentrate that consists of the resinous crystal-like trichomes that have been physically separated from Regulated Marijuana flower, shake, or trim that results in a higher concentration of cannabinoids.

"License" means a license, permit, or registration pursuant to the Marijuana Code.

"Licensed Hospitality Business" means a Marijuana Hospitality Business or Retail Marijuana Hospitality and Sales Business.

"Licensed Premises" means the premises specified in an application for a license pursuant to the Marijuana Code that are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell, store, transport, or test Medical Marijuana, or to cultivate, manufacture, distribute, sell, store, transport, test, or allow the use or consumption of

Retail Marijuana, in accordance with the provisions of the Marijuana Code, and these rules. Not all areas of the Licensed Premises are Limited Access Areas or Restricted Access Areas.

"Licensee" means any Person licensed, registered, or permitted pursuant to the Marijuana Code including an Owner Licensee and an Employee Licensee.

"Limited Access Area" means a building, room, or other contiguous area upon the Licensed Premises where Regulated Marijuana and Regulated Marijuana Products are grown, cultivated, manufactured, stored, weighed, packaged, sold, possessed for sale, Transferred, or processed for Transfer, under control of the Licensee, with access limited to only those persons licensed by the State Licensing Authority and those visitors Escorted by a person licensed by the State Licensing Authority. All areas of ingress or egress to limited access areas must be clearly identified as such by a sign as designated by the State Licensing Authority.

"Limit of Detection" or "LOD" means the lowest quantity of a substance that can be distinguished from the absence of that substance (a blank value) within a stated confidence limit (generally 1%).

"Limit of Quantitation" or "LOQ" means the lowest concentration at which the analyte can not only be reliably detected but at which some predefined goals for bias and imprecision are met.

"Liquid Edible Medical Marijuana Product" means an Edible Medical Marijuana Product that is a liquid beverage or liquid food-based product for which the intended use is oral consumption, such as a soft drink or cooking sauce.

"Liquid Edible Retail Marijuana Product" means an Edible Retail Marijuana Product that is a liquid beverage or liquid food-based product for which the intended use is oral consumption, such as a soft drink or cooking sauce.

"Local Jurisdiction" means a locality as defined in section 16 (2)(e) of Article XVIII of the state constitution.

"Local Licensing Authority" means an authority designated by municipal, county, or city and county charter, ordinance, or resolution, or the governing body of a municipality or city and county, or the board of county commissioners of a county if no such authority is designated.

"Manager" means:

a. A member of a limited liability company in which management is not vested in managers rather than members;

b. A manager of a limited liability company in which management is vested in managers rather than members;

c. A member of a limited partnership association in which management is not vested in managers rather than members;

d. A manager of a limited partnership association in which management is vested in managers rather than members;

e. A general partner;

f. An officer or director of a corporation, a nonprofit corporation, a cooperative, or a limited partnership association; or

g. Any Person whose position with respect to an Entity, as determined under the constituent documents and organic statutes of the Entity, without regard to the Person's title, is the functional equivalent of any of the positions described in this definition.

"Manicure Batch" means a Harvest Batch or a part of a Harvest Batch of a specifically identified quantity of processed Regulated Marijuana that is uniform in strain, cultivated utilizing the same Pesticide and other agricultural chemicals and harvested at the same time. A Manicure Batch consists of Regulated Marijuana that has been harvested from plants that have not yet been cut down and/or used in a Harvest Batch. A Manicure Batch may be considered a Harvest Batch by itself, or it may be combined with a Harvest Batch containing the same plant from which the Manicure Batch was created.

"Marijuana Code" means the Colorado Marijuana Code found at sections 44-10-101 *et seq.*, C.R.S.

"Marijuana Consumer Waste" means any component left after the consumption of a Regulated Marijuana Product, including but not limited to Containers, packages, cartridges, pods, cups, batteries, all-in-one disposable devices, and any other waste component left after the Regulated Marijuana is consumed.

"Marijuana Hospitality Business" means a facility, which may be mobile, licensed to permit the consumption of marijuana pursuant to article 10; rules promulgated pursuant to article 10; and the provisions of an enacted, initiated, or referred ordinance or resolution of the local jurisdiction in which the licensee operates.

"Marijuana Research and Development Facility" means a Person that is licensed pursuant to the Marijuana Code to grow, cultivate, manufacture, and possess Medical Marijuana, and to Transfer Medical Marijuana to another Marijuana Research and Development Facility all for limited research purposes authorized pursuant to section 44-10-507, C.R.S.

"Marketing Layer" means packaging in addition to the Container that is the outermost layer visible to the consumer at the point of sale. The Marketing Layer is optional, but if used by a Licensee in addition to the required Container, it must be labeled according to the requirements in the 3-1000 Series Rules.

"Material Change" means a change that the Licensee makes to their product's design, cultivation process, or manufacturing process that a Licensee knows, or should reasonably know, could affect the product's quality or ability to comply with the requirements set forth in these Rules including, but not limited to, intended use, testing, and product safety. This includes any change that would require a substantive revision to a Regulated Marijuana Business's standard operating procedures. *See* Rule 4-120(F)(1) for additional examples of Material Change.

"Medical Marijuana" means marijuana that is grown and sold pursuant to the provisions of article 10 and for a purpose authorized by section 14 of article XVIII of the state constitution but shall not be considered a nonprescription drug for purposes of section 12-42.5-102(21) or 39-26-717, or an over-the-counter medication for purposes of section 25.5-5-322. If the context requires, Medical Marijuana includes Medical Marijuana Concentrate and Medical Marijuana Products.

"Medical Marijuana Business" means any of the following entities licensed pursuant to article 10: A Medical Marijuana Store, a Medical Marijuana Cultivation Facility, a Medical Marijuana Product Manufacturer, a Medical Marijuana Testing Facility, a Marijuana Research and Development Licensee, a Medical Marijuana Business Operator, or a Medical Marijuana Transporter.

"Medical Marijuana Business Operator" means an entity or person that is not an owner and that is licensed to provide professional operational services to a medical marijuana business for direct remuneration from the Medical Marijuana Business(es). A Medical Marijuana Business Operator is not, by virtue of its status as a medical marijuana business operator, a controlling beneficial owner or a passive beneficial owner of any medical marijuana business it operates.

"Medical Marijuana Concentrate" means a subset of Medical Marijuana that is separated from the medical marijuana plant and results in matter with a higher concentration of cannabinoids than naturally occur in the plant. Medical Marijuana Concentrate contains cannabinoids and may contain terpenes and other chemicals that are naturally occurring in medical marijuana plants that have been separated from medical marijuana. Medical Marijuana Concentrate may also include residual amounts of the types of solvents, as permitted by the marijuana rules. The State Licensing Authority may further define by rule subcategories of Medical Marijuana Concentrate and authorize limited ingredients based on the method of production of Medical Marijuana Concentrate. Unless the context otherwise requires, Medical Marijuana Concentrate is included when article 10 of the Colorado Revised Statutes refers to Medical Marijuana Product.

"Medical Marijuana Cultivation Facility" means a Person licensed pursuant to the Marijuana Code to operate a business as described in section 44-10-502, C.R.S.

"Medical Marijuana Product" means a product infused with Medical Marijuana and other Ingredients that is intended for use or consumption other than by smoking, including but not limited to edible product, ointments, and tinctures.

"Medical Marijuana Products Manufacturer" means a Person licensed pursuant to the Marijuana Code to operate a business as described in section 44-10-503, C.R.S.

"Medical Marijuana Store" means a Person licensed pursuant to the Marijuana Code to operate a business as described in section 44-10-501, C.R.S., and sells Medical Marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

"Medical Marijuana Testing Facility" means a public or private laboratory licensed and certified, or approved by the Division, to perform testing and research on Medical Marijuana.

"Medical Marijuana Transporter" means an entity or Person licensed to transport Medical Marijuana and Medical Marijuana Products from one Medical Marijuana Business to another Medical Marijuana Business and to temporarily store the transported Medical Marijuana and Medical Marijuana Products at its Licensed Premises, but is not authorized to sell Medical Marijuana or Medical Marijuana Products under any circumstances.

"Mobile Premises" means a Licensed Premises operated by a Marijuana Hospitality Business in a motor vehicle, which includes any self-propelled vehicle that is designed primarily for travel on the public highways and that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle; but does not include electrical assisted bicycles, electric scooters, low-power scooters, wheelchairs, or vehicles moved solely by human power. A Marijuana Hospitality Business operating a Mobile Premises must comply with all requirements in Rule 6-940.

"Monitoring" means the continuous and uninterrupted attention to potential alarm signals that could be transmitted from a Security Alarm System located at a Regulated Marijuana Business Licensed Premises, for the purpose of summoning a law enforcement officer to the premises during alarm conditions.

"Monitoring Company" means a person in the business of providing security system Monitoring services for the Licensed Premises of a Regulated Marijuana Business.

"Multiple-Serving Edible Retail Marijuana Product" means an Edible Retail Marijuana Product unit for sale to consumers containing more than 10 milligrams of active THC and no more than 100 milligrams of active THC. If the overall Edible Retail Marijuana Product unit for sale to the consumer consists of multiple pieces where each individual piece may contain less than 10 milligrams of active THC, yet in total all pieces combined within the unit for sale contain more than 10 milligrams of active THC, then the Edible Retail Marijuana Product shall be considered a Multiple-Serving Edible Retail Marijuana Product.

"Nonconformance" means a non-fulfillment of a requirement or departure from written procedures, work instructions, or quality system, as defined by the Licensee's written Corrective Action and Preventive Action procedures.

"Non-objecting Beneficial Owner" means a Beneficial Owner who gives permission to a financial intermediary to release their name and address to the company(ies) or issuer(s) in which they have bought Securities.

"Notice of Denial" means a written statement from the State Licensing Authority, articulating the reasons or basis for denial of a license application.

"Opaque" means that the packaging does not allow the product to be seen without opening the packaging material.

"Order to Show Cause" means a document from the State Licensing Authority alleging the grounds for imposing discipline against a Licensee's license.

"Owner Entity License" means a License issued to an Entity that is a Controlling Beneficial Owner of a Regulated Marijuana Business.

"Owner's Interest" means the shares of stock in a corporation, a membership in a nonprofit corporation, a membership interest in a limited liability company, the interest of a member in a cooperative or in a limited cooperative association, a partnership interest in a limited partnership, a partnership interest in a partnership, and the interest of a member in a limited partnership association.

"Owner License" means a License issued to a natural person who is a Controlling Beneficial Owner of a Regulated Marijuana Business or who is a Passive Beneficial Owner electing to be subject to licensure.

"Passive Beneficial Owner" means any Person Acquiring any Owner's Interest in a Regulated Marijuana Business that is not otherwise a Controlling Beneficial Owner or in Control.

"Penny Stock" means any equity security other than a Security:

a. That is a National Market System stock, provided that:

i. The Security is registered, or approved for registration upon notice of issuance, on a national securities exchange that has been continuously registered as a national securities exchange since April 20, 1992; and the national securities exchange has maintained quantitative listing standards that are substantially similar to or stricter than those listing standards that were in place on that exchange on January 8, 2004; or

ii. The Security is registered, or approved for registration upon notice of issuance, on a national securities exchange, or is listed, or approved for listing upon notice of issuance on, an automated quotation system sponsored by a registered national securities association, that:

A. Has established initial listing standards that meet or exceed the following criteria:

1. The issuer shall have: (a) stockholders' equity of $5,000,000; (b) market value of listed Securities of $50 million for 90 consecutive days prior to applying for a listing (market value means the closing bid price multiplied by the number of Securities listed); or (c) net income of $750,000 (excluding non-recurring items) in the most recently completed fiscal year or in two of the last three most recently completed fiscal years;

2. The issuer shall have an operating history of at least one year or a market value of listed Securities of $50 million (market value means the closing bid price multiplied by the number of Securities listed);

3. The issuer's stock, common or preferred, shall have a minimum bid price of $4 per share;

4. In the case of common stock, there shall be at least 300 round lot holders of the Security (a round lot holder means a holder of a normal unit of trading);

5. In the case of common stock, there shall be at least 1,000,000 publicly held shares and such shares shall have a market value of at least $5 million (market value means the closing bid price multiplied by the number of publicly held shares, and shares held directly or indirectly by an officer or director of the issuer and by any Person who is the Beneficial Owner of more than 10 percent of the total shares outstanding are not considered to be publicly held);

6. In the case of a convertible debt security, there shall be a principal amount outstanding of at least $10 million;

7. In the case of rights and warrants, there shall be at least 100,000 issued and the underlying security shall be registered on a national securities exchange or listed on an automated quotation system sponsored by a registered national securities association and shall satisfy the requirements of paragraphs (a) or (e) of this definition;

8. In the case of put warrants (that is, instruments that grant the holder the right to sell to the issuing company a specified number of shares of the company's common stock, at a specified price until a specified period of time), there shall be at least 100,000 issued and the

underlying Security shall be registered on a national securities exchange or listed on an automated quotation system sponsored by a registered national securities association and shall satisfy the requirements of paragraphs (a) or (e) of this definition;

9. In the case of units (that is, two or more Securities traded together), all component parts shall be registered on a national securities exchange or listed on an automated quotation system sponsored by a registered national securities association and shall satisfy the requirements of paragraphs (a) or (e) of this definition; and

10. In the case of equity Securities (other than common and preferred stock, convertible debt securities, rights and warrants, put warrants, or units), including hybrid products and derivative products, the national securities exchange or registered national securities association shall establish quantitative listing standards that are substantially similar to those found in paragraph (a)(ii) of this definition; and

B. Has established quantitative continued listing standards that are reasonably related to the initial listing standards set forth in paragraph (a)(ii) of this definition, and that are consistent with the maintenance of fair and orderly markets;

b. That is issued by an investment company registered under the Federal Investment Company Act of 1940;

c. That is a put or call option issued by the Options Clearing Corporation;

d. That has a price of five dollars or more;

i. For purposes of this paragraph (d):

A. A Security has a price of five dollars or more for a particular transaction if the Security is purchased or sold in that transaction at a price of five dollars or more, excluding any broker or dealer commission, commission equivalent, mark-up, or mark-down; and

B. Other than in connection with a particular transaction, a Security has a price of five dollars or more at a given time if the inside bid quotation is five dollars or more; provided, however, that if there is no such inside bid quotation, a Security has a price of five dollars or more at a given time if the average of three or more interdealer bid quotations at specified prices displayed at that time in an interdealer quotation system, by three or more market makers in the Security, is five dollars or more.

C. The term “inside bid quotation” shall mean the highest bid quotation for the Security displayed by a market maker in the Security on an automated interdealer quotation system that has

the characteristics set forth in section 17B(b)(2) of the Federal Securities Exchange Act of 1934, or such other automated interdealer quotation system designated by the Federal Securities Exchange Commission for purposes of this definition, at any time in which at least two market makers are contemporaneously displaying on such system bid and offer quotation for the Security at specified prices.

ii. If a Security is a unit composed of one or more Securities, the unit price divided by the number of shares of the unit that are not warrants, options, rights, or similar Securities must be five dollars or more as determined in accordance with paragraph (d)(i), and any share of the unit that is a warrant, option, right, or similar security, or a convertible security, must have an exercise price or conversion price of five dollars or more;

e. That is registered, or approved for registration upon notice of issuance, on a national securities exchange that makes transaction reports available provided that:

i. Price and volume of information with respect to transactions in that security is required to be reported on a current and continuing basis and is made available to vendors of market information pursuant to the rules of the national securities exchange;

ii. The Security is purchased or sold in a transaction that is effected on or through the facilities of the national securities exchange, or that is part of the distribution of the Security; and

iii. The Security satisfies the requirements of paragraphs (a)(i) or (a)(ii);

f. That is a security futures product listed on a national securities exchange or an automated quotation system sponsored by a registered national securities association; or

g. Whose issuer has:

i. Net tangible assets in excess of $2,000,000, if the issuer has been in continuous operation for at least three years, or $5,000,000 if the issuer has been in continuous operation for less than three years; or

ii. Average revenue of at least $6,000,000 for the last three years.

“Person” means a natural person, an estate, a trust, an Entity, or a state or other jurisdiction.

“Pesticide” means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; except that the term “pesticide” does not include any article that is a “new animal drug” as designated by the United States Food and Drug Administration.

“Pesticide Manufacturer” means a Person who (1) manufactures, prepares, compounds, propagates, or processes any Pesticide or device or active ingredient used in producing a Pesticide; (2) who possesses an establishment registration number with the U.S. Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 *et seq.*; (3) who conducts research to establish safe and effective protocols, including but

not limited to establishing efficacy and toxicity, for the use of Pesticides on Regulated Marijuana; (4) who has applied for and received any necessary license, registration, certifications, or permits from the Colorado Department of Agriculture, pursuant to the Pesticide Act, sections 35-9-101 *et seq.*, C.R.S. and/or the Pesticide Applicators' Act, sections 35-10-101 *et seq.*, C.R.S.; (5) who is authorized to conduct business in the State of Colorado; and (6) who has physical possession of the location in the State of Colorado where its research activities occur. A Pesticide Manufacturer is neither a Regulated Marijuana Business, nor a Licensee.

"Physical Separation-Based Medical Marijuana Concentrate" means a Medical Marijuana Concentrate that was produced by separating Cannabinoids from Medical Marijuana through the use of physical separation by grinding, sifting, or a similar process and may use water, ice, or dry ice. Physical Separation-Based Medical Marijuana Concentrate does not include Solvent-Based Medical Marijuana Concentrate or Heat/Pressure-Based Medical Marijuana Concentrate.

"Physical Separation-Based Retail Marijuana Concentrate" means a Retail Marijuana Concentrate that was produced by separating Cannabinoids from Retail Marijuana through the use of physical separation by grinding, sifting, or a similar process and may use water, ice, or dry ice. Physical Separation-Based Retail Marijuana Concentrate does not include Solvent-Based Retail Marijuana Concentrate or Heat/Pressure-Based Retail Marijuana Concentrate.

"Pre-Rolled Marijuana" means Regulated Marijuana that was produced by rolling, filling, or stuffing Harvested Marijuana flower, shake, and/or trim into paper, leaves or an equivalent wrapper and is intended for consumption by inhalation.

"Pressurized Metered Dose Inhaler" means inhalable Regulated Marijuana Concentrate, which may be comprised of other Ingredients, and a pressurized propellant inside a device that administers a dose of an aerosolized composition.

"Preventive Action" means a proactive action implemented to eliminate the cause of a potential Nonconformance or other quality problem before it occurs.

"Processing Aid" means any non-marijuana derived substance used in the production of Regulated Marijuana to assist in extraction or manufacturing processes.

"Production Batch" means (a) any amount of Regulated Marijuana Concentrate of the same category and produced using the same extraction methods, standard operating procedures and an identical group of Harvest Batch(es) of Medical Marijuana or Retail Marijuana; or (b) any amount of Regulated Marijuana Product of the same exact type, produced using the same Ingredients, standard operating procedures, and the same Harvest Batch(es) of Harvested Marijuana (single strain or multiple strain) and/or Production Batch(es) of Regulated Marijuana Concentrate; or (c) any amount of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana of the same exact type, produced using the same ingredients, standard operating procedures, and the same Harvest Batch(es) of Regulated Marijuana Concentrate.

"Professional Engineer" means a natural person who is licensed by the State of Colorado as a professional engineer pursuant to sections 12-25-101 *et seq.*, C.R.S.

"Proficiency Testing" means an assessment of the performance of a Medical Marijuana Testing Facility's or Retail Marijuana Testing Facility's methodology and processes. Proficiency Testing is also known as inter-laboratory comparison. The goal of Proficiency Testing is to ensure results are accurate, reproducible, and consistent.

"Propagation" means the reproduction of Regulated Marijuana plants by seeds, cuttings, or grafting.

"Public Institution," for purposes of the 5-700 Series Rules, means any entity established or controlled by the federal government, a state government, or a local government or municipality, including but not limited to an institution of higher education or a public higher education research institution.

"Public Money," for purposes of the 5-700 Serie Rules, means any funds or money obtained by the holder from any governmental entity, including but not limited to research grants.

"Publicly Traded Corporation" means any Person other than an individual that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia or another country that authorizes the sale of marijuana that:

a. Has a class of Securities registered pursuant to 15 U.S.C. sec. 77a et seq., that:

   i. Constitutes Covered Securities; or

   ii. Is qualified and quoted on the OTCQX or OTCQB tier of the OTC markets if:

      A. The Person is then required to file reports and is filing reports on a current basis with the Federal Securities Exchange Commission pursuant to 15 U.S.C. sec. 78a et seq., as if the Securities constituted Covered Securities; and

      B. The Person has established and is in compliance with corporate governance measures pursuant to corporate governance obligations imposed on Securities qualified and quoted on the OTCQX tier of the OTC markets.

b. Is an Entity that has a class of Securities listed on the Canadian Securities Exchange, Toronto Stock Exchange, TSX Venture Exchange, or NEO Exchange, if:

   i. The Entity constitutes a Foreign Private Issuer whose Securities are exempt from registration pursuant to 15 U.S.C. sec. 78a et seq., pursuant to 17 CFR 240.12g3-2; and

   ii. The Entity has been, for the preceding three hundred sixty-five days or since the formation of the Entity, in compliance with all governance and reporting obligations imposed by the relevant exchange on such Entity; or

c. Publicly Traded Corporation does not include:

   i. An Ineligible Issuer, unless such Publicly Traded Corporation satisfies the definition of Ineligible Issuer solely because it is one or more of the following, and the Person is filing reports on a current basis with the Federal Securities and Exchange Commission pursuant to 15 U.S.C. sec. 78a et seq., as if the Securities constituted Covered Securities, and prior to becoming a Publicly Traded Corporation, the Person for at least two years was licensed by the State Licensing Authority as a Regulated Marijuana Business with a demonstrated history of operations in the state of Colorado, and during such time was not subject to suspension or revocation of the business license:

A. a Blank Check Company;

B. an issuer in an offering of Penny Stock; or

C. a Shell Company.

ii. A Person disqualified as a Bad Actor.

"Qualified Institutional Investor" means:

a. A bank as defined in 15 U.S.C. sec. 78c (a)(6), if the bank is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

b. A bank holding company as defined in 12 U.S.C. sec. 1841 (a)(1), if the bank holding company is registered and current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

c. An insurance company as defined in 15 U.S.C. sec. 80a-2 (a)(17), if the insurance company is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

d. An investment company registered and subject to 15 U.S.C. sec. 80a-1, et seq., if the investment company is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

e. An employee benefit plan or pension fund subject to 29 U.S.C. sec. 1001 et seq., excluding an employee benefit plan or pension fund sponsored by a licensee or an intermediary or holding company licensee which directly or indirectly owns ten percent or more of a licensee;

f. A state or federal government pension plan; or

g. A group comprised entirely of persons specified in (a) through (g) of this definition; or

h. Any other entity identified by rule by the state licensing authority.

"Qualified Private Fund" means an issuer that would be an investment company, as defined in section 3 of the Federal Investment Company Act of 1940, but for the exclusions provided under sections 3(c)(1) or 3(c)(7) of that Act, and that:

a. Is advised or managed by an investment adviser as defined and registered pursuant to 15 U.S.C. sec. 80b-1 et seq., and for which the registered investment adviser is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder; and

b. Satisfies one or more of the following:

i. Is organized under the law of a state or the United States;

ii. Is organized, operated, or sponsored by a U.S. person, as defined under subsection 17 CFR 230.902(k), as amended; or

iii. Sells Securities to a U.S. person, as defined under subsection 17 CFR 230.902(k), as amended.

"Reduced Testing Allowance" means the allowance for a Regulated Marijuana Business to conduct less testing than otherwise required by Rules 4-120 and 4-125 upon demonstrating that standard operating procedures and production practices result in consistent passing test results over a time frame established in Rules 4-120 and 4-125.

"R&D Co-Location Permit" means a permit issued to a Marijuana Research and Development Facility authorizing it to co-locate with a commonly owned Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Retail Marijuana Cultivation Facility pursuant to Rule 5-705. A separate R&D Co-Location Permit is required for each location at which a Marijuana Research and Development Facility seeks to share a single Licensed Premises.

"Reasonable Cause" means just or legitimate grounds based in law and in fact to believe that the particular requested action furthers the purposes of the Marijuana Code or protects the public safety.

"Regulated Marijuana" means Medical Marijuana and Retail Marijuana. If the context requires, Regulated Marijuana includes Medical Marijuana Concentrate, Medical Marijuana Product, Retail Marijuana Concentrate, and Retail Marijuana Product.

"Regulated Marijuana Business" means Medical Marijuana Businesses and Retail Marijuana Businesses.

"Regulated Marijuana Concentrate" means Medical Marijuana Concentrate and Retail Marijuana Concentrate.

"Regulated Marijuana Cultivation Facility" means a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and Accelerator Cultivator.

"Regulated Marijuana Products Manufacturer" means a Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, and Accelerator Manufacturer.

"Regulated Marijuana Product" means Medical Marijuana Product and Retail Marijuana Product.

"Regulated Marijuana Store" means a Medical Marijuana Store, Retail Marijuana Store, and Accelerator Store.

"Regulated Marijuana Testing Facility" means a Medical Marijuana Testing Facility and Retail Marijuana Testing Facility.

"Remediation" means the process of neutralization or removal of dangerous substances or other contaminants from regulated marijuana while changing the product type of the regulated marijuana.

"Resealable" means that the Container maintains its Child-Resistant effectiveness for multiple openings.

"Research Project" means a discrete scientific endeavor to answer a research question or a set of research questions. A Research Project must include a description of a defined protocol, clearly articulated goal(s), defined methods and outputs, and a defined start and end date. The description must demonstrate that the Research Project will comply with all requirements in the 5-700 Series Rules – Marijuana Research and Development Facility. All research and development

conducted by a Marijuana Research and Development Facility must be conducted in furtherance of an approved Research Project.

"Respondent" means a Person who has filed a petition for declaratory order that the State Licensing Authority has determined needs a hearing or legal argument, or a Licensee who is subject to an Order to Show Cause.

"Responsible Vendor Program Provider" means a Person offering an Approved Training Program, in accordance with section 44-10-1201, C.R.S., to Licensees seeking to be designated a responsible vendor.

"Restricted Access Area" means a designated and secure area within a Licensed Premises in a Medical Marijuana Store where Medical Marijuana is sold to patients or their caregiver, possessed for sale, and displayed for sale, and where no one without a valid patient registry card or that patient's caregiver is permitted, and 2) in a Retail Marijuana Store or a Retail Marijuana Hospitality and Sales Business where Retail Marijuana is sold to consumers, possessed for sale, and displayed for sale, and where no one under the age of 21 is permitted.

"Retail Food Establishment" means a retail operation that stores, prepares, or packages food for human consumption or serves or otherwise provides food for human consumption to consumers directly or indirectly through a delivery service, whether such food is consumed on or off the premises or whether there is a charge for such food. "Retail food establishment" does not mean:

a. Any private home;

b. Private boarding house;

c. Hospital and health facility patient feeding operations licensed by the department;

d. Child care centers and other child care facilities licensed by the department of human services;

e. Hunting camps and other outdoor recreation locations where food is prepared in the field rather than at a fixed based of operation;

f. Food or beverage wholesale manufacturing, processing, or packaging plants, or portions thereof, that are subject to regulatory controls under state or federal laws or regulations;

g. Motor vehicles used only for the transport of food;

h. Establishments preparing and serving only hot coffee, hot tea, instant hot beverages, and non-potentially hazardous doughnuts or pastries obtained from sources complying with all laws related to food and food labeling;

i. Establishments that handle only non-potentially hazardous prepackaged food and operations serving only commercially prepared, prepackaged foods requiring no preparation other than the heating of the food within its original container or package;

j. Farmers markets and roadside markets that offer only uncut fresh fruit and vegetables for sale;

k. Automated food merchandising enterprises that supply only prepackaged non-potentially hazardous food or drink in bottles, cans, or cartons only, and

operations that dispense only chewing gum or salted nuts in their natural protective covering;

l. The donation, preparation, sale, or service of food by a nonprofit or charitable organization in conjunction with an event or celebration if such donation, preparation, sale, or service of food:

i. Does not exceed the duration of the event or celebration or a maximum of fifty-two days within a calendar year; and

ii. Takes place in the county in which such nonprofit or charitable organization resides or is principally located.

m. A home, commercial, private, or public kitchen in which a person produces food products sold directly to consumers pursuant to the "Colorado Cottage Foods Act," section 25-4-1614, C.R.S.

"Retail Marijuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including but not limited to Retail Marijuana Concentrate, that is cultivated, manufactured, distributed, or sold by a licensed Retail Marijuana Business. "Retail Marijuana" does not include industrial hemp, nor does it include fiber produced from stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other Ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product. If the context requires, Retail Marijuana includes Retail Marijuana Concentrate and Retail Marijuana Product.

"Retail Marijuana Business" means a Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturer, a Marijuana Hospitality Business, a Retail Marijuana Hospitality and Sales Business, a Retail Marijuana Testing Facility, a Retail Marijuana Business Operator, and a Retail Marijuana Transporter.

"Retail Marijuana Business Operator" means an entity or person that is not an owner and that is licensed to provide professional operational services to a Retail Marijuana Businesses for direct remuneration from the Retail Marijuana Business.

"Retail Marijuana Concentrate" means a subset of Retail Marijuana that is separated from the retail marijuana plant and results in matter with a higher concentration of cannabinoids than naturally occur in the plant. Retail Marijuana Concentrate contains cannabinoids and may contain terpenes and other chemicals that are naturally occurring in Retail Marijuana plants that have been separated from Retail Marijuana. Retail Marijuana Concentrate may also include residual amounts of the types of solvents, as permitted by the marijuana rules. The State Licensing Authority may further define by rule subcategories of Retail Marijuana Concentrate and authorize limited ingredients based on the method of production of Retail Marijuana Concentrate. Unless the context otherwise requires, Retail Marijuana Concentrate is included when article 10 of the Colorado Revised Statutes refers to Retail Marijuana Product.

"Retail Marijuana Cultivation Facility" means an entity licensed to cultivate, prepare, and package Retail Marijuana and sell Retail Marijuana to Retail Marijuana Stores, to Retail Marijuana Products Manufacturers, and to other Retail Marijuana Cultivation Facilities, but not to consumers.

"Retail Marijuana Hospitality and Sales Business" means a facility, which cannot be mobile, licensed to permit the consumption of only the retail marijuana or retail marijuana products it has

sold pursuant to the provisions of an enacted, initiated, or referred ordinance or resolution of the local jurisdiction in which the licensee operates.

"Retail Marijuana Product" means a product that is comprised of Retail Marijuana and other Ingredients and is intended for use or consumption, such as, but not limited to, edible product, ointments and tinctures.

"Retail Marijuana Products Manufacturer" means an entity licensed to purchase Retail Marijuana; manufacture, prepare, and package Retail Marijuana Product; and Transfer Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Product only to other Retail Marijuana Products Manufacturers, Retail Marijuana Stores, Retail Marijuana Hospitality and Sales Businesses and Pesticide Manufacturers.

"Retail Marijuana Store" means an entity licensed to purchase Retail Marijuana and Retail Marijuana Concentrate from a Retail Marijuana Cultivation Facility and to purchase Retail Marijuana Product and Retail Marijuana Concentrate from a Retail Marijuana Products Manufacturer, and to Transfer Retail Marijuana to Retail Marijuana Hospitality and Sales Businesses and to consumers.

"Retail Marijuana Testing Facility" means an entity licensed to analyze and certify the safety and potency of marijuana.

"Retail Marijuana Transporter" means a Person licensed to transport Retail Marijuana from one Retail Marijuana Business to another Retail Marijuana Business or to a Pesticide Manufacturer, and to temporarily store the transported Retail Marijuana at its Licensed Premises, but is not authorized to sell, give away, buy, or receive complimentary Retail Marijuana under any circumstances. A Retail Marijuana Transporter does not include a Licensee that transports and distributes its own Retail Marijuana.

"RFID" means Radio Frequency Identification.

"Sample Increment" means a single portion or unit that is removed from a Harvest Batch or Production Batch by a Designated Test Batch Collector for the creation of a Test Batch. For Harvest Batches, a Sample Increment shall be 500 milligrams of flower or trim. For Regulated Marijuana Products, Audited Products, and Alternative Use Products, a Sample Increment shall be a single serving of the product as defined by the Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer, but shall contain no more than 10 milligrams of active THC per serving for Edible Retail Marijuana Products. For Regulated Marijuana Concentrate, a Sample Increment shall be 250 milligrams of concentrate.

"Sample Increment Collection" means the gathering of Sample Increments to combine into a larger, composite Test Batch.

"Sampling Manager" means an Owner Licensee or management personnel holding an Employee Licensee designated by a Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, Retail Marijuana Cultivation Facility, or Retail Marijuana Products Manufacturer to receive Transfers of Sampling Units pursuant to Rules 5-230, 5-320, 6-225, and 6-320.

"Sample Plan" means a written, documented plan generated by Designated Test Batch Collector(s) in line with the Regulated Marijuana Business' Standard Operating Procedure for Sample Increment Collection.

"Sampling Unit" means a unit of Regulated Marijuana Transferred to a Sampling Manager for purposes of quality control and product development pursuant to Rules 5-230 and 5-320, sections

44-10-502(4) and 44-10-503(10), C.R.S., and Rules 6-225 and 6-320, and sections 44-10-602(6) and 44-10-603(10), C.R.S.

"Security(ies)" means any note, stock, treasury stock, security future, security-based swap, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

"Security Alarm System" means a device or series of devices, intended to summon law enforcement personnel during, or as a result of, an alarm condition. Devices may include hard-wired systems and systems interconnected with a radio frequency method such as cellular or private radio signals that emit or transmit a remote or local audible, visual, or electronic signal; motion detectors, pressure switches, duress alarms (a silent system signal generated by the entry of a designated code into the arming station to indicate that the user is disarming under duress); panic alarms (an audible system signal to indicate an emergency situation); and hold-up alarms (a silent system signal to indicate that a robbery is in progress).

"Shell Company" means a registrant, other than an asset-backed issuer as defined in Item 1101(b) of Regulation AB, that has:

a. No or nominal operations; and

b. Either:

   i. No or nominal operations;

   ii. Assets consisting solely of cash and cash equivalents; or

   iii. Assets consisting of any amount of cash and cash equivalents and nominal other assets.

"Shipping Container" means a hard-sided container with a lid or other enclosure that can be secured in place. A Shipping Container is used solely for the transport of Regulated Marijuana between Regulated Marijuana Businesses or a Pesticide Manufacturer.

"Single-Serving Edible Retail Marijuana Product" means an Edible Retail Marijuana Product unit for sale to consumers containing no more than 10mg of active THC.

"Social Equity Licensee" means a natural person who meets the criteria established pursuant to section 44-10-308(4), C.R.S. A person qualified as a Social Equity Licensee may participate in the accelerator program established pursuant to the Marijuana Code or may hold a Regulated Marijuana Business License or permit issued pursuant to the Marijuana Code.

"Solvent-Based Medical Marijuana Concentrate" means a Medical Marijuana Concentrate that was produced by extracting Cannabinoids from Medical Marijuana through the use of a solvent approved by the Division pursuant to Rule 5-315.

"Solvent-Based Retail Marijuana Concentrate" means a Retail Marijuana Concentrate that was produced by extracting Cannabinoids from Retail Marijuana through the use of a solvent approved by the Division pursuant to Rule 6-315.

"Standardized Graphic Symbol" means a graphic image or small design adopted by a Licensee to identify its business.

"Standardized Serving of Marijuana" means a standardized single serving of active THC in Retail Marijuana. The size of a Standardized Serving of Marijuana shall be no more than 10mg of active THC.

"State Licensing Authority" means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale, and testing of Regulated Marijuana in Colorado, pursuant to section 44-10-201, C.R.S.

"Target Potency" means the potency that a Medical Marijuana Products Manufacturer intends for an individual Medical Marijuana Product, or a Retail Marijuana Products Manufacturer intends for an individual Retail Marijuana Product, prior to testing, which is also outlined in the Licensee's standard operating procedures.

"Temporary Appointee Registration" means a registration issued to a Court Appointee pursuant to section 44-10-401(3)(a), C.R.S.

"THCA" means tetrahydrocannabinolic acid.

"THC" means tetrahydrocannabinol.

"Test Batch" means a group of Sample Increments that are derived from a single Harvest Batch, Production Batch, or Inventory Tracking System package, and that are collectively submitted to a Regulated Marijuana Testing Facility for testing purposes.

"Total THC" means the following:

The sum of the percentage by weight of Delta-9-tetrahydrocannabinolic acid (D9-THCA) multiplied by 0.877,

Plus the percentage by weight of Delta-8-tetrahydrocannabinol (D8-THC),

Plus the percentage by weight of Delta-9-tetrahydrocannabinol (D9-THC),

Plus the percentage by weight of Exo-tetrahydrocannabinol (Exo-THC),

Plus the percentage by weight of Delta-10-tetrahydrocannabinol (D10-THC).

i.e. Total THC = (% D9-THCA * 0.877) + % D8-THC + % D9-THC + % Exo-THC + % D10-THC.

"Transfer(s)(ed)(ing)" means to grant, convey, hand over, assign, sell, exchange, donate, or barter, in any manner or by any means, with or without consideration, any Regulated Marijuana from one Licensee to another Licensee, to a patient, or to a consumer. A Transfer includes the movement of Regulated Marijuana from one Licensed Premises to another, even if both premises are contiguous, and even if both premises are owned by a single entity or individual or group of individuals and also includes a virtual Transfer that is reflected in the Inventory Tracking System, even if no physical movement of the Regulated Marijuana occurs.

"Universal Symbol" means the image established by the Division and made available to Licensees through the Division's website indicating the Regulated Marijuana contains marijuana.

"Unrecognizable" means Regulated Marijuana that has been rendered indistinguishable from any other plant material.

"U.S. Person" means:

a. Any natural person resident in the United States;

b. Any partnership or corporation organized or incorporated under the laws of the United States;

c. Any estate of which any executor or administrator is a U.S. natural person;

d. Any trust of which any trustee is a U.S. natural person;

e. Any agency or branch of a foreign entity located in the United States;

f. Any non-discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary for the benefit or account of a U.S. natural person;

g. Any discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary organized, incorporated, or (if a natural person) resident in the United States; and

h. Any partnership or corporation if:

i. Organized or incorporated under the laws of any foreign jurisdiction; and

ii. Formed by a U.S. natural person principally for the purpose of investing in Owner's Interests not registered under the Securities Act of 1933, unless it is organized or incorporated, and owned, by accredited investors (as defined in § 230.501(a)) who are not natural persons, estates or trusts.

"Vaporizer Delivery Device" means inhalable Regulated Marijuana Concentrate, which may be comprised of other Ingredients inside a device that uses a heating element to create a vapor including, but not limited to, vaporizer cartridges and vaporizer pens.

"Vegetative" means the state of the *Cannabis* plant during which plants do not produce resin or flowers and are bulking up to a desired production size for Flowering.

Basis and Purpose – 1-120

The statutory authority for this rule includes but is not limited to sections 24-4-105(11) and 44-10-201, C.R.S. The purpose of this rule is to establish a system by which a Licensee may request the Division to issue a formal statement of position and, subsequently, petition the State Licensing Authority for a declaratory order. Typically, a position statement or declaratory order would address matters that are likely to be applicable to other Licensees. The approach is similar to that utilized by other divisions within the Department of Revenue. This Rule 1-120 was previously Rules M and R 104, 1 CCR 212-1 and 1 CCR 212-2.

1-120 – Declaratory Orders Concerning the Marijuana Code

A. Who May Request a Statement of Position. Any person as defined in section 24-4-102(12), C.R.S., may request the Division to issue a statement of position concerning the applicability to the petitioner of any provision of the Marijuana Code, or any regulation of the State Licensing Authority.

B. Division Response. The Division will determine, in its sound discretion, whether to respond with a written statement of position. Following receipt of a proper request, the Division will respond by issuing a written statement of position or by declining to issue such a statement.

C. Petition for Declaratory Order. Any person who has properly requested a statement of position, and who is dissatisfied with the Division's response, may petition the State Licensing Authority for a declaratory order pursuant to section 24-4-105(11), C.R.S. The petition shall be filed within 30 days of the Division's response, or may be filed at any time before the Division's response if the Division has not responded within 60 days of receiving a proper request for a statement of position, and shall set forth the following:

1. The name and address of the petitioner.

2. Whether the petitioner is licensed pursuant to the Marijuana Code, and if so, the type of license and address of the Licensed Premises.

3. Whether the petitioner is involved in any pending administrative hearings with the State Licensing Authority or relevant Local Jurisdiction.

4. The statute, rule, or order to which the petition relates.

5. A concise statement of all of the facts necessary to show the nature of the controversy or the uncertainty as to the applicability to the petitioner of the statute, rule, or order to which the petition relates.

6. A concise statement of the legal authorities, if any, and such other reasons upon which petitioner relies.

7. A concise statement of the declaratory order sought by the petitioner.

D. State Licensing Authority Retains Discretion Whether to Entertain Petition. The State Licensing Authority will determine, in its discretion without prior notice to the petitioner, whether to entertain any petition. If the State Licensing Authority decides it will not entertain a petition, it shall notify the petitioner in writing of its decision and the reasons for that decision. Any of the following grounds may be sufficient reason to refuse to entertain a petition:

1. The petitioner failed to properly request a statement of position from the Division, or the petition for declaratory order was filed with the State Licensing Authority more than 30 days after the Division's response to the request for a statement of position.

2. A ruling on the petition will not terminate the controversy nor remove uncertainties concerning the applicability to petitioner of the statute, rule, or order in question.

3. The petition involves a subject, question or issue that is relevant to a pending hearing before the state or any Local Licensing Authority, an on-going investigation conducted by the Division, or a written complaint previously filed with the State Licensing Authority.

4. The petition seeks a ruling on a moot or hypothetical question.

5. Petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Colo. R. Civ. Pro. 57, which will terminate the controversy or remove any uncertainty concerning applicability of the statute, rule, or order.

E. State Licensing Authority May Adopt Division Position Statement. The State Licensing Authority may adopt the Division Position Statement as a Final Agency Order subject to judicial review pursuant to section 24-4-106, C.R.S.

F. If State Licensing Authority Entertains Petition. If the State Licensing Authority determines that it will entertain the petition for declaratory order, it shall so notify the petitioner within 30 days, and any of the following procedures may apply:

1. The State Licensing Authority may expedite the matter by ruling on the basis of the facts and legal authority presented in the petition, or by requesting the petitioner or the Division to submit additional evidence and legal argument in writing.

2. In the event the State Licensing Authority determines that an evidentiary hearing is necessary to a ruling on the petition, a hearing shall be conducted in accordance with Rules 8-220 – Administrative Hearings, 8-225 – Administrative Subpoenas, and 8-230 – Administrative Hearing Appeals. The petitioner will be identified as Respondent.

3. The parties to any proceeding pursuant to this Rule shall be the petitioner/Respondent and the Division. Any other interested person may seek leave of the State Licensing Authority to intervene in the proceeding and such leave may be granted if the State Licensing Authority determines that such intervention will make unnecessary a separate petition for declaratory order by the interested person.

4. The declaratory order shall constitute a Final Agency Order subject to judicial review pursuant to section 24-4-106, C.R.S.

G. Public Inspection. Files of all requests, petitions, statements of position, and declaratory orders will be maintained by the Division. Except with respect to any material required by law to be kept confidential, such files shall be available for public inspection.

H. Posted on Website. The Division shall post a copy of all statements of position and all declaratory orders on the Division's website.

Basis and Purpose – 1-125

The statutory authority for this rule includes but is not limited to section 44-10-202(1)(c), C.R.S. The purpose of this rule is to clarify that any reference to days means calendar days. This Rule 1-125 was previously Rules M and R 105, 1 CCR 212-1 and 1 CCR 212-2.

1-125 – Computation of Time

The word "days" as used in these rules means calendar days.

Basis and Purpose – 1-130

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c) and 44-10-801(4), C.R.S. The purpose of this rule is to establish the basic fees that must be paid at the time of service of any subpoena (including a subpoena for testimony and/or a subpoena duces tecum) upon the State Licensing Authority, and for production of documents pursuant to any such subpoena. This rule also establishes additional fees for meals, mileage, and each day's testimony. The service fee is not

applicable when a subpoena is served by a governmental agency. This Rule 1-130 was previously Rules M and R 106, 1 CCR 212-1 and 1 CCR 212-2.

1-130 – Subpoena Fees

A. Required Fees for Subpoenas. The following fees must be paid at the time of service of any subpoena on the Division or State Licensing Authority:

1. Subpoenas for records only (*subpoenas duces tecum*):

a. Responsive records - $0.25/page. The Division and State Licensing Authority may use discretion when electronic copies are requested.

b. The Division or State Licensing Authority may charge $30/hour to retrieve and review voluminous records.

2. Subpoenas requiring any Division or State Licensing Authority employee to attend any proceeding:

a. $200/day attendance;

b. Current state mileage reimbursement fee; and

c. Current state meal reimbursement fee.

B. When Subpoena-Related Fees Are Due.

1. Subpoenas duces tecum fees must be paid before the Division or State Licensing Authority will release the records.

2. All other subpoena-related fees are due at the time of service of the subpoena.

C. Service Complete Only When Fees Are Paid. The Division or State Licensing Authority will not consider service to be complete unless all applicable fees are paid.

D. State Employees and Private Litigation. Division and State Licensing Authority employees will not serve as expert witnesses in private litigation. In addition, the Division and State Licensing Authority may move to quash any subpoena that seeks fact testimony from Division or State Licensing Authority employees in private litigation.

E. Not Applicable to Government-Issued Subpoenas. This Rule does not apply to subpoenas issued by any governmental agency.

Basis and Purpose – 1-135

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(f), 44-10-203(1)(g), and 44-10-301, C.R.S. This rule gives general instructions regarding Regulated Marijuana Business administrative matters to local jurisdictions and clarifies for such entities what the Division and State Licensing Authority will do in certain instances. The rule also reaffirms that local law enforcement's authority to investigate and take any necessary action with regard to Regulated Marijuana Businesses remains unaffected by the Marijuana Code or any rules promulgated pursuant to it. This Rule 1-135 was previously Rules M and R 1401(A) through (D), 1 CCR 212-1 and 1 CCR 212-2.

1-135 – Instructions for Local Licensing Authorities and Local Jurisdictions

A. Division Protocol for Regulated Marijuana Businesses.

1. The Division shall forward a copy of all new Regulated Marijuana Business applications to the relevant Local Licensing Authority or Local Jurisdiction.

2. The Division shall forward half of the total application fee with the copy of the Retail Marijuana Business application to the relevant Local Jurisdiction.

3. The Division shall notify the relevant Local Licensing Authority or Local Jurisdiction when an application for a Regulated Marijuana Business is either approved or denied. This includes new business applications, renewal business applications, change of location applications, change of owner applications, premises modification applications, and off-premises storage permit applications.

4. Conditioned on Local Approval. Any License issued or renewed by the Division for a Regulated Marijuana Business shall be conditioned upon relevant Local Licensing Authority or Local Jurisdiction approval of the application.

B. Local Licensing Authority/Local Jurisdiction Protocol for Regulated Marijuana Businesses.

1. As soon as practicable, a Local Licensing Authority or Local Jurisdiction that has prohibited the operation of a Regulated Marijuana Business License authorized by the Marijuana Code shall inform the Division, in writing, of such prohibition and shall include a copy of the applicable ordinance or resolution.

2. If a Local Licensing Authority or Local Jurisdiction will authorize the operation of a Regulated Marijuana Business License authorized by the Marijuana Code, it shall inform the Division of the local point-of-contact on Regulated Marijuana regulatory matters. The Local Jurisdiction shall include, at minimum, the name of the division or branch of local government, the mailing address of that entity, and telephone number.

3. Local Licensing Authorities or Local Jurisdictions may impose separate local licensing requirements related to the time, place, and manner of Regulated Marijuana Businesses, and shall otherwise determine if an application meets all those local requirements.

4. The relevant Local Licensing Authority or Local Jurisdiction shall notify the Division, in writing, of whether an application for a Regulated Marijuana Business complies with local restrictions and requirements, and whether the application is approved or denied based on that review. If a Local Licensing Authority or Local Jurisdiction makes any written findings of fact, a copy of those written findings shall be included with the notification.

C. Local Licensing Authority Inspections. The relevant Local Licensing Authorities or Local Jurisdiction and their investigators may inspect Regulated Marijuana Businesses during all business hours and other times of apparent activity, for the purpose of inspection or investigation.

D. Local Licensing Authority Powers. Nothing in these rules shall be construed to limit the authority of Local Licensing Authorities or Local Jurisdictions as established by the Marijuana Code or otherwise by law.

Basis and Purpose – 1-140

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(f) 44-10-203(1)(g), and 44-10-301(1), C.R.S. This rule gives general instructions regarding Regulated Marijuana Business administrative matters to local jurisdictions and clarifies for such entities what the Division and State Licensing Authority will do in certain instances. The rule also reaffirms that local law

enforcement's authority to investigate and take any necessary action with regard to Regulated Marijuana Businesses remains unaffected by the Marijuana Code or any rules promulgated pursuant to it. This Rule 1-140 was previously Rules M and R 1401(E), 1 CCR 212-1 and 1 CCR 212-2.

1-140 – Local Law Enforcement's Authority Not Impaired by Marijuana Code

Nothing in the Marijuana Code or any rules promulgated pursuant to it shall be construed to limit the ability of local police departments, sheriffs, or other state or local law enforcement agencies to investigate unlawful activity in relation to a Regulated Marijuana Business and such agencies shall have the ability to run a Colorado Crime Information Center criminal history check of an Applicant or Licensee during an investigation of unlawful activity related to Regulated Marijuana or a Regulated Marijuana Business to ensure they are in compliance with all Local Licensing Authority regulations related to time, place, and manner.

Part 2 – Applications and Licenses

2-200 Series – Applications and Licenses Rules

Basis and Purpose – 2-205

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

2-205 – Fees

A. Regulated Marijuana Business Initial Application and License Fees.

1. Medical Marijuana Businesses.

License Type	**Application Fee**	**License Fee**	**Total Due at Application**
Medical Marijuana Store	$5,000.00	$2,440.00	$7,440.00
Medical Marijuana Products Manufacturer	$1,000.00	$1,830.00	$2,830.00
Medical Marijuana Cultivation Facility Class 1 (1-500 plants)	$1,000.00	$1,830.00	$2,830.00
Medical Marijuana Testing Facility	$1,000.00	$1,830.00	$2,830.00
Medical Marijuana Transporter	$1,000.00	$5,368.00	$6,368.00
Medical Marijuana Business Operator	$1,000.00	$2,684.00	$3,684.00

Marijuana Research and Development Facility	$1,000.00	$1,830.00	$2,830.00

2. Retail Marijuana Businesses.

License Type	**Application Fee**	**License Fee**	**Total Due at Application**
Retail Marijuana Store	$5,000.00	$2,440.00	**Separate Checks** $4,940.00 State $2,500.00 Local
Retail Marijuana Products Manufacturer	$5,000.00	$1,830.00	**Separate Checks** $4,330.00 State $2,500.00 Local
Retail Marijuana Cultivation Facility Tier 1 (1-1,800 plants)	$5,000.00	$1,830.00	**Separate Checks** $4,330.00 State $2,500.00 Local
Retail Marijuana Testing Facility	$1,000.00	$1,830.00	**Separate Checks** $2,330.00 State $500.00 Local
Retail Marijuana Transporter	$1,000.00	$5,368.00	**Separate Checks** $5,868.00 State $500.00 Local
Retail Marijuana Business Operator	$1,000.00	$2,684.00	**Separate Checks** $3,184.00 State $500.00 Local
Marijuana Hospitality Business (Eff. Jan. 1, 2020)	$1,000.00	$1,220.00	**Separate Checks** $1,720.00 State $500.00 Local
Retail Marijuana Hospitality and Sales Business (Eff. Jan. 1, 2020)	$5,000.00	$2,440.00	**Separate Checks** $4,940.00 State $2,500.00 Local

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

1. Medical Marijuana Businesses.

License Type	**Application Fee**	**License Fee**	**Total Due at Application**
Medical Marijuana Store	$300.00	$1,830.00	$2,130.00
Medical Marijuana Products Manufacturer	$300.00	$1,830.00	$2,130.00
Medical Marijuana Cultivation Facility Class 1 (1-500 plants)	$300.00	$1,830.00	$2,130.00
Class 2 (501-1,500 plants)		$2,806.00	$3,106.00
Class 3 (1,501-3,000 plants)		$4,270.00	$4,570.00
Expanded Production Management (for each class of 3,000 plants over Class 3)		$4,270.00 [Plus $976.00 for each additional class of 3,000 plants over Class 3]	$4,570.00 [Plus $976.00 for each additional class of 3,000 plants over Class 3]
Medical Marijuana Testing Facility	$300.00	$1,830.00	$2,130.00
Medical Marijuana Transporter	$300.00	$5,368.00	$5,668.00
Medical Marijuana Business Operator	$300.00	$2,684.00	$2,984.00
Marijuana Research and Development Facility	$300.00	$1,830.00	$2,130.00

2. Retail Marijuana Businesses.

License Type	**Application Fee**	**License Fee**	**Total Due at Application**
Retail Marijuana Store	$300.00	$1,830.00	$2,130.00
Retail Marijuana Products Manufacturer	$300.00	$1,830.00	$2,130.00
Retail Marijuana Cultivation Facility Tier 1 (1-1,800 plants)	$300.00	$1,830.00	$2,130.00
Tier 2 (1,801-3,600 plants)		$2,806.00	$3,106.00
Tier 3 (3,601-6,000 plants)		$3,660.00	$3,960.00

Tier 4 (6,001-10,200 plants)		$5,490.00	$5,790.00
Tier 5 (10,201-13,800 plants)		$7,930.00	$8,230.00
Expanded Production Management (for each additional tier of 3,600 plants over Tier 5)		$7,930.00 [Plus $976.00 for each additional tier of 3,600 plants over Tier 5]	$8,230.00 [Plus $976.00 for each additional tier of 3,600 plants over Tier 5]
Retail Marijuana Testing Facility	$300.00	$1,830.00	$2,130.00
Retail Marijuana Transporter	$300.00	$5,368.00	$5,668.00
Retail Marijuana Business Operator	$300.00	$2,684.00	$2,984.00
Marijuana Hospitality Business (Eff. Jan. 1, 2020)	$300.00	$915.00	$1,215.00
Retail Marijuana Hospitality and Sales Business (Eff. Jan. 1, 2020)	$300.00	$1,830.00	$2,130.00

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

1. Controlling Beneficial Owner Request for a Finding of Suitability Fee.

   a. $800.00 per Natural Person

   b. $400.00 per Natural Person in possession of a valid Owner's License who is an Accelerator-Endorsed Licensee and seeking to have the existing Owner's License designated as a Social Equity Licensee.

   c. $800.00 for an Entity that is not a Publicly Traded Corporation, plus the fee in paragraph (C)(1)(a) and (C)(1)(b), for each associated natural person subject to suitability

   d. $5,000.00 for a Publicly Traded Corporation, plus the fee in paragraph (C)(1)(a) and (C)(1)(b), for each associated natural person or Entity subject to suitability.

2. Passive Beneficial Owner Request for Finding of Suitability Fee. A Passive Beneficial Owner may, but is not required to, apply for an Owner License and Identification Badge, and if the Passive Beneficial Owner chooses to do so, must submit the fees required by subparagraph (C)(1).

3. Renewal Fee for an Owner License. All Controlling Beneficial Owners and licensed Passive Beneficial Owners - $500.00.

D. Employee License – Initial Fees and Renewal Fees.

1. Employee License Initial Application and License Fee – $105.00

    a. Of the total Employee License application and license fee, $75.00 is the application fee and $30.00 is the license fee. An individual submitting an application for an Employee License may submit the total fee of $105.00 in one form of payment.

2. Employee License Renewal Fee – $80.00

    a. Of the total Employee License Renewal fee, $50.00 is the application fee and $30.00 is the license fee. An individual submitting an application for an Employee License renewal may submit the total fee of $80.00 in one form of payment.

    b. All Key Licenses and Support Licenses issued before January 1, 2020 will be converted to an Employee License upon the first license renewal following January 1, 2020.

3. Conditional Employee License Fee - $200.00

E. Temporary Appointee Registration – Request for Finding of Suitability Fees.

1. Natural Person – $274.00

2. Entity – $976.00

F. Other Fees. The following other fees apply:

1. Permits.

    a. Off Premises Storage Permit – $1,830.00

    b. Transporter Off Premises Storage Permit – $2,684.00

    c. Centralized Distribution Permit – $24.00

    d. R&D Co-Location Permit – $61.00

    e. Delivery Permit:

        i. Initial Fee if the Store or Transporter Business License will expire in 6 months or less - $2,440.00.

        ii. Initial Fee if the Store or Transporter Business License will expire in more than 6 months - $4,880.00.

        iii. All Renewals - $2,440.00

    f. Transition Permit – $305.00

2. Regulated Marijuana Business Changes. The following fees apply per license:

    a. Change of Controlling Beneficial Owner – $1,952.00

    b. Changes Exempt from Change of Owner Application Requirement – $976.00

c. Change of Trade Name – $61.00

d. Change of Location – $610.00

e. Modification of Licensed Premises – $122.00

3. Marijuana Research and Development Facility Research Project Proposal – $610.00

4. Responsible Vendor Provider Applications.

a. Responsible Vendor Program Provider Initial Application – $1,037.00

b. Responsible Vendor Program Provider Renewal Application – $427.00

5. Duplicate License, Identification Badge, Certificate, Regulated Marijuana Business License Reinstatement.

a. Duplicate Business License – $24.00

b. Duplicate Owner or Employee Identification Badge – $24.00

c. Responsible Vendor Program Provider Duplicate Certificate – $61.00

d. Reinstatement of Regulated Marijuana Business License - $305.00

6. Outdoor Contingency Plan Review - $1,200.00

G. When Fees are Due. All fees in this Rule are due at the time the application or request is submitted.

Basis and Purpose – 2-210

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(w), 44-10-305, 44-10-901(2), and 24-4-105(2) C.R.S. The purpose of this rule is to clarify the duties that Applicants and Licensees have when reporting to the State Licensing Authority information that is necessary for the issuance of a state license. These duties include but are not limited to reporting and keeping a mailing address current, reporting a felony conviction or other disqualifying event, cooperating with the State Licensing Authority and his or her employees, and notifying the State Licensing Authority of any change of registered agent in the State of Colorado. This rule further provides that all communications or notifications that the State Licensing Authority or Division send an Applicant or Licensee will be sent to the last known address. The Applicant's or Licensee's failure to notify the Division of a change of address does not relieve the Applicant or Licensee from timely responding to any correspondence or notification.

2-210 – Duties of All Applicants and Licensees

A. Duty to Keep Mailing Address Current: All Applicants and Licensees.

1. Timing of Notification. An Applicant or Licensee must provide a physical mailing address to the Division and may provide an electronic mailing address to the Division. A Licensee must inform the Division in writing of any change to its physical mailing address and/or electronic mailing address within 28 days of the change. The Division will not change a Licensee's information without written notice from the Licensee or its authorized agent.

2. State Licensing Authority and Division Communications. The State Licensing Authority and Division will send any formal notifications or determinations regarding any application or an administrative action to the last mailing address and to the last electronic mailing address, if any, furnished to the Division by the Applicant or Licensee.

3. Failure to Change Address Does Not Relieve Applicant's or Licensee's Obligations. An Applicant's or Licensee's failure to notify the Division of a change of physical or electronic mailing address does not relieve the Applicant or Licensee from the obligation of responding to a Division communication or a State Licensing Authority communication.

B. Duty to Report Felony - Convictions, Deferred Sentences and Judgments. An Applicant or Licensee must notify the Division in writing of any felony conviction or deferred sentence or judgment regarding a felony against him or her within seven days of the conviction or deferred sentence or judgment. The notification must include disposition documents. Failure to make required notification to the Division may be grounds for administrative action.

C. Duty to Report Any Disqualifying Event. Applicants and Licensees must notify the Division within seven days of any change of fact that would result in the Applicant or Licensee being disqualified from holding a license, permit, or registration pursuant to the Marijuana Code, or these Rules.

D. Duty to Cooperate. Applicants and Licensees must cooperate in any investigation conducted by the Division. Failure to cooperate with a Division investigation may be grounds for denial of an application or for administrative action against a Licensee.

E. Duty to Report Change of Registered Agent. A Regulated Marijuana Business must disclose any change of its registered agent in the State of Colorado within seven days of the change.

Basis and Purpose – 2-215

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(c), 44-10-203(2)(k), 44-10-203(2)(w), 44-10-305, 44-10-307, 44-10-308, 44-10-309, 44-10-310, 44-10-311, 44-10-312, 44-10-313, 44-10-314 and 44-10-316, C.R.S. The purpose of this rule is to establish requirements for all applications including: required application fees; complete, accurate and truthful applications; notification of the applicable local licensing authority or local jurisdiction; that the Applicant or Licensee establish he, she or it is not a person prohibited from licensure; submission of additional information or documents upon request by the Division; and notification that all application material may be disclosed consistent with the Marijuana Code.

2-215 – All Applications Requirements

A. Applicability. This Rule 2-215 applies to all applications submitted to the Division for a license, permit, or registration provided by the Marijuana Code.

B. Division Forms Required. All applications for licenses, registrations, or permits authorized by subsections 44-10-401(2) and (3), C.R.S., must be made on current Division forms.

C. Application Fees Required. Applications must be accompanied by full remittance of the required application and license fees. *See* Rule 2-205.

D. Complete, Accurate, and Truthful Applications Required. Applications must be complete, accurate, and truthful and include all attachments and supplemental information. Incomplete applications may not be accepted by the Division.

E. Local Licensing Authority/Local Jurisdiction.

1. Each application must identify the applicable Local Licensing Authority or Local Jurisdiction.

2. If the Local Licensing Authority or Local Jurisdiction requires a physical copy of the application, the Applicant or Licensee must submit the original application and one identical copy to the Division. Otherwise the Applicant or Licensee must submit only the original application to the Division.

F. Applicant Not Prohibited From Licensure. Applicants must provide information establishing the Applicant is not a Person prohibited from licensure by section 44-10-307, C.R.S.

G. Additional Information and Documents May Be Required.

1. Upon request by the Division, an Applicant must provide additional information or documents required to process and investigate the application. The additional information or documents must be provided within seven days of the request, however, this deadline may be extended for a period of time commensurate with the scope of the request.

2. An Applicant's failure to provide requested information or documents by the deadline may be grounds for denial of the application.

H. Application Forms Accessible. All application forms provided by the Division and filed by an Application for a license, registration, or permit, including attachments and any other documents associated with the investigation, may be used for a purpose authorized by the Marijuana Code, for investigation or enforcement of any international, federal, state, or local securities law or regulation, for any other state or local law enforcement purpose, or as otherwise required by law.

Basis and Purpose – 2-220

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(c), 44-10-203(1)(j), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(w), 44-10-203(2)(ee), 44-10-203(7), 44-10-301, 44-10-305, 44-10-307, 44-10-308, 44-10-309, 44-10-310, 44-10-311, 44-10-312, 44-10-313, and 44-10-316, C.R.S. The purpose of this rule is to establish the general requirements and processes for submission of an initial application for a Regulated Marijuana Business to the State Licensing Authority.

2-220 – Initial Application Requirements for Regulated Marijuana Businesses

A. Documents and Information Requested. Every initial application for a Regulated Marijuana Business license must include all required documents and information including, but not limited to:

1. A copy of the local license application, if required, for a Regulated Marijuana Business.

2. Certificate of Good Standing from the jurisdiction in which the Entity was formed, which must be one of the states of the United States, territories of the United States, District of Columbia, or another country that authorizes the sale of marijuana.

3. If the Applicant is an Entity, the identity and physical address of its registered agent in the state of Colorado.

4. Organizational Documents. Articles of Incorporation, by-laws, and any shareholder agreement for a corporation; articles of organization and operating agreement for a limited liability company; or partnership agreement for a partnership.

5. Corporate Governance Documents.

   a. A Regulated Marijuana Business that is a Publicly Traded Corporation must maintain corporate governance documents as required by the securities exchange on which its securities are listed and traded, and section 44-10-103(50), C.R.S., and must provide those corporate governance documents with each initial application.

   b. A Regulated Marijuana Business that is not a Publicly Traded Corporation is not required to maintain any corporate governance documents. However, if the Regulated Marijuana Business that is not a Publicly Traded Corporation voluntarily maintains corporate governance documents, the Division encourages inclusion of such documents with each initial application.

6. The deed, lease, sublease, rental agreement, contract, or any other document(s) establishing the Applicant is, or will be, entitled to possession of the premises for which the application is made.

7. Legible and accurate diagram for the facility. The diagram must include a plan for the Licensed Premises and a separate plan for the security/surveillance plan including camera location, number and direction of coverage. If the diagram is larger than 8.5 x 11 inches, the Applicant must also provide a copy of the diagram in a portable document format (.pdf).

8. All required findings of suitability issued by the Division.

9. If the Applicant is a Publicly Traded Corporation:

   a. Documents establishing the Publicly Traded Corporation qualifies to hold a Regulated Marijuana Business license including but not limited to disclosure of securities exchange(s) on which its Securities are listed and traded, the stock symbol(s), the identity of all regulators with regulatory oversight over its Securities; and

   b. Divestiture plan for any Controlling Beneficial Owner that is a Person prohibited by the Marijuana Code, has had her or his Owner License revoked, or has been found unsuitable.

10. Financial Statements. Consolidated financial statements (which may be prepared on either a calendar or fiscal year basis) that were prepared in the preceding 365 days, and which must include a balance sheet, an income statement, and a cash flow statement. If the Applicant or Regulated Marijuana Business is required to have audited financial statements by another regulator (e.g. United States Securities and Exchange Commission or the Canadian Securities Administrators) the financial statements provided to the Division must be audited and must also include all footnotes, schedules, auditors' report(s), and auditor's opinion(s). If the financial statements are publicly available on a website (e.g. EDGAR or SEDAR), the Applicant or Regulated Marijuana Business may provide notification of the website link where the financial statements can be accessed in lieu of hardcopy submission.

11. Tax Documents. While duplicate tax documentation is not required to be provided with the application, the Applicant shall cooperate with the Division to establish proof of compliant return filing and payment of taxes related to any Regulated Marijuana Business in which the Person is, or was, required to file and pay taxes.

B. Local Licensing/Approval Required.

1. Regulated Marijuana Business Local Licensing Authority Approval Required.

a. If the Division grants a license to a Regulated Marijuana Business before the Local Licensing Authority or Local Jurisdiction approves the application or grants a local license, the state license will be conditioned upon local approval. If the Local Licensing Authority denies the application, the state license will be revoked.

b. An Applicant is prohibited from operating a Regulated Marijuana Business prior to obtaining all necessary licenses, registrations, permits, or approvals from both the State Licensing Authority and the Local Licensing Authority or Local Jurisdiction.

2. Retail Marijuana Business One Year to Obtain Local Jurisdiction Approval Required.

a. The Applicant has one year from the date of licensing by the State Licensing Authority to obtain approval or licensing from the Local Jurisdiction. If the Applicant fails to obtain Local Jurisdiction approval or licensing within one year from grant of the state license, the state license expires and may not be renewed.

C. Social Equity License Qualification.

1. A natural person who can establish he or she qualifies as a Social Equity Licensee may apply for either a Regulated Marijuana Business License or an Accelerator License.

2. Qualifications. To qualify as a Social Equity Licensee, the Applicant must be found suitable for licensure pursuant to Rule 2-235, unless otherwise exempted by these Rules, and must meet the following minimum eligibility requirements:

a. The Applicant is a Colorado Resident and has established Colorado residency by providing the items required by Rule 2-265(H).

b. The Applicant has not been the Beneficial Owner of a License subject to administrative action issued by the State Licensing Authority resulting in the revocation of a license issued pursuant to the Marijuana Code;

c. The Applicant has demonstrated at least one of the following:

i. The Applicant has resided for at least fifteen years between the years 1980 and 2010 in a census tract designated by the office of economic development and international trade as an opportunity zone or a census tract designated as a Disproportionate Impacted Area;

ii. The Applicant or the Applicant's parent, legal guardian, sibling, spouse, child, or minor in their guardianship was arrested for a marijuana offense, convicted of a marijuana offense, or was subject to civil asset forfeiture related to a marijuana investigation; or

iii. The Applicant's household income in the year prior to application did not exceed 50% of the state median income as measured by the number of people who reside in the Applicant's household.

d. The Social Equity Licensee, or collectively one or more Social Equity Licensees, holds at least fifty-one percent of the Beneficial Ownership of the Regulated Marijuana Business License.

3. Information Required to Establish Qualification as a Social Equity Licensee.

a. To demonstrate qualification as a Social Equity Licensee based on residence during the relevant time period, the Applicant must demonstrate the Applicant's residency which may include either:

i. Provide information or documents including but not limited to a copy of school records, rental agreements, lease agreements, utility bills, mortgage statements, loan documents, bank records, tax returns, or any other document which proves the Applicant's place of residence; or

ii. Affirm, under penalty of perjury, the Applicant's place of residence and provide the name(s) and contact information for at least one individual who can verify the Applicant's place of residence during the time period at issue.

b. To demonstrate that an Applicant qualifies as a Social Equity Licensee based on a prior marijuana conviction of a family member, the Applicant must provide affirmation of the familial relationship and court or other documents demonstrating the family member's arrest or conviction for a marijuana offense or that the family member was subject to a civil asset forfeiture related to a marijuana investigation.

c. To demonstrate that an Applicant qualifies as a Social Equity Licensee based on the Applicant's income, the Applicant must provide the Applicant's tax return for the prior year. If an Applicant applies between January 1 and April 15 but has not yet filed a tax return, the application may be delayed or denied until the tax return is filed and provided to the Division. The Division cannot accept tax returns for previous years.

4. Denial of an Application on the Basis of a Marijuana Conviction. The State Licensing Authority will not deny an application for a Social Equity License or a related request for a finding of suitability on the sole basis of a marijuana conviction.

D. Accelerator License Application and Qualification.

1. License Issuance.

a. Beginning January 1, 2021, a Social Equity Licensee may apply for an Accelerator License. The application shall be made on Division forms and in accordance with the 2-200 Series Rules.

b. An Accelerator Licensee may exercise the privileges of a Retail Marijuana Cultivation Facility License, Retail Marijuana Products Manufacturer License, or Retail Marijuana Store License on the Licensed Premises of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, or Retail Marijuana Store that has been approved as an Accelerator-Endorsed Licensee or on a Licensed Premises under the control of the Accelerator-Endorsed Licensee.

2. Qualifications. To qualify for an Accelerator License, an Applicant must:

a. Be found suitable for licensure pursuant to Rule 2-235, unless otherwise exempted by these Rules; and

b. Be approved as a Social Equity Licensee pursuant to this Rule.

3. Information Required to Establish Qualification as an Accelerator Licensee. To establish that an Applicant qualifies as an Accelerator Licensee, he or she must establish:

a. Qualification as a Social Equity Licensee; and

b. An affirmation that the Applicant has not been the Beneficial Owner of a Regulated Marijuana Business License issued pursuant to the Marijuana Code.

Basis and Purpose – 2-225

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

2-225 – Renewal Application Requirements for All Licensees

A. License Periods.

1. Regulated Marijuana Business and Owner Licenses are valid for one year from the date of issuance.

2. Medical Marijuana Transporters, Retail Marijuana Transporters, and Employee Licenses are valid for two years from the date of issuance.

B. Division Notification Prior to Expiration.

1. The Division will send a notice of license renewal 90 days prior to the expiration of an existing Regulated Marijuana Business or Owner License by first class mail to the Licensee's physical address of record.

2. Failure to receive the Division notification does not relieve the Licensee of the obligation to timely renew the license.

C. Renewal Deadline.

1. A Licensee must apply for the renewal of an existing license prior to the License's expiration date.

2. A renewal application submitted to the Division prior to the license's expiration date shall be deemed timely pursuant to subsection 24-4-104(7), C.R.S., and the Licensee may continue to operate until Final Agency Order on the renewal application.

D. If License Not Renewed Before Expiration. A license is immediately invalid upon expiration if the Licensee has not filed a renewal application and remitted all of the required application and license fees prior to the license expiration date. A Regulated Marijuana Business that fails to file a renewal application and remit all required application and license fees prior to the license expiration date must not operate unless it first obtains a new state license and any required local license.

1. Reinstatement of Expired Regulated Marijuana Business License. A Regulated Marijuana Business that fails to file a renewal application and remit all required application and license fees prior to the license expiration date may request that the Division reinstate an expired license only in accordance to the following:

    a. The Regulated Marijuana Business license expired within the previous 30 days;

    b. The Regulated Marijuana Business License has submitted an initial application pursuant to Rule 2-220. The initial application must be submitted prior to, or concurrently with, the request for reinstatement;

    c. The Regulated Marijuana Business has paid the reinstatement fee in Rule 2-205; and

    d. Any license or approval from the Local Licensing Authority or Local Jurisdiction is still valid or has been obtained.

2. Reinstatement Not Available for Surrendered or Revoked Licenses. A request for reinstatement cannot be submitted and will not be approved for a Regulated Marijuana Business license that was surrendered or revoked.

3. Reinstatement Not Available for Owner Licenses or Employee Licenses. A request for reinstatement cannot be submitted and will not be approved for expired, surrendered, or revoked Owner Licenses or Employee Licenses.

4. Denial of Request for Reinstatement or Administrative Action. If the Licensee requesting reinstatement of a Regulated Marijuana Business license operated during a period that the license was expired, the request may be subject to denial and the Licensee may be subject to administrative action as authorized by the Marijuana Code or these Rules.

5. Approval of Request for Reinstatement. Upon approval of any request for reinstatement of an expired Regulated Marijuana Business License, the Licensee may resume operations until the final agency action on the Licensee's initial application for a Regulated Marijuana Business license.

    a. Approval of a request for reinstatement of an expired Regulated Marijuana Business license does not guarantee approval of the Regulated Marijuana Business Licensee's initial application; and

    b. Approval of a request for reinstatement of an expired license does not waive the State Licensing Authority's authority to pursue administrative action on the expired license or initial application for a Regulated Marijuana Business license.

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

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

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

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

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

G. Documents Required at Renewal. A Regulated Marijuana Business and all Controlling Beneficial Owner-Entities must provide the following documents with every renewal application:

1. Any document required by Rule 2-220(A)(1) through (9) that has changed since the document was last submitted to the Division. It is a license violation affecting public safety to fail to submit any document that changed since the last submission for the purpose of circumventing the requirements of the Marijuana Code, or these Rules;

2. A copy of the Local Licensing Authority or Local Jurisdiction approval, licensure, and/or documentation demonstrating timely submission of and pending local license renewal application;

3. A list of any sanctions, penalties, assessments, or cease and desist orders imposed by any securities regulatory agency, including but not limited to the United States Securities and Exchange Commission or the Canadian Securities Administrators;

4. A Regulated Marijuana Business operating under a single Entity name with more than one license may submit the following documents only once each calendar year on the first license renewal in lieu of submission with every license renewal in the same calendar year:

    a. Financial statements required by Rule 2-220(A)(10);

    b. If the Regulated Marijuana Business is a Publicly Traded Corporation, the most recent list of Non-Objecting Beneficial Owners possessed by the Regulated Marijuana Business;

    c. A copy of all management agreement(s) the Regulated Marijuana Business has entered into regardless of whether the Person is licensed or unlicensed; and

    d. Contracts, agreements, royalty agreements, equipment leases, financing agreement, or security contract for any Indirect Financial Interest Holder that is required to be disclosed by Rule 2-230(A)(3).

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

I. Accelerator Program Renewal Application Requirements.

1. Accelerator License Renewal. Accelerator Cultivator, Accelerator Manufacturer, and Accelerator Store licenses are required to be renewed annually. In addition to the documents and information required to be submitted with a renewal application, an Accelerator Licensee must also disclose to the Division copies of any agreements

between the Accelerator Licensee and the Accelerator-Endorsed Licensee under which it operated during the previous year.

2. Accelerator-Endorsed Licensee Additional Renewal Requirements.

a. An endorsement issued to an Accelerator-Endorsed Licensee is required to be renewed annually.

b. At the time of submitting a renewal application for the endorsement, an Accelerator-Endorsed Licensee must submit the following:

i. The name and license number of any Accelerator Licensee for which it served as an Accelerator-Endorsed Licensee during the previous year;

ii. The equity assistance proposal if there have been any updates or amendments since the proposal was last submitted to the Division;

iii. Copies of any agreements between the Accelerator-Endorsed Licensee and the Accelerator Licensee(s), including the equity partnership agreement; and

iv. Any required Local Jurisdiction approvals.

c. In addition to any other basis for denial of a renewal application, the State Licensing Authority may also consider the following facts and circumstances as additional bases for denial of an endorsement renewal application:

i. The Accelerator-Endorsed Licensee violated the terms of any equity partnership agreement it entered into with an Accelerator Licensee;

ii. The Accelerator-Endorsed Licensee ended the equity partnership agreement with an Accelerator Licensee prematurely; and

iii. The Accelerator-Endorsed Licensee provided false or misleading statements, records, or information to an Accelerator Licensee.

Basis and Purpose – 2-230

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(c), 44-10-203(2)(t), 44-10-203(2)(u), 44-10-203(2)(w), 44-10-203(2)(ee), 44-10-203(7), 44-10-308, 44-10-309, and 44-10-316, C.R.S. Section 44-10-309, C.R.S., establishes varying disclosure requirements for Applicants and Licensees regarding disclosure of financial interests and ownership in a Regulated Marijuana Business. The purpose of this rule is to clarify information an Applicant or Licensee must disclose to the State Licensing Authority at the various levels, which include mandatory disclosure, disclosure in the State Licensing Authority's discretion, and disclosure for reasonable cause. This rule also provides factors that will be considered in determining whether a Regulated Marijuana Business exercised reasonable care and whether a Person is in control of a Regulated Marijuana Business.

2-230 – Disclosure of Financial Interests in a Regulated Marijuana Business

A. Mandatory Disclosures. Information required to be disclosed by section 44-10-309, C.R.S., must be identified in every initial, renewal, and change of owner application. Mandatory disclosures include, but are not limited:

1. All Regulated Marijuana Businesses (including Publicly Traded Corporations and Entities that are not Publicly Traded Corporations) must disclose an organizational chart including the identity and ownership percentages of all Controlling Beneficial Owners;

2. All Controlling Beneficial Owners.

    a. For any Controlling Beneficial Owner that is an Entity (including Publicly Traded Corporations and entities that are not Publicly Traded Corporations):

        i. The Controlling Beneficial Owner's Executive Officers; and

        ii. Beneficial Owners of ten percent or more of the Controlling Beneficial Owner.

    b. Natural persons:

        i. Name;

        ii. Address;

        iii. Date of birth;

        iv. Social Security Number or other Federal Government-issued identification number.

    c. Qualified Private Fund: Organizational chart reflecting the identity and ownership percentages of the Qualified Private Fund's Executive Officers, investment advisers, investment adviser representatives, any trustee or equivalent, and any other Person that controls the investment in, or management or operations of, a Regulated Marijuana Business.

    d. Trust: A copy of any documents required to establish the trust, a certification of the trust, and any additional documents necessary to demonstrate the type of trust, the identity and age of the trustee and all beneficiaries of the trust.

3. Any Person that is an Indirect Financial Interest Holder that:

    a. Holds two or more indirect financial interests;

    b. Is also a Passive Beneficial Owner; or

    c. That is contributing debt financing, secured or unsecured, that has not previously been disclosed and exceeds fifty percent of the operating capital of the Regulated Marijuana Business or if the calculation yields a negative number. Operating capital is defined as total current and fixed assets less total liabilities (as presented on the balance sheet consistent with the business's past practices), measured as of the nearest month's end prior to the date of the applicable loan document(s).

B. Discretionary Disclosure. In his or her reasonable discretion, the State Licensing Authority may require disclosure following an initial or renewal application for a Regulated Marijuana business as follows:

1. For a Regulated Marijuana Business or a Controlling Beneficial Owner, neither of which is a Publicly Traded Corporation, its:

a. Affiliates;

b. Beneficial Owners of a Controlling Beneficial Owner;

2. Qualified Private Fund's Affiliates; and

3. Managers of a Controlling Beneficial Owner.

C. Reasonable Cause Disclosure. An Applicant will be notified by the State Licensing Authority of Reasonable Cause to require additional disclosure. The State Licensing Authority's notification will identify the facts and law supporting Reasonable Cause for the disclosure and the deadline for disclosure. The following may be required to be disclosed by the State Licensing Authority's notification:

1. An updated list of all Non-objecting Beneficial Owners in a Publicly Traded Corporation that is either a Regulated Marijuana Business or a Controlling Beneficial Owner reflecting ownership as of the date of request;

2. All Passive Beneficial Owners in a Regulated Marijuana Business that is not a Publicly Traded Corporation. If the Passive Beneficial Owner is not a natural person, the members of the board of directors, general partners, managing members, or Managers or Executive Officers and Beneficial Owners of ten percent or more of the Passive Beneficial Owner;

3. A list of all Beneficial Owners of a Qualified Private Fund;

4. All Indirect Financial Interest Holders of a Regulated Marijuana Business, and, for any Indirect Financial Interest Holder that is an Entity, the Beneficial Owners of ten percent or more of the Indirect Financial Interest Holder.

D. Affirmation of Reasonable Care.

1. Reasonable Care Affirmation for a Regulated Marijuana Business That is Not a Publicly Traded Corporation. A Regulated Marijuana Business that is not a Publicly Traded Corporation must affirm it exercised reasonable care to confirm its Passive Beneficial Owner(s), including any Qualified Institutional Investor(s), and Indirect Financial Interest Holder(s) are not Persons prohibited from holding a license under these Rules or the Marijuana Code. A Regulated Marijuana Business exercises reasonable care if it:

a. Receives documentation from each Passive Beneficial Owner, including any Qualified Institutional Investor, and each Indirect Financial Interest Holder affirming each is not a Person prohibited from holding a license by these Rules or the Marijuana Code; and

b. The Regulated Marijuana Business does not know or reasonably should not know facts that would contradict the Passive Beneficial Owner or Indirect Financial Interest Holder's affirmation.

2. Reasonable Care Affirmation for a Regulated Marijuana Business That is a Publicly Traded Corporation. A Regulated Marijuana Business that is a Publicly Traded Corporation must affirm it exercised reasonable care to confirm its Passive Beneficial Owners, including any Qualified Institutional Investor(s), both of which are Non-Objecting Beneficial Owners, and Indirect Financial Interest Holder(s) are not Person prohibited from holding a license by these Rules and the Marijuana Code. A Regulated Marijuana Business that is a Publicly Traded Corporation exercises reasonable care if it:

a. At least annually, checks a list of its Passive Beneficial Owners, including any Qualified Institutional Investor(s), both of which are Non-Objecting Beneficial Owners, against the Specially Designated Nationals and Blocked Persons List (SDN List) on the United States Treasury Office of Foreign Assets Control (OFAC) website and the Financial Industry Regulatory Authority (FINRA) website for Persons Barred by FINRA to determine if there are any prohibited Persons;

b. Receives documentation from its Indirect Financial Interest Holder(s) affirming each is not a Person prohibited from holding a license by these Rules or the Marijuana Code; and

c. The Regulated Marijuana Business does not know or reasonably should not know facts that would contradict the Indirect Financial Interest Holder's affirmation.

E. Control. The State Licensing Authority will consider all facts and circumstances in determining whether a Person has Control of a Regulated Marijuana Business or is a Controlling Beneficial Owner by virtue of common control.

1. Non-Exhaustive Factors. Non-exhaustive facts and circumstances that will be considered when evaluating Control include, but are not limited to:

a. The Person's percentage of ownership, if any;

b. The Person's ability to influence the decision of the Regulated Marijuana Business;

c. The Person is a Manager of the Regulated Marijuana Business;

d. The Person has a close relationship, familial tie, or common purpose or motive with one or more Persons in Control of the Regulated Marijuana Business;

e. The Person has substantial business relationship(s) with the Regulated Marijuana Business;

f. The Person has the ability to control the proxy machinery or to win a proxy contest;

g. The Person is a primary creditor of the Regulated Marijuana Business; or

h. The Person is the original incorporator of the Regulated Marijuana Business.

2. Totality of the Evidence. The State Licensing Authority may consider the totality of the evidence when determining whether a Person has Control of a Regulated Marijuana Business or is a Controlling Beneficial Owner by virtue of common control.

Basis and Purpose – 2-235

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(e), 44-10-203(2)(c), 44-10-203(2)(ee), 44-10-309, 44-10-310, and 44-10-312(4), C.R.S. Section 44-10-310, C.R.S., requires that persons disclosed or who should have been disclosed to the State Licensing Authority obtain a finding of suitability from the State Licensing Authority. The purpose of this rule is to explain the conditions under which a Person is subject to either a mandatory finding of suitability or a finding of suitability for reasonable cause, to identify exemptions from an otherwise required finding of suitability

and to identify the information and documents that, at a minimum, must be submitted in connection with any Person's request for a finding of suitability.

2-235 – Suitability

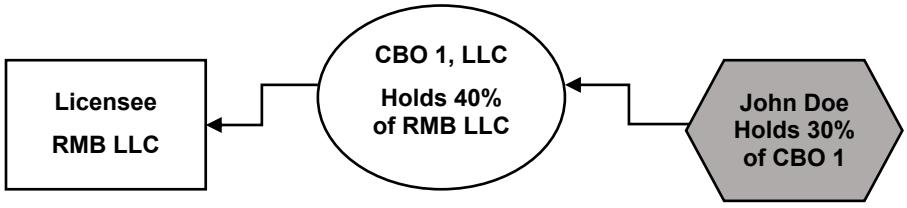
A. Persons Subject to a Mandatory Finding of Suitability for Regulated Marijuana Businesses That Are Not Publicly Traded Corporations.

1. Except as provided in subparagraph (A)(1)(a), any Person intending to become a Controlling Beneficial Owner by submitting an initial application for any Regulated Marijuana Business that is not a Publicly Traded Corporation must first obtain a finding of suitability from the State Licensing Authority.

   a. Members of the Board of Directors and Executive Officers of a Regulated Marijuana Business. An individual who is a Controlling Beneficial Owner because he or she is a member of the board of directors or an Executive Officer of a Regulated Marijuana Business or is Controlling a Regulated Marijuana Business but who does not possess ten percent or more of the Owner's Interest in a Regulated Marijuana Business must submit a request for a finding of suitability to the State Licensing Authority within 45 days of becoming such a Controlling Beneficial Owner.

2. Indirect Ownership of Ten-Percent or More Owner's Interests in an Entity.

   a. For a Controlling Beneficial Owner that is an Entity, the Entity's request for finding of suitability must include all information necessary for the State Licensing Authority to determine whether that Entity's Executive Officers and any Person that directly or indirectly owns ten percent or more of the Owner's Interest in the Regulated Marijuana Business are suitable. For example, assuming the scenario depicted below, Licensee RMB LLC has one-thousand outstanding ownership interests and CBO 1, LLC owns 400 of those ownership interests. John Doe owns 30% of CBO 1, LLC. Therefore, John Doe indirectly owns 12% of the outstanding ownership interests of Licensee RMB LLC, and must apply to the State Licensing Authority for a finding of suitability.



3. Any Person that has not received a finding of suitability and who intends to become a Controlling Beneficial Owner of a Regulated Marijuana Business that is not a Publicly Traded Corporation must submit their request for a finding of suitability prior to or contemporaneously with the change of owner application, unless exempt from the change of owner application requirement under Rule 2-245(C).

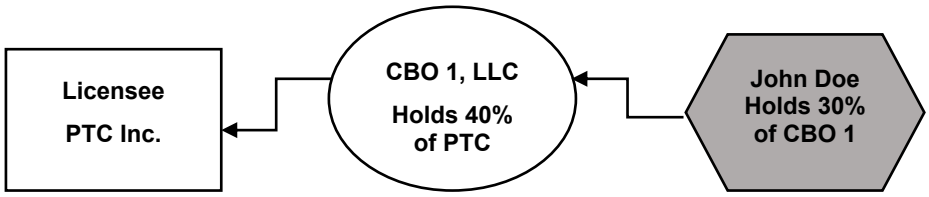
4. For a Controlling Beneficial Owner that is a trust, the trust's request for a finding of suitability must include all documents and information required or requested by the State Licensing Authority to permit a determination of whether or not the trustee and any beneficiary who may exercise control over the trust is suitable. A trust will not be found suitable if any person prohibited by section 44-10-307 is the trustee, otherwise controls the trust, or is positioned to receive distributions from the trust while a person prohibited.

B. Persons Subject to a Mandatory Finding of Suitability for Regulated Marijuana Businesses That Are Publicly Traded Corporations.

1. The following Persons must apply to the State Licensing Authority for a finding of suitability:

   a. Any Person that becomes a Controlling Beneficial Owner of any Regulated Marijuana Business that is a Publicly Traded Corporation; and

   b. Any Person that indirectly Beneficially Owns ten percent or more of the Regulated Marijuana Business that is a Publicly Traded Corporation through direct or indirect ownership of its Controlling Beneficial Owner. For example, assuming the scenario depicted below, Licensee PTC Inc. has one-million shares of outstanding Securities and CBO 1 owns 400,000 of those securities. John Doe owns 30% of CBO 1. Therefore, John Doe indirectly owns 12% of the outstanding securities of Licensee PTC Inc., and must apply to the State Licensing Authority for a finding of suitability.



2. For a Controlling Beneficial Owner that is an Entity, the Entity's request for finding of suitability must include all information necessary for the State Licensing Authority to determine whether its Executive Officers and any Person that indirectly owns ten percent or more of the Owner's Interest in the Regulated Marijuana Business are suitable.

3. Timing of Request for Finding of Suitability Involving Publicly Traded Corporation.

   a. Unless exempted under Rule 2-235(E), all Persons that will be a Controlling Beneficial Owner in a Regulated Marijuana Business that is entering into a Publicly Traded Corporation transaction described in Rule 2-245(C)(1) must first obtain a finding of suitability by the State Licensing Authority before the transaction can close or the public offering can occur.

   b. A Person who becomes a Controlling Beneficial Owner in a Regulated Marijuana Business that is a Publicly Traded Corporation must submit a request for a finding of suitability to the State Licensing Authority within 45 days of becoming a Controlling Beneficial Owner.

   c. An individual who is a Controlling Beneficial Owner because he or she is a member of the board of directors or an Executive Officer of a Regulated Marijuana Business or is Controlling a Regulated Marijuana Business but who does not possess ten percent or more of the Owner's Interest in a Regulated Marijuana Business must submit a request for a finding of suitability to the State Licensing Authority within 45 days of becoming such a Controlling Beneficial Owner.

C. Finding of Suitability for Reasonable Cause. For Reasonable Cause, any other Person that was disclosed or should have been disclosed pursuant to subsections 44-10-309(1) or (2) or that was required to be disclosed based on previous notification of Reasonable Cause must submit a request to the State Licensing Authority for a finding of suitability. Any Person required to submit a request for a finding of suitability pursuant to this Rule must submit such request within 45 days from notice of the State Licensing Authority's determination of Reasonable Cause for the finding of suitability.

D. Information Required in Connection with a Request for a Finding of Suitability. When determining whether a Person is suitable or unsuitable for licensure, the State Licensing Authority may consider the Person's criminal character or record, licensing character or record, or financial character or record. To consider a Person's criminal character or record, licensing character or record, and financial character or record, all requests for a finding of suitability must, at a minimum, be accompanied by the following information:

1. Criminal Character or Record:

    a. A set of the natural person's fingerprints for purposes of a fingerprint-based criminal history record check.

2. Licensing Character or Record:

    a. Affirmation that the Person is not prohibited from holding a license under section 44-10-307, C.R.S.

    b. A list of all Colorado Department of Revenue-issued business licenses held in the three years prior to submission of the request for a finding of suitability;

    c. A list of all Department of Regulatory Agencies business, professional, or occupational licenses held in the three years prior to submission of the request for a finding of suitability;

    d. A list of any marijuana business or personal license(s) held in any other state or territory of the United States or District of Columbia or another country, where such license is or was at any time subject to a denial, suspension, revocation, surrender, or equivalent action by the licensing agency, commission, board, or similar authority; and

    e. Disclosure of any civil lawsuits in which the Person was named a party where pleadings included allegations involving any Regulated Marijuana Business.

3. Financial Character or Record:

    a. Disclosure of any sanctions, penalties, assessments, or cease and desist orders imposed by any securities regulatory agency other than the United States Securities Exchange Commission;

    b. Account Statements or Property Ownership Documents Required.

        i. If a Person is submitting a request for a finding of suitability to acquire ten percent or more of the Owner's Interest in a Regulated Marijuana Business and has identified both the source of funds or property and the Regulated Marijuana Business License that will be acquired at the time of the request for the finding of suitability, then the Person shall also include, copies of the Person's financial account statements for the

preceding one-hundred eighty days for any accounts serving as a source of funding used to acquire the Owner's Interest in the Regulated Marijuana Business; or, if the Person is contributing one or more asset(s) to the Regulated Marijuana Business in exchange for the Owner's Interests, documents establishing the Person has owned such asset(s) for the preceding one-hundred eighty days.

ii. If a Person has not identified both the source of funding or property and the Regulated Marijuana Business License that will be acquired, then the Person can submit a request for a finding of suitability without account statements or property ownership documents.

iii. When a Person submits a Change of Controlling Beneficial Owner or new Regulated Marijuana Business License application, the Person shall also provide account statements for the funds that will be used to acquire the Owner's Interest in the Regulated Marijuana Business License or the property ownership documents for the preceding one hundred eighty (180) days.

E. Exemptions from a Finding of Suitability.

1. The following Persons are exempt from an otherwise required finding of suitability:

a. Any Person that currently possesses an approved Owner License issued by the State Licensing Authority and such Owner License has not, in the preceding 365 days, been subject to suspension or revocation.

2. Exemptions from an otherwise required finding of suitability are limited to those listed in this Rule. The State Licensing Authority will consider other factors that may inform amendments to this Rule through the Department's formal rulemaking session.

F. Timing to Approve or Deny a Request for Finding of Suitability. Absent Reasonable Cause, the State Licensing Authority must approve or deny a request for a finding of suitability within 120 days from the date of submission of the request for such finding, where such request was accompanied by all information required under subsection (D) of this Rule.

G. Executive Officer Considerations. Whether an individual is an Executive Officer subject to a mandatory finding of suitability is based on the definition in these rules and the facts and circumstances. In determining whether an individual is an Executive Officer, the State Licensing Authority will consider the following, non-exhaustive factors:

1. Title is not dispositive, however, the Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, president, the General Counsel, and any individual with similar policy making authority are Executive Officers;

2. The level of decision-making authority the individual possesses;

3. The Controlling Beneficial Owner and/or Regulated Marijuana Business's organizational chart; and

4. Any relevant guidance from the United States Securities and Exchange Commission or similar securities regulator, securities rules or securities case law.

H. Findings of Suitability.

1. Finding of Suitability. A finding of suitability other than for a Social Equity Licensee is valid for one year from the date it is issued by the State Licensing Authority. If more than one year has passed since the State Licensing Authority issued a finding of suitability to a Person other than for a Social Equity Licensee and such Person has not during that time applied to become a Controlling Beneficial Owner of a Regulated Marijuana Business pursuant to an initial business license application or change of owner application, then such Person shall submit a new request for finding of suitability to the State Licensing Authority and obtain a new finding of suitability before submitting any application to become a Controlling Beneficial Owner of a Regulated Marijuana Business.

2. Finding of Suitability for Social Equity Licensees. A finding of suitability for Social Equity License Applicants under Rule 2-220(C) is valid for two years from the date it is issued by the State Licensing Authority. If more than two years has passed since the State Licensing Authority issued the finding of suitability and such Social Equity Licensee has not during that time applied to become a Controlling Beneficial Owner of a Regulated Marijuana Business, then such Social Equity Licensee shall submit a new request for finding of suitability to the State Licensing Authority and obtain a new finding of suitability before submitting any application to become a Controlling Beneficial Owner of a Regulated Marijuana Business.

Basis and Purpose – 2-240

The statutory basis for this rule includes but is not limited to sections 44-10-103(53), 44-10-203(2)(ee)(C), 44-10-309(3), and 44-10-310(10), C.R.S. The purpose of this rule is to clarify factors the State Licensing Authority will consider when determining whether reasonable cause exists to require disclosure, to require a finding of suitability or to extend the 120-day deadline for granting or denying a request for a finding of suitability.

2-240 – Factors Considered in Determining Reasonable Cause for Disclosure, Finding of Suitability, and Extension of 120 Day Deadline for Finding of Suitability

A. Non-Exhaustive Factors Informing Reasonable Cause Considerations. The State Licensing Authority may consider the following non-exhaustive factors when evaluating whether Reasonable Cause exists for disclosure, requiring a reasonable cause finding of suitability or extension of time to provide a finding of suitability:

1. The Person provided materially inaccurate or incomplete documents to the Division;

2. The Person failed to provide required documents to the Division;

3. The request for a finding of suitability is sufficiently complex such that a determination cannot be completed within the 120-day deadline specified;

4. Information that an undisclosed Person is controlling or has the ability to control the Regulated Marijuana Business;

5. Information indicating one or more Persons prohibited holds an interest in the Regulated Marijuana Business;

6. Inability to obtain documents or information expected to be available from third-parties or publicly available sources;

7. The Person interfered with, obstructed, or impeded a Division investigation; or

8. The Person failed to make any filing required by a securities regulator or securities exchange that has regulatory oversight over the Person.

Basis and Purpose – 2-245

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(e), 44-10-203(1)(d), 44-10-203(1)(k), 44-10-203(2)(ee)(I)(A) and (E), 44-10-203(7), 44-10-308(3)(b), 44-10-309, 44-10-310, 44-10-311, 44-10-312, 44-10-505(1)(a), and 44-10-605(1)(a), C.R.S. The purpose of this rule is to define the application process and conditions an Applicant or Licensee must meet when changing Beneficial Ownership in a Regulated Marijuana Business. This rule further describes requirements in the event of a dispute between the Controlling Beneficial Owners of a Regulated Marijuana Business.

2-245 – Change of Controlling Beneficial Owner Application or Notification

A. Application for Change of Controlling Beneficial Owner(s) – Not a Publicly Traded Corporation.

1. Division Approval Required Prior to Transfer of Owner's Interest. Unless excepted pursuant to subparagraph (C) of this Rule, a Regulated Marijuana Business that is not a Publicly Traded Corporation must obtain Division approval before it transfers the Owner's Interests of any Controlling Beneficial Owner(s) or before a trust that is a Controlling Beneficial Owner changes its trustee.

2. Documents Required. Any change of owner application regarding a Controlling Beneficial Owner of a Regulated Marijuana Business that does not involve a Publicly Traded Corporation must include the following documents:

a. Asset purchase agreement, merger, sales contract, agreement, or any other document necessary to effectuate the change of owner;

b. Request for a finding of suitability for each proposed Controlling Beneficial Owner(s) who has not already submitted a request for a finding of suitability, who has not already been found suitable, or who does not already hold an Owner License;

c. Operating agreement, by-laws, partnership agreement, or other governing document(s) as will apply to the Regulated Marijuana Business if the change of owner application is approved;

d. Request for voluntary surrender form of the Owner License of any Controlling Beneficial Owner that will not remain a Controlling Beneficial Owner, or Passive Beneficial Owner electing to hold an Owner License in a Regulated Marijuana Business if the change of owner application is approved; and

e. Copy of current Medical Marijuana or Retail Marijuana State Sales Tax or Wholesale license and any other documents necessary to verify tax compliance.

3. Licensee Initiates Change of Owner for Permitted Economic Interests Issued Prior to January 1, 2020. All natural persons holding a Permitted Economic Interest who seek to become a Controlling Beneficial Owner are subject to this Rule. The Regulated Marijuana Business must initiate the change of owner process for a natural person holding a Permitted Economic Interest who seeks to convert its interest and become a Controlling Beneficial Owner in a Regulated Marijuana Business. Prior to submitting a change of owner application, the Permitted Economic Interest holder must obtain a finding of suitability pursuant to Rule 2-235 including any required criminal history record check.

Permitted Economic Interest holders who fail to obtain a finding of suitability to become a Controlling Beneficial Owner may remain as a Permitted Economic Interest holder.

B. Change of Owner Involving a Publicly Traded Corporation. This Rule applies to transactions involving any Publicly Traded Corporation.

1. Publicly Traded Corporation Transactions. A Regulated Marijuana Business may transact with a Publicly Traded Corporation in the following ways:

a. Merger with a Publicly Traded Corporation. A Regulated Marijuana Business or a Controlling Beneficial Owner that intends to receive, directly or indirectly, an investment from a Publicly Traded Corporation, or that intends to merge or consolidate with a Publicly Traded Corporation, whether by way of merger, combination, exchange, consolidation, reorganization, sale of assets or otherwise, including but not limited to any shell company merger.

b. Investment by a Publicly Traded Corporation. A Regulated Marijuana Business that intends or that has a Controlling Beneficial Owner that intends to transfer, directly or indirectly, ten percent or more of the Securities in the Regulated Marijuana Business to a Publicly Traded Corporation, whether by sale or other transfer of outstanding Securities, issuance of new Securities, or otherwise.

c. Public Offering. A Regulated Marijuana Business that intends or that has a Controlling Beneficial Owner that intends to become, directly or indirectly, a Publicly Traded Corporation, whether by effecting a primary or secondary offering of its Securities, uplisting of outstanding Securities, or otherwise.

2. Required Finding(s) of Suitability.

a. Pre-Transaction Findings of Suitability Required. Any Person intending to become a Controlling Beneficial Owner in a Regulated Marijuana Business in connection with any transaction identified in subparagraph (B)(1)(a) through (c) above, must obtain a finding of suitability prior to the Publicly Traded Corporation transaction closing or becoming effective.

b. Ongoing Suitability Requirements. Any Person who becomes a Controlling Beneficial Owner of a Publicly Traded Corporation that is a Regulated Marijuana Business must apply to the State Licensing Authority for a finding of suitability or an exemption from a finding of a suitability pursuant to Rule 2-235 within forty-five days of becoming a Controlling Beneficial Owner. A Publicly Traded Corporation that is a Regulated Marijuana Business must notify any Person that becomes a Controlling Beneficial Owner of the suitability requirements as soon as the Regulated Marijuana Business becomes aware of the ownership subjecting the Person to this requirement; however, the Controlling Beneficial Owner's obligation to timely request the required finding of suitability is independent of, and unaffected by, the Regulated Marijuana Business's failure to make the notification.

3. Change of Owner Application Required. A Licensee entering into a transaction permitted in subparagraph (B)(1)(a)-(c) above with Publicly Traded Corporation must submit any required change of owner application to the Division prior to the transaction closing. The change of owner application may be submitted simultaneously with the requests for finding(s) of suitability required by subparagraph (B)(2) or after the request(s) for findings of suitability were submitted to the Division.

4. Mandatory Disclosure of Required, United States Securities and Exchange Commission, Canadian Securities Administrators and/or Securities Exchange Filings. A Regulated Marijuana Business and any Controlling Beneficial Owner that is required to file any document with the United States Securities and Exchange Commission, the Canadian Securities Administrators, any other similar securities regulator or any securities exchange regarding any change of owner in subparagraphs (B)(1)(a) through (c) above must also provide a notice to the Division at the same time as the filing with the United States Securities and Exchange Commission, the Canadian Securities Administrators or the securities exchange.

5. Ordinary Broker Transactions. Resales or transfers of Securities of a Publicly Traded Corporation that is a Regulated Marijuana Business or Controlling Beneficial Owner or Passive Beneficial Owner in ordinary broker transactions through an established trading market do not require a change of owner application or prior approval from the State Licensing Authority.

C. Exemptions to the Change of Owner Application Requirement.

1. Entity Conversions or Change of Legal Name. A Regulated Marijuana Business or a Controlling Beneficial Owner may combine with or convert, including but not limited to under sections 7-90-201 et seq., C.R.S., for the exclusive purpose of changing its Entity jurisdiction to one of the states or territories of the United States or the District of Columbia, its Entity type or change the legal name of an Entity without filing a change of owner application. These exemptions apply only if the Controlling Beneficial Owners and their Owner's Interests will remain the same after the combination, conversion, or change of legal name, and there will not be any new Controlling Beneficial Owners (individuals or Entities). Within fourteen days of the combination, conversion, or change of legal name the Regulated Marijuana Business must submit the following to the Division:

   a. A copy of the transaction documents;

   b. Documents submitted to the Colorado Secretary of States;

   c. Any document submitted to the secretary of state or similar regulator if the Entity is organized under the laws of a state of the United States other than Colorado, a territory of the United States, or the District of Columbia;

   d. Identification of the Regulated Marijuana Business's or Controlling Beneficial Owner's registered agent;

   e. Identification of any Passive Beneficial Owner and Indirect Financial Interest Holder for which disclosure is required by Rule 2-230; and

   f. The fee required by Rule 2-205(F)(2)(b).

2. Reallocation of Owner's Interests Among Controlling Beneficial Owners. A Regulated Marijuana Business may reallocate Owner's Interests among existing Controlling Beneficial Owners holding valid Owner Licenses if it provides notification of the reallocation to the Division with its next application submission as long as there are no new Controlling Beneficial Owners. Reallocations that are solely a result of adding, removing, or changing Passive Beneficial Owners are not subject to this Rule 2-245(C)(2), but are subject to the requirements in Rule 2-245(C)(5). A reallocation under this Rule is subject to the following requirements:

a. All Owner's Interests of a Controlling Beneficial Owner may be reallocated to other existing Controlling Beneficial Owners;

b. Only consensual reallocations where all Controlling Beneficial Owners whose ownership percentages will change agree to the reallocation are permitted under this Rule. Proof that the transfer was consensual may include affirmation from all Controlling Beneficial Owners for which the Owner's Interests were reallocated in the required disclosure at the next application submission.

c. If any Controlling Beneficial Owner will not hold any Owner's Interest in a Regulated Marijuana Business following the reallocation, that Controlling Beneficial Owner shall voluntarily surrender his or her Owner's License and identification badge within 30 days of the reallocation;

d. All Controlling Beneficial Owners remain responsible for all actions of the Regulated Marijuana Business while they were a Controlling Beneficial Owner and are subject to administrative action based on the same regardless of the reallocation; and

e. Disclosure and submission of the fee required by Rule 2-205(F)(2)(b) at the next application submission which shall not be longer than 365 days.

3. Passive Beneficial Owner Licensed Prior to August 1, 2019. A Passive Beneficial Owner who was issued an Owner License prior to August 1, 2019, and who has continuously maintained that license, is not required to submit a change of owner application if he or she becomes a Controlling Beneficial Owner in the business license(s) with which the Owner License is associated but must disclose and submit the fee required by Rule 2-205(F)(2)(b) at the next application submission, which shall not be longer than 365 days.

4. Change of Executive Officer or Member of the Board of Directors. A change of owner application is not required for a change of an Executive Officer or member of the board of directors of a Regulated Marijuana Business or an Owner Entity License of a Regulated Marijuana Business so long as the new Executive Officer or member of the board of directors does not possess ten percent or more of the Owner's Interest in the Regulated Marijuana Business or is otherwise Controlling the Regulated Marijuana Business. However, a change of Executive Officer or member of the board of directors is subject to the following requirements:

a. Any such Executive Officer or member of the board of directors of the Regulated Marijuana Business must notify the Division of the new Controlling Beneficial Owner, Executive Officer, or member of the board of directors and submit a request for a finding of suitability as required by Rule 2-235(A)(1)(a) unless exempt under subparagraph (b) of this Rule 2-245(C)(4); or,

b. If exempt from a finding of suitability pursuant to Rule 2-235(E), the Regulated Marijuana Business subject to any such change of the Executive Officer or members of their board of directors, whether adding or removing, must provide notice to the Division of the new Controlling Beneficial Owner within forty-five days.

c. The fee required by Rule 2-205(F)(2)(b).

5. Change of Passive Beneficial Owner. Persons are not required to submit an application or obtain prior approval of their ownership, or provide notification, if: (1) the person was not a Direct Beneficial Interest Owner prior to November 1, 2019, (2) the Person will

remain a Passive Beneficial Owner after the acquisition of Owner's Interests is complete, (3) the transfer will not create any previously undisclosed Controlling Beneficial Owner, and (4) disclosure is not otherwise required by section 44-10-309, C.R.S., or Rule 2-230.

D. Change of Owner Requirements, Restrictions and Procedures Applicable to All Regulated Marijuana Businesses.

1. Application Signature Requirements. All applications for change of Controlling Beneficial Owner(s) must be executed by every Controlling Beneficial Owner whose Owner's Interests are proposed to change and any Person proposed to become a Controlling Beneficial Owner(s). Controlling Beneficial Owners whose Owner's Interest will not change are not required to execute the change of owner application; however, at least one Controlling Beneficial Owner and all Persons proposed to become a Controlling Beneficial Owner must execute every change of owner application.

2. Process for Approval. Upon completion of the investigation of a change of owner application, the State Licensing Authority will issue a contingent approval letter. However, the State Licensing Authority will not issue the state license until:

a. Local Approval Required. If local approval is required, the proposed Controlling Beneficial Owner(s) demonstrates to the State Licensing Authority that local approval has been obtained and notifies the State Licensing Authority of the date by which the change of owner will be completed, which must be within thirty days of the notification. The proposed Controlling Beneficial Owner's notification to the Division must be within 365 days of the issuance of the Division's contingent approval letter.

i. If a Local Licensing Authority or Local Jurisdiction requires a change of owner application and that application is denied, the State Licensing Authority will deny the State change of owner application;

b. No Local Approval Required. If local approval is not required, the proposed Controlling Beneficial Owner(s) demonstrates that such approval is not required and notifies the State Licensing Authority of the date by which the change of owner will be completed, which must be within thirty days of the of the notification. However, the proposed Controlling Beneficial Owner's notification to the Division must be made within 365 days of issuance of the Division's contingent approval letter.

c. Contingent Approval. Contingent approval pursuant to this subparagraph (D)(2) is valid for one year from the date it is issued by the State Licensing Authority. If more than one year has passed since the State Licensing Authority issued contingent approval to a Person and such Person during that time has not met the requirements of Rule 2-245(D)(2)(a) or 2-245(D)(2)(b) to complete the Change of Beneficial Owner Application, then such Person shall submit a new Change of Controlling Beneficial Owner Application. The State Licensing Authority in their discretion may extend the contingent approval upon written request.

3. Operational Restrictions Pending All Required Approvals. Unless otherwise provided under these Rules, any proposed new Controlling Beneficial Owner cannot operate the Regulated Marijuana Business for which it intends to become a Controlling Beneficial Owner until it receives any required finding of suitability and is issued all approvals and/or license(s) pursuant to any change of owner application required by this Rule. Controlling Beneficial Owners that have already been approved in connection with ownership of the Regulated Marijuana Business may continue to operate the Regulated Marijuana

Business. A violation of this requirement is grounds for denial of the change of owner application, may be a violation affecting public safety, and may result in disciplinary action against existing license(s).

4. Modifications to Change of Owner Applications. If anything in a change of owner application is modified or changed after the Division approves the application, the Licensee must submit a new change of owner application, unless exempted by the Division prior to completing the change of owner.

5. Regulated Marijuana Business Subject to Investigation or Administrative Action. If a Regulated Marijuana Business or any of its Controlling Beneficial Owner(s) apply for a change of owner and is involved in an administrative investigation or administrative action, the following may apply:

   a. The change of owner application may be delayed or denied until the administrative action is resolved; or

   b. If the change of owner application is approved by the Division, the transferor, the transferee, or both may be responsible for the actions of the Regulated Marijuana Business and its prior Controlling Beneficial Owner(s), and subject to discipline based upon the same.

6. Repealed.

E. Refundable and Nonrefundable Deposits Permitted. A proposed Controlling Beneficial Owner may provide a selling Controlling Beneficial Owner with a refundable or nonrefundable deposit in connection with a change of owner application.

F. Controlling Beneficial Owner Dispute.

1. In the event of a dispute between Controlling Beneficial Owner(s) not involving divestiture under Rule 2-275 and precluding or otherwise impeding the ability to comply with these Rules, a Regulated Marijuana Business that is not a Publicly Traded Corporation must submit a change of owner application, notification pursuant to subparagraph (C) of this Rule, or initiate mediation, arbitration, or a judicial proceeding within 90 days of the dispute. The 90-day period may be extended for an additional 90 days upon a showing of good cause by the Regulated Marijuana Business.

2. A Regulated Marijuana Business that is not a Publicly Traded Corporation must submit a change of owner application or notification pursuant to subparagraph (C) of this Rule within forty-five days of entry of a final court order, final arbitration award, or full execution of a settlement agreement altering the Controlling Beneficial Owner(s) of a Regulated Marijuana Business. Any change of owner application or notification based on a final court order, final arbitration award, or fully executed settlement agreement must include a copy of the order or settlement agreement and remains subject to approval by the Division. In this circumstance, the change of owner application or notification needs to be executed by at least one remaining Controlling Beneficial Owner.

3. If mediation, arbitration, or a judicial proceeding is not timely initiated, or if a change of owner application or notification pursuant to subparagraph (C) of this Rule is not timely submitted following entry of a final court order, final arbitration award, or full execution of a settlement agreement altering the Controlling Beneficial Owner(s) of a Regulated Marijuana Business that is not a Publicly Traded Corporation, the Regulated Marijuana Business and its Owner Licensee(s) may be subject to fine, suspension, or revocation of their license(s).

Basis and Purpose – 2-250

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(e), 44-10-203(2)(ee)(I), 44-10-203(7), and 44-10-309(6), C.R.S. The purpose of this rule is to require notification to the State Licensing Authority of any filing with a securities regulator by an Applicant or Licensee.

2-250 – Regulated Marijuana Business that is a Publicly Traded Corporation – Notification of Non-Confidential Securities Filings

A. A Regulated Marijuana Business that is a Publicly Traded Corporation must provide notice on Division forms within two business days of any non-confidential filing with the United States Securities and Exchange Commission, the Canadian Securities Administrators, any other securities regulator, or any security exchange on which the Securities are listed or traded. The notice must identify the title of the document and include a hyperlink to the website where the document is publicly available (example EDGAR or SEDAR link for the Publicly Traded Corporation).

B. In addition to any other administrative or investigative requests or inquiries, the Division may contact a Regulated Marijuana Business that is a Publicly Traded Corporation to obtain clarification of a securities filing.

C. This Rule is currently limited to require notice of securities filings that are not confidential. However, this Rule may be evaluated during subsequent rulemaking proceedings and/or in connection with development of a policy regarding confidential securities filings.

Basis and Purpose – 2-255

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(e), 44-10-203(2)(w), 44-10-203(2)(cc), 44-10-305, 44-10-313(8), and 44-10-313(13), C.R.S. The purpose of this rule is to clarify the application process for changing location of a Licensed Premises. This rule also provides the requirements for a Medical Marijuana Cultivation Facility or a Retail Marijuana Cultivation Facility to obtain a transition permit.

2-255 – Change of Location of a Regulated Marijuana Business

A. Application Required Before Changing Location of Licensed Premises. A Regulated Marijuana Business must apply for and receive Division approval before changing the location of its Licensed Premises.

B. Application Requirements. A change of location application must include the following:

1. At least one signature of a Controlling Beneficial Owner and representation that the signing Controlling Beneficial Owner(s) is/are authorized to submit the application on behalf of the Regulated Marijuana Business.

2. Evidence the Local Licensing Authority and/or Local Jurisdiction in which the Regulated Marijuana Business proposes to move have approved the proposed new location.

3. The deed, lease, sublease, rental agreement, contract, or any other document(s) establishing the Licensee is, or will be, entitled to possession of the premises for which the application is made.

4. Legible and accurate diagram for the proposed licensed Premises that complies with the requirements of the 3-200 Series Rules. The diagram must include a plan for the proposed Licensed Premises and a separate plan for the security/surveillance plan

including camera location, number and direction of coverage. If the diagram is larger than 8.5 inches x 11 inches, the Applicant must also provide the diagram in a portable document format (.pdf).

C. Change of Location Permit Required.

1. A Regulated Marijuana Business cannot change the location of its Licensed Premises until it receives a change of location permit from the Division.

2. The permit is effective on the date of issuance, and the Licensee must, within 120 days, change the location of its Regulated Marijuana Business to the place specified in the change of location permit and at the same time cease to operate a Regulated Marijuana Business at the former location. For good cause shown, the 120-day deadline may be extended an additional 120 days.

3. If the Regulated Marijuana Business does not change the location of its Licensed Premises within the time period granted by the Division, including any extension, the Regulated Marijuana Business must submit a new application, pay the change of location fee, and receive a new change of location permit prior to changing the location of its Licensed Premises.

4. A Regulated Marijuana Business cannot operate or exercise any of the privileges of its license(s) in both locations, unless a Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility has received a transition permit.

D. Medical Marijuana Cultivation Facilities and Retail Marijuana Cultivation Facilities - Transition Permit. A Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility that has obtained an approved change of location from the State Licensing Authority may operate one License at two geographical locations for the purpose of transitioning operations from one location to the other, subject to the following requirements:

1. A Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility may apply for a transition permit and a change of location at the same time. The Division will not accept an application for a transition permit unless it is submitted prior to or concurrently with a change of location application. A Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility is prohibited from exercising the privileges of a transition permit until it has also received all required approvals for a change of location.

2. A Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility that has an approved change of location and a transition permit must comply with the following requirements:

a. The total plants cultivated at both locations do not exceed any plant count limit imposed on the Licensee by the Marijuana Code and these rules;

b. The Licensed Premises of both geographical locations comply with all surveillance, security, and inventory tracking requirements imposed by the Marijuana Code and these rules at the Rule 3-200 Series and 3-800 Series;

c. Both geographical locations shall track all Regulated Marijuana plants in transition in the Inventory Tracking System to ensure proper tracking for taxation purposes;

d. Operation at both geographical locations does not exceed 180 days, unless Licensee demonstrates good cause to extend the deadline an additional 180 days; and

e. The Licensee obtains a transition permit pursuant to this Rule and any local permit or license, as required by the Local Licensing Authority or Local Jurisdiction.

3. Change of Location in the Same Local Jurisdiction. If the change of location is within the same local jurisdiction, the Licensee must:

a. First obtain a transition permit pursuant to this Rule; and

b. If required by the Local Licensing Authority or Local Jurisdiction, obtain a transition permit or other form of approval from the Local Licensing Authority or Local Jurisdiction.

4. Change of Location to a Different Local Jurisdiction. If the change of location is to a different local jurisdiction, the Licensee must:

a. First obtain a license from the Local Licensing Authority or Local Jurisdiction where the Licensee intends to locate;

b. Obtain a transition permit pursuant to this Rule; and

c. If required by the Local Licensing Authority or Local Jurisdiction, obtain a transition permit or other form of approval from the Local Licensing Authority or Local Jurisdiction for the local jurisdiction where it intends to locate.

5. Conduct at either location may be basis for fine, suspension, revocation, or other sanction against the License.

E. Violation Affecting Public Safety. It is a violation affecting public safety if a Regulated Marijuana Business changes the location of its Licensed Premises without first obtaining a change of location permit from the Division, and any required approval(s) from the Local Licensing Authority and/or Local Jurisdiction.

Basis and Purpose – 2-260

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(e), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(h), 44-10-203(2)(w), 44-10-305, 44-10-313(8)(b), and 44-10-313(2) C.R.S. The purpose of this rule is to establish guidelines for changing, altering, modifying, or transitioning the Licensed Premises. This Rule 2-260 was previously Rules M and R 303, 1 CCR 212-1 and 1 CCR 212-2.

2-260 – Changing, Altering, or Modifying Licensed Premises

A. Application Required to Change, Alter, or Modify Licensed Premises. After obtaining a license, the Licensee shall make no physical change, alteration, or modification of the Licensed Premises that significantly alters the Licensed Premises or the usage of the Licensed Premises from the plans originally approved, without the Division's prior written approval and, written approval or written acknowledgement from the relevant Local Licensing Authority or Local Jurisdiction. The Licensee whose Licensed Premises are to be significantly changed is responsible for filing an application for approval on current forms provided by the Division. Changes to the Licensed

Premises which do not require an application must be disclosed on a floorplan submitted with the Licensee's renewal application.

B. What Constitutes a Significant Change. This Rule does not exempt Licensees from complying with any Local Licensing Authority or Local Jurisdiction requirements regarding changes, alterations, or modifications to the Licensed Premises. Significant changes, alterations, or modifications requiring Division approval include, but are not limited to, the following:

1. Any increase or decrease in the total physical size or capacity of the Licensed Premises;

2. The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, walk-up window or drive-up window, when such common entryway, doorway, passage, walk-up or drive-up window alters or changes Limited Access Areas, such as the cultivation, harvesting, manufacturing, testing, or sale of Regulated Marijuana within the Licensed Premises; or

3. Any physical modification of the Licensed Premises which would require the installation of additional video surveillance cameras. *See* Rule 3-225 – Video Surveillance.

C. Attachments to Application. The Division and relevant Local Licensing Authority or Local Jurisdiction may grant approval for the types of changes, alterations, or modifications described herein upon the filing of an application by the Licensee and payment of any applicable fee. The Licensee must submit all information requested by the Division, including but not limited to, documents that verify the following:

1. The Licensee will continue to have possession of the Licensed Premises, as changed, by ownership, lease, or rental agreement; and

2. The proposed change conforms to any local restrictions related to the time, manner, and place of Regulated Marijuana Business regulation.

D. Application Required to Change Mobile Premises. After obtaining a License, a Marijuana Hospitality Business Licensee must apply for Division approval to change the Mobile Premises. The Licensee whose Mobile Premises is to be changed is responsible for filing an application for approval on current forms provided by the Division.

1. The Application to change Mobile Premises must include the following:

a. Documentation that the Mobile Premises is owned or leased by the Marijuana Hospitality Business;

b. The vehicle manufacturer/make, model, and model year associated with the Mobile Premises;

c. The vehicle identification number (VIN) associated with the Mobile Premises;

d. The Colorado license plate number and copy of the registration associated with the Mobile Premises;

e. If applicable, the automatic vehicle identification tag associated with the Mobile Premises;

f. A copy of a valid permit issued by the Public Utilities Commission to the Marijuana Hospitality Business; and

g. Information demonstrating the proposed Mobile Premises meets the requirements in Rule 6-940(E).

Basis and Purpose – 2-265

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(2)(b)-(c), 44-10-203(2)(e), 44-10-203(2)(t)-(u), 44-10-203(2)(w), 44-10-307, 44-10-308(2), 44-10-313(6), 44-10-401(2)(c), 44-10-901(1), 24-76.5-101 *et seq*., C.R.S. Historically, natural persons who held an Owner's Interest in a Regulated Marijuana Business were required to hold an Associated Key License. This Rule transitions the Associated Key designation to an Owner License designation after August 1, 2019. The purpose of this rule is to clarify the requirements and procedures a Person must follow when applying for or possessing either an Owner License or an Employee License. This rule also identifies factors the State Licensing Authority will consider in determining whether a natural person is a resident and whether such person possess good moral character.

2-265 – Owner and Employee License: License Requirements, Applications, Qualifications, and Privileges

A. Repealed.

B. Owner Licenses Required.

1. Each Controlling Beneficial Owner must hold a valid Owner License.

2. If a Controlling Beneficial Owner is an Entity, then its Executive Officer(s) and any natural person who indirectly holds ten percent or more of the Owner's Interests in the Regulated Marijuana Business must also hold a valid Owner's License.

a. The existence of an Owner Entity does not relieve the Owner Licensees from responsibility for acts and violations of the Regulated Marijuana Business.

3. A Passive Beneficial Owner who is a natural person may elect to hold an Owner License and obtain an Owner Identification Badge provided that such Person agrees to be disclosed as holding an Owner's Interest in the Regulated Marijuana Business.

4. Only Controlling Beneficial Owners and Passive Beneficial Owners can obtain an Owner License.

C. Owner License and Identification Badge or Employee License and Identification Badge Required. The following natural persons must possess a valid Owner License and Identification Badge or an Employee License and Identification Badge:

1. Any natural person who possesses, cultivates, manufactures, tests, dispenses, sells, serves, transports, or delivers Regulated Marijuana or Regulated Marijuana Products as permitted by privileges of a Regulated Marijuana Business license;

2. Any natural person who has access to the Inventory Tracking System or a Regulated Marijuana Business point-of-sale system; and

3. Any natural person with unescorted access in the Limited Access Area.

D. Escort or Monitoring Required.

1. Any natural person in a Limited Access Area that does not have a valid Owner License and Identification Badge or an Employee License and Identification Badge is a visitor and

must be escorted at all times by a person who holds a valid Owner License and Identification Badge or Employee License and Identification Badge. Failure by a Regulated Marijuana Business to continuously escort an individual who does not have a valid Owner License and Identification Badge or an Employee License and Identification Badge in the Limited Access Area is a license violation affecting public safety.

2. Patients, their caregiver, and consumers in a Restricted Access Area and third-party vendors in a Limited Access Area do not need to be escorted at all times but must be reasonably monitored to ensure compliance with these rules.

E. Employee License Required to Commence or Continue Employment. Any natural person required to obtain an Employee License by these rules must obtain such license before commencing activities permitted by an Employee License.

1. Conditional License. Applicants for an Employee License may be issued a conditional License and Identification Badge upon results of an initial investigation that demonstrates the Applicant is qualified to hold such License in compliance with Rule 2-215, subject to the following requirements:

i. Applications for a conditional Employee License must be submitted in person to the Division to facilitate the issuance and physical transfer of the conditional License to the Applicant. Applications for a conditional Employee License must be accompanied by the Conditional Employee License Fee in Rule 2-205.

ii. The Employee's application remains subject to a Notice of Denial pending the complete results of the Applicant's initial fingerprint-based criminal history record check.

iii. If the Division issues the Applicant a Notice of Denial, the Employee License Applicant shall return the conditional License and Identification Badge within seven (7) days of the Division's mailing of the Notice of Denial.

F. Owner License and Employee License Identification Badges Are Property of the State Licensing Authority. All Owner Licenses and Employee Licenses, and all Identification Badges are property of the State Licensing Authority.

G. Owner and Employee Initial and Renewal Applications Required. Owner Licensees and Employee Licensees must submit initial license applications and renewal applications on Division forms and in accordance with this Rule and Rules 2-215, 2-220, and 2-225.

H. Licenses Requiring Proof of Residency. Where a license issued by the State Licensing Authority requires the Applicant to establish Colorado residency, an Applicant may demonstrate residency by the following methods including, but are not limited to:

1. Current valid Colorado driver's license or current Colorado identification card with a current address; or

2. A government issued photo identification and two of the following documents showing the Applicant's correct name, current date, and current Colorado address:

a. Utility bill or phone bill;

b. Car registration;

c. Voter registration card;

d. Statement from a major creditor;

e. Bank statement;

f. Recent County tax notice;

g. Recent contract/mortgage statement.

I. Owner License Qualifications and Privileges.

1. Owner License Qualifications. Each Controlling Beneficial Owner, or Passive Beneficial Owner who elects to be subject to disclosure and licensure, must meet the following criteria before receiving an Owner License:

a. The Applicant is not prohibited from licensure pursuant to section 44-10-307, C.R.S.;

b. The Applicant has not been a State Licensing Authority employee with regulatory oversight responsibilities for Persons licensed by the State Licensing Authority in the six months immediately preceding the date of the Applicant's application;

c. The Division has not received notice that the Applicant has failed to comply with a court or administrative order for current child support, child support debt, retroactive child support, or child support arrearages. If the Division receives notice of the Applicant's noncompliance pursuant to sections 24-35-116 and 26-13-126, C.R.S., the application may be denied or delayed until the Applicant has established compliance with the order to the satisfaction of the state child support enforcement agency.

d. Each Controlling Beneficial Owner required to hold an Owner License, and any Passive Beneficial Owner that elects to hold an Owner License, must be fingerprinted at least once every two years, and may be fingerprinted more often at the Division's discretion.

i. Repealed.

e. An Owner Licensee who exercises day-to-day operational control on the Licensed Premises of a Regulated Marijuana Business must possess an Identification Badge and must establish and maintain Colorado residency. Proof of residency may be accomplished by submission of the documents identified in Rule 2-265(H). A Controlling Beneficial Owner will not be deemed to exercise day-to-day operational control by reason of holding a title defined as an Executive Officer.

2. Owner License Exercising Privileges of an Employee License. A natural person who holds an Owner License and Identification Badge may exercise the privileges of an Employee License in a Regulated Marijuana Business, subject to the following limitations:

a. If the Owner Licensee is not a Controlling Beneficial Owner of the Regulated Marijuana Business for which he or she is seeking to exercise the privileges of an Employee License, the Owner Licensee may exercise such Employee License privileges regardless of that Person's residency.

b. If the Owner Licensee is a Controlling Beneficial Owner of the Regulated Marijuana Business for which he or she is seeking to exercise the privileges of an

Employee License, the Owner Licensee may only exercise such Employee License privileges if he or she is a Colorado resident.

3. Business License Required. A natural person cannot hold an Owner License without holding a Regulated Marijuana Business license, or without at least submitting an application for a Regulated Marijuana Business license.

J. Employee License Qualifications and Privileges.

1. Employee License Qualifications and Requirements. An Employee License Applicant must meet the following criteria before receiving an Employee License:

a. The Applicant is not prohibited from licensure pursuant to section 44-10-307, C.R.S.;

b. The Applicant has not been a State Licensing Authority employee with regulatory oversight responsibilities for Persons licensed by the State Licensing Authority in the six months immediately preceding the date of the Applicant's application.

c. The Division has not received notice that the Applicant has failed to comply with a court or administrative order for current child support, child support debt, retroactive child support, or child support arrearages. If the Division receives notice of the Applicant's noncompliance pursuant to sections 24-35-116 and 26-13-126, C.R.S., the application may be denied or delayed until the Applicant has established compliance with the order to the satisfaction of the state child support enforcement agency.

2. Medical and Retail Employee Licenses. A natural person who holds a current, valid Employee License and Identification Badge issued pursuant to the Marijuana Code may work in any Regulated Marijuana Business.

K. Owner Licensees and Employee Licensees Required to Maintain Licensing Qualification. An Owner Licensee or Employee Licensee's failure to maintain qualifications for licensure may constitute grounds for discipline, including but not limited to, suspension, revocation, or fine.

L. Evaluating a Natural Person's Good Moral Character Based on Criminal History.

1. In evaluating whether a Person is prohibited from holding a license pursuant to subsections 44-10-307(1)(b) or (c), C.R.S., based on a determination that the person's criminal history indicates she or he is not of Good Moral Character, the Division will not consider the following:

a. The mere fact a person's criminal history contains an arrest(s) or charge(s) of a criminal offense that is not actively pending;

b. A conviction of a criminal offense in which the Applicant/Licensee received a pardon;

c. A conviction of a criminal offense which resulted in the sealing or expungement of the record;

d. A conviction of a criminal offense in which a court issued an order of collateral relief specific to the application for state licensure;

e. A civil judgment or criminal conviction, discipline, or other sanction imposed under the laws of another state regarding consumption, possession, cultivation, or processing of marijuana that is lawful and consistent with professional conduct and standards of care within the State of Colorado; or

f. The Applicant has been adjudicated for committing a delinquent act in a juvenile proceeding.

2. In evaluating whether a Person is prohibited from holding a license pursuant to subsections 44-10-307(1)(b) or (c), C.R.S., based on a determination that the person's criminal history indicates he or she is not of Good Moral Character, the Division may consider the following history:

a. Any felony conviction(s), except as set forth in Rule 2-265(L)(1)(e) and 2-265(L)(1)(f);

b. Any conviction(s) of crimes involving moral turpitude;

c. Pertinent circumstances connected with the conviction(s); and

d. Conduct underlying arrest(s) or charge(s) or a criminal offense for which the criminal case is not actively pending.

3. When considering criminal history in subparagraph (L)(2) above, the Division will consider:

a. Whether there is a direct relationship between the conviction(s) and the duties and responsibilities of holding a state license issued pursuant to the Marijuana Code;

b. Any information provided to the Division regarding the person's rehabilitation, which may include but is not limited to the following non-exhaustive considerations:

i. Character references;

ii. Educational, vocational, and community achievements, especially those achievements occurring during the time between the person's most recent criminal conviction and the application for a state license;

iii. Successful participation in an alcohol and drug treatment program;

iv. That the person truthfully and fully reported the criminal conduct to the Division;

v. The person's employment history after conviction or release, including but not limited to whether the person was vetted and approved to hold a state or out-of-state license for the purposes of employment in a regulated industry;

vi. The person's successful compliance with any conditions of parole or probation imposed after conviction or release; or

vii. Any other facts or circumstances tending to show the Applicant has been rehabilitated and is ready to accept the responsibilities of a law-abiding and productive member of society.

Basis and Purpose – 2-270

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(l)-(m), 44-10-203(2)(w), 44-10-305, 44-10-306, 44-10-307, 44-10-313(8), 24-4-104, and 24-4-105, C.R.S. The purpose of this rule is to clarify the procedures and factors governing the denial process and voluntary withdrawal process for all licenses issued by the State Licensing Authority. This Rule 2-270 is similar to the previous Rules M and R 251, 1 CCR 212-1 and 1 CCR 212-2.

2-270 – Application Denial, Voluntary Withdrawal, and Effect of License Surrender or Revocation on Related Applications

A. Applicant Bears the Burden of Proving It Meets Licensure Requirements. A License issued to a Person or a Regulated Marijuana Business is a revocable privilege. At all times during the application process, an Applicant must be capable of establishing it is qualified to hold a License.

B. Applicants Must Provide Information to the Division in a Full, Faithful, Truthful, and Fair Manner. An application may be denied where the Applicant made misstatements, omissions, misrepresentations, or untruths in the application or in connection with the Applicant's suitability investigation. Providing misstatements, misrepresentations, omissions, or untruths to the Division may be the basis for administrative action, or the basis of criminal charges against the Applicant.

C. Grounds for Denial.

1. The State Licensing Authority will deny an application for Good Cause.

2. The State Licensing Authority will deny an application from an Applicant that is statutorily disqualified from holding a license.

3. The State Licensing Authority will deny an application where the Applicant failed to provide all required information or documents, failed to obtain all required findings of suitability prior to submitting the application, provided inaccurate, incomplete, or untruthful information or documents, or failed to cooperate with the Division.

D. Voluntary Withdrawal of Application.

1. The Division and Applicant may mutually agree to allow the voluntary withdrawal of an application in lieu of a denial proceeding.

2. Applicants must first submit a form to the Division requesting the voluntary withdrawal of the application. Applicants will submit the form with the understanding that they were not obligated to request the voluntary withdrawal and that any right to a hearing in the matter is waived once the voluntary withdrawal is approved.

3. The Division will consider the request along with any circumstances at issue with the application in making a decision to accept the voluntary withdrawal. The Division may at its discretion grant the request with or without prejudice or deny the request.

4. The Division will notify the Applicant of its acceptance of the voluntary withdrawal and the terms thereof.

5. If the Applicant agrees to a voluntary withdrawal granted with prejudice, then the Applicant is not eligible to apply again for licensing or approval until after expiration of one year from the date of such voluntary withdrawal.

E. A Denied Applicant May Appeal a Denial. A Denied Applicant may appeal a denial pursuant to the Administrative Procedure Act.

F. Effect of License Surrender or Revocation on Related Applications. If a License is voluntarily surrendered or revoked, and there are related applications that are seeking some change to that License (including, but not limited to, renewal, change of Controlling Beneficial Owner, modification of Licensed Premises, or change of location) pending Final Agency Order, the related applications become moot and those moot applications will be closed by the Division without further action or notification to the Applicant.

Basis and Purpose – 2-275

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(b)-(c), 44-10-203(1)(k), 44-10-203(2)(q), 44-10-203(2)(t), 11-10-310, 44-10-401(3)(a)-(d), C.R.S. The purpose of this rule is to establish procedures and requirements for any Person appointed by a court as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person acting in accordance with sections 44-10-401(3)(a)-(d), C.R.S., and authorized by court order to take possession of, operate, manage, or control a Regulated Marijuana Business. This Rule 2-275 was previously Rules M and R 253, 1 CCR 212-1 and 1 CCR 212-2.

2-275 – Temporary Appointee Registrations for Court Appointees

A. Notice and Application Requirements for All Court Appointees.

1. Notice to the State and Local Licensing Authorities. Within seven days of accepting an appointment as a Court Appointee pursuant to sections 44-10-401(3), C.R.S., such Court Appointee must file a notice to the State Licensing Authority and the applicable Local Licensing Authority on a form required by the State Licensing Authority which must include at least:

a. A copy of the order appointing the Court Appointee;

b. A statement affirming the Court Appointee complied with the certification required by section 44-10-401(3)(a), C.R.S.;

c. If the Court Appointee is an entity, a list of all natural persons responsible for taking possession of, operating, managing, or controlling the Regulated Marijuana Business; and

d. A complete list of all Regulated Marijuana Businesses for which the Court Appointee was appointed and the respective dates during which the Court Appointee is currently serving, or has previously served, as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person.

2. Application for Finding of Suitability. Within 14 days of accepting an appointment as a Court Appointee pursuant to section 44-10-401(3), C.R.S., each Court Appointee must file an application for a finding of suitability with the State Licensing Authority on forms required by the State Licensing Authority. Each entity and natural person for whom a notice was filed pursuant to Rule 2-275(A) must file an application for a finding of suitability. The Division may in its discretion extend the 14-day deadline to file an

application for a finding of suitability upon a showing of good cause. The Division may also in its discretion rely upon a recent licensing background investigation for Court Appointees that currently hold a license or Temporary Appointee Registration issued by the State Licensing Authority and may waive all or part of the application fee accordingly.

3. Effective Date. The Temporary Appointee Registration will be issued following the State Licensing Authority's receipt of the notice required by Rule 2-275(A)(1) and is effective as of the date of the court appointment.

B. Temporary Appointee Registration.

1. Entities. If the Court Appointee is an entity, the entity and all natural persons responsible for taking possession of, operating, managing, or controlling the Regulated Marijuana Business must receive a Temporary Appointee Registration. Every Court Appointee that is an entity must have at least one natural person with a Temporary Appointee Registration.

2. Temporary Appointee Registrations. Every Temporary Appointee Registration issued to a Person will be treated as an Owner License except where inconsistent with section 44-10-401(3), C.R.S., or this Rule.

3. Other employees. Any other person working under the direction of a Court Appointee who possesses, cultivates, manufactures, tests, dispenses, sells, serves, transports, researches, or delivers Regulated Marijuana as permitted by privileges granted under a Regulated Marijuana Business license must have a valid Employee License.

4. Licensed Premises. A Court Appointee cannot establish an independent Licensed Premises but is authorized to exercise the privileges of the Temporary Appointee Registration in the Licensed Premises of the Regulated Marijuana Business for which it is appointed.

5. Medical Marijuana Business Operators or Retail Marijuana Business Operators. A Court Appointee may retain a Medical Marijuana Business Operator or a Retail Marijuana Business Operator. If the Medical Marijuana Business Operator or Retail Marijuana Business Operator is the Court Appointee, see subparagraph E of this Rule.

6. Marijuana Code and Rules Applicable. Court Appointees are subject to the requirements of the Marijuana Code and the rules promulgated thereto. Except where inconsistent with section 44-10-401(3), C.R.S., or this Rule, the State Licensing Authority may take any action with respect to a Temporary Appointee Registration that it could take with respect to any license issued under the Marijuana Code. In any action involving a Temporary Appointee Registration, these rules will be read to include the terms "registered", "registration", "registrant", or any other similar terms in lieu of "licensed", "licensee", and any other similar terms as the context requires when applied to a Temporary Appointee Registration.

C. Administrative Actions.

1. Suspension, Revocation, Fine, or Other Administrative Action Regarding a Regulated Marijuana Business. In addition to any other basis for suspension, revocation, fine, or other administrative action, a Regulated Marijuana Business's license may, pursuant to subsections 44-10-202(1)(b), 44-10-401(3)(b), and 44-10-901(1), C.R.S., be suspended, revoked, fined, or subject to other administrative action based upon its Court Appointee's violations of the Marijuana Code, the rules promulgated pursuant to the Marijuana Code, the terms, conditions, or provisions of the Temporary Appointee Registration issued by

the State Licensing Authority, or any order of the State Licensing Authority. Grounds for discipline include, but are not limited to, the Court Appointee's failure to timely notify the Division of the appointment or failure to timely apply for and obtain a finding of suitability. Such administrative action may occur even after the Temporary Appointee Registration is expired or surrendered, if the action is based upon an act or omission that occurred while the Temporary Appointee Registration was in effect.

2. Suspension, Revocation, Fine, or Other Administrative Action Regarding a Temporary Appointee Registration. In addition to any other basis for suspension, revocation, fine, or other administrative action, a Temporary Appointee Registration may, pursuant to subsections 44-10-202(1)(b), 44-10-401(3)(b), and 44-10-901(1), C.R.S., be suspended, revoked, or subject to other administrative action based upon the Court Appointee's violations of the Marijuana Code or the Rules promulgated pursuant to the Marijuana Code, the terms, conditions, or provisions of the Temporary Appointee Registration issued by the State Licensing Authority, or any order of the State Licensing Authority. Grounds for discipline include, but are not limited to, the Court Appointee's failure to timely notify the Division of the appointment or failure to timely apply for and obtain a finding of suitability. Such administrative action may occur even after the Temporary Appointee Registration is expired or surrendered, if the action is based upon an act or omission that occurred while the Temporary Appointee Registration was in effect. If a Person holding a Temporary Appointee Registration also holds any other Owner License or Employee License, the Owner License, the Employee License, and the Temporary Appointee Registration may be suspended, revoked, fined, or subject to other administrative action for any violations of the Marijuana Code or the rules promulgated pursuant to the Marijuana Code, the terms, conditions, or provisions of the Temporary Appointee Registration, Owner License, and/or Employee License issued by the State Licensing Authority, or any order of the State Licensing Authority.

3. Suitability. If the State Licensing Authority denies an application for a finding of suitability because the Court Appointee failed to timely apply for a finding of suitability, failed to timely provide all information requested by the Division in connection with an application for a finding of suitability, or was found unsuitable, the State Licensing Authority may also pursue administrative action as set forth in this Rule.

4. Court Appointee's Responsibility to Notify Appointing Court. The Court Appointee must notify the appointing court of any action taken against the Temporary Appointee Registration by the State Licensing Authority pursuant to sections 44-10-901 or 24-4-104, C.R.S., within two business days. Such actions include, without limitation, the issuance of an Order to Show Cause, the issuance of an Administrative Hold, the issuance of an Order of Summary Suspension, the issuance of an Initial Decision by the Department's Hearings Division, or the issuance of a Final Agency Order by the State Licensing Authority. The Court Appointee must forward a copy of such notification to the Division at the same time the notification is made to the appointing court.

D. Expiration and Renewal.

1. Conclusion of Court Appointment. A Court Appointee's Temporary Appointee Registration expires upon the conclusion of a Court Appointee's court appointment. Each Court Appointee and each Regulated Marijuana Business that has a Court Appointee must notify the State Licensing Authority within two business days of the date on which a Court Appointee's court appointment ends, whether due to termination of the appointment by the court, substitution of another Court Appointee, closure of the court case, or otherwise. For a Court Appointee that is appointed in connection with multiple court cases, the notice must be filed with the State Licensing Authority with respect to each such case.

2. Annual Renewal. If it has not yet expired pursuant to Rule 2-270(D)(1), each Temporary Appointee Registration is valid for one year, after which it must be subject to annual renewal in accordance with the Marijuana Code and the rules promulgated pursuant to the Marijuana Code. If a Court Appointee is appointed in connection with multiple court cases, the Temporary Appointee Registration is subject to annual renewal unless all such appointments have ended, whether due to termination of the appointments by the courts, substitution of other Court Appointees, closure of the court cases, or otherwise.

3. Other Termination. A Temporary Appointee Registration may be valid for less than the applicable term if surrendered, revoked, suspended, or subject to similar action.

E. Medical Marijuana Business Operators and/or Retail Marijuana Business Operators as Court Appointees. By virtue of its privileges of licensure, a Medical Marijuana Business Operator, a Retail Marijuana Business Operator, and their respective Owner Licensees may serve as Court Appointees without a Temporary Appointee Registration subject to the following terms:

1. Notice to the State Licensing Authority of Appointment. The Medical Marijuana Business Operator or the Retail Marijuana Business Operator, and its Owner Licensee(s) are responsible for notifying the State Licensing Authority within seven days of any court appointment to serve as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person and take possession of, operate, manage, or control a Regulated Marijuana Business. Such notice must be accompanied by a copy of the order making the appointment and must identify each Regulated Marijuana Business regarding which the Medical Marijuana Business Operator and/or Retail Marijuana Business Operator is appointed.

2. Notice to the Appointing Court of State Licensing Authority Action. The Medical Marijuana Business Operator or the Retail Marijuana Business, and its Owner Licensee(s) are responsible for notifying the appointing court of any action taken against the Medical Marijuana Business Operator license, the Retail Marijuana Business Operator license and/or the Owner License by the State Licensing Authority pursuant to sections 44-10-901 or 24-4-104, C.R.S., within two business days. Such actions include, without limitation, the issuance of an Order to Show Cause, the issuance of an Administrative Hold, the issuance of an Order of Summary Suspension, the issuance of an Initial Decision by the Department's Hearings Division, or the issuance of a Final Agency Order by the State Licensing Authority. The Medical Marijuana Business Operator, the Retail Marijuana Business Operator and its Owner Licensee(s) must forward a copy of such notification to the Division at the same time the notification is made to the appointing court.

Basis and Purpose – 2-280

The statutory basis for this rule includes but is not limited to sections 44-10-203(2)(c), 44-10-203(2)(l), 44-10-203(2)(t), 44-10-203(2)(ee)(D), 44-10-203(7), 44-10-307, 44-10-309(4)-(5), 44-10-310(5) and (11), 44-10-313(8)(a), and 44-10-901, C.R.S. The purpose of this rule is to clarify the conditions and procedures for divestiture of any Person prohibited from holding a license under section 44-10-307, C.R.S., or who is found unsuitable by the State Licensing Authority. This rule also requires that every Regulated Marijuana Business have at least one Controlling Beneficial Owner and provides what happens in the event of suspension of a Regulated Marijuana Business's Controlling Beneficial Owner(s). Finally, this rule provides that Licensees cannot have unlicensed persons take actions on their behalf or for their benefit that the Licensees themselves are prohibited from taking under these rules or the Marijuana Code.

2-280 – Controlling Beneficial Owners that are Persons Prohibited, Unsuitable, Revoked, or Suspended; At Least One Controlling Beneficial Owner Holding a Valid Owner License Required; and Prohibited Third-Party Acts

A. Controlling Beneficial Owners That Are Persons Prohibited, Unsuitable, or Revoked.

1. Less than 100% of all Controlling Beneficial Owners – Divestiture. If less than 100% of a Regulated Marijuana Business's Controlling Beneficial Owners are or become a Person prohibited from holding a license by these Rules or the Marijuana Code, have his or her Owner License revoked by a Final Agency Order, or are found unsuitable, the Regulated Marijuana Business must divest all of the Beneficial Ownership of that Controlling Beneficial Owner.

    a. Unless extended for good cause, within 90 days of a Controlling Beneficial Owner becoming a Person prohibited from holding a license, having his or her Owner License revoked, or being found unsuitable, the Regulated Marijuana Business must either:

        i. Submit a change of owner application, where required, and any document(s) necessary to transfer all of that Controlling Beneficial Owner's Interests to one or more Persons that are not prohibited from holding a license or unsuitable. Any required change of owner application is subject to approval by the Division; or

        ii. Where a change of owner application is not required, transfer all of that Controlling Beneficial Owner's Interests to one or more Persons that are not a Person prohibited from holding a license or unsuitable.

    b. In determining whether good cause for an extension exists, the Division will consider whether there is any Owner Interest buy-back provision with the Controlling Beneficial Owner. If mediation, arbitration, or a legal proceeding has been initiated regarding the required divestiture, the 90-day deadline is extended until 90 days following execution of a settlement agreement, arbitration order, or final judgment concluding the mediation, arbitration, or legal proceeding.

    c. A Regulated Marijuana Business that is a Publicly Traded Corporation must have a divestiture plan with its Controlling Beneficial Owners which must be disclosed to the Division pursuant to Rule 2-220(A).

    d. A Regulated Marijuana Business that fails to divest a Controlling Beneficial Owner as required by this Rule may be subject to denial, fine, suspension, or revocation of its license(s). The State Licensing Authority may consider aggravating and mitigating factors surrounding measures taken to divest the unsuitable or Person prohibited from holding a license when determining the imposition of a penalty. However, a Regulated Marijuana Business that is unable to divest a Controlling Beneficial Owner that is a Person prohibited from holding a license or found unsuitable is prohibited from being issued or holding a license.

2. All Controlling Beneficial Owners are Unsuitable, Revoked, or Persons Prohibited From Holding a License. A Regulated Marijuana Business's License may be revoked if 100% of its Controlling Beneficial Owners are found unsuitable, have his or her Owner's License revoked, or are Persons prohibited from holding a license by these Rules or the Marijuana Code.

B. Suspension of Controlling Beneficial Owners.

1. Suspension of Less than 100% of the Controlling Beneficial Owner(s) of a Regulated Marijuana Business. In the event of the suspension of the Owner License of a Controlling Beneficial Owner, either (i) the Regulated Marijuana Business must comply with all

requirements of Rule 8-210 – Disciplinary Process: Summary Suspensions, or (ii) the non-suspended Owner Licensee(s) must control the Regulated Marijuana Business without participation from the suspended Controlling Beneficial Owner(s).

2. Suspension of 100% of the Controlling Beneficial Owners of a Regulated Marijuana Business. A Regulated Marijuana Business cannot operate or Transfer Regulated Marijuana if all Controlling Beneficial Owners are suspended.

C. At Least One Controlling Beneficial Owner Holding a Valid Owner License Required. No Regulated Marijuana Business may operate or be licensed unless it has at least one Controlling Beneficial Owner who holds a valid Owner License.

D. Loss Of Owner License As A Controlling Beneficial Owner Of Multiple Businesses. If an Owner License is suspended, revoked, or found unsuitable as to one Regulated Marijuana Business, that Owner License is automatically suspended, revoked, or found unsuitable as to any other Regulated Marijuana Business in which that Person is a Controlling Beneficial Owner.

E. Prohibited Third-Party Acts. No Licensee may employ, contract with, hire, or otherwise retain any Person, including but not limited to an employee, agent, or independent contractor, to perform any act or conduct on the Licensee's behalf or for the Licensee's benefit if the Licensee is prohibited by law or these rules from engaging in such conduct itself.

1. A Licensee may be held responsible for all actions and omissions of any Person the Licensee employs, contracts with, hires, or otherwise retains, including but not limited to an employee, agent, or independent contractor, to perform any act or conduct on the Licensee's behalf or for the Licensee's benefit.

2. A Licensee may be subject to license denial or administrative action, including but not limited to fine, suspension, or revocation of its license(s), based on the act and/or omissions of any Person the Licensee employs, contracts with, hires, or otherwise retains, including but not limited to an employee, agent, or independent contractor, to perform any act or conduct on the Licensee's behalf or for the Licensee's benefit.

Basis and Purpose – 2-285

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(aa), 44-10-310(2), and 44-10-311(2), 44-10-401(2)(b)(I), 44-10-401(2)(b)(VII), 44-10-401(2)(b)(VIII), 44-10-607, 44-10-608, 44-10-611 C.R.S. The purpose of this rule is to establish requirements for Accelerator-Endorsed Licensees participating in the accelerator program.

2-285 – Accelerator Endorsement Application, Qualification, and Eligibility

A. Beginning January 1, 2021, Retail Marijuana Store Licensees, Retail Marijuana Cultivation Facility Licensees, and Retail Marijuana Products Manufacturers Licensees may apply for an endorsement to participate in the accelerator program. The application shall be made on Division forms and in accordance with the 2-200 Series Rules.

B. Qualifications and Eligibility. The State Licensing Authority may consider the following facts and circumstances for purposes of determining a Licensees' qualifications and eligibility to be an Accelerator-Endorsed Licensee.

1. The Applicant has not, in the previous two years, been subject to a license revocation or active suspension issued by the State Licensing Authority, any Local Licensing Authority or Local Jurisdiction, or any other state in which it operated.

2. Information demonstrating the Applicant operated its license for at least two years prior to the date of application; or if the Applicant is unable to demonstrate operations for a period of at least two years, it must satisfy at least one of the following:

    a. The Applicant possesses a valid commercial marijuana license issued in another state and has operated such license for the preceding two years;

    b. For the preceding two years the Applicant has participated in an accelerator, incubator, or social equity program that may, but is not required to be, associated with the commercial marijuana industry;

    c. The Applicant has at least two years of regulated cannabis industry experience at a managerial or executive level; or

    d. The Applicant has at least two years of business experience in a highly regulated industry other than the marijuana industry.

C. Application Requirements. In addition to all other application requirements outlined in the 2-200 Series Rules, an application to become an Accelerator-Endorsed Licensee must include the Applicant's equity assistance proposal, containing the information required by the 3-1100 Series Rules.

D. The Division will maintain a list of Accelerator-Endorsed Licensees on its website. By submitting an application to become an Accelerator-Endorsed Licensee, the Applicant authorizes the State Licensing Authority to publish the Applicant's name on the Division's website.

Part 3 – Regulated Marijuana Business Operations

3-100 Series – General Privileges and Limitations

Basis and Purpose – 3-105

The statutory authority for this rule includes but is not limited to sections 44-10-102(2), 44-10-102(3), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-401(2), 44-10-701(2)(a), 44-10-701(2)(c), and 44-10-701(3)(e), C.R.S. The purpose of this rule is to establish that it is unlawful for any Regulated Marijuana Business Licensee to exercise any privileges other than those granted to it by the State Licensing Authority.

3-105 – Regulated Marijuana Businesses: Privileges Granted

A Regulated Marijuana Business shall only exercise those privileges granted to it by the State Licensing Authority.

Basis and Purpose – 3-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-401(2), 44-10-701(1)(a), 44-10-701(3)(d), and 44-10-701(3)(f), C.R.S. The purpose of this rule is to clarify that, except for in a Licensed Hospitality Business, it is unlawful for a Regulated Marijuana Business to allow consumption on the Licensed Premises.

3-110 – Regulated Marijuana Businesses: General Restrictions

A. Consumption Prohibited.

1. Applicability. This subparagraph (A) applies to all Regulated Marijuana Businesses, except Licensed Hospitality Businesses.

2. Licensees shall not permit the consumption of marijuana or marijuana product on the Licensed Premises or in transport vehicles, including any Sampling Units Transferred to a Sampling Manager.

B. Alcohol Beverage License Prohibited. A Person may not operate a license issued pursuant to the Marijuana Code and these rules at the same Licensed Premises as a license or permit issued pursuant to article 3, 4 or 5 of Title 44.

Basis and Purpose – 3-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-401(2), and 44-10-701(2)(a), C.R.S. The purpose of this rule is to clarify those acts that are limited or prohibited in some way and to make clear that a Regulated Marijuana Business shall not offer or receive complimentary Regulated Marijuana from a licensed transporter.

3-115 – Transporter Transfer Restriction

A Licensee shall not sell or give away Regulated Marijuana to a Medical Marijuana Transporter or Retail Marijuana Transporter, and shall not buy, or receive, complimentary Regulated Marijuana from a Medical Marijuana Transporter or Retail Marijuana Transporter.

3-200 Series – Licensed Premises

Basis and Purpose – 3-205

The statutory authority for this rule includes but is not limited to sections 44-10-103(14), 44-10-103(26), 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(p), and 44-10-203(2)(t), C.R.S. The purpose of this rule is to establish Limited Access Areas for Licensed Premises under the control of the Licensee to only individuals licensed by the State Licensing Authority. In addition, this rule clarifies that businesses and individuals cannot use the visitor system as a means to employ an individual who does not possess a valid and current Employee License. This Rule was previously Rules M and R 301, 1 CCR 212-1 and 1 CCR 212-2.

3-205 – Limited Access Areas

A. Proper Display of Identification Badge. All Persons in a Limited Access Area as provided for in section 44-10-103(26) C.R.S., shall be required to hold and properly display a current Identification Badge issued by the Division at all times. Proper display of the Identification Badge shall consist of wearing the badge in a plainly visible manner, at or above the waist, and with the photo of the Licensee visible. The Licensee shall not alter, obscure, damage, or deface the badge in any manner.

B. Visitors in Limited Access Areas.

1. Prior to entering a Limited Access Area, all visitors, including outside vendors, contractors or others, must obtain a visitor identification badge from management personnel of the Licensee that shall remain visible while in the Limited Access Area.

2. Visitors shall be escorted by the Regulated Marijuana Business's licensed personnel at all times. No more than five visitors may be escorted by a single employee. Except that trade craftspeople, including but not limited to ancillary business operators, not normally

engaged in the business of cultivating, processing, or selling Regulated Marijuana need not be accompanied on a full-time basis, but only reasonably monitored.

3. A Regulated Marijuana Business and all Licensees employed by the Regulated Marijuana Business shall report to the Division any discovered plan or other action of any Person to (1) commit theft, burglary, underage sales, diversion of marijuana or marijuana product, or other crime related to the operation of the subject Regulated Marijuana Business; or (2) compromise the integrity of the Inventory Tracking System. A report shall be made as soon as possible after the discovery of the action, but not later than 14 days. Nothing in this paragraph (B) alters or eliminates any obligation a Regulated Marijuana Business or Licensee may have to report criminal activity to a local law enforcement agency.

4. The Licensee shall maintain a log of all visitor activity, for any purpose, within the Limited Access Area and shall make such logs available for inspection by the Division and relevant Local Licensing Authority or Local Jurisdiction.

5. All visitors admitted into a Limited Access Area must provide acceptable proof of age and must be at least 21 years of age. *See* Rule 3-405 – Acceptable Forms of Identification.

6. The Licensee shall check the identification for all visitors to verify that the name on the identification matches the name in the visitor log. *See* Rule 3-405 – Acceptable Forms of Identification.

7. A Licensee may not receive consideration or compensation for permitting a visitor to enter a Limited Access Area.

8. Use of a visitor badge to circumvent the Employee License requirements of Rule 2-265 is prohibited and may constitute a license violation affecting public safety.

C. Required Signage. All areas of ingress and egress to Limited Access Areas on the Licensed Premises shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, “Do Not Enter - Limited Access Area – Access Limited to Licensed Personnel and Escorted Visitors.” A Licensee may comply with this paragraph (C) when that sign is conspicuously placed immediately within an exterior entrance that is locked against public entry and only accessible to limited, licensed personnel and escorted visitors.

D. Diagram for Licensed Premises. All Limited Access Areas shall be clearly identified to the Division and relevant Local Licensing Authority or Local Jurisdiction and described in a diagram of the Licensed Premises reflecting walls, partitions, counters and all areas of ingress and egress. The diagram shall also reflect all Propagation, cultivation, manufacturing, testing, consumption, and Restricted Access Areas. *See* Rule 3-905 – Business Records Required.

E. Modification of Limited Access Area. A Licensee’s proposed modification of designated Limited Access Areas must be approved by the Division, the Local Licensing Authority, and, if required, the relevant Local Jurisdiction prior to any modifications being made. *See* Rule 2-260 – Changing, Altering, or Modifying Licensed Premises.

F. Law Enforcement Personnel Authorized. Notwithstanding the requirements of subsection A of this Rule, nothing shall prohibit investigators and employees of the Division, authorities from relevant Local Jurisdiction or state or local law enforcement, for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose, from entering a Limited Access Area upon presentation of official credentials identifying them as such.

G. When the Limited Access Area within a Licensed Premises of a Regulated Marijuana Business can only be accessed from outside the Licensed Premises, the movement of Regulated Marijuana and Regulated Marijuana Product between and within the Licensed Premises must comply with the following requirements:

1. Any Regulated Marijuana or Regulated Marijuana Product must be moved by a person holding a valid Owner License or Employee License and who must be an employee of the Regulated Marijuana Business;

2. Any Regulated Marijuana or Regulated Marijuana Product must be in a sealed, opaque Container;

3. Any movement of Regulated Marijuana or Regulated Marijuana Product must remain on video surveillance;

4. The Owner Licensee or Employee Licensee moving the Regulated Marijuana or Regulated Marijuana Product must not enter the property of any other business, vehicle, residence, or building that is not controlled by the Licensee; and

5. Any movement must not be by a self-propelled vehicle that is designed primarily for travel on the public highways, that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle.

Basis and Purpose – 3-210

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-311(1)(b), and 44-10-311(2), C.R.S. The purpose of this rule is to establish and clarify the means by which the Licensee has lawful possession of the Licensed Premises. This Rule 3-210 was previously Rules M and R 302, 1 CCR 212-1 and 1 CCR 212-2.

3-210 – Possession of Licensed Premises

A. Evidence of Lawful Possession. Persons licensed pursuant to sections 44-10-501, 44-10-502, 44-10-503, 44-10-504, 44-10-507, 44-10-601, 44-10-602, 44-10-603, 44-10-604, 44-10-607, 44-10-608, 44-10-609, 44-10-610 C.R.S., or those applying for such licenses, must demonstrate proof of lawful possession of the premises to be licensed or Licensed Premises. Evidence of lawful possession consists of properly executed deeds of trust, leases, or other written documents acceptable to state and local licensing authorities.

B. Relocation Prohibited. The Licensed Premises shall only be those geographical areas that are specifically and accurately described in executed documents verifying lawful possession. Licensees are not authorized to relocate to other areas or units within a building structure without first filing a change of location application and obtaining approval from the Division and the relevant Local Jurisdiction. Licensees shall not add additional contiguous units or areas, thereby altering the initially-approved premises, without filing an application and receiving approval to modify the Licensed Premises on current forms prepared by the Division, including any applicable processing fee. *See* Rule 2-260 - Changing, Altering, or Modifying Licensed Premises

C. Subletting Not Authorized. Licensees are not authorized to sublet any portion of Licensed Premises for any purpose, unless all necessary applications to modify the existing Licensed Premises to accomplish any subletting have been approved by the Division and the relevant Local Licensing Authority or Local Jurisdiction.

Basis and Purpose – 3-215

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(d)(I)-(VI), 44-10-313(14), 44-10-401, 44-10-501, 44-10-502, 44-10-503, 44-10-504, 44-10-601, 44-10-602, 44-10-603, 44-10-604, C.R.S. The purpose of this rule is to establish guidelines for the manner in which a Medical Marijuana Business may share its existing Licensed Premises with a Retail Marijuana Business, and to ensure the proper separation of Regulated Marijuana Business operation operations. This Rule 3-215 was previously Rules M and R 304.1, 1 CCR 212-1 and 1 CCR 212-2.

3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation

A. Shared Licensed Premises for Medical Marijuana Stores and Retail Marijuana Stores.

1. Medical Marijuana Store that authorizes only patients that are over the age of 21. A Medical Marijuana Store that authorizes only Medical Marijuana patients who are over the age of 21 years to be on the Licensed Premises may also hold a Retail Marijuana Store license and operate at the same location under the following circumstances:

    a. The relevant Local Licensing Authority and Local Jurisdiction permit a dual operation at the same location;

    b. The Medical Marijuana Store and Retail Marijuana Store are commonly owned;

    c. The Medical Marijuana Store and Retail Marijuana Store shall maintain physical or virtual separation between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory;

    d. The Medical Marijuana Store and Retail Marijuana Store shall maintain separate displays between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory, but the displays may be on the same sale floor;

    e. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Store and Retail Marijuana Store shall enable the Division and Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Store from the inventories and business transactions of the Retail Marijuana Store; and

    f. The Medical Marijuana Store shall post and maintain signage that clearly conveys that persons under the age of 21 years may not enter.

2. Medical Marijuana Store that authorizes patients under the age of 21. A Medical Marijuana Store that authorizes Medical Marijuana patients under the age of 21 years to be on the Licensed Premises may operate in the same location with a Retail Marijuana Store under the following conditions:

    a. The relevant Local Licensing Authority and Local Jurisdiction permit a dual operation at the same location;

    b. The Medical Marijuana Store and Retail Marijuana Store are commonly owned;

c. The Medical Marijuana Store and Retail Marijuana Store maintain physical separation, including separate entrances and exits, between their respective Restricted Access Areas;

d. No point of sale operations occur at any time outside the physically separated Restricted Access Areas;

e. All Medical Marijuana, Medical Marijuana Concentrate, and Medical Marijuana Product in a Restricted Access Area must be physically separated from all Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Product in a Restricted Access Area, and such physical separation must include separate entrances and exits;

f. Any display areas shall be located in the physically separated Restricted Access Areas;

g. In addition to the physically separated sales and display areas, the Medical Marijuana Store and Retail Marijuana Store shall maintain physical or virtual separation for storage of Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory from storage of Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory; and

h. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Store and Retail Marijuana Store shall enable the Division and Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Store from the inventories and business transactions of the Retail Marijuana Store.

B. Shared Licensed Premises For Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility. A Medical Marijuana Cultivation Facility and a Retail Marijuana Cultivation Facility may share a single Licensed Premises and operate at the same location under the following circumstances:

1. The relevant Local Licensing Authority and Local Jurisdiction permit a dual operation at the same location;

2. The Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility are commonly owned;

3. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility shall maintain either physical or virtual separation between (i) Medical Marijuana and Medical Marijuana Concentrate and (ii) Retail Marijuana and Retail Marijuana Concentrate; and

4. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility must enable the Division and relevant Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Cultivation Facility from the Retail Marijuana Cultivation Facility.

C. Shared Licensed Premises For Medical Marijuana Products Manufacturer and Retail Marijuana Products Manufacturer. A Medical Marijuana Products Manufacturer and a Retail Marijuana Products Manufacturer may share a single Licensed Premises and operate at the same location under the following circumstances:

1. The relevant Local Licensing Authority and Local Jurisdiction permit a dual operation at the same location;

2. The Medical Marijuana Products Manufacturer and the Retail Marijuana Products Manufacturer are commonly owned;

3. The Medical Marijuana Products Manufacturer and Retail Marijuana Products Manufacturer shall maintain either physical or virtual separation between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory. Nothing in this Rule prohibits a Retail Marijuana Products Manufacturer and Medical Marijuana Products Manufacturer from sharing raw Ingredients in bulk, for example flour or sugar, except Retail Marijuana and Medical Marijuana may not be shared under any circumstances; and

4. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Products Manufacturer and Retail Marijuana Products Manufacturer must enable the Division and Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Products Manufacturer from the Retail Marijuana Products Manufacturer.

D. Shared Licensed Premises For Medical Marijuana Store, Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, Retail Marijuana Store, Retail Marijuana Cultivation Facility, and Retail Marijuana Products Manufacturer. A Medical Marijuana Store, Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, Retail Marijuana Store, Retail Marijuana Cultivation Facility, or Retail Marijuana Products Manufacturer may share the common areas of a Licensed Premises where the cultivation, manufacture, packaging, storing, or Transfers to patients and consumers of Regulated Marijuana does not occur. For example, the shared common areas may include hallways, break rooms, bathrooms, etc. Licensees must maintain physical separation of all Regulated Marijuana inventory. Nothing in this paragraph D prohibits Licensees sharing premises in accordance with paragraphs (B) and (C) of this Rule.

E. Shared Licensed Premises For Medical Marijuana Testing Facility and Retail Marijuana Testing Facility. A Medical Marijuana Testing Facility and a Retail Marijuana Testing Facility may share a single Licensed Premises and operate at the same location under the following circumstances:

1. The relevant Local Licensing Authority and Local Jurisdiction permit dual operation at the same location;

2. The Regulated Marijuana Testing Facilities are identically owned;

3. The Regulated Marijuana Testing Facilities shall maintain either physical or virtual separation between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory; and

4. Record-keeping, inventory tracking, packaging and labeling for the Regulated Marijuana Testing Facilities must enable the Division and Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Testing Facility from the Retail Marijuana Testing Facility.

F. Shared Licensed Premises Medical Marijuana Transporter and Retail Marijuana Transporter. A Medical Marijuana Transporter and a Retail Marijuana Transporter may share a single Licensed

Premises and operate dual transporting, logistics, and temporary storage business operation at the same location under the following circumstances:

1. The relevant Local Licensing Authority and Local Jurisdiction permit dual operation at the same location;

2. The Medical Marijuana Transporter and Retail Marijuana Transporter are identically owned;

3. The Medical Marijuana Transporter and Retail Marijuana Transporter shall maintain either physical or virtual separation between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory; and

4. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Transporter and Retail Marijuana Transporter must enable the Division and Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Transporter from the Retail Marijuana Transporter.

G. Shared Licensed Premises Marijuana Research and Development Facility. A Marijuana Research and Development Facility that has obtained an R&D Co-Location Permit pursuant to Rule 5-705(C) may share a single Licensed Premises and operate at the same location as another Regulated Marijuana Business to the extent permitted by the R&D Co-Location Permit and otherwise in compliance with all applicable rules. *See* 5-700 Series Rules.

H. Violation Affecting Public Safety. Violation of this Rule may be considered a license violation affecting public safety.

Basis and Purpose – 3-220

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c),44-10-203(1)(k), 44-10-203(2)(e), and 29-2-114(8)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(IV). The purpose of this rule is to ensure adequate control of the Licensed Premises and Regulated Marijuana contained therein. This rule establishes the minimum guidelines for security requirements for alarm systems and commercial locking mechanisms for maintaining adequate security. This rule also establishes fencing and lighting requirements for outdoor cultivations. This Rule 3-220 was previously Rules M and R 305, 1 CCR 212-1 and 1 CCR 212-2.

3-220 – Security Alarm Systems and Lock Standards

A. Security Alarm Systems – Minimum Requirements. The following Security Alarm Systems and lock standards apply to all Regulated Marijuana Businesses, unless stated otherwise by these rules.

1. Each Licensed Premises shall have a Security Alarm System, installed by an Alarm Installation Company, on all perimeter entry points and perimeter windows.

2. Each Licensee must ensure that all of its Licensed Premises are continuously monitored. Licensees may engage the services of a Monitoring Company to fulfill this requirement.

3. A Licensee shall maintain up-to-date and current records and existing contracts on the Licensed Premises that describe the location and operation of each Security Alarm

System, a schematic of security zones, the name of the Alarm Installation Company, and the name of any Monitoring Company. *See* Rule 3-905 – Business Records Required.

4. Upon request, Licensees shall make available to agents of the Division or relevant Local Licensing Authority or Local Jurisdiction or state or local law enforcement agency, for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose, all information related to Security Alarm Systems, Monitoring, and alarm activity.

5. Any outdoor or Greenhouse Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility is a Limited Access Area and must meet all of the requirements for Security Alarm Systems described in this Rule. An outdoor or Greenhouse Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility must provide sufficient security measures to demonstrate that outdoor areas are not readily accessible by unauthorized individuals. It shall be the responsibility of the Licensee to maintain physical security in a manner similar to a Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility located in an indoor Limited Access Area so it can be fully secured and alarmed. The fencing requirements shall include, at a minimum, perimeter fencing designed to prevent the general public from entering the Limited Access Areas and shall meet at least the following minimum requirements:

   a. The entire Limited Access Area shall be surrounded by a fence constructed of nine gauge or lower metal chain link fence or another similarly secure material. The fence shall measure at least eight feet from the ground to the top, or in the alternative, the fence may measure six feet from the ground to the top with a 1 foot barbed wire arm with at least three strands along the entire fence. All support posts shall be steel and securely anchored.

   b. All gates of ingress or egress shall measure at least eight feet from the ground to the top of the entry gate, or in the alternative, the gate may measure six feet from the ground to the top with a 1 foot barbed wire arm with at least three strands, and shall be constructed of nine gauge or lower metal chain link fence or a similarly secure material.

   c. Repealed.

   d. All areas of ingress and egress of the fence shall either:

      i. Be illuminated including a 20 foot radius from the point of ingress or egress. Lights may be, but are not required to be, motion sensing; or

      ii. Have cameras with night vision capacity capable of recording a 20 foot radius from the point of ingress or egress.

   e. A Licensee or Applicant for initial licensure may, in writing, request that the Division waive one or more of the security requirements described in these subparagraphs (a) through (d) of this Rule, by submitting on a form prescribed by the Division a security waiver request for Division approval. The Division may, in its discretion and on a case-by-case basis, approve the security waiver if it finds that the alternative safeguard proposed by the Licensee or Applicant for initial licensure meets the goals of the above security requirements or that the security requirements are in conflict with a local ordinance of general applicability. Approved security waivers expire at the same time as the underlying License and may be renewed at the time the License renewal application is submitted. The Licensee's or Applicant for initial licensure's request for a waiver shall include:

i. The specific rules and subsections of a rule that are requested to be waived;

ii. The reason for the waiver;

iii. A description of an alternative safeguard the Licensee will implement in lieu of the requirement that is the subject of the waiver; and

iv. An explanation of how and why the alternative safeguard accomplishes the goals of the security rules, specifically public safety, prevention of diversion, accountability, and prohibiting access to minors.

B. Lock Standards – Minimum Requirement.

1. At all points of ingress and egress, the Licensee shall ensure the use of commercial-grade, non-residential door locks.

2. Any outdoor or Greenhouse Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility must meet all of the requirements for the lock standards described in this Rule.

Basis and Purpose – 3-225

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(h), 44-10-203(1)(k), 44-10-203(2)(e), 44-10-313(14), and 44-10-1001, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure adequate control of the Licensed Premises and Regulated Marijuana contained therein. This rule also establishes the minimum guidelines for security requirements for video surveillance systems for maintaining adequate security. This Rule 3-225 was previously Rules M and R 306, 1 CCR 212-1 and 1 CCR 212-2.

3-225 – Video Surveillance

A. Minimum Requirements. The following video surveillance requirements shall apply to all Regulated Marijuana Businesses, unless stated otherwise in these rules.

1. Prior to exercising the privileges of a Regulated Marijuana Business, an Applicant must install a fully operational video surveillance and camera recording system. The recording system must record in digital format and meet the requirements outlined in this Rule.

2. All video surveillance records and recordings must be stored in a secure area that is only accessible to a Licensee's management staff.

3. Video surveillance records and recordings must be made available upon request to the Division, the relevant Local Licensing Authority or Local Jurisdiction, or any other state or local law enforcement agency for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose.

4. Video surveillance records and recordings of point-of-sale areas shall be held in confidence by all employees and representatives of the Division, except that the Division may provide such records and recordings to the Local Licensing Authority or Local Jurisdiction, or any other state or local law enforcement agency for a purpose authorized by the Marijuana Code, or for any other state or local law enforcement purpose.

B. Video Surveillance Equipment.

1. Video surveillance equipment shall, at a minimum, consist of digital or network video recorders, cameras capable of meeting the recording requirements described in this Rule, video monitors, digital archiving devices, and a color printer capable of delivering still photos.

2. All video surveillance systems must be equipped with a failure notification system that provides prompt notification to the Licensee of any prolonged surveillance interruption and/or the complete failure of the surveillance system.

3. Licensees are responsible for ensuring that all surveillance equipment is properly functioning and maintained, so that the playback quality is suitable for viewing and the surveillance equipment is capturing the identity of all individuals and activities in the monitored areas.

4. All video surveillance equipment shall have sufficient battery backup to support a minimum of four hours of recording in the event of a power outage. Licensee must notify the Division of any loss of video surveillance capabilities that extend beyond four hours.

C. Placement of Cameras and Required Camera Coverage.

1. Camera coverage is required for all areas identified as Restricted Access Areas or Limited Access Areas, point-of-sale areas, security rooms, all points of ingress and egress to Limited Access Areas, all areas where Regulated Marijuana is displayed for sale, and all points of ingress and egress to the exterior of the Licensed Premises.

2. Camera placement shall be capable of identifying activity occurring within 20 feet of all points of ingress and egress and shall allow for the clear and certain identification of any individual and activities on the Licensed Premises.

3. At each point-of-sale location, camera coverage must enable recording of the facial features of patients, caregivers or consumer(s), and employee(s) with sufficient clarity to determine identity.

4. All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points.

5. The system shall be capable of recording all pre-determined surveillance areas in any lighting conditions. If the Licensed Premises has a Regulated Marijuana cultivation area, a rotating schedule of lighted conditions and zero-illumination can occur as long as ingress and egress points to Flowering areas remain constantly illuminated for recording purposes.

6. Areas where Regulated Marijuana is grown, tested, cured, manufactured, researched, or stored shall have camera placement in the room facing the primary entry door at a height which will provide a clear unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other equipment.

7. Cameras shall also be placed at each location where weighing, packaging, transport preparation, processing, or tagging activities occur.

8. At least one camera must be dedicated to record the access points to the secured surveillance recording area.

9. All outdoor cultivation areas must meet the same video surveillance requirements applicable to any other indoor Limited Access Areas.

D. Location and Maintenance of Surveillance Equipment.

1. The surveillance room or surveillance area shall be a Limited Access Area.

2. Surveillance recording equipment must be housed in a designated, locked, and secured room or other enclosure with access limited to authorized employees, agents of the Division, and the relevant Local Licensing Authority or Local Jurisdiction, state or local law enforcement agencies for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose, and service personnel or contractors.

3. Licensees must keep a current list of all authorized employees and service personnel who have access to the surveillance system and/or room on the Licensed Premises. Licensees must keep a surveillance equipment maintenance activity log on the Licensed Premises to record all service activity including the identity of the individual(s) performing the service, the service date and time and the reason for service to the surveillance system.

4. Off-site Monitoring and video recording storage of the areas identified in this Rule 3-225(C) by the Licensee or an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for on-site Monitoring.

5. Each Regulated Marijuana Business Licensed Premises located in a common or shared building, or commonly owned Regulated Marijuana Businesses located in the same Local Jurisdiction, must have a separate surveillance room/area that is dedicated to that specific Licensed Premises. Commonly-owned Regulated Marijuana Businesses located in the same Local Jurisdiction may have one central surveillance room located at one of the commonly owned Licensed Premises which simultaneously serves all of the commonly-owned Licensed Premises. The facility that does not house the central surveillance room is required to have a review station, printer, and map of camera placement on the premises. All minimum requirements for equipment and security standards as set forth in this section apply to the review station.

6. Licensed Premises that combine both a Medical Marijuana Business and a Retail Marijuana Business may have one central surveillance room located at the shared Licensed Premises. *See* Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation.

E. Video Recording and Retention Requirements.

1. All camera views of all Limited Access Areas must be continuously recorded 24 hours a day. The use of motion detection is authorized when a Licensee can demonstrate that monitored activities are adequately recorded.

2. All surveillance recordings must be kept for a minimum of 40 days and be in a format that can be easily accessed for viewing. Video recordings must be archived in a format that ensures authentication of the recording as legitimately captured video and guarantees that no alteration of the recorded image has taken place.

3. The Licensee’s surveillance system or equipment must have the capabilities to produce a color still photograph from any camera image, live or recorded, of the areas identified in this Rule 3-225(C).

4. The date and time must be embedded on all surveillance recordings without significantly obscuring the picture. The date and time must be synchronized with any point-of-sale system.

5. Time is to be measured in accordance with the official United States time established by the National Institute of Standards and Technology and the U.S. Naval Observatory at: http://www.time.gov.

6. After the 40 day surveillance video retention schedule has lapsed, surveillance video recordings must be erased or destroyed prior to: sale or transfer of the facility or business to another Licensee; or being discarded or disposed of for any other purpose. Surveillance video recordings may not be destroyed if the Licensee knows or should have known of a pending criminal, civil, or administrative investigation, or any other proceeding for which the recording may contain relevant information.

F. Other Records.

1. All records applicable to the surveillance system shall be maintained on the Licensed Premises. At a minimum, Licensees shall maintain a map of the camera locations, direction of coverage, camera numbers, surveillance equipment maintenance activity log, user authorization list, and operating instructions for the surveillance equipment.

2. A chronological point-of-sale transaction log must be made available to be used in conjunction with recorded video of those transactions.

Basis and Purpose – 3-230

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), and 44-10-203(2)(h), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish waste disposal requirements for Regulated Marijuana Businesses and to provide more sustainable options including for Regulated Marijuana waste including composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification. This Rule 3-230 was previously Rules M and R 307, 1 CCR 212-1 and 1 CCR 212-2.

3-230 – Waste Disposal

A. All Applicable Laws Apply. Regulated Marijuana waste must be stored, secured, locked, and managed in accordance with all applicable federal, state, and local statutes, regulations, ordinances, or other requirements, including but not limited to the "Regulations Pertaining to Solid Waste Sites and Facilities" (6 CCR 1007-2, Part 1) established by the Colorado Department of Public Health and Environment pursuant to the "Solid Wastes Disposal Sites and Facilities Act", Title 30, Article 20, Part 1, C.R.S. and "Regulation No. 100 – Water and Wastewater Facility Operations Certification Requirements" (5 CCR 1003-2) established by the Colorado Department of Public Health and Environment pursuant to the Title 25, Article 9, Part 1, C.R.S.

B. Liquid Waste. Liquid waste from Regulated Marijuana Businesses shall be disposed of in compliance with all applicable federal, state and local laws, regulations, rules, and other requirements.

C. Chemical, Dangerous and Hazardous Waste. Disposal of chemical, dangerous, and hazardous waste must be conducted in a manner consistent with federal, state and local laws, statutes, regulations, rules, and other requirements. This may include, but is not limited to, the disposal of all Pesticide and other agricultural chemicals, certain solvents and other chemicals used in the production of Regulated Marijuana Concentrate and any Regulated Marijuana soaked in a Flammable Solvent for purposes of producing a Regulated Marijuana Concentrate.

1. Elemental Impurities Remediation. All post extraction plant material generated from the elemental impurities Remediation process, and other Regulated Marijuana waste products (including but not limited to, still bottoms, lipids removed during winterization)

generated from the Remediation process have the potential to be hazardous waste. Therefore, all such post extraction plant material must be subject to one of the following actions prior to leaving the Licensed Premises:

i. Treated as hazardous waste in regard to storage, labeling, and disposal; or

ii. Tested for elemental impurities content.

a. Materials that meet the definition of hazardous waste, as defined by the Resource Conservation and Recovery Act or other applicable federal, state, or local regulations, must be treated as hazardous waste. Accordingly, they must be properly labeled, contained, stored, and disposed of in accordance with the Environmental Protection Agency, the Resource Conservation and Recovery Act, and other applicable regulations for hazardous waste.

b. Materials that contain elemental impurities concentrations less than the allowable concentration limits specified in the Resource Conservation and Recovery Act, and are not designated hazardous waste by other applicable federal, state, or local regulations, may be disposed of in accordance with this rule.

D. Regulated Marijuana Waste Must Be Made Unusable and Unrecognizable. Unless expressly exempt by these rules, all Regulated Marijuana waste must be made unusable and Unrecognizable prior to leaving the Licensed Premises.

1. A Regulated Marijuana Business may Transfer Vaporizer Delivery Device waste prior to being made unusable and Unrecognizable for purposes of grinding or compacting the Vaporizer Delivery Device waste at the Licensed Premises of another Regulated Marijuana Business.

E. Methods to Make Waste Unusable and Unrecognizable. Regulated Marijuana waste shall be rendered unusable and Unrecognizable through one of the following methods:

1. Grind or Compact and Mix with Non-Marijuana Waste. A Regulated Marijuana Business may render its Regulated Marijuana waste unusable and Unrecognizable by grinding or compacting and incorporating the marijuana waste with non-consumable, solid wastes listed below such that the resulting mixture is at least 50 percent non-marijuana waste, and such that the resulting mixture cannot easily be separated and sorted:

a. Paper waste;

b. Plastic waste;

c. Cardboard waste;

d. Food waste;

e. Grease or other compostable oil waste;

f. Bokashi or other compost activators;

g. Soil;

h. Sawdust;

i. Manure; and

j. Other wastes approved by the Division that will render the Regulated Marijuana waste unusable and Unrecognizable.

2. Other Permitted and Sustainable Methods for Rendering Regulated Marijuana Waste Unusable and Unrecognizable. A Regulated Marijuana Business may render its Regulated Marijuana waste unusable and Unrecognizable through the following methods and subject to the following requirements and restrictions:

a. The following methods are exempt from the 50/50 waste mixing requirement in subparagraph E(1) above and can be used to render Regulated Marijuana unusable and Unrecognizable:

i. On-site composting;

ii. Anaerobic digestion;

iii. Pyrolyze into biochar; or

iv. Biomass gasification.

b. Requirements for Other Permitted and Sustainable Methods to Render Regulated Marijuana Waste Unusable and Unrecognizable. A Regulated Marijuana Business using other methods of rendering Regulated Marijuana waste unusable and Unrecognizable must comply with the requirements of this rule.

i. A Regulated Marijuana Business may utilize on its own Licensed Premises or may Transfer Regulated Marijuana waste to another Regulated Marijuana Business for on-site composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification.

ii. A Regulated Marijuana Business may transfer only the stalks, stems, fan leaves, and roots from Regulated Marijuana to an area outside the Licensed Premises that is under the Licensee's possession and control or to an unlicensed third-party that is registered and in good standing with the Colorado Secretary of State for composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification.

iii. Regulated Marijuana waste that is transferred to a location under the Licensee's possession and control, to another Regulated Marijuana Business, or to a third-party pursuant to this Rule is not required to comply with the 3-800 Series Rules - Inventory Tracking or the 3-1000 Series Rules - Labeling, Packaging, and Product Safety but must be recorded on the Transferring Regulated Marijuana Business' waste log.

iv. A Regulated Marijuana Business or an unlicensed third-party providing composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification shall ensure that the organic composition of the Regulated Marijuana waste is permanently altered so that it is rendered unusable and Unrecognizable.

v. Waste Management Plan. A Regulated Marijuana Business using on-site composting, anaerobic digestion, pyrolyzing into biochar or biomass

gasification to render Regulated Marijuana waste unusable and Unrecognizable must establish and maintain on its Licensed Premises a waste management plan that includes at least the following information: A description of the Regulated Marijuana Business's methods for on-site composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification and identification of the areas that will be used for these activities. The location of these activities may include areas used for other operational activities of the Regulated Marijuana Business or may be areas outside the Licensed Premises so long as such areas are within the Licensee's possession and control.

vi. Written Contract for Transfers to Unlicensed Third Parties. A Regulated Marijuana Business that is transferring stalks, stems, fan leaves, or roots from Regulated Marijuana to an unlicensed third-party for composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification must have a written contract with that third-party. The Regulated Marijuana Business must maintain on its Licensed Premises a copy of the written contract and copies of receipts and invoices related to such third-party services. The written contract with the third-party must document at least the following information:

A. The identity of the unlicensed third party receiving any transfer of Regulated Marijuana waste pursuant to this Rule;

B. A description of the services provided by the unlicensed third party and the agreed-upon methods for managing the Regulated Marijuana waste, including the end-use of such waste; and

C. A requirement that the third-party is registered with the Colorado Secretary of State and must remain in in good standing during the contract term.

F. Mobile Waste Rendering. A Licensee or a third party vendor may also render Regulated Marijuana waste unusable and Unrecognizable outside of the Licensed Premises, subject to the following requirements and restrictions:

1. The waste must be rendered unusable and Unrecognizable in accordance with subparagraph (E) of this Rule, and unless otherwise expressly exempt by this Rule 3-230, mobile waste rendering must occur on property under the control of the Licensee that is immediately adjacent to the Licensed Premises;

2. Unless otherwise expressly exempt by this Rule 3-230, the waste must be taken from the Licensed Premises by an Owner Licensee or Employee Licensee directly to the vehicle where the rendering will occur;

3. Unless otherwise expressly exempt by this Rule 3-230, an Owner Licensee or Employee Licensee must monitor and observe the rendering to ensure the waste is made unusable and Unrecognizable;

4. Unless otherwise expressly exempt by this Rule 3-230, the Licensee shall ensure the rendering of any Regulated Marijuana waste unusable and Unrecognizable by a third party is recorded on the Licensee's video surveillance system; and

5. Any other restrictions imposed by the Local Licensing Authority or Local Jurisdiction.

G. After Waste is Made Unusable and Unrecognizable. After Regulated Marijuana waste is made unusable and Unrecognizable, the rendered waste shall be disposed of or otherwise managed as follows:

1. Disposed of at a solid waste site and disposal facility that has a Certificate of Designation from the local governing authority; or

2. Deposited at a compost facility that is permitted or approved by the Colorado Department of Public Health and Environment; or

3. Regulated Marijuana waste that has been rendered unusable and Unrecognizable by composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification and pursuant to the Licensee's waste management plan(s) may be transferred to a Regulated Marijuana Business or an unlicensed third-party for further processing or use.

4. A Regulated Marijuana Business with cultivation privileges may reintroduce its own or Regulated Marijuana waste obtained from another Regulated Marijuana Business that has been rendered unusable and Unrecognizable into its Regulated Marijuana cultivation operations subject to its standard operating procedures. For example, a Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility may use such waste as a soil amendment, potting media, or fertilizer

H. Proper Disposal of Waste. A Licensee shall only dispose of Regulated Marijuana waste in a secured waste receptacle in possession and control of the Licensee.

I. Inventory Tracking Requirements.

1. In addition to all other tracking requirements set forth in these rules, a Licensee shall utilize the Inventory Tracking System to ensure its post-harvest waste and Fibrous Waste materials are identified, weighed, and tracked while on the Licensed Premises until disposed of.

2. All Regulated Marijuana waste must be weighed before leaving any Regulated Marijuana Business. A scale used to weigh Regulated Marijuana waste prior to entry into the Inventory Tracking System shall be tested and approved in accordance with section 35-14-127, C.R.S. *See* Rule 3-805 – Regulated Marijuana Businesses: Inventory Tracking System.

3. A Licensee is required to maintain accurate and comprehensive records regarding Regulated Marijuana waste that accounts for, reconciles, and evidences all waste activity related to the disposal of Regulated Marijuana. *See* Rule 3-905 – Business Records Required.

4. A Licensee is required to maintain accurate and comprehensive records regarding any waste material produced through the trimming or pruning of a Regulated Marijuana plant prior to harvest, which must include weighing and documenting all waste, including Fibrous Waste. Unless required by an Inventory Tracking System procedure, records of waste produced prior to harvest must be maintained on the Licensed Premises. Waste, excluding Fibrous Waste and Marijuana Consumer Waste, whether produced prior or subsequent to harvest, must be disposed of in accordance with this Rule and be made unusable and Unrecognizable. *See* Rule 3-235 – Transfers of Fibrous Waste and Rule 3-240 – Collection of Marijuana Consumer Waste.

Basis and Purpose – 3-235

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(2)(h), 44-10-203(2)(i), 44-10-203(1)(k), and 44-10-203(2)(x), C.R.S. The purpose of this rule is to establish conditions under which a Licensee is authorized to transfer Fibrous Waste to a Person for the purpose of producing only Industrial Fiber Products. This Rule 3-235 was previously Rules M and R 307.5, 1 CCR 212-1 and 1 CCR 212-2.

3-235 – Transfers of Fibrous Waste

A. All Applicable Laws Apply. Fibrous Waste must be stored and managed in accordance with all applicable state and local statutes, regulations, ordinances, or other requirements, including but not limited to the "Regulations Pertaining to Solid Waste Sites and Facilities" (6 CCR 1007-2, Part 1) established by the Colorado Department of Public Health and Environment pursuant to the "Solid Wastes Disposal Sites and Facilities Act", Title 30, Article 20, Part 1, C.R.S. and "Regulation No. 100 – Water and Wastewater Facility Operations Certification Requirements" (5 CCR 1003-2) established by the Colorado Department of Public Health and Environment pursuant to the Title 25, Article 9, Part 1, C.R.S.

B. Regulated Marijuana Cultivation Facilities and Regulated Marijuana Manufacturers may Transfer Fibrous Waste to an Industrial Fiber Products Producer in accordance with the requirements of this Rule 3-235.

C. Contract Requirements. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, Retail Marijuana Products Manufacturers and Accelerator Manufacturers that transfer Fibrous Waste to an Industrial Fiber Products Producer shall enter into a written contract prior to transferring any Fibrous Waste.

1. The written contract must be complete, and must fully incorporate all terms and conditions.

2. The written contract shall include the following terms:

    a. The identity of the Industrial Fiber Products Producer;

    b. A requirement that the Industrial Fiber Products Producer shall be and shall remain in good standing with the Colorado Secretary of State during the contract term; and

    c. A requirement that the Industrial Fiber Products Producer shall ensure the security of Fibrous Waste during transport from the Licensed Premises to the point of processing by the Industrial Fiber Products Producer.

3. The Licensee and Industrial Fiber Products Producer shall sign an affirmation that the Fibrous Waste is being transferred only for the purpose of producing Industrial Fiber Products. The affirmation may be incorporated into a purchase order, invoice, or manifest.

D. Business Records. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, Retail Marijuana Products Manufacturers and Accelerator Manufacturers that transfer Fibrous Waste to an Industrial Fiber Products Producer shall keep all contracts, receipts, and inventory records relating to the transfer of any Fibrous Waste in accordance with Rule 3-905, including but not limited to Rule 3-905(A)(2).

E. Security Measures.

1. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, and Retail Marijuana Products Manufacturers, and Accelerator Manufacturers that transfer Fibrous Waste to an Industrial Fiber Products Producer shall comply with all security requirements pursuant to Rules 3-220 and 3-225.

2. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, Retail Marijuana Products Manufacturers and Accelerator Manufacturers preparing Fibrous Waste for transfer to an Industrial Fiber Products Producer must separate Fibrous Waste from other Regulated Marijuana plant material and waste within the Limited Access Area and on video surveillance.

3. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators Retail Marijuana Products Manufacturers, and Accelerator Manufacturers shall physically segregate all Fibrous Waste from other waste and Regulated Marijuana.

4. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, Retail Marijuana Products Manufacturers and Accelerator Manufacturers shall affix a label to all receptacles holding Fibrous Waste that has already been separated from other Regulated Marijuana plant material and waste within the Limited Access Area prior to transfer to an Industrial Fiber Products Producer. The label must identify the receptacle as “Contains Fibrous Waste.”

5. An Industrial Fiber Products Producer, or its employee or agent, must sign the visitor log, unless such individual has a valid Division-issued Employee License, to enter the Limited Access Area for any transfer of Fibrous Waste.

6. The Licensee remains responsible for all Fibrous Waste until the Industrial Fiber Products Producer takes possession and removes Fibrous Waste from the Licensed Premises.

7. The Licensee shall ensure that only Fibrous Waste and waste that has been made unusable and Unrecognizable pursuant to Rule 3-320 is transferred to the Industrial Fiber Products Producer.

F. Inventory Tracking Requirements.

1. A Licensee shall utilize the Inventory Tracking System to ensure its post-harvest Fibrous Waste materials are identified, weighed, and tracked while on the Licensed Premises until transferred.

2. A scale used to weigh Fibrous Waste prior to entry into the Inventory Tracking System shall be tested and approved in accordance with section 35-14-127, C.R.S. *See* Rule 3-805 – Regulated Marijuana Business: Inventory Tracking System.

3. A Licensee is required to maintain accurate and comprehensive records regarding waste material that accounts for, reconciles, and evidences all Fibrous Waste transfers. *See* Rule 3-905 – Business Records Required.

G. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, Retail Marijuana Products Manufacturers and Accelerator Manufacturers shall not transfer contaminated Fibrous Waste to an Industrial Fiber Products Producer and shall handle contaminated Fibrous Waste using the same reasonable protocols used to handle waste.

H. Violation Affecting Public Safety. It may be considered a violation of public safety for a Licensee to transfer anything to an Industrial Fiber Products Producer other than in accordance with this Rule 3-235.

Basis and Purpose – 3-240

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), and 44-10-203(2)(bb), C.R.S. The purpose of this rule is to establish conditions under which Regulated Marijuana Businesses are permitted to collect Marijuana Consumer Waste for purposes of reuse and recycling.

3-240 – Collection of Marijuana Consumer Waste

A. All Applicable Laws Apply. Marijuana Consumer Waste must be stored and managed in accordance with all applicable state and local statutes, regulations, ordinances, or other requirements, including but not limited to the "Regulations Pertaining to Solid Waste Sites and Facilities" (6 CCR 1007-2, Part 1) established by the Colorado Department of Public Health and Environment pursuant to the "Solid Wastes Disposal Sites and Facilities Act", Title 30, Article 20, Part 1, C.R.S. and "Regulation No. 100 – Water and Wastewater Facility Operations Certification Requirements" (5 CCR 1003-2) established by the Colorado Department of Public Health and Environment pursuant to the Title 25, Article 9, Part 1, C.R.S.

B. Regulated Marijuana Businesses may collect, reuse, and recycle Marijuana Consumer Waste in accordance with the requirements of this Rule 3-240.

C. Collection, Separation, and Processes.

1. Collection. A Licensee must comply with the following requirements when collecting Marijuana Consumer Waste pursuant to this Rule:

a. Only Medical Marijuana Stores, Retail Marijuana Stores, and Licensed Hospitality Businesses may collect Marijuana Consumer Waste from patients and consumers. Medical Marijuana Stores, Retail Marijuana Stores, and Licensed Hospitality Businesses collecting Marijuana Consumer Waste pursuant to this Rule are not limited to collecting Marijuana Consumer Waste from patients or consumers who purchased Regulated Marijuana from the Medical Marijuana Store, Retail Marijuana Store, or Licensed Hospitality Business.

b. A Regulated Marijuana Business may collect Marijuana Consumer Waste from any of its Owner Licensees or Employee Licensees who purchased the Regulated Marijuana from the Regulated Marijuana Business, or may collect Marijuana Consumer Waste from other Regulated Marijuana Businesses pursuant to paragraph (E) of this Rule.

c. The Licensee must utilize receptacles that are locked, sealed and designed to require a key or specialized tools in order to open and access the contents of the receptacle used for collection of Marijuana Consumer Waste;

d. All receptacles used for collection of Marijuana Consumer Waste shall be located in a secured area on the Licensed Premises and shall be reasonably supervised by a Licensee to ensure any Marijuana Consumer Waste collected is only removed by a Licensee;

e. All receptacles used for collection of Marijuana Consumer Waste shall be recorded on video surveillance; and

f. All receptacles used for collection of Marijuana Consumer Waste shall be labeled. The label must at least identify the receptacle as "Contains Marijuana Consumer Waste." A Licensee may choose to include additional information on the receptacle label.

2. Separation. Regulated Marijuana Businesses collecting Marijuana Consumer Waste pursuant to this Rule must separate any electronic and battery components from the Marijuana Consumer Waste.

3. Processes. Regulated Marijuana Businesses collecting Marijuana Consumer Waste pursuant to this Rule must establish standard operating procedures that ensure at a minimum any remaining Regulated Marijuana in Marijuana Consumer Waste is removed and destroyed to the extent practicable.

D. Reuse of Marijuana Consumer Waste. Once any remaining Regulated Marijuana has been removed and destroyed pursuant to these rules, a Regulated Marijuana Business may reuse Marijuana Consumer Waste as follows and subject to the following requirements and restrictions:

1. Sanitizing. The Containers have been sanitized and disinfected either by a Regulated Marijuana Business or by a third-party to ensure that they do not contain any harmful residue or contaminants.

2. Child-Resistant Containers. Either the Containers can be reused with new child resistant packaging that complies with 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995); or if new child resistant packaging is not being used, based on a visual inspection, the existing Child-Resistant packaging appears to be in good working order and does not appear to pose a risk of unintended exposure or ingestion of Regulated Marijuana. The visual inspection must ensure such Containers are not brittle or have chips, cracks, or other imperfections that could compromise the child-resistant properties of the Container or otherwise pose a threat of harm to a patient or consumer.

E. Transfers of Marijuana Consumer Waste. Once any remaining Regulated Marijuana has been removed and destroyed pursuant to these rules, a Regulated Marijuana Business may transfer Marijuana Consumer Waste as follows:

1. A Licensee may Transfer Marijuana Consumer Waste to another Regulated Marijuana Business for purposes of further processing and recycling or for reuse pursuant to this Rule; or

2. A Licensee may transfer Marijuana Consumer Waste, excluding the electronic components and battery components, to a Person for purposes of recycling or for reuse pursuant to this Rule. To the extent required, such Person shall be registered as required by the Colorado Department of Public Health and Environment's regulations at 6 CCR 1007-2, Part 1, Section 8; or

3. A Licensee may transfer the electronic and battery components of Marijuana Consumer Waste to a Person for purposes of recycling in accordance with the Colorado Department of Public Health and Environment's regulations at 6 CCR 1007-3.

F. Business Records. Regulated Marijuana Businesses that collect and Transfer Marijuana Consumer Waste pursuant to this Rule 3-240 shall keep all contracts, standard operating procedures, and receipts relating to the collection and Transfer of any Marijuana Consumer Waste in accordance with Rule 3-905, including but not limited to Rule 3-905(A)(2).

G. Violation Affecting Public Safety. It may be considered a violation affecting public safety for a Licensee to Transfer Marijuana Consumer Waste that has remaining Regulated Marijuana and in a manner other than in accordance with this Rule 3-240.

Basis and Purpose – 3-245

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(dd)(XIII), 44-10-609(1), 44-10-610(1), and 44-10-301(3)(b) C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(f). The purpose of this rule is to establish hours of operation requirements for Regulated Marijuana Businesses. The State Licensing Authority modeled this rule after the Colorado Department of Revenue's liquor rules. This Rule 3-245 was previously Rules M and R 308, 1 CCR 212-1 and 1 CCR 212-2.

3-245 – Selling and Serving Regulated Marijuana – Hours of Operation

A. Hours of Operation.

1. Medical Marijuana Stores and Retail Marijuana Stores shall not sell or serve Regulated Marijuana between the hours of 12:00 a.m. and 8:00 a.m., Mountain Time, Monday through Sunday.

2. Retail Marijuana Hospitality and Sales Businesses shall not sell Retail Marijuana or permit the consumption or use of Retail Marijuana on its Licensed Premises, between the hours of 2:00 a.m. and 7:00 a.m., Mountain Time, Monday through Sunday.

3. Marijuana Hospitality Businesses shall not permit the consumption or use of marijuana on its Licensed Premises, between the hours of 2:00 a.m. and 7:00 a.m., Mountain Time, Monday through Sunday.

4. Regulated Marijuana Businesses with a valid delivery permit shall not make or complete deliveries of Regulated Marijuana at any time between the hours of 12:00 a.m. and 8:00 a.m., Mountain Time, Monday through Sunday. Regulated Marijuana Businesses with a valid delivery permit may accept orders for delivery 24 hours a day, Monday through Sunday.

B. Local Jurisdictions May Further Restrict Hours. Nothing in this Rule shall prohibit a Local Jurisdiction from further restricting hours of operation within its jurisdiction.

3-300 Series – Health and Safety Regulations

Basis and Purpose – 3-305

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(3)(f), and 44-10-1001(2), C.R.S. The purpose of this rule is to clarify the conditions under which a Regulated Marijuana Business may be subject to an inspection of its Licensed Premises by a county or municipal employee, specifically but not exclusively a fire safety inspection.

3-305 – Local Safety Inspections

A Regulated Marijuana Businesses may be subject to inspection of its Licensed Premises by the local fire department, building inspector, or code enforcement officer to confirm that no health or safety concerns are present. The inspection could result in additional specific standards to meet Local Jurisdiction restrictions related to Regulated Marijuana or other local businesses. An annual fire safety inspection may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety

Basis and Purpose – 3-310

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(k), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), and 44-10-313(14), C.R.S. The purpose of this rule is to clarify the minimum health and sanitary conditions under which a Regulated Marijuana Business must maintain its Licensed Premises.

3-310 – General Sanitary Requirements

A. The Licensee shall take all reasonable measures and precautions to ensure the following:

1. That any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with Regulated Marijuana shall be excluded from any operations which may be expected to result in contamination until the condition is corrected;

2. That hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the Licensed Premises and where good sanitary practices require employees to wash or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices;

3. That all persons working in direct contact with Regulated Marijuana shall conform to hygienic practices while on duty, including but not limited to:

    a. Maintaining adequate personal cleanliness;

    b. Washing hands thoroughly in an adequate hand-washing area(s) before starting work, prior to engaging in the production of Regulated Marijuana Product, and at any other time when the hands may have become soiled or contaminated; and

    c. Refraining from having direct contact with Regulated Marijuana if the person has or may have an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected.

4. That litter and waste are properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Regulated Marijuana are exposed;

5. That floors, walls, and ceilings are constructed in such a manner that they may be adequately cleaned, and each is kept clean and in good repair;

6. That there is adequate lighting in all areas where Regulated Marijuana is stored or sold, and where equipment or utensils are cleaned;

7. That the Licensee provides adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests;

8. That any buildings, fixtures, and other facilities are maintained in a sanitary condition, including but not limited to the prevention of microorganism growth;

9. That toxic cleaning compounds, sanitizing agents, and other chemicals shall be identified, held, stored and disposed of in a manner that protects against contamination of Regulated Marijuana and in a manner that is in accordance with any applicable local, state or federal law, rule, regulation, or ordinance;

10. That all operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of Regulated Marijuana shall be conducted in accordance with adequate sanitation principles;

11. That each Regulated Marijuana Business provides its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and

12. That Regulated Marijuana that can support the rapid growth of undesirable microorganisms are held in a manner that prevents the growth of these microorganisms.

Basis and Purpose – 3-315

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(1)(g), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), and 44-10-1001(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). It sets forth general standards and basic sanitary requirements for Retail Marijuana Stores. It covers the physical premises where the products are made as well as the individuals handling the products. This rule authorizes the State Licensing Authority to require an independent consultant to conduct a health and sanitary audit of a Regulated Marijuana Business. The purpose of this rule is to establish the conditions under an independent health and safety audit may be required. This rule explains when an independent health and sanitary audit may be deemed necessary and sets forth possible consequences of a Regulated Marijuana Businesses refusal to cooperate or pay for the audit. The State Licensing Authority intends for this rule to reduce any product contamination, which will benefit both the Licensees and consumers. The State Licensing Authority modeled this rule after those adopted by the Colorado Department Revenue for Medical Marijuana and those adopted by the Colorado Department of Public Health and Environment. Overall, the State Licensing Authority intends this rule to help maintain the integrity of Colorado's Retail Marijuana businesses and the safety of the public.

3-315 – Independent Health and Safety Audit

A. State Licensing Authority May Require A Health and Sanitary Audit.

1. When the State Licensing Authority determines a health and sanitary audit by an independent consultant is necessary, it may require a Regulated Marijuana Business to undergo such an audit. The scope of the audit may include, but need not be limited, to whether the Regulated Marijuana Business is in compliance with the requirements set forth in this Rule and other applicable health, sanitary, or food handling laws, rules, and regulations.

2. In such instances, the Division may attempt to mutually agree upon the selection of the independent consultant with a Regulated Marijuana Business. However, the Division always retains the authority to select the independent consultant regardless of whether mutual agreement can be reached.

3. The Regulated Marijuana Business will be responsible for all costs associated with the independent health and sanitary audit.

B. When Independent Health and Sanitary Audit Is Necessary. The State Licensing Authority has discretion to determine when an audit by an independent consultant is necessary. The following is a non-exhaustive list of examples that may justify an independent audit:

1. The Division has reasonable grounds to believe that the Regulated Marijuana Business is in violation of one or more of the requirements set forth in this Rule or other applicable public health or sanitary laws, rules, or regulations;

2. The Division has reasonable grounds to believe that the Regulated Marijuana Business was the cause or source of contamination of Regulated Marijuana;

3. A Regulated Marijuana Cultivation Facility does not provide requested records related to the use of Pesticide or other agricultural chemicals used in the cultivation process;

4. Multiple Harvest Batches or Production Batches produced by a Regulated Marijuana Cultivation Facility failed contaminant testing;

5. A Regulated Marijuana Products Manufacturer does not provide requested records related to the production of Regulated Marijuana Products, including but not limited to, certification of its Licensed Premises, equipment or standard operating procedures, food handling training required for Owner Licensees and Employee Licensees engaged in the production of Regulated Marijuana Products, or Production Batch specific records to the Division;

6. Multiple Production Batches of Regulated Marijuana Products produced by the Regulated Marijuana Products Manufacturer failed contaminant testing.

C. Compliance Required. A Regulated Marijuana Business must pay for and timely cooperate with the State Licensing Authority's requirement that it undergo an independent health and sanitary audit in accordance with this Rule.

D. Suspension of Operations.

1. If the State Licensing Authority has objective and reasonable grounds to believe and finds upon reasonable ascertainment of the underlying facts that the Licensee committed a deliberate and willful violation or there is a substantial danger to public health and safety and incorporates such findings into its order, it may order summary suspension of the Regulated Marijuana Business's license. *See* Rule 8-210 – Disciplinary Process: Summary Suspensions.

2. Prior to or following the issuance of such an order, the Regulated Marijuana Business may attempt to come to a mutual agreement with the Division to suspend its operations until the completion of the independent audit and the implementation of any required remedial measures.

a. If an agreement cannot be reached or the State Licensing Authority, in its sole discretion, determines that such an agreement is not in the best interests of the public health, safety, or welfare, then the State Licensing Authority will promptly institute license suspension or revocation procedures. *See* Rule 8-210 – Disciplinary Process: Summary Suspensions.

b. If an agreement to suspend operations is reached, then the Regulated Marijuana Business may continue to care for its inventory and conduct any necessary internal business operations, but it may not Transfer any Regulated Marijuana or

Regulated Marijuana Product to another Regulated Marijuana Business, a patient, or a consumer during the period of time specified in the agreement

Basis and Purpose – 3-320

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(dd)(X), and 44-10-203(3)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). This rule prohibits a Regulated Marijuana Business from Transferring any contaminated Regulated Marijuana or Regulated Marijuana Product to any Person or another Regulated Marijuana Business.

3-320 – Contaminated Product

A Regulated Marijuana Business shall not accept or Transfer to any Person any Regulated Marijuana that has failed required testing pursuant to Rule 4-120 or Rule 4-125, unless otherwise permitted in these rules. *See* Rule 4-135. If, despite the prohibitions in these rules, another Regulated Marijuana Business Transfers any Regulated Marijuana that has failed or subsequently fails required testing pursuant to Rule 4-120 or Rule 4-125, the receiving Regulated Marijuana Business shall ensure that all Regulated Marijuana that failed required testing are safely disposed of in accordance with Rule 3-230.

Basis and Purpose – 3-325

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(dd)(X), and 44-10-203(3)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to clarify that a Regulated Marijuana Business engaged in the cultivation of Regulated Marijuana is prohibited from using certain chemicals or pesticides that may cause harm to employees or consumers.

3-325 – Prohibited Chemicals

A. Applicability. This Rule 3-325 applies to Medical Marijuana Cultivation Facilities, Retail Marijuana Cultivation Facilities, Accelerator Cultivator and Marijuana Research and Development Licensees.

B. The following chemicals are prohibited and shall not be used in Regulated Marijuana cultivation. Possession of chemicals and/or containers from these chemicals upon the Licensed Premises shall be a violation of this Rule. Additionally, possession of Regulated Marijuana or Regulated Marijuana Concentrate on which any of the following chemicals is detected shall constitute a violation of this Rule.

1. Any Pesticide the use of which would constitute a violation of the Pesticide Act, section 35-9-101 *et seq*., C.R.S., the Pesticide Applicators' Act, section 35-10-101 et seq., C.R.S., or the rules and regulations pursuant thereto.

2. Other chemicals (listed by chemical name and CAS Registry Number (or EDF Substance ID)):

ALDRIN

309-00-2

ARSENIC OXIDE (3)

1327-53-3

ASBESTOS (FRIABLE)

1332-21-4

AZODRIN

6923-22-4

1,4-BENZOQUINONE, 2,3,5,6-TETRACHLORO-

118-75-2

BINAPACRYL

485-31-4

2,3,4,5-BIS (2-BUTENYLENE) TETRAHYDROFURFURAL

126-15-8

BROMOXYNIL BUTYRATE

EDF-186

CADMIUM COMPOUNDS

CAE750

CALCIUM ARSENATE [2ASH3O4.2CA]

7778-44-1

CAMPHECHLOR

8001-35-2

CAPTAFOL

2425-06-1

CARBOFURAN

1563-66-2

CARBON TETRACHLORIDE

56-23-5

CHLORDANE

57-74-9

CHLORDECONE (KEPONE)

143-50-0

CHLORDIMEFORM

6164-98-3

CHLOROBENZILATE

510-15-6

CHLOROMETHOXYPROPYLMERCURIC ACETATE [CPMA] EDF-

183

COPPER ARSENATE

10103-61-4

2,4-D, ISOOCTYL ESTER

25168-26-7

DAMINOZIDE

1596-84-5

DDD

72-54-8

DDT

50-29-3

DI(PHENYLMERCURY)DODECENYLSUCCINATE [PMDS] EDF-

187

1,2-DIBROMO-3-CHLOROPROPANE (DBCP)

96-12-8

1,2-DIBROMOETHANE

106-93-4

1,2-DICHLOROETHANE

107-06-2

DIELDRIN

60-57-1

4,6-DINITRO-O-CRESOL

534-52-1

DINITROBUTYL PHENOL

88-85-7

ENDRIN

72-20-8

EPN

2104-64-5

ETHYLENE OXIDE

75-21-8

FLUOROACETAMIDE

640-19-7

GAMMA-LINDANE

58-89-9

HEPTACHLOR

76-44-8

HEXACHLOROBENZENE

118-74-1

1,2,3,4,5,6-HEXACHLOROCYCLOHEXANE (MIXTURE OF ISOMERS)

608-73-1

1,3-HEXANEDIOL, 2-ETHYL-

94-96-2

LEAD ARSENATE

7784-40-9

LEPTOPHOS

21609-90-5

MERCURY

7439-97-6

METHAMIDOPHOS

10265-92-6

METHYL PARATHION

298-00-0

MEVINPHOS

7786-34-7

MIREX

2385-85-5

NITROFEN

1836-75-5

OCTAMETHYLDIPHOSPHORAMIDE

152-16-9

PARATHION

56-38-2

PENTACHLOROPHENOL

87-86-5

PHENYLMERCURIC OLEATE [PMO]

EDF-185

PHOSPHAMIDON

13171-21-6

PYRIMINIL

53558-25-1

SAFROLE

94-59-7

SODIUM ARSENATE

13464-38-5

SODIUM ARSENITE

7784-46-5

2,4,5-T

93-76-5

TERPENE POLYCHLORINATES (STROBANE6)

8001-50-1

THALLIUM(I) SULFATE

7446-18-6

2,4,5-TP ACID (SILVEX)

93-72-1

TRIBUTYLTIN COMPOUNDS

EDF-184

2,4,5-TRICHLOROPHENOL

95-95-4

VINYL CHLORIDE

75-01-4

C. DMSO. Except for R&D Licensees, the use of Dimethylsulfoxide (DMSO) in the production of Regulated Marijuana and the possession of DMSO upon the Licensed Premises is prohibited.

Basis and Purpose – 3-330

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), 44-10-203(3)(c), 44-10-203(3)(e), and 44-10-1001, C.R.S. The purpose of this rule is to clarify the minimum health and safety requirements imposed on a Medical or Retail Marijuana Cultivation Facility. The State Licensing Authority has determined the cultivation of Medical or Retail Marijuana requires the application of processes and procedures, and the use of materials, chemicals, and pesticides which, if improperly used, may be potentially harmful to employees and consumers. Therefore, the cultivation of Medical or Retail Marijuana must be performed in a manner that reduces the likelihood of exposure to such materials, chemicals and pesticides, or other microbials or molds. The State Licensing Authority intends for this rule to reduce any product contamination, which will benefit both the Licensees and consumers. The State Licensing Authority modeled this rule after those adopted by the Colorado Department Revenue for Medical Marijuana and those adopted by the Colorado Department of Public Health and Environment. Overall, the State Licensing Authority intends this rule to help maintain the integrity of Colorado's Retail Marijuana businesses and the safety of the public.

3-330 – Cultivation of Regulated Marijuana: Specific Health and Safety Requirements

A. Additional Sanitary Requirements. In addition to the general sanitary requirements in Rule 3-310, a Regulated Marijuana Cultivation Facility shall take all reasonable measure and precautions to ensure the following:

1. That all contact surfaces, including utensils and equipment used for the preparation of Regulated Marijuana, Physical Separation-Based Medical Marijuana Concentrate, or Physical Separation-Based Retail Marijuana Concentrate, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana shall be cleaned and sanitized as frequently as necessary to protect against contamination. Equipment and utensils shall be so designed and of

such material and workmanship as to be adequately cleanable and shall be properly maintained. Only sanitizers and disinfectants registered with the Environmental Protection Agency shall be used in a Regulated Marijuana Cultivation Facility;

2. That the water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the Licensed Premises' needs. Reclaimed water may also be used only for the cultivation of Regulated Marijuana to the extent authorized under the Reclaimed Water Control Regulations (5 CCR 1002-84), and subject to approval of the Water Quality Control Division of the Colorado Department of Public Health and Environment and the local water provider;

3. That plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the plant and that shall properly convey sewage and liquid disposable waste from the Licensed Premises. There shall be no cross-connections between the potable water, reclaimed water, and waste water lines; and

4. That any room used for the cultivation of Regulated Marijuana has measures to prevent the accumulation of dangerous levels of CO_2.

B. Pesticide Application. A Regulated Marijuana Cultivation Facility may only use Pesticide in accordance with the "Pesticide Act" sections 35-9-101 et seq., C.R.S., the "Pesticides Applicators' Act," sections 35-10-101 et seq., C.R.S., and all other applicable federal, state, and local laws, statutes, rules and regulations. This includes, but shall not be limited to, the prohibition on detaching, altering, defacing or destroying, in whole or in part, any label on any Pesticide. The Colorado Department of Agriculture's determination that the Licensee used any quantity of a Pesticide that would constitute a violation of the Pesticide Act or the Pesticide Applicators' Act shall constitute prima facie evidence of a violation of this Rule.

C. Application of Other Agricultural Chemicals. A Regulated Marijuana Cultivation Facility may only use agricultural chemicals, other than a Pesticide, in accordance with all applicable federal, state, and local laws, statutes, rules, and regulations.

D. Required Documentation.

1. Standard Operating Procedures. A Regulated Marijuana Cultivation Facility must establish written standard operating procedures for the cultivation, harvesting, drying, curing, trimming, packaging, storing, and sampling for testing of Regulated Marijuana, and the processing, packaging, storing, and sampling for testing of Regulated Marijuana Concentrate, and the processing, rolling, filling or similar process, packaging, storing and sampling for testing of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana made from Physical Separation-Based Concentrate. A copy of all standard operating procedures must be maintained on the Licensed Premises of the Regulated Marijuana Cultivation Facility.

   a. The standard operating procedures must include when, and the manner in which, all Pesticide and other agricultural chemicals are to be applied during its cultivation process.

   b. The standard operating procedures must also include any methods and processes related to Decontamination of Harvest Batches.

c. If a Regulated Marijuana Cultivation Facility produces Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana made from Physical Separation-Based Concentrate, the standard operating procedures must include all methods and processes related to the creation of each type of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana product, including but not limited to, the strains used, where strains are sourced, which parts of Harvest Batches are used (e.g. flower, shake, trim), the size of the product (e.g. 1 gram pre-rolls), and how much and what type of Regulated Marijuana Concentrate is added (if applicable) for each type of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana it produces.

d. Provide adequate training to every Owner Licensee and Employee Licensee who performs a task or set of tasks that are referenced in the standard operating procedures. Adequate training must include, but need not be limited to, providing a copy of the standard operating procedures for that Licensed Premises detailing at least all of the topics required to be included in the standard operating procedures.

2. Material Change. If a Regulated Marijuana Cultivation Facility makes a Material Change to its cultivation procedures, it must document the change and revise its standard operating procedures accordingly. Records detailing the Material Change must be maintained on the relevant Licensed Premises.

3. Safety Data Sheet. A Regulated Marijuana Cultivation Facility must obtain a safety data sheet for any Pesticide or other agricultural chemical used or stored on its Licensed Premises. A Regulated Marijuana Cultivation Facility must maintain a current copy of the safety data sheet for any Pesticide or other agricultural chemical on the Licensed Premises where the product is used or stored.

4. Labels of Pesticide and Other Agricultural Chemicals. A Regulated Marijuana Cultivation Facility must have the original label or a copy thereof at its Licensed Premises for all Pesticide and other agricultural chemicals used during its cultivation process.

5. Pesticide Application Documentation. A Regulated Marijuana Cultivation Facility that applies any Pesticide to any portion of a Regulated Marijuana plant during cultivation or generally within the Licensed Premises must document, and maintain a record on its Licensed Premises of, the following information:

a. The name, signature, and Employee License number of the individual who applied the Pesticide;

b. Applicator certification number if the applicator is licensed through the Department of Agriculture in accordance with the “Pesticides Applicators’ Act,” sections 35-10-101 et seq., C.R.S.;

c. The date and time of the application;

d. The EPA registration number of the Pesticide applied;

e. Any of the active ingredients of the Pesticide applied;

f. Brand name and product name of the Pesticide applied;

g. The restricted entry interval from the product label of any Pesticide applied;

h. The RFID tag number of the Regulated Marijuana plant(s) that the was applied to or if applied to all plants, a statement to that effect; and

i. The total amount of each Pesticide applied.

E. Adulterants. A Regulated Marijuana Cultivation Facility may not treat or otherwise adulterate Regulated Marijuana with any chemical or other compound whatsoever to alter its color, appearance, weight, or smell.

Basis and Purpose – 3-335

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), 44-10-202(2)(y), 44-10-203(3)(b), 44-10-203(3)(c), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-203(3)(g), and 44-10-1001, C.R.S. The State Licensing Authority has determined the manufacturing of Medical or Retail Marijuana Infused Products involves the application of processes and procedures, materials, chemicals, and additives, which, if improperly applied, may cause harm to employees and consumers. Therefore, the purpose of this Rule is to clarify the minimum and specific health and safety requirements imposed on a Medical or Retail Marijuana Products Manufacturing Facility. This Rule clarifies which Edible Medical or Retail Marijuana Products, due to their specific composition, are *per se* practicable to mark with the Universal Symbol but exempts certain Liquid Products from the Universal Symbol requirements. Additionally, the Rule imposes manufacturing and production requirements (e.g. prohibiting products from being shaped like fruit or humans), identifies the standard THC portion, prohibits licensees from using commercial food products to remanufacture Medical or Retail Marijuana Products, and prohibits the use of toxic additives.

3-335 – Production of Regulated Marijuana Concentrate and Regulated Marijuana Products: Specific Health and Safety Requirements

A. Training.

1. Prior to engaging in the manufacture of any Edible Medical Marijuana Product or Edible Retail Marijuana Product each Owner Licensee or Employee Licensee must:

a. Have a currently valid Food Handler Certificate obtained through the successful completion of an online assessment or print exam; or

b. Take a food safety course that includes basic food handling training and is comparable to, or is a course given by, the Colorado State University extension service or a state, county, or district public health agency, and must maintain a status of good standing in accordance with the course requirements, including attending any additional classes if necessary. Any course taken pursuant to this rule must last at least two hours and cover the following subjects:

i. Causes of foodborne illness, highly susceptible populations and worker illness;

ii. Personal hygiene and food handling practices;

iii. Approved sources of food;

iv. Potentially hazardous foods and food temperatures;

v. Sanitization and chemical use; and

vi. Emergency procedures (fire, flood, sewer backup).

2. A Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer must obtain documentation evidencing that each Owner Licensee or Employee Licensee has successfully completed the examination or course required by this Rule and is in good standing. A copy of the documentation must be kept on file at any Licensed Premises where that Owner Licensee or Employee Licensee is engaged in the manufacturing of an Edible Medical Marijuana Product or Edible Retail Marijuana Product.

B. Other State and Local Health and Safety Standards Apply. A Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer that manufactures Edible Medical Marijuana Products or Edible Retail Marijuana Products shall comply with all kitchen-related health and safety standards of the relevant Local Licensing Authority or Local Jurisdiction and, to the extent applicable, with all Colorado Department of Public Health and Environment health and safety regulations applicable to retail food establishments, as set forth in 6 CCR 1010-2.

C. Additional Sanitary Requirements. A Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer shall take all reasonable measures and precautions to ensure the following:

1. That there is sufficient space for placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations for production of Regulated Marijuana or Regulated Marijuana Products;

2. That all contact surfaces, including utensils and equipment used for the preparation of Regulated Marijuana or Regulated Marijuana Product, shall be cleaned and sanitized as frequently as necessary to protect against contamination. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable and shall be properly maintained. Only sanitizers and disinfectants registered with the Environmental Protection Agency shall be used by a Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer, and used in accordance with labeled instructions;

3. That the water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the Licensed Premises needs;

4. That plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the plant and that shall properly convey sewage and liquid disposable waste from the Licensed Premises. There shall be no cross-connections between the potable and waste water lines; and

5. That storage and transport of finished Regulated Marijuana Product shall be under conditions that will protect products against physical, chemical, and microbial contamination as well as against deterioration of any Container.

D. Product Safety.

1. A Regulated Marijuana Products Manufacturer that manufactures Edible Regulated Marijuana Product shall create and maintain standard production procedures and detailed manufacturing processes for each Edible Medical Marijuana Product or Edible

Retail Marijuana Product it manufactures. These procedures and processes must be documented and made available on the Licensed Premises for inspection by the Division, the Colorado Department of Public Health & Environment, and local licensing authorities.

2. Universal Symbol Marking Requirements.

   a. The following categories of Edible Medical Marijuana Products and Edible Retail Marijuana Products are considered to be per se practicable to mark, and shall be marked, stamped, or otherwise imprinted with the Universal Symbol directly on the Regulated Marijuana Product:

      i. Chocolate;

      ii. Soft confections;

      iii. Hard confections or lozenges;

      iv. Consolidated baked goods (e.g. cookie, brownie, cupcake, granola bar);

      v. Pressed pills and capsules.

   b. The Universal Symbol marking shall:

      i. Be marked, stamped, or otherwise imprinted in its entirety on at least one side of the Edible Medical Marijuana Product or Edible Retail Marijuana Product. The shape of the product shall not be included or take place of any part of the Universal Symbol;

      ii. Be centered either horizontally or vertically on the Edible Medical Marijuana Product or Edible Retail Marijuana Product;

      iii. If centered horizontally on the Edible Medical Marijuana Product or Edible Retail Marijuana Product, the height and width of the Universal Symbol shall be of a size that is at least 25% of the product's height, but not less than ¼ inch by ¼ inch.

      iv. If centered vertically on the Edible Medical Marijuana Product or Edible Retail Marijuana Product, the height and width of the Universal Symbol shall be of a size that is at least 25% of the product's height, but not less than ¼ inch by ¼ inch.

   c. The following categories of Edible Medical Marijuana Product and Edible Retail Marijuana Product are considered to be per se impracticable to mark with the Universal Symbol marking requirements, provided that they comply with labeling and Container requirements of 3-1000 Series Rules.

      i. Loose bulk goods (e.g. granola, cereals, popcorn);

      ii. Powders;

      iii. Liquid Edible Medical Marijuana Products;

      iv. Liquid Edible Retail Marijuana Products.

3. Medical Marijuana Products Manufacturer Specific Requirements.

a. Standard Portion of THC. A Medical Marijuana Products Manufacturer may determine a standard portion of THC for each Edible Medical Marijuana Product it manufactures. If a Medical Marijuana Products Manufacturer determines a standard portion for an Edible Medical Marijuana Product, that information must be documented in the product's standard production procedure.

b. Documentation. For each Edible Medical Marijuana Product, the total amount of active THC contained within the product must be documented in the standard production procedures.

c. If a Medical Marijuana Products Manufacturer elects to determine standard portions for an Edible Medical Marijuana Product, then the Universal Symbol shall be applied to each portion in accordance with the requirements of subparagraph (D)(2)(b) of this Rule 3-335. Except that the size of the Universal Symbol marking shall be determined by the size of the portion instead of the overall product size and shall not be less than ¼ inch by ¼ inch.

d. Medical Marijuana Concentrate Recommended Serving Size and Visual Representation.

i. The recommended serving size for Medical Marijuana Concentrate in Vaporized Delivery Devices should not exceed one (1) inhalation lasting two (2) seconds per serving.

ii. The recommended serving size for Medical Marijuana Concentrate intended to be inhaled in any manner other than a Vaporizer Delivery Device is a sphere identified in the tangible educational resource required to be provided to a patient pursuant to Rule 5-125(D) and Rule 5-115(C.5).

4. Retail Marijuana Products Manufacturer Specific Requirements.

a. Standardized Serving of Marijuana. The size of a Standardized Serving of Marijuana shall be no more than 10mg of active THC. A Retail Marijuana Products Manufacturer or an Accelerator Manufacturer that manufactures Edible Retail Marijuana Product shall determine the total number of Standardized Servings of Marijuana for each product that it manufactures. No individual Edible Retail Marijuana Product unit packaged for Transfer to a consumer shall contain more than 100 milligrams of active THC.

b. Documentation. The following information must be documented in the standard production procedures for each Edible Retail Marijuana Product: the amount in milligrams of Standardized Serving of Marijuana, the total number of Standardized Servings of Marijuana, and the total amount of active THC contained within the product.

c. Notwithstanding the requirement of subparagraph (D)(2)(b), an Edible Retail Marijuana Product shall contain no more than 10 mg of active THC per Container and the Retail Marijuana Products Manufacturer or an Accelerator Manufacturer must ensure that the product is packaged in accordance with the Rules 3-1005(C)(1) and 1010(D)(1), when:

i. The Edible Retail Marijuana Product is of the type that is impracticable to mark, stamp, or otherwise imprint with the Universal Symbol directly on

the product in a manner to cause the Universal Symbol to be distinguishable and easily recognizable; or

ii. The Edible Retail Marijuana Product is of the type that is impracticable to clearly demark each Standardized Serving of Marijuana or to make each Standardized Serving of Marijuana separable.

d. Liquid Edible Retail Marijuana Product.

i. Pursuant to 44-10-603(4)(b), C.R.S., Liquid Edible Retail Marijuana Products are impracticable to mark with the Universal Symbol and are exempt from the provision in subparagraph (D)(4)(c) of this Rule 3-335 that requires Edible Retail Marijuana Products that are impracticable to mark with the Universal Symbol to contain 10mg or less active THC per Container.

ii. This exemption permits the manufacture and Transfer of Multi-Serving Liquid Edible Retail Marijuana Products so long as the product is packaged in accordance with Rules 3-1005(C)(1) and 3-1010(D)(1)(c)(ii).

e. Multiple-Serving Edible Retail Marijuana Product.

i. A Retail Marijuana Products Manufacturer or an Accelerator Manufacturer must ensure that each single Standardized Serving of Marijuana of a Multiple-Serving Edible Retail Marijuana Product is physically demarked in a way that enables a reasonable person to intuitively determine how much of the product constitutes a single serving of active THC.

ii. Each demarked Standardized Serving of Marijuana must be easily separable in order to allow an average person 21 years of age and over to physically separate, with minimal effort, individual servings of the product.

iii. Each single Standardized Serving of Marijuana contained in a Multiple-Serving Edible Retail Marijuana Product shall be marked, stamped, or otherwise imprinted with the Universal Symbol directly on the product in a manner to cause the Universal Symbol to be distinguishable and easily recognizable. The Universal Symbol marking shall comply with the requirements of subparagraph (D)(2)(b) of this Rule 3-335.

iv. A Multiple-Serving Edible Retail Marijuana Product that is a Liquid Edible Retail Marijuana Product shall comply with the requirements in subparagraph (D)(4)(d)(ii) of this Rule 3-335 and is exempt from subparagraphs (i)-(iii) of this subparagraph (D)(4)(e)(iv).

f. Retail Marijuana Concentrate Recommended Serving Size and Visual Representation.

i. The recommended serving size for Retail Marijuana Concentrate in Vaporized Delivery Devices should not exceed one (1) inhalation lasting two (2) seconds per serving.

ii. The recommended serving size for Retail Marijuana Concentrate intended to be inhaled in any manner other than a Vaporizer Delivery

Device is a sphere identified in the tangible educational resource required to be provided to a patient pursuant to Rule 6-110(C.5) and Rule 6-1110(C.5).

E. Remanufactured Products Prohibited. A Regulated Marijuana Products Manufacturer shall not utilize a commercially manufactured food product as its Edible Medical Marijuana Product or Edible Retail Marijuana Product. The following exceptions to this prohibition apply:

1. A food product that was commercially manufactured specifically for use by a Regulated Marijuana Products Manufacturer to infuse with Regulated Marijuana shall be allowed. The Licensee shall have a written agreement with the commercial food product manufacturer that declares the food product's exclusive use by the Regulated Marijuana Products Manufacturer.

2. Commercially manufactured food products may be used as Ingredients in an Edible Medical Marijuana Product or Edible Retail Marijuana Product so long as: (1) they are used in a way that renders them unrecognizable as the commercial food product in the final Edible Medical Marijuana Product or Edible Retail Marijuana Product, and (2) the Regulated Marijuana Products Manufacturer does not state or advertise to the consumer that the final Edible Medical Marijuana Product or Edible Retail Marijuana Product contains the commercially manufactured food product.

F. Trademarked Food Products. Nothing in this Rule alters or eliminates a Regulated Marijuana Products Manufacturer's responsibility to comply with the trademarked food product provisions required by the Marijuana Code per section 44-10-503(9)(a-c), C.R.S.

G. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit.

1. The production, Transfer, and donation of Edible Medical Marijuana Products or Edible Retail Marijuana Products in the following shapes is prohibited:

i. The distinct shape of a human, animal, or fruit; or

ii. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

2. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Regulated Marijuana Business. Nothing in this subparagraph (G)(2) alters or eliminates a Licensee's obligation to comply with the requirements of the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

3. Edible Medical Marijuana Products and Edible Retail Marijuana Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and

4. Edible Medical Marijuana Products and Edible Retail Marijuana Products that are manufactured in the shape of a marijuana leaf are permissible.

H. Inactive Ingredients.

1. Only non-cannabis derived inactive Ingredients listed in the Federal Food and Drug Administration Inactive Ingredient Database https://www.accessdata.fda.gov/scripts/cder/iig/index.cfm, or approved by another equivalent international government agency, may be used in the manufacture of Audited

Product and Regulated Marijuana Concentrate intended for use through a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler.

2. All non-cannabis derived inactive Ingredients contained in any Audited Product or in any Regulated Marijuana Concentrate intended for use through a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler must be less than or equal to the concentration listed in the Federal Food and Drug Administration Inactive Ingredient Database, or approved by another equivalent international government agency for:

   a. The inhalation route of administration for any Audited Product to be used in a metered dose nasal spray, or any Regulated Marijuana Concentrate to be used in a Vaporizer Delivery Device or pressurized metered dose inhaler;

   b. The vaginal route of administration for any Audited Product to be used for vaginal administration; or

   c. The rectal route of administration for any Audited Product to be used for rectal administration.

I. Other Permitted Ingredients. Nothing in paragraph H above prohibits a Regulated Marijuana Products Manufacturer from using marijuana-derived ingredients or Botanically Derived Compounds and/or terpenoids.

J. Processing Aids and Additives. A Regulated Marijuana Products Manufacturer shall not include any Processing Aid or Additive that is toxic, prohibited, or present at levels over the acceptable limits pursuant to Rule 4-115(D) within a Regulated Marijuana Product; nor include any Additive for the purposes of making the product more addictive, appealing to children, or misleading to patients or consumers.

K. Prohibited Ingredients.

1. A Regulated Marijuana Products Manufacturer shall not use the following Ingredients in the production or Transfer of Regulated Marijuana Concentrate and Regulated Marijuana Product for which the inhaled product is the intended use in accordance with Rule 3-1015:

   a. Polyethylene glycol (PEG);

   b. Vitamin E Acetate;

   c. Medium Chain Triglycerides (MCT Oil);

2. A Licensee authorized to manufacture Regulated Marijuana Concentrate or Regulated Marijuana Product shall not use ingredients, other than Regulated Marijuana, with over 0.3% combined D8-THC, D9-THC, D10-THC, Exo-THC or other THC isomers, salts, or salt isomers of tetrahydrocannabinol in the manufacture, production, or Transfer of Regulated Marijuana Concentrate or Regulated Marijuana Product.

L. Standard Operating Procedures.

1. A Regulated Marijuana Products Manufacturer must have written standard operating procedures for each category and type of Medical Marijuana Product or Retail Marijuana Product that it produces.

a. All standard operating procedures for the production of a Medical Marijuana Concentrate or Retail Marijuana Concentrate must follow the requirements in Rules 5-315 and 6-315.

b. A copy of all standard operating procedures must be maintained on the Licensed Premises of the Regulated Marijuana Products Manufacturer.

c. If a Regulated Marijuana Products Manufacturer produces Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana, the standard operating procedures must include all methods and processes related to the creation of each type of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana product, including but not limited to, the strains used, where strains are sourced, which parts of Harvest Batches are used (e.g. flower, shake, trim), the size of the product (e.g. 1 gram pre-rolls), and how much and what type of Regulated Marijuana Concentrate is added (if applicable) for each type of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana it produces.

d. Provide adequate training to every Owner Licensee and Employee Licensee who performs a task or set of tasks that are referenced in the standard operating procedures. Adequate training must include, but need not be limited to, providing a copy of the standard operating procedures for that Licensed Premises detailing at least all of the topics required to be included in the standard operating procedures.

2. If a Regulated Marijuana Products Manufacturer makes a Material Change to its standard Medical Marijuana Product production process or Retail Marijuana Product production process, it must document the change and revise its standard operating procedures accordingly. Records detailing the Material Change must be maintained on the relevant Licensed Premises.

M. Expiration Date for Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers. Effective July 1, 2022, a Regulated Marijuana Products Manufacturer that produces a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler shall establish an expiration date upon which the Vaporized Delivery Device or Pressurized Metered Dose Inhaler will no longer be fit for consumption. The Licensee shall determine the expiration date by conducting potency and contaminant testing pursuant to Rules 4-120 and 4-125 on the final Vaporizer Delivery Device or Pressurized Metered Dose Inhaler prior to Transfer to ensure the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler can pass potency and contaminant testing prior to the established expiration date.

1. When determining the expiration date for a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler pursuant to this rule, the Licensee shall also consider the following:

i. Any expiration dates of additives used to produce the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler;

ii. The interaction with hardware;

iii. The final formulation within the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler; and

iv. The ideal storage conditions for the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler.

2. The License may, but is not required to, use accelerated stability tests to demonstrate compliance with this rule.

3. Expiration date determinations, along with any data used to establish the expiration date, shall be documented and maintained in the Licensee's business records pursuant to these rules.

N. DMSO. Except for R&D Licensees, the use of Dimethylsulfoxide (DMSO) in the production of Regulated Marijuana Product and possession of DMSO upon the Licensed Premises is prohibited.

Basis and Purpose – 3-336

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(b)-(c), 44-10-203(1)(k), 44-10-203(2)(d)(I)-(VI), 44-10-203(2)(m), 44-10-401(2)(a)(III), 44-10-503, and 44-10-901(1), C.R.S. The purpose of this rule is to establish minimum requirements for a recall plan, the process by which the Division or a Regulated Marijuana Business initiates a product recall, the requirements any recall must meet, and how such recall is terminated.

3-336 – Recall of Regulated Marijuana

A. Effective Date. This Rule is effective January 1, 2021.

B. Applicability. This Rule 3-336 applies to Medical Marijuana Stores, Medical Marijuana Products Manufacturers, Medical Marijuana Cultivation Facilities, Medical Marijuana Research and Development Facilities, Retail Marijuana Stores, Retail Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Licensed Hospitality Businesses, Accelerator Cultivators, Accelerator Manufacturers, and Accelerator Stores.

C. Initiating a Recall. A Regulated Marijuana Business subject to this Rule 3-336 may voluntarily initiate a recall at any time or a recall may be initiated at the request of the Division. A Regulated Marijuana Business subject to this rule must comply with the requirements of this Rule 3-336.

1. Division Requests for Recalls:

i. If the Division requests a Regulated Marijuana Business to initiate a recall pursuant to this rule, the Division's correspondence, which may be electronic, must include the reasons for the recall request and any other information necessary for the Regulated Marijuana Business to initiate a recall pursuant to this rule.

ii. A recall request issued by the Division does not require that a Regulated Marijuana Business initiate a recall. However, if the Division has reasonable grounds to believe a Licensee's Regulated Marijuana is contaminated or otherwise presents a risk to public safety, the Division may require a Regulated Marijuana Business to quarantine affected Regulated Marijuana Inventory pursuant to Rules 4-115 and 4-135.

D. Recall Plan Required. A Regulated Marijuana Business subject to this Rule 3-336 must have a written recall plan. A recall plan shall include, but is not limited to the following:

1. Evaluation of a Complaint or Condition. A Regulated Marijuana Business subject to this rule must maintain a record of all complaints it receives regarding the quality of Regulated Marijuana that has any potential negative impact to health or regarding an adverse reaction. To the extent known after reasonable diligence to ascertain the

information, the record must contain the name of the complainant, the purchase date, the location of where the product was purchased, the date the complaint was received, the nature of the complaint, the steps taken to investigate the complaint, the response to the complaint, and the name and Production or Harvest Batch number for the Regulated Marijuana subject to the complaint.

a. If an initial assessment indicates a recall may be necessary, the Regulated Marijuana Business shall take the following measures:

i. Determine the hazard and evaluate the safety concerns with the product;

ii. Undertake necessary product quarantine measures for any affected Regulated Marijuana in the Licensee's possession or control; and

iii. Determine the product removal strategy appropriate to the threat and location in commerce.

2. Identification of Affected Regulated Marijuana. A recall plan must establish a process for identifying affected Regulated Marijuana subject to a recall, which shall include the following:

a. Distribution List. When identifying Regulated Marijuana subject to a recall, the Licensee shall create a distribution list that includes the following information:

i. The name, license number, and address of the Regulated Marijuana Business(es) that received the Regulated Marijuana subject to the recall;

ii. Ship or Transfer date(s) for the Regulated Marijuana subject to the recall; and

iii. Business contact information for each Regulated Marijuana Business that received Regulated Marijuana subject to the recall, including names and telephone numbers.

b. Product Information. When identifying Regulated Marijuana subject to a recall, the Licensee shall document the following product information:

i. The category of Regulated Marijuana (e.g. Medical Marijuana flower; Medical Marijuana Concentrate; Medical Marijuana Product; Retail Marijuana flower; Retail Marijuana Concentrate, Retail Marijuana Product);

ii. Product description;

iii. Net contents;

iv. Production or Harvest Batch number;

v. The license number(s) for the Regulated Marijuana Business(es) that cultivated or manufactured the product(s) subject to the recall; and

vi. To the extent known after reasonable diligence to ascertain the information, the recall plan must also include the following additional product information: The amount of affected Regulated Marijuana

returned in response to the recall and the amount of affected Regulated Marijuana that remains in the marketplace.

3. Notification to Affected Parties.

a. A Licensee initiating a recall pursuant to this rule shall issue a recall notice to Regulated Marijuana Businesses identified on the Licensee's distribution list.

b. No later than 48 hours from issuing a recall notice to Regulated Marijuana Businesses on the Licensee's distribution list, the Licensee shall issue the following additional notifications:

i. The Licensee shall notify the Division and the Colorado Department of Public Health and Environment;

ii. The Licensee shall notify the Local Licensing Authority or Local Jurisdiction in which the Licensee issuing the recall is located; and

iii. The Licensee shall notify patients or consumers using the most effective method available, which may include any of the following methods: an email to the patient or customer list serve, an alert on the Regulated Marijuana Business' website, a warning that is clearly and visibly posted on the Regulated Marijuana Business' Licensed Premises, or a press release to notify patients or consumers.

c. Recall Notice. A recall notice issued by a Regulated Marijuana Business pursuant to this rule shall include at least the following information:

i. The reason for recall and related hazards, if any. If the Regulated Marijuana is being removed for quality rather than health reasons, the notice may state that the Regulated Marijuana does not meet internal company specifications and is being removed from distribution;

ii. The category of Regulated Marijuana (e.g. Medical Marijuana flower; Medical Marijuana Concentrate; Medical Marijuana Product; Retail Marijuana flower; Retail Marijuana Concentrate, Retail Marijuana Product);

iii. Regulated Marijuana Businesses that received the Medical Marijuana Concentrate, Medical Marijuana Product, Retail Marijuana Concentrate or Retail Marijuana Product;

iv. The license number(s) and name(s), including trade name(s), of the Regulated Marijuana Business(es) that cultivated or manufactured the product(s) subject to the recall;

v. Product description(s) for Regulated Marijuana subject to the recall;

vi. Production or Harvest Batch number(s) for the Regulated Marijuana subject to the recall;

vii. Expiration date(s) for the Regulated Marijuana subject to the recall, if applicable;

viii. Ship or Transfer date(s) for the Regulated Marijuana subject to the recall; and

ix. Instructions regarding the disposition of the Regulated Marijuana subject to the recall.

4. Removal of Affected Regulated Marijuana.

a. Removal. A Regulated Marijuana Business subject to this Rule 3-336 shall make all reasonable efforts to remove the affected Regulated Marijuana from commerce. Affected Regulated Marijuana that is either still in control of the originating Regulated Marijuana Business or in commerce shall be, secured, segregated, clearly labeled not for sale or distribution and separated from any other Medical Marijuana Concentrate, Medical Marijuana Product(s), Retail Marijuana Concentrate, or Retail Marijuana Product(s).

b. Final Product Disposition. At the discretion of the Regulated Marijuana Business contaminated product must be disposed by either:

i. Destroying and documenting the destruction of the affected Regulated Marijuana pursuant to Rule 3-230; or

ii. If possible, Decontaminating the affected Regulated Marijuana pursuant to Rule 4-135(B)(2). If the Regulated Marijuana cannot be decontaminated, it must be destroyed pursuant to Rule 4-135(B)(3)(c) and 3-230.

c. Recall Effectiveness. A Regulated Marijuana Business initiating a recall pursuant to this rule is responsible for determining whether the recall is effective. The Licensee shall complete recall effectiveness checks to verify that all receiving Licensees have been notified and have taken the appropriate action.

i. Effectiveness checks shall determine:

A. If the receiving Licensee received the recall notification;

B. If the recalled Regulated Marijuana was handled as instructed in the recall notification; and

C. If the Regulated Marijuana was further distributed or sold by the receiving Licensee before receipt of the recall notification, and if so, were these additional Licensees notified.

ii. If 100 percent of the affected Regulated Marijuana has been accounted for, then no effectiveness checks are required.

d. Termination of Recall. A Regulated Marijuana Business initiating a recall pursuant to this rule may terminate the recall when the Licensee determines that all reasonable efforts have been made to remove or correct the affected Regulated Marijuana in accordance with the recall plan, and when it is reasonable to assume that the Regulated Marijuana subject to the recall has been removed and proper disposition or correction has been made commensurate with the degree of hazard of the recalled Regulated Marijuana.

i. Upon termination of the recall, the Regulated Marijuana Business shall provide notice to the Division with a recall status report and a description of the disposition of the recalled Regulated Marijuana. The recall status report shall contain the following information:

A. Number of receiving Licensees notified of the recall, the date and method of notification;

B. Number of receiving Licensees who responded to the recall notice and both the quantity of affected Regulated Marijuana in the possession of the Licensee at the time of response, and quantity of affected Regulated Marijuana returned or corrected;

C. Number and results of the effectiveness checks that were made; and

D. Estimated time frame for completion of the recall.

Basis and Purpose – 3-340

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(b)-(c), 44-10-203(1)(k), 44-10-203(2)(l), 44-10-203(2)(m), and 44-10-901(1), C.R.S. The purpose of this Rule is to clarify that a Regulated Marijuana Businesses failure to comply with the requirements of 3-300 Rules Series may jeopardize the public health and safety.

3-340 – Violation Affecting Public Safety

A violation of these 3-300 Rules may be considered a license violation affecting public safety.

Basis and Purpose – 3-345 {Emergency rule expired 05/11/2021]

Rule 3-345 – [Emergency rule expired 05/11/2021]

3-400 Series – Acceptable Forms of Identification for Regulated Marijuana Sales

Basis and Purpose – 3-405

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(v), 44-10-203(2)(z), 44-10-401(2)(a)(I), 44-10-401(2)(b)(I), 44-10-501(3)(b), 44-10-501(3)(c), 44-10-501(3)(d), 44-10-501(4), 44-10-501(10)(b)(II), 44-10-601(3)(b), 44-10-701(1)(b), 44-10-701(2)(a), 44-10-701(4)(a), and 44-10-701(5)(a), C.R.S. The purpose of this rule is to establish guidelines for the acceptable forms of identification for verifying the lawful sale of Regulated Marijuana. This Rule 3-405 was previously Rule M 405, 1 CCR 212-1, and Rule R 404, 1 CCR 212-2.

3-405 – Identification

A. Medical Marijuana Transfers.

1. Necessary Identification. Medical Marijuana Stores may only Transfer Medical Marijuana to any patient or primary caregiver who is permitted to deliver Medical Marijuana to homebound patients or minor patients as permitted by section 25-1.5-106(9)(e), C.R.S., if the patient or caregiver can produce:

a. Proof of identification that complies with subparagraphs (C) and (D) of this Rule; and

b. Either a valid patient registry card, including any valid and verified digital registry card, or a copy of a current and complete new application for the Medical Marijuana registry that is documented by proof of submittal to the Colorado Department of Public Health and Environment within the preceding 35 days.

2. Physical Inspection Required. A Licensee must physically view and inspect the patient or primary caregiver's registry card, including any valid and verified digital registry card, and proof of identification to confirm the information contained on the documents and also to judge the authenticity of the documents presented.

3. Valid and Verified Registry Card. For the purposes of these rules, a valid and verified digital registry card may include:

a. A hard copy of the patient's registry card; or

b. A portable document format (PDF) of the patient's registry card presented on a phone or other portable device.

i. If a patient is presenting his or her registry card on a phone or other portable device, the PDF of the registry card must be presented.

ii. A screen shot of the patient's profile, text image of a blank card, or photo of the hard copy is unacceptable.

B. Retail Marijuana Transfers. An Accelerator Store, a Retail Marijuana Store, or a Retail Marijuana Hospitality and Sales Business may only Transfer Retail Marijuana to a consumer that first produces a form of identification that complies with subparagraphs (C) and (D) of this Rule establishing the consumer is 21 years of age or older.

1. Fraudulent Identification and Licensee's Burden. Pursuant to section 44-10-601(3)(b)(I), C.R.S., if a person under 21 years of age presents a fraudulent proof of age to a Retail Marijuana Store, or an Accelerator Store any action based upon the fraudulent proof of age shall not be grounds for the revocation or suspension of a license. To establish that the identification presented by the minor was a fraudulent proof of age, the Licensee must establish that:

a. The minor presented fraudulent identification of the type established in subparagraph (C) below;

b. During the transaction in which Retail Marijuana was Transferred to the minor, the Licensee inspected the identification provided, compared the identification to the person presenting the identification, and:

i. Inspected an identification book issued within the past three years:

ii. Used an electronic scanner;

iii. Used an ID checking software or other device used in the inspection of identification; or

iv. Used other ID security features.

C. Forms of Valid Identification. The kind and type of identification deemed adequate shall be limited to the following, including any valid and verified digital identification:

1. An operator's, chauffeur's, or similar type driver's license, including a temporary license issued by any state within the United States, District of Columbia, or any U.S. territory;

2. An identification card, including a temporary identification card, issued by any state within the United States, District of Columbia, or any U.S. territory, for the purpose of proof of age using requirements similar to those in sections 42-2-302 and 42-2-303, C.R.S.;

3. A United States military identification card or any other identification card issued by the United States government including but not limited to a permanent resident card, alien registration card, or consular card;

4. A passport or passport identification card; or

5. An Enrollment card issued by the governing authority of a federally recognized Indian tribe, if the enrollment card incorporates proof of age requirements similar to sections 42-2-302 and 42-2-303, C.R.S.

D. Identification Must Be Valid. A Licensee shall refuse the Transfer of Regulated Marijuana if a person produces identification that is invalid or expired.

3-500 Series – Responsible Vendor Program

Basis and Purpose – 3-505

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-12-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(v), 44-203(2)(dd)(II), 44-10-609(3)(b), 44-10-1201, and 44-10-1202, C.R.S. The purpose of this rule is to establish the standards for a person, employee, manager, or Controlling Beneficial Owner, Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, Retail Marijuana Transporter, Marijuana Hospitality Businesses, and Retail Marijuana Hospitality and Sales Businesses to obtain and maintain a "responsible vendor" designation. This rule identifies Licensees required to attend the Approved Training Program and requirements to maintain a "responsible vendor" designation after initially being designated a "responsible vendor." This Rule 3-505 was previously Rules M 408, 1 CCR 212-1, and R 407, 1 CCR 212-2.

3-505 – General Standards for Responsible Vendor Designations

A. Pursuant to section 44-10-1202, C.R.S., a Regulated Marijuana Business Licensee, Owner Licensee, or Employee Licensee shall comply with these 3-500 Series Rules to be designated a "responsible vendor" of Regulated Marijuana.

B. Regulated Marijuana Business Responsible Vendor Designation. To be designated a "responsible vendor" as a Regulated Marijuana Business all Controlling Beneficial Owners with day-to-day operational control of the Licensed Premises, management personnel with responsibility over sales or training of employees who engage in sales or other consumer, primary caregiver, or patient interactions, and Employee Licensees involved in the handling and Transfer of Regulated Marijuana must have successfully completed an Approved Training Program.

C. Individual Responsible Vendor Designation. A person, Employee Licensee, manager, or Controlling Beneficial Owner may receive a "responsible vendor" designation upon successful completion of an Approved Training Program.

D. Maintaining Responsible Vendor Designation.

1. After initial successful completion of a responsible vendor program, each Controlling Beneficial Owner with day-to-day operational control of the Licensed Premises, management personnel, and Employee Licensee of a Regulated Marijuana Business, as described in subparagraph (B) of this Rule, shall successfully complete an Approved Training Program once every two years thereafter for the Regulated Marijuana Business to maintain its designation as a "responsible vendor."

2. Once a Regulated Marijuana Business License is designated a "responsible vendor," all new Controlling Beneficial Owners with day-to-day operational control, new managers, or employees with responsibility over sales or training of employees who engage in sales or other consumer, primary caregiver, or patient interactions shall successfully complete the training described in these 3-500 Series Rules within 90 days of becoming employed or an owner.

3. If an Employee Licensee with a "responsible vendor" designation leaves the employment of a Regulated Marijuana Business and is employed by another Regulated Marijuana Business, the Employee Licensee does not have to receive a new "responsible vendor" designation until the Employee Licensee's current "responsible vendor" designation expires.

4. If an Employee Licensee or Controlling Beneficial Owner has a valid "responsible vendor" designation upon hiring or becoming a Controlling Beneficial Owner, then the Regulated Marijuana Business must verify the designation within 90 days to maintain the Regulated Marijuana Business's "responsible vendor" designation.

E. Documentation Required. Information or documentation related to a "responsible vendor" designation must be maintained in accordance with Rule 3-905 of these Rules.

1. An Employee Licensee or Controlling Beneficial Owner with a valid "responsible vendor" designation is responsible for maintaining information related to the designation, including but not limited to the date(s) the Employee Licensee or Controlling Beneficial Owner took the Approved Training Program and the Responsible Vendor Training Program Provider's information.

2. A Regulated Marijuana Business is responsible for maintaining information related to a "responsible vendor" designation, including but not limited to the Employee Licensee(s) or Controlling Beneficial Owner(s) who have passed an Approved Training Program and the date(s) of such training.

F. Failure to Complete Approved Training Program or Verify Valid Responsible Vendor Designation. If within 90 days of hire an Employee Licensee or Controlling Beneficial Owner either fails to successfully complete an Approved Training Program, or the Regulated Marijuana Business fails to verify the new employee, manager, or Controlling Beneficial Owner has a valid "responsible vendor" designation, then the Regulated Marijuana Business will lose its "responsible vendor" designation.

Basis and Purpose – 3-510

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-12-203(1)(c), 44-10-203(2)(v), and 44-10-203(1)(k), 44-10-1201, 44-10-1202, C.R.S. The purpose of this rule is to establish general application and notification requirements for Responsible Vendor Program Providers. This Rule 3-510 was previously Rules M 408, 1 CCR 212-1, and R 407, 1 CCR 212-2.

3-510 – General Standards for Responsible Vendor Program Provider

A. An application for approval of a responsible vendor program pursuant to section 44-10-1201 or 44-10-1202, C.R.S., shall be made upon current forms prescribed by the Division and in accordance with the 2-200 Series Rules.

B. Changes to an Approved Program. Within 30 days of any changes to the Marijuana Code, or these rules, a Responsible Vendor Program Provider shall update its responsible vendor program curriculum with any such changes.

Basis and Purpose – 3-515

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-12-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(v), 44-203(2)(dd)(II), 44-10-609(3)(b), 44-10-1201, and 44-10-1202, C.R.S. The purpose of this rule is to provide the general standards for an Approved Training Program including the minimum amount of instruction time required, that the training must be provided in a classroom setting which may be virtual or online and the testing and passing score requirements for successful completion of the Approved Training Program. This Rule 3-515 was previously Rules M 408, 1 CCR 212-1, and R 407, 1 CCR 212-2.

3-515 – Certification Training Program Standards

A. No owner or employee of a responsible vendor program may have an Owner's Interest in a Regulated Marijuana Business.

B. A Responsible Vendor Program Provider shall submit their responsible vendor program for approval every two years in order to maintain designation as a Responsible Vendor Program Provider. The renewal application must be submitted within 60 days of the expiration of the Approved Training Program.

C. The responsible vendor program shall include at least two hours of instruction time.

D. Classroom setting. The responsible vendor program shall be taught in a classroom setting where the instructor is able to verify the identification of each individual attending the responsible vendor program and certify completion of the responsible vendor program by the individual identified.

1. An Approved Training Program may be delivered in an on-line or virtual based classroom setting provided the Responsible Vendor Program Provider utilizes a learning management system or other means to verify the identification of each individual attending the responsible vendor program. For purposes of this Rule, a learning management system means the platform or database used to monitor participation, attendance, and to deliver core-curriculum materials.

2. Any Approved Training Program delivered in an on-line or virtual based classroom setting must comply with the core curriculum and assessment requirements of Rule 3-520.

E. The Responsible Vendor Program Provider shall maintain its training records in a format that is readily understood by a reasonably prudent business person during the applicable year and for the following three years. The Responsible Vendor Program Provider shall make the records available for inspection by the State Licensing Authority upon request during normal business hours.

F. The responsible vendor program shall provide to the Licensee written or electronic documentation of attendance and successful passage of a test on the knowledge of the required curriculum for each attendee.

1. Successful completion of an Approved Training Program requires a minimum passage score of 70% or better. A Responsible Vendor Program Provider may provide a reasonable testing accommodation or modification to a Licensee participant, provided the results of the test are documented and meet the minimum passing score requirement.

G. A Responsible Vendor Program Provider shall solicit effectiveness evaluations from individuals who have completed the Approved Training Program.

Basis and Purpose – 3-520

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-12-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(v), 44-203(2)(dd)(II), 44-10-609(3)(b), 44-10-1201, and 44-10-1202, C.R.S. The purpose of this rule is to establish the required curriculum for an Approved Training Program. This rule also includes the required additional curriculum for Licensees engaged in delivery activity pursuant to a valid delivery permit and employees and Controlling Beneficial Owners of a Licensed Hospitality Businesses. This Rule 3-520 was previously Rules M 408, 1 CCR 212-1, and R 407, 1 CCR 212-2.

3-520 – Certification Training Class Core Curriculum

When considering whether to approve a responsible vendor program, the Division, after consulting with the Colorado Department of Public Health and Environment, will consider the following criteria.

A. Discussion concerning the health and safety concerns of marijuana use. Training shall include:

1. Health effects of marijuana use, including but not limited to the effects in connection with pregnancy and breast-feeding;

2. The amount of time to feel impairment based on the type of marijuana or marijuana product;

3. Recognizing signs of impairment;

4. The amount of time to wait before driving after marijuana use based on the type of marijuana or marijuana product;

5. Safe storage of marijuana;

6. Responsible use of marijuana; and

7. Appropriate responses in the event of unintentional or over-consumption of marijuana or marijuana product, including but not limited to access to the appropriate resources provided by state and local public health authorities.

B. Transfers to minors. Training shall cover all pertinent Colorado statutes, rules, and regulations.

C. Quantity Limitations on Transfer to Patients and Consumers. Training shall cover all pertinent Colorado statutes, rules, and regulations.

D. Acceptable Forms of Identification. Training shall include:

1. How to check identification;

2. Spotting false identification;

3. Patient Registry Cards issued by the Colorado Department of Public Health and Environment and equivalent patient verification documentation;

4. Provisions for confiscating false identification; and

5. Common mistakes made in verification.

E. Other Key State Laws and Rules That Apply to Medical Marijuana Stores, Medical Marijuana Transporters, Retail Marijuana Stores, Retail Marijuana Transporters Licensed Hospitality Businesses, and their Owners, Management Personnel, and Employees. Training shall include:

1. Local and state licensing and enforcement;

2. Compliance with all Inventory Tracking System regulations;

3. Administrative and criminal liability;

4. License sanctions and court sanctions;

5. Waste handling, management, and disposal;

6. Health and safety standards;

7. Patrons prohibited from bringing marijuana onto licensed premises;

8. Permitted hours of sale;

9. Licensee security and surveillance requirements;

10. Permitting inspections by state and local licensing and enforcement authorities;

11. Licensee responsibility for activities occurring within licensed premises;

12. Maintenance of records;

13. Privacy issues;

14. Applicable laws and regulations concerning Transfers to patients and consumers;

15. Packaging and labeling requirements for Transfers to patients and consumers;

16. How to access the Medical Marijuana Patient Registry website and how to sign up for the Registry's voluntary email list; and

17. Statutory and regulatory requirements related to Regulated Marijuana delivery.

F. Evaluation of Program Participants. The Responsible Vendor Program Provider shall establish that it has an adequate mechanism for evaluating attendees' successful completion of the Approved Training Program.

G. Additional Curriculum for Delivery to Patients and Consumers. In addition to the required curriculum in subparagraphs (B) through (F) above, training provided to any Licensee involved in activity pursuant to a valid delivery permit must also include all Colorado statutes and rules related to delivery of Regulated Marijuana to patients and consumers. Responsible Vendor Program Providers may provide the delivery curriculum as a separate training or as part of the

core curriculum training. Licensees that do not engage in delivery activity are not required to, but may, complete the delivery training. Training provided to Licensees involved in delivery activity must include, but is not limited to:

1. Verification of identification and patient registry cards required before delivering Regulated Marijuana to a patient or consumer;

2. Maintaining confidentiality of patients' and consumers' personally identifiable information;

3. Methods for Licensees to identify themselves and verify the delivery permit during an interaction with law enforcement, Division employees or local regulators; and

4. Strategies to de-escalate potentially dangerous situations which could include development of an emergency action plan.

H. Additional Curriculum for Licensed Hospitality Businesses. In addition to the required curriculum in subparagraphs (B) through (F) above, training provided to Controlling Beneficial Owners of and any Licensee employed by a Licensed Hospitality Business must also include all Colorado statutes and rules related to Licensed Hospitality Businesses. Responsible Vendor Program Providers may provide the hospitality curriculum as a separate training or as part of the core curriculum training. Licensees that are not employed by a Licensed Hospitality Business are not required to, but may, complete the hospitality training. Training provided to Controlling Beneficial Owners of and employees of a Licensed Hospitality Business must include, but is not limited to:

1 Identifying signs of visible impairment including alcohol and drug impairment;

2. Resources to mitigate impaired driving including safe transportation options available to consumers;

3. Understanding customer's varying experience with Regulated Marijuana and options for lower dose Regulated Marijuana Products;

4. Resources available from the Colorado Department of Public Health and Environment regarding responsible Regulated Marijuana use;

5. Ceasing all consumption and other activities until law enforcement, firefighters, emergency medical service providers, or other public safety personnel have completed any investigation or services and left the Licensed Premises of the Licensed Hospitality Business;

6. Methods for Licensees to identify themselves during an interaction with law enforcement, Division employees or local regulators;

7. Poly-substance interactions including but not limited to interactions of Regulated Marijuana with alcohol, prescription and over-the-counter medications and other substances;

8. Risks and potential responses to adverse events such as overconsumption, altitude sickness, dehydration, poly-substance use or other similar events.

9. Strategies to de-escalate interactions with intoxicated consumers and potentially dangerous situations which could include development of an emergency action plan.

3-600 Series – Transport and Storage

Basis and Purpose – 3-605

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-313(5)(b), 44-10-505, and 44-10-605 C.R.S. The purpose of the rule is to provide clarity as to the requirements associated with the transport and delivery of Regulated Marijuana between Licensed Premises. It also prescribes the manner in which licensed entities will track inventory in the transport process to prevent diversionary practices. This Rule 3-605 was previously Rules M and R 801, 1 CCR 212-1 and 1 CCR 212-2.

3-605 – Transport: All Regulated Marijuana Businesses

A. Persons Authorized to Transport. Except as provided in these 3-600 Series Rules, any individual who transports Regulated Marijuana, Regulated Marijuana Vegetative plants, Regulated Marijuana Immature plants, Regulated Marijuana, or Regulated Marijuana Product on behalf of a Regulated Marijuana Business must hold a valid Owner License or Employee License and must be an employee of the Regulated Marijuana Business. An individual who does not possess a current and valid Owner's License or Employee License from the State Licensing Authority may not transport Regulated Marijuana, Regulated Marijuana Vegetative plants, Regulated Marijuana Immature plants, Regulated Marijuana Concentrate, or Regulated Marijuana Product between Licensed Premises.

B. Transport Between Licensed Premises.

1. Regulated Marijuana. Regulated Marijuana shall only be transported by Licensees between Licensed Premises; between Licensed Premises and a permitted off-premises storage facility; and between Licensed Premises and a Pesticide Manufacturer. Licensees transporting Regulated Marijuana are responsible for ensuring that all Regulated Marijuana are secured at all times during transport.

2. Regulated Marijuana Vegetative Plants and Regulated Marijuana Immature Plants.

a. Regulated Marijuana Vegetative plants may only be transported between Licensed Premises and such transport shall only be permitted due to an approved change of location pursuant to Rule 2-255.

b. Regulated Marijuana Immature plants shall only be transported between Licensed Premises; and between Licensed Premises and a Pesticide Manufacturer.

c. Licensees transporting Regulated Marijuana Vegetative plants and Regulated Marijuana Immature plants are responsible for ensuring that all Regulated Marijuana Vegetative plants and Regulated Marijuana Immature plants are secure at all times during transport. Transportation of Regulated Marijuana Vegetative plants and Regulated Marijuana Immature plants to a permitted off-premises storage facility shall not be allowed. Transport of Regulated Marijuana plants other than Vegetative Plants and Immature plants shall not be allowed.

C. Inventory Tracking System-Generated Transport Manifest Required. A Licensee may only transport Regulated Marijuana if he or she has a copy of an Inventory Tracking System-generated transport manifest that contains all the information required by this Rule and shall be in the format prepared by the State Licensing Authority.

1. A Licensee may elect to use a hard copy or digital copy of an Inventory Tracking System-generated transport manifest. Licensees are required to ensure all information is

preserved with valid and verified signatures on any digital copy of an Inventory Tracking System-generated transport manifest.

2. Regulated Marijuana. A Licensee may transport Regulated Marijuana from an originating location to multiple destination locations so long as the transport manifest correctly reflects the specific inventory destined for specific Regulated Marijuana Businesses and/or Pesticide Manufacturers.

3. Regulated Marijuana Vegetative Plants. A Licensee shall transport Regulated Marijuana Vegetative plants only from the originating Licensed Premises to the destination Licensed Premises due to a change of location that has been approved by the Division pursuant to Rule 2-255.

4. Manifest for Transfers to Pesticide Manufacturers. A Licensee may not transport or permit the transportation of Regulated Marijuana to a Pesticide Manufacturer unless an Inventory Tracking System-generated transport manifest has been generated.

D. Motor Vehicle Required. Transport of Regulated Marijuana shall be conducted by a motor vehicle that is properly registered in the state of Colorado pursuant to motor vehicle laws, but need not be registered in the name of the Licensee. Except that when a rental truck is required for transporting Regulated Marijuana Vegetative plants or Regulated Marijuana Immature plants, Colorado motor vehicle registration is not required.

E. Documents Required During Transport. Transport of Regulated Marijuana shall be accompanied by a copy of the originating Regulated Marijuana Business's business license, the driver's valid Owner's License or Employee License, the driver's valid motor vehicle operator's license, and all required vehicle registration and insurance information.

F. Use of Colorado Roadways. State law does not prohibit the transport of Regulated Marijuana on any public road within the state of Colorado as authorized in this Rule. However, nothing herein authorizes a Licensee to violate specific local ordinances or resolutions enacted by any city, town, city and county, or county related to the transport of Regulated Marijuana.

G. Preparation of Regulated Marijuana for Transport.

1. Final Weighing and Packaging. A Regulated Marijuana Business shall comply with the specific rules associated with the final weighing and packaging of Regulated Marijuana before such items are prepared for transport pursuant to this Rule. The scale used to weigh product to be transported shall be tested and approved in accordance with measurement standards established in 35-14-127, C.R.S.

2. Preparation in Limited Access Area. Regulated Marijuana shall be prepared for transport in a Limited Access Area, including the packaging and labeling of Containers or Shipping Containers.

3. Shipping Containers. Licensees may Transfer multiple Containers of Regulated Marijuana in a Shipping Container. The contents of Shipping Containers shall be easily accessible and may be inspected by the State Licensing Authority, Local Licensing Authorities, Local Jurisdictions, and state and local law enforcement agency for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose.

a. Licensees shall ensure that either the multiple Containers placed within a Shipping Container each have an RFID tag, or the Shipping Container itself must have an RFID tag. If the Licensee elects to place the RFID tag on the Shipping

Container, the Shipping Container shall contain only one Harvest Batch, or Production Batch of Regulated Marijuana. If a Shipping Container consists of more than one Harvest Batch or Production Batch, then each group of multiple Containers shall be affixed with an RFID tag

b. Regulated Marijuana Vegetative Plants and Regulated Marijuana Immature Plants. Each Regulated Marijuana Vegetative plant that is transported pursuant to this Rule must have a RFID tag affixed to it prior to transport. Each receptacle containing Regulated Marijuana Immature plants transported pursuant to this Rule must have an RFID tag affixed prior to transport.

H. Creation of Records and Inventory Tracking.

1. Use of Inventory Tracking System – Generated Transport Manifest.

a. Regulated Marijuana. Licensees who transport or permit the transportation of Regulated Marijuana shall create an Inventory Tracking System-generated transport manifest to reflect inventory that leaves the Licensed Premises destined for another Licensed Premises or Pesticide Manufacturers. The transport manifest may either reflect multiple destination locations within a single trip or separate transport manifests may reflect each single destination location. In either case, no inventory shall be transported without an Inventory Tracking System-generated transport manifest.

b. Use of a Medical Marijuana Transporter or Retail Marijuana Transporter. In addition to subparagraph (H)(1)(a), Licensees shall also follow the requirements of this subparagraph (H)(1)(b) when a Licensee utilizes the services of a Medical Marijuana Transporter or Retail Marijuana Transporter.

i. When a Medical Marijuana Business utilizes a Medical Marijuana Transporter for transporting its Medical Marijuana, the originating Licensee shall input the requisite information on the Inventory Tracking System-generated transport manifest for the final destination Licensee or Pesticide Manufacturer who will be receiving the Medical Marijuana.

ii. When a Retail Marijuana Business utilizes a Retail Marijuana Transporter for transporting its Retail Marijuana the originating Licensee shall input the requisite information on the Inventory Tracking System-generated transport manifest for the final destination Licensee or Pesticide Manufacturer who will be receiving the Retail Marijuana.

iii. A Medical Marijuana Transporter or Retail Marijuana Transporter is prohibited from being listed as the final destination Licensee.

iv. A Medical Marijuana Transporter or Retail Marijuana Transporter shall not alter the information of the final destination Licensee or Pesticide Manufacturer after the information has been entered on the Inventory Tracking System-generated transport manifest by the Licensee.

v. If the Medical Marijuana Transporter or Retail Marijuana Transporter is not delivering the originating Licensee's Regulated Marijuana directly to the final destination Licensee or Pesticide Manufacturer, the Medical Marijuana Transporter or Retail Marijuana Transporter shall communicate to the originating Licensee which of the Medical Marijuana Transporter's or Retail Marijuana Transporter's Licensed Premises or off-

premises storage facilities will receive and temporarily store the Regulated Marijuana. The originating Licensee shall input the Medical Marijuana Transporter's or Retail Marijuana Transporter's location address and license number on the Inventory Tracking System-generated transport manifest.

c. Medical Marijuana Vegetative Plants and Retail Marijuana Vegetative Plants.

i. Licensees who transport Medical Marijuana Vegetative or Retail Marijuana Vegetative plants shall create an Inventory Tracking System-generated transport manifest to reflect inventory that leaves the originating Licensed Premises to be transported to the destination Licensed Premises due to a change of location approved by the Division pursuant to Rule 2-255, or a one-time Transfer pursuant to Rule 3-805.

ii. Retail Marijuana Transporters are permitted to transport Retail Marijuana Vegetative plants on behalf of other Licensees due to a change of location approved by the Division pursuant to Rule 2-255, or a one-time Transfer pursuant to Rule 3-805. The Retail Marijuana Transporter shall transport the Retail Marijuana Vegetative Plants directly from the originating Licensed Premises to the final destination Licensed Premises.

iii. Medical Marijuana Transporters are permitted to transport Medical Marijuana Vegetative plants on behalf of other Licensees due to a change of location approved by the Division pursuant to Rule 2-255, or a one-time Transfer pursuant to Rule 3-805. The Medical Marijuana Transporter shall transport the Medical Marijuana Vegetative plants directly from the originating Licensed Premises to the final destination Licensed Premises.

2. Copy of Transport Manifest to Recipient. A Licensee shall provide a copy of the transport manifest to each Regulated Marijuana Business, or Pesticide Manufacturer receiving the inventory described in the transport manifest. In order to maintain transaction confidentiality, the originating Licensee may prepare a separate Inventory Tracking System-generated transport manifest for each recipient Regulated Marijuana Business or Pesticide Manufacturer.

3. The Inventory Tracking System-generated transport manifest shall include the following:

a. Departure date and approximate time of departure;

b. Name, location address, and license number of the originating Regulated Marijuana Business;

c. Name, location address, and license number of the destination Regulated Marijuana Business(es) or name and location address of the destination Pesticide Manufacturer;

d. Name, location address, and license number of the Medical Marijuana Transporter or Retail Marijuana Transporter if applicable pursuant to Rule 3-605(H)(1)(b)(iv).

e. Product name and quantities (by weight and unit) of each product to be delivered to each specific destination location(s);

f. Arrival date and estimated time of arrival;

g. Transport vehicle make and model and license plate number; and

h. Name, Employee or Owner License number, and signature of the Licensee accompanying the transport.

I. Inventory Tracking. In addition to all the other tracking requirements set forth in these rules, a Regulated Marijuana Business shall be responsible for all the procedures associated with the tracking of inventory that is transported between Licensed Premises. *See* Rule 3-905 – Business Records Required.

1. Responsibilities of Originating Licensee.

a. Regulated Marijuana. Prior to departure, the originating Regulated Marijuana Business shall adjust its records to reflect the removal of Regulated Marijuana. The scale used to weigh product to be transported shall be tested and approved in accordance with measurement standards established in 35-14-127, C.R.S. Entries to the records shall note the Inventory Tracking System-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest.

b. Regulated Marijuana Vegetative Plants and Regulated Marijuana Immature Plants. Prior to departure, the originating Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility shall adjust its records to reflect the removal of Medical Marijuana Vegetative plants and Medical Marijuana Immature plants, or Retail Marijuana Vegetative plants and Retail Marijuana Immature plants. Entries to the records shall note the Inventory Tracking System-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest.

2. Responsibilities of Recipient Licensee.

a. Regulated Marijuana. Upon receipt, the receiving Licensee shall ensure that the Regulated Marijuana received are as described in the transport manifest and shall immediately adjust its records to reflect the receipt of inventory. The scale used to weigh product being received shall be tested and approved in accordance with measurement standards established in 35-14-127, C.R.S. Entries to the inventory records shall note the Inventory Tracking System-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest. Medical Marijuana Transporters and Retail Marijuana Transporters shall comply with all requirements of this subparagraph (I)(2)(a) except that they are not required to weigh Regulated Marijuana.

i. When a Regulated Marijuana Business transfers Regulated Marijuana to a Pesticide Manufacturer, the originating Licensee is responsible for confirming receipt of the Regulated Marijuana in the Inventory Tracking System.

b. Regulated Marijuana Vegetative Plants and Regulated Marijuana Immature Plants. Upon receipt, the recipient Licensee shall ensure that the Regulated Marijuana Vegetative plants received are as described in the transport manifest, accounting for all RFID tags and each associated plant, and shall immediately adjust its records to reflect the receipt of inventory. Upon Receipt, the recipient

Licensee shall ensure that the Regulated Marijuana Immature plants received are as described in the transport manifest, accounting for all RFID tags and each receptacle containing Regulated Marijuana Immature plants, and shall immediately adjust its records to reflect the receipt of inventory.

i. When a Regulated Marijuana Business transfers Regulated Marijuana Immature plants to a Pesticide Manufacturer, the originating Licensee is responsible for confirming receipt of the Retail Marijuana Immature plants in the Inventory Tracking System.

3. Discrepancies.

a. Licensees. A recipient Licensee shall separately document any differences between the quantity specified in the transport manifest and the quantities received. Such documentation shall be made in the Inventory Tracking System and in any relevant business records.

b. Pesticide Manufacturers. In the event of a discrepancy between the quantity specified in a transport manifest and the quantity received by a Pesticide Manufacturer, the originating Licensee shall document the discrepancy in the Inventory Tracking System and in any relevant business records, and account for the discrepancy.

J. Adequate Care of Perishable Regulated Marijuana Product. A Regulated Marijuana Business must provide adequate refrigeration for perishable Regulated Marijuana Product during transport.

K. Failed Testing. In the event Regulated Marijuana has failed required testing, has been contaminated, or otherwise presents a risk of cross-contamination to other Regulated Marijuana, such Regulated Marijuana may only be transported if it is physically segregated and contained in a sealed package that prevents cross-contamination.

Basis and Purpose – 3-610

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-313(14), 44-10-505(2), 44-10-605(2), and 44-10-1001(2), C.R.S. The purpose of this rule is to establish that Regulated Marijuana may not be stored outside of Licensed Premises unless the Licensee obtains an off-premises storage facility permit. This Rule 3-610 was previously Rules M and R 802, 1 CCR 212-1 and 1 CCR 212-2.

3-610 – Off-Premises Storage of Regulated Marijuana: All Regulated Marijuana Businesses

A. Off-Premises Storage Permit Authorized.

1. A Medical Marijuana Store, Medical Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, Medical Marijuana Testing Facility may only have one off-premises storage facility permit and may store Medical Marijuana in their Limited Access Area or in their one permitted off-premises storage facility. Medical Marijuana Transporters are allowed to have more than one permitted off-premises storage facility.

2. A Retail Marijuana Store, Retail Marijuana Products Manufacturer, a Retail Marijuana Cultivation Facility, and a Retail Marijuana Testing Facility may only have one off-premises storage facility permit and may store Retail Marijuana in their Limited Access Area or in their one permitted off-premises storage facility. Retail Marijuana Transporters are allowed to have more than one permitted off-premises storage facility.

3. An Accelerator Licensee may only have one off-premises storage facility permit and may store Retail Marijuana in their Limited Access Area of in their one permitted off-premises storage facility.

B. Permitting. To obtain a permit for an off-premises storage facility, a Regulated Marijuana Business must apply on current Division forms and pay any applicable fees.

1. A Medical Marijuana Transporter may only apply for and hold an off-premises storage permit in a local jurisdiction that permits the operation of Medical Marijuana Stores.

2. A Retail Marijuana Transporter may only apply for and hold an off-premises storage permit in a Local Jurisdiction that permits the operation of Retail Marijuana Stores.

C. Extension of Licensed Premises. A permitted off-premises storage facility is an extension of the Regulated Marijuana Business's Licensed Premises, subject to all applicable Regulated Marijuana regulations.

D. Limitation on Inventory to be Stored.

1. A Medical Marijuana Store, Medical Marijuana Products Manufacturer, and a Medical Marijuana Cultivation Facility possessing a valid off-premises storage facility permit may only have upon the permitted off-premises storage facility Medical Marijuana that is part of the particular Medical Marijuana Business's finished goods inventory. The aforementioned Licensees may only share the premises with, and store inventory belonging to, a Medical Marijuana Business that has identical Controlling Beneficial Owners.

2. A Retail Marijuana Store, Retail Marijuana Products Manufacturer, and a Retail Marijuana Cultivation Facility possessing a valid off-premises storage facility permit may only have upon the permitted off-premises storage facility Retail Marijuana that is part of the particular Retail Marijuana Business's finished goods inventory. The aforementioned Licensees may only share the premises with, and store inventory belonging to a Retail Marijuana Business that has identical Controlling Beneficial Owners.

3. A Medical Marijuana Business may share one off-premises storage facility with the same type of Retail Marijuana Business if the businesses operate a shared Licensed Premises pursuant to Rule 3-215 and if the Local Licensing Authority and Local Jurisdiction permit shared off-premises storage facilities. All Transfers of Regulated Marijuana by a Regulated Marijuana Business to or from its off-premises storage facility must be without consideration except for delivery orders packaged for delivery to patients or consumers pursuant to subparagraph E.

4. An Accelerator Licensee possessing a valid off-premises storage facility permit may only have upon the permitted off-premises storage facility Retail Marijuana that is part of the Accelerator Licensee's finished goods inventory. The aforementioned Accelerator Licensees may only share the off-premises storage facility with, and store inventory belonging to, an Accelerator Licensee that has identical Controlling Beneficial Owners.

E. Privileges and Restrictions. The permitted off-premises storage facility may be utilized for storage only. A Regulated Marijuana Business must not Transfer, cultivate, manufacture, process, test, research, or consume any Regulated Marijuana within the premises of the permitted off-premises storage facility. An off-premises storage facility shall not be used as a distribution center for Transfers to Regulated Marijuana Businesses without identical Controlling Beneficial Owners or for consideration.

1. A Medical Marijuana Store or Retail Marijuana Store with a valid delivery permit may use its own off-premises storage facility to package, label, and fill orders for delivery of Regulated Marijuana to a patient or consumer after the Medical Marijuana Store or Retail Marijuana Store receives an order for delivery, unless otherwise restricted by the local jurisdiction.

2. A Medical Marijuana Transporter or Retail Marijuana Transporter shall not use its own off-premises storage facility to package, label, or fill orders for delivery of Regulated Marijuana to a patient or customer. A Medical Marijuana Transporter or a Retail Marijuana Transporter may use its own off-premises storage facility to store Regulated Marijuana that is packaged and labeled for delivery to a patient or consumer, unless otherwise restricted by the Local Licensing Authority or Local Jurisdiction.

F. Display of Off-premises Storage Permit and License. The off-premises storage facility permit and a copy of the Regulated Marijuana Business's license must be displayed in a prominent place within the permitted off-premises storage facility.

G. Local Licensing Authority or Local Jurisdiction Approval.

1. Prior to submitting an application for an off-premises storage facility permit, the Regulated Marijuana Business must obtain approval or acknowledgement from the relevant Local Licensing Authority or Local Jurisdiction.

2. A copy of the relevant Local Licensing Authority's or Local Jurisdiction's approval or acknowledgement must be submitted by the Regulated Marijuana Business in conjunction with its application for an off-premises storage facility.

3. No Regulated Marijuana may be stored within a permitted storage facility until the relevant Local Licensing Authority or Local Jurisdiction has been provided a copy of the off-premises storage facility permit.

4. Any off-premises storage permit issued by the Division shall be conditioned upon the Regulated Marijuana Business's receipt of all required Local Jurisdiction approvals or acknowledgments.

H. Security in Storage Facility. A permitted off-premises storage facility must meet all video, security and lock requirements applicable to a Licensed Premises. *See* Rules 3-220 – Security Alarm and Lock Standards and Rule 3-225 – Video Surveillance.

I. Transport to and from a Permitted Off-Premises Storage Facility. A Licensee must comply with the provisions of Rule 3-605 – Transport: All Regulated Marijuana Businesses, when transporting any Regulated Marijuana to and from a permitted off-premises storage facility.

J. Inventory Tracking. In addition to all the other tracking requirements set forth in these rules, a Regulated Marijuana Business shall utilize the Inventory Tracking System to track its inventories from the point of Transfer to or from a permitted off-premises storage facility. *See* Rules 3-805 – All Regulated Marijuana Businesses: Inventory Tracking System and Rule 3-905 – Business Records Required.

K. Inventory Tracking System Access and Scale. Every permitted off-premises storage facility must have an Inventory Tracking System terminal and a scale tested and approved in accordance with measurement standards established in section 35-14-127, C.R.S.

L. Adequate Care of Perishable Regulated Marijuana Product. A Regulated Marijuana Business must provide adequate refrigeration for perishable Regulated Marijuana Product and shall utilize adequate storage facilities and transport methods.

M. Consumption Prohibited. A Regulated Marijuana Business shall not permit the consumption of marijuana or marijuana product on the premises of its permitted off-premises storage facility.

Basis and Purpose – 3-615

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(2)(dd), C.R.S. The purpose of this rule is to provide requirements for a Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter or Retail Marijuana Transporter to apply for and conduct deliveries to private residences pursuant to a delivery permit. This rule provides application and renewal requirements for a delivery permit. Additionally, the rule describes requirements for responsible vendor training, requirements for use of the inventory tracking system, Delivery Motor Vehicles requirements including security, requirements for delivery orders, requirements prior to completing a delivery to a patient or consumer at a private residence and requirements for maintaining the confidentiality of all patient and customer information.

3-615 – Regulated Marijuana Delivery Permits

A. Application, Qualification, and Eligibility for Delivery Permit.

1. Beginning January 2, 2020, a Medical Marijuana Store may apply for a delivery permit. The application shall be made on Division forms and in accordance with the 2-200 Series Rules. The delivery permit application can be submitted simultaneously with a Medical Marijuana Store initial or renewal application or it can be separate from a Medical Marijuana Store application but the application must identify the Medical Marijuana Store(s) seeking to obtain the delivery permit.

2. Beginning January 2, 2021, a Retail Marijuana Store, a Medical Marijuana Transporter, and a Retail Marijuana Transporter may apply for a delivery permit. The delivery permit application can be submitted simultaneously with a Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter initial or renewal application or it can be separate from a Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter application but the application must identify the Retail Marijuana Store(s), Medical Marijuana Transporter(s), or Retail Marijuana Transporter(s) seeking to obtain the delivery permit.

3. Prior to the State Licensing Authority issuing an Applicant a delivery permit, the Applicant must establish the Local Licensing Authority and/or Local Jurisdiction where the Applicant is located, or for a Medical Marijuana Transporter or Retail Marijuana Transporter without a Licensed Premise, the Local Licensing Authority or Local Jurisdiction for the location where they intend to operate:

    a. By ordinance or resolution has permitted delivery of Regulated Marijuana in the jurisdiction, and

    b. Is currently accepting applications for delivery permits in the jurisdiction, if required.

4. Multiple Medical Marijuana Stores, Retail Marijuana Stores, Medical Marijuana Transporters, or Retail Marijuana Transporters with identical Controlling Beneficial Owners that are in the same local jurisdiction may obtain one delivery permit that allows all Medical Marijuana Stores, all Retail Marijuana Stores, all Medical Marijuana

Transporters, or all Retail Marijuana Transporters in that jurisdiction to make deliveries to patients or consumers.

5. Delivery Permit Renewal.

a. A delivery permit must be renewed annually with the Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter license it accompanies. A Medical Marijuana Store or Retail Marijuana Store must disclose to the Division any online platform provider that the Licensee has utilized during the previous year at the time of renewal.

b. Length of Delivery Permit.

i. A delivery permit issued with an initial or renewal license application is valid for one year and will expire at the same time as the license for the associated Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter.

ii. A delivery permit that is not issued with an initial or renewal application will be valid for less than one year to align the license expiration date of the related Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter. In all years after the first year, such a delivery permit will be valid for one year.

c. In addition to any other basis for denial of renewal application, the State Licensing Authority may also consider the following facts and circumstances as an additional basis for denial of a delivery permit renewal application:

i. The Medical Marijuana Store or Retail Marijuana Store failed to collect the one-dollar surcharge on every delivery or failed to timely remit the one-dollar surcharge to the municipality where the Medical Marijuana Store or Retail Marijuana Store is located, or to the county if the Medical Marijuana Store or Retail Marijuana Store is in an unincorporated area.

B. Delivery to Private Residence. Private residence includes, but is not limited to, a private premises where a person lives such as a private dwelling, place of habitation, a house, a multi-dwelling unit for residential occupants, or an apartment unit. Private residence does not include any premises located at a school, on the campus of an institution of higher education, public property, or any commercial property unit such as offices or retail space.

C. Responsible Vendor Certification Required. A Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter must obtain a valid responsible vendor designation pursuant to section 44-10-1202, C.R.S., and the 3-500 Series Rules including the delivery curriculum prior to conducting its first delivery.

D. Inventory Tracking System Required. A Regulated Marijuana Business possessing a valid delivery permit must use the inventory tracking system and transport manifests to track all Regulated Marijuana delivered to the intended patient or consumer. This includes the use of a transport manifest.

E. Delivery Motor Vehicle Requirements.

1. Any Delivery Motor Vehicle must be owned or leased by the Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, Retail Marijuana Transporter, or

an Owner Licensee of the Regulated Marijuana Business that holds the delivery permit, must be registered in the State of Colorado, and must be insured.

2. Any Delivery Motor Vehicle must have a vehicle tracking system that is capable of real-time tracking and recording of the route taken by the Delivery Motor Vehicle while conducting deliveries that can be accessed remotely in real-time by the Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter. The vehicle tracking system may be an application installed on a mobile device. The real-time location of the Delivery Motor Vehicle shall not be displayed to any patients or consumers.

3. Any Delivery Motor Vehicle must not have any external markings, words, or symbols that indicate the Delivery Motor Vehicle is used for delivery of Regulated Marijuana or is owned or leased by a Medical Marijuana Business or a Retail Marijuana Business.

4. Regulated Marijuana must not be visible from outside the Delivery Motor Vehicle.

5. Delivery Motor Vehicle security requirements include but are not limited to:

   a. A security alarm system, and

   b. A secure, locked, opaque storage compartment that is securely affixed to the Delivery Motor Vehicle for the purpose of securing Regulated Marijuana.

6. Video Surveillance Requirements.

   a. The Delivery Motor Vehicle must be equipped with video surveillance equipment that digitally records during all deliveries. The video surveillance shall record at least the secured, locked, opaque storage compartment containing the Regulated Marijuana and the front view of the Delivery Motor Vehicle (e.g. dash camera).

   b. Video surveillance shall be kept for a minimum of 40 days, must be capable of being embedded with the date and time, must be reproducible upon request from law enforcement, the Division, a Local Licensing Authority or a Local Jurisdiction and must be archived in a format that ensures authentication and guarantees no alteration of the video.

7. An enclosed Delivery Motor Vehicle shall not contain more than $10,000.00 in retail value of Regulated Marijuana. A Delivery Motor Vehicle that is not enclosed shall not contain more than $2,000.00 in retail value of Regulated Marijuana.

8. A Delivery Motor Vehicle must not leave the State of Colorado while any amount of Regulated Marijuana is in the Delivery Motor Vehicle.

9. Only persons licensed by the State Licensing Authority and identified on the transport manifest may occupy a Delivery Motor Vehicle while conducting deliveries of Regulated Marijuana.

F. Delivery Order Requirements.

1. A Medical Marijuana Store or a Retail Marijuana Store that has a valid delivery permit may accept orders for delivery of Regulated Marijuana to patients who are at least 21 years of age, parents or guardians of patient under 18 years of age, or consumers who

are at least 21 years of age at a private residence. Delivery orders to patients ages 18 to 20 are not permitted.

2. For a Medical Marijuana Store or a Retail Marijuana Store that utilizes an online platform provider:

    a. The online platform provider must require that the patient or consumer choose a Medical Marijuana Store or Retail Marijuana Store before displaying the price of Regulated Marijuana to the patient or consumer; and

    b. The Medical Marijuana Store or Retail Marijuana Store must receive verification that there has not already been a delivery of Regulated Marijuana to that private residence through the online platform provider that same business day.

3. All delivery orders must document the following information which must be maintained pursuant to Rule 3-905 by the Medical Marijuana Store or the Retail Marijuana Store:

    a. The name and date of birth of the patient or consumer placing the delivery order;

    b. The address of the private residence where the order will be delivered;

    c. For Medical Marijuana delivery orders only, the registration number reflecting on the patient's registry identification card; and

    d. For Medical Marijuana delivery orders only, if the patient is under 18 years of age, the parent or guardian designated as the patient's primary caregiver, and if applicable, the registration number of the primary caregiver.

4. A Medical Marijuana Store or a Retail Marijuana Store may accept payment for delivery orders using any legal method of payment, gift card pre-payments or payment on delivery, or pre-payment accounts established with a Medical Marijuana Store or Retail Marijuana Store except that any payment with an Electronic Benefits Transfer Services Card is not permitted. A Medical Marijuana Transporter or Retail Marijuana Transporter may accept payment on behalf of a Medical Marijuana Store or Retail Marijuana Store at the point of Transfer to the patient or consumer.

    a. A Local Licensing Authority or Local Jurisdiction may further restrict legal methods of payment not expressly permitted by section 44-10-203(2)(dd)(XV), C.R.S.

5. Regulated Marijuana must be weighed, packaged, prepared, and labeled for delivery on the Licensed Premises of a Medical Marijuana Store or Retail Marijuana Store or at their off-premises storage facility after receipt of a delivery order. Regulated Marijuana cannot be placed into a Delivery Motor Vehicle until after an order has been received and the Regulated Marijuana has been packaged and labeled for delivery to the patient or consumer as required by the 3-1000 Series Rules.

6. Medical Marijuana Transporters and Retail Marijuana Transporters shall not take delivery orders but may deliver Regulated Marijuana on behalf of Medical Marijuana Stores and Retail Marijuana Stores pursuant to a contract with the Medical Marijuana Store or Retail Marijuana Store provided that the store also holds a valid delivery permit. The Medical Marijuana Store and Medical Marijuana Transporter must maintain copies of all contracts for delivery pursuant to Rule 3-905. The Retail Marijuana Store and Retail Marijuana Transporter must maintain copies of all contracts for delivery pursuant to Rule 3-905.

G. Regulated Marijuana Delivery Requirements.

1. A Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter shall not deliver Regulated Marijuana to patients, parents, guardians, or consumers while also transporting Regulated Marijuana between Licensed Premises in the same Delivery Motor Vehicle.

2. Delivery of Medical Marijuana and Retail Marijuana.

   a. A Medical Marijuana Store and Retail Marijuana Store, both of which hold a valid delivery permit, and which have identical Controlling Beneficial Owners, may complete deliveries of Medical Marijuana and Retail Marijuana using the same Delivery Motor Vehicle and without returning to the Medical Marijuana Store or Retail Marijuana Store between deliveries.

   b. A Medical Marijuana Transporter and Retail Marijuana Transporter, both of which hold a valid delivery permit, and which have identical Controlling Beneficial Owners may complete deliveries of Medical Marijuana and Retail Marijuana using the same Delivery Motor Vehicle and without returning to the Medical Marijuana Store or Retail Marijuana Store between deliveries.

   c. A Medical Marijuana Transporter holding a valid delivery permit may make deliveries for multiple Medical Marijuana Stores that also hold valid delivery permits using the same Delivery Motor Vehicle and without returning to a Medical Marijuana Store between deliveries.

   d. A Retail Marijuana Transporter holding a valid delivery permit may make deliveries for multiple Retail Marijuana Stores that also hold valid delivery permits using the same Delivery Motor Vehicle and without returning to a Retail Marijuana Store between deliveries.

3. An Owner Licensee or Employee Licensee delivering Regulated Marijuana shall not open any Container of Regulated Marijuana in the Delivery Motor Vehicle and is prohibited from packaging or re-packaging Regulated Marijuana once the Delivery Motor Vehicle has departed from the Licensed Premises of a Medical Marijuana Store or Retail Marijuana Store.

4. A Medical Marijuana Store or Retail Marijuana Store shall not accept delivery orders for Regulated Marijuana Product that is perishable unless the Delivery Motor Vehicle that will make the delivery has the ability to secure the Regulated Marijuana Product in climate-controlled storage.

5. A Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter must maintain a transport manifest that documents the following:

   a. The time of delivery;

   b. The name, and identification number of the valid, acceptable identification (e.g. driver's license) presented by the patient or consumer;

   c. Address of the private residence;

   d. Acknowledgement of receipt of delivery by the person receiving the delivery;

e. If applicable, patient registry number;

f. If applicable, primary caregiver registry number of the patient's parent or guardian; and

g. For every Regulated Marijuana delivery that could not be completed, the reason the delivery could not be completed.

6. Proof of Patient Medical Registry and Identification.

a. Prior to Transferring possession of the order, the Owner Licensee or Employee Licensee delivering Medical Marijuana to a patient or a patient's parent or guardian must:

i. Inspect the patient's or parent's or guardian's identification and registry identification card;

ii. Verify the possession of a valid registry identification card;

iii. Verify that the information provided at the time of order match the name and age on the patient's or parent or guardian's identification; and

iv. Verify that the identification and registry identification card belong to the person receiving the delivery.

b. The Owner Licensee or Employee Licensee must refuse delivery of Medical Marijuana if the person attempting to accept the delivery order cannot establish all of the requirements of subparagraph (G)(6)(a)(i) through (iv) above.

7. Proof of Consumer Identification.

a. The Owner Licensee or Employee Licensee delivering Retail Marijuana to a consumer must first verify that the natural person accepting the delivery has an acceptable form of identification demonstrating the person is at least 21 years of age and that the person is the same as the person that placed the order for delivery with the Retail Marijuana Store.

b. The Owner Licensee or Employee Licensee must refuse delivery of Retail Marijuana if the natural person attempting to accept the delivery order cannot establish all the requirements of subparagraph (G)(7)(a) above.

8. Daily Delivery Limits.

a. A Medical Marijuana Store or Medical Marijuana Transporter must not deliver individually or in any combination, more than two ounces of Medical Marijuana, eight (8) grams of Medical Marijuana Concentrate, or Medical Marijuana Products containing more than 20,000 milligrams of THC to a patient in a single business day.

b. A Medical Marijuana Store or Medical Marijuana Transporter must not deliver to a patient, parent, or guardian or private residence where the Licensee knows or reasonably should know that the patient, parent or guardian, or private residence has already received a delivery during that same business day. This does not prohibit delivery to more than one patient at the same time and private residence.

c. A Retail Marijuana Store or Retail Marijuana Transporter must not deliver individually or in any combination, more than one ounce of Retail Marijuana, 8 grams of Retail Marijuana Concentrate, or Retail Marijuana Products containing more than ten 80 milligram servings of THC to a customer in a single business day.

d. A Retail Marijuana Store or Retail Marijuana Transporter must not deliver to a consumer or private residence where the Licensee knows or reasonably should know that the consumer or private residence has already received a delivery during that same business day. This does not prohibit delivery to more than one consumer at the same time and private residence.

9. An Owner Licensee or Employee Licensee who cannot complete a delivery order for any reason must return the Regulated Marijuana to the Medical Marijuana Store, Retail Marijuana Store, or off-premises storage facility from which the delivery order originated. If the Container is unopened and has not been tampered with, the Medical Marijuana Store, Retail Marijuana Store, or off-premises storage facility may return the Regulated Marijuana into its inventory and reconcile it with the Inventory Tracking System by the close of business that same day. Otherwise, the Regulated Marijuana must be destroyed in accordance with this Rule and Rule 3-235.

H. Confidentiality of Patient and Consumer Personal Identifying Information. A Medical Marijuana Store, a Retail Marijuana Store, a Medical Marijuana Transporter, a Retail Marijuana Transporter, and their respective Owner Licensees and Employee Licensees must keep all personal identifying information and any health care information obtained from patients and consumers confidential and must not disclose such personally identifiable information and any health care information to any person other than those who need that information to take, process, or deliver the order or otherwise as required by the Marijuana Code, or Title 18, or Title 25 of the Colorado Revised Statutes.

3-700 Series – Signage and Advertising

Basis and Purpose – 3-705

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(3)(a), and 44-10-701(3)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clearly delineate that a Regulated Marijuana Business is not permitted to make deceptive, false, or misleading statements in Advertising materials or on any product or document provided to a patient or consumer. This Rule 3-705 was previously Rules M and R 1102, 1 CCR 212-1 and 1 CCR 212-2.

3-705 – Advertising General Requirements

A. No Deceptive, False, or Misleading Statements. A Regulated Marijuana Business shall not engage in Advertising that is deceptive, false, or misleading. A Regulated Marijuana Business shall not make any deceptive, false, or misleading assertions or statements on any product, any sign, or any document provided to a patient or consumer.

B. Potential Risks of Regulated Marijuana Concentrate Overconsumption. A Regulated Marijuana Business Advertising Medical Marijuana Concentrate or Retail Marijuana Concentrate shall include a notice as determined by the Division to patients or consumers regarding the potential risks of Medical Marijuana Concentrate or Retail Marijuana Concentrate overconsumption.

Basis and Purpose – 3-710

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(3)(a), and 44-10-701(3)(c), C.R.S. Authority also exists throughout Article XVIII, Section 16 of the Colorado Constitution. The purpose of this rule is to clarify the definition of the term "minor" as used in the Marijuana Code and these rules. This Rule 3-710 was previously Rules M and R 1103, 1 CCR 212-1 and 1 CCR 212-2.

3-710 – The Term "Minor" as Used in the Marijuana Code and These Rules

The term "minor" as used in the Marijuana Code and these rules means an individual under the age of 18 for Medical Marijuana and under the age of 21 for Retail Marijuana.

Basis and Purpose – 3-715

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(3)(a), and 44-10-103(10), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to Advertising and Branding.

3-715 – Use of Branding

A. For the purposes of these 3-700 Series Rules, the term Branding includes taglines, which may or may not be trademarked.

B. Branding may not be used to target individuals under the age of 21.

Basis and Purpose – 3-720

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to Advertising.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), (2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-720 was previously Rules M and R 1104, 1105, 1106, and 1107, 1 CCR 212-1 and 1 CCR 212-2.

3-720 – Advertising: All Media

A. Medical Marijuana Businesses. A Medical Marijuana Business may Advertise in television, radio, a print publication, or via the internet only where at least 71.6 percent of the audience is reasonably expected to be at least the age of 21. A Medical Marijuana Business is prohibited from specifically directing Advertising and marketing to persons under 21 years of age.

B. Retail Marijuana Businesses. A Retail Marijuana Business may Advertise in television, radio, a print publication or via the internet only where at least 71.6 percent of the audience is reasonably expected to be at least the age of 21.

C. Advertising for all Marijuana Businesses. Advertising proposes a commercial transaction or otherwise constitutes commercial speech. Advertising includes marketing.

Basis and Purpose – 3-725

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to safety and health and benefit claims that are by nature misleading, deceptive, or false.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), (2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-725 was previously Rules M and R 1109, 1 CCR 212-1 and 1 CCR 212-2.

3-725 – Signage and Advertising: No Safety Claims Because Regulated by State Licensing Authority

No Regulated Marijuana Business may engage in Advertising or utilize signage that asserts its products are safe because they are regulated by the State Licensing Authority.

Basis and Purpose – 3-730

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c) and 44-10-203(3)(a), and 44-10-701(3)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to safety claims that are by nature misleading, deceptive, or false. This Rule 3-730 was previously Rules M and R 1110, 1 CCR 212-1 and 1 CCR 212-2.

3-730 – Signage and Advertising: No Safety Claims Because Tested

A Regulated Marijuana Business shall not engage in Advertising or utilize signage that asserts its products are safe because they are tested by a Regulated Marijuana Testing Facility.

Basis and Purpose – 3-735

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to outdoor Advertising and signage.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), (2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-735 was previously Rules M and R 1111, 1 CCR 212-1 and 1 CCR 212-2.

3-735 – Signage and Advertising: Outdoor Advertising

A. Local Ordinances. In addition to any requirements within these rules, a Regulated Marijuana Business shall comply with any applicable local ordinances regulating signs and Advertising.

B. All Applicable State Laws Apply. A Regulated Marijuana Business that engages in any Advertising shall comply with all applicable state laws, including but not limited to the Outdoor Advertising Act at sections 43-1-401 through 43-1-420, C.R.S.

C. A Regulated Marijuana Business shall not Advertise on any outdoor sign that is within 500 feet of established and conspicuously identified elementary or secondary schools, places of worship, or public playgrounds.

Basis and Purpose – 3-740

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to prohibit signage and Advertising that has a high likelihood of reaching individuals under the age of 21.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), (2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-740 was previously Rules M and R 1112, 1 CCR 212-1 and 1 CCR 212-2.

3-740 – Signage and Advertising: No Content That Targets Minors

A. A Medical Marijuana Business shall not include in any form of Advertising or signage any content that specifically targets individuals under the age of 21, including but not limited to cartoon characters or similar images.

B. A Retail Marijuana Business shall not include in any form of Advertising or signage any content that specifically targets individuals under the age of 21, including but not limited to cartoon characters or similar images.

Basis and Purpose – 3-745

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to marketing directed toward location-based devices.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), (2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-745 was previously Rules M and R 1113, 1 CCR 212-1 and 1 CCR 212-2.

3-745 – Advertising: Advertising via Marketing Directed Toward Location-Based Devices

A Regulated Marijuana Business shall not engage in Advertising via marketing directed towards location-based devices, including, but not limited to, cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older for Medical Marijuana, 21 years of age or older for Retail Marijuana, and includes a permanent and easy opt-out feature.

Basis and Purpose – 3-750

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to pop-up Advertising.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), (2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana

product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-750 was previously Rules M and R 1114, 1 CCR 212-1 and 1 CCR 212-2.

3-750 – Pop-Up Advertising

A Regulated Marijuana Business shall not utilize unsolicited pop-up Advertising on the internet.

Basis and Purpose – 3-755

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to event sponsorship.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), (2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-755 was previously Rules M and R 1115, 1 CCR 212-1 and 1 CCR 212-2.

3-755 – Advertising: Event Sponsorship

A. A Medical Marijuana Business may sponsor a charitable, sports, or similar event, but a Medical Marijuana Business shall not engage in Advertising at, or in connection with, such an event unless the Medical Marijuana Business has reliable evidence that 71.6 percent of the audience at the event and/or viewing Advertising in connection with the event is reasonably expected to be at least the age of 21.

B. A Retail Marijuana Business may sponsor a charitable, sports, or similar event, but a Retail Marijuana Business shall not engage in Advertising at, or in connection with, such an event unless the Retail Marijuana Business has reliable evidence that 71.6 percent of the audience at the event and/or viewing Advertising in connection with the event is reasonably expected to be at least the age of 21.

3-800 Series – Inventory Tracking Requirements

Basis and Purpose – 3-805

The statutory authority for this rule includes but is not limited to sections, 44-10-201(1), 44-10-202(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-501(1)(b), 44-10-502(2), 44-10-503(1)(b), 44-10-505(3), 44-10-601(1)(d), 44-10-602(3), 44-10-603(1)(b), 44-10-605(3), and 44-10-610(3)(a), C.R.S.

The purpose of this rule is to establish a system that will allow the State Licensing Authority and the industry to jointly track Regulated Marijuana from either seed or immature plant stage until the Regulated Marijuana is sold to a patient or consumer, or destroyed.

The Inventory Tracking System is a web-based tool coupled with RFID technology that allows both the Inventory Tracking System User and the State Licensing Authority the ability to identify and account for all Regulated Marijuana. Through the use of RFID technology, a Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility will tag either the seed or immature plant with an individualized number, which will follow the Regulated Marijuana through all phases of production and final sale to a patient or consumer. This will allow the State Licensing Authority and the Inventory Tracking System User the ability to monitor and track Regulated Marijuana inventory. The Inventory Tracking System will also provide a platform for the State Licensing Authority to exchange information and provide compliance notifications to the industry.

The State Licensing Authority finds it essential to regulate, monitor, and track all Regulated Marijuana to eliminate diversion, inside and outside of the state, and to ensure that all marijuana grown, processed, sold, and disposed of in the Regulated Marijuana market is transparently accounted for.

The State Licensing Authority will engage the industry and provide training opportunities and continue to evaluate the Inventory Tracking System to promote an effective means for this industry to account for and monitor its Regulated Marijuana inventory. This Rule 3-805 was previously Rules M and R 309, 1 CCR 212-1 and 1 CCR 212-2.

3-805 – Regulated Marijuana Businesses: Inventory Tracking System

A. Inventory Tracking System Required. A Regulated Marijuana Business is required to use the Inventory Tracking System as the primary inventory tracking system of record. A Regulated Marijuana Business must have an Inventory Tracking System account activated and functional prior to operating or exercising any privileges of a License. Medical Marijuana Businesses converting to or adding a Retail Marijuana Business must follow the inventory transfer guidelines detailed in Rule 3-805(C) below. Because Marijuana Hospitality Businesses are not authorized to receive or conduct Transfers of Regulated Marijuana, this Rule does not apply to Marijuana Hospitality Businesses.

B. Inventory Tracking System Access - Inventory Tracking System Administrator.

1. Inventory Tracking System Administrator Required. A Regulated Marijuana Business must have at least one Owner Licensee who is an Inventory Tracking System Administrator. A Regulated Marijuana Business may also designate additional Owner Licensees and Employee Licensees to obtain Inventory Tracking System Administrator accounts.

2. Training for Inventory Tracking System Administrator Account. In order to obtain an Inventory Tracking System Administrator account, a Person must attend and successfully complete all required Inventory Tracking System training. The Division may also require additional ongoing, continuing education for an individual to retain his or her Inventory Tracking System Administrator account.

3. Inventory Tracking System Access - Inventory Tracking System User Accounts. A Regulated Marijuana Business may designate licensed Owners and employees who hold valid Employee Licenses as Inventory Tracking System Users. A Regulated Marijuana Business shall ensure that all Owner Licensees and Employee Licensees who are granted Inventory Tracking System User account access for the purposes of conducting inventory tracking functions in the system are trained by Inventory Tracking System Administrators in the proper and lawful use of Inventory Tracking System.

C. Medical Marijuana Business License Conversions - Declaring Inventory Prior to Exercising Licensed Privileges as a Retail Marijuana Business.

1. Medical Marijuana Inventory Transfer to Retail Marijuana Business.

a. Except pursuant to Rules 5-205 and 6-205:

i. The only allowed Transfer of marijuana between a Medical Marijuana Business and Retail Marijuana Business is Medical Marijuana and Medical Marijuana Concentrate that was produced at the Medical Marijuana Cultivation Facility, from the Medical Marijuana Cultivation Facility to a Retail Marijuana Cultivation Facility.

ii. Each Medical Marijuana Cultivation Facility that is either converting to or adding a Retail Marijuana Cultivation Facility license must create a Retail Marijuana Inventory Tracking System account for each license it is converting or adding.

iii. A Medical Marijuana Cultivation Facility must Transfer all relevant Medical Marijuana and Medical Marijuana Concentrate into the Retail Marijuana Cultivation Facility's Inventory Tracking System account and affirmatively declare those items as Retail Marijuana or Retail Marijuana Concentrate as appropriate.

iv. The marijuana subject to the one-time Transfer is subject to the excise tax upon the first Transfer from the Retail Marijuana Cultivation Facility to another Retail Marijuana Business.

v. All other Transfers are prohibited, including but not limited to Transfers from a Medical Marijuana Store or Medical Marijuana Products Manufacturer to any Retail Marijuana Business.

2. No Further Transfer Allowed. Once a Licensee has declared any portion of its Medical Marijuana inventory as Retail Marijuana, no further Transfers of inventory from Medical Marijuana to Retail Marijuana shall be allowed.

D. RFID Tags Required.

1. Authorized Tags Required and Costs. Licensees are required to use RFID tags issued by a Division-approved vendor that is authorized to provide RFID tags for the Inventory Tracking System. Each licensee is responsible for the cost of all RFID tags and any associated vendor fees.

2. Use of RFID Tags Required. A Licensee is responsible to ensure its inventories are properly tagged where the Inventory Tracking System requires RFID tag use. A Regulated Marijuana Business must ensure it has an adequate supply of RFID tags to properly tag Regulated Marijuana as required by the Inventory Tracking System. An RFID tag must be physically attached to every Regulated Marijuana plant being cultivated that is greater than eight inches tall or eight inches wide. Prior to a plant reaching a viable point to support the weight of the RFID tag and attachment strap, the RFID tag may be securely fastened to the stalk. An RFID tag must be assigned to all Regulated Marijuana. *See* Rule 3-805(D); Rule 3-1005(G) – Shipping Containers.

3. Reuse of RFID Tags Prohibited. A Licensee shall not reuse any RFID tag that has already been affixed or assigned to any Regulated Marijuana.

4. When plants reach a viable point to support the weight of the RFID tag and attachment strap, the RFID tag shall be securely fastened to a lower supporting branch.

E. General Inventory Tracking System Use.

1. Reconciliation with Inventory. All inventory tracking activities at a Regulated Marijuana Business must be tracked through use of the Inventory Tracking System. A Licensee must reconcile all on-premises and in-transit Regulated Marijuana inventories each day in the Inventory Tracking System at the close of business.

2. Common Weights and Measures.

a. A Regulated Marijuana Business must utilize a standard of measurement that is supported by the Inventory Tracking System to track all Regulated Marijuana.

b. A scale used to weigh product prior to entry into the Inventory Tracking System shall be tested and approved in accordance with section 35-14-127, C.R.S.

3. Inventory Tracking System Administrator and User Accounts – Security and Record.

a. A Regulated Marijuana Business shall maintain an accurate and complete list of all Inventory Tracking System Administrators and Inventory Tracking System Users for each Licensed Premises. A Regulated Marijuana Business shall update this list when a new Inventory Tracking System User is trained. A Regulated Marijuana Business must train and authorize any new Inventory Tracking System Users before those Owners or employees may access Inventory Tracking System or input, modify, or delete any information in the Inventory Tracking System.

b. A Regulated Marijuana Business must cancel any Inventory Tracking System Administrators and Inventory Tracking System Users from their associated Inventory Tracking System accounts once any such individuals are no longer employed by the Licensee or at the Licensed Premises.

c. A Regulated Marijuana Business is accountable for all actions employees take while logged into the Inventory Tracking System or otherwise conducting Regulated Marijuana inventory tracking activities.

d. Each individual user is also accountable for all of his or her actions while logged into the Inventory Tracking System or otherwise conducting Regulated Marijuana inventory tracking activities, and shall maintain compliance with all relevant laws.

4. Secondary Software Systems Allowed.

a. Nothing in this Rule prohibits a Regulated Marijuana Business from using separate software applications to collect information to be used by the business including secondary inventory tracking or point-of-sale systems.

b. A Licensee must ensure that all relevant Inventory Tracking System data is accurately transferred to and from the Inventory Tracking System for the purposes of reconciliations with any secondary systems.

c. A Regulated Marijuana Business must preserve original Inventory Tracking System data when transferred to and from a secondary application(s). Secondary software applications must use the Inventory Tracking System data as the

primary source of data and must be compatible with updating to the Inventory Tracking System.

5. Regulated Marijuana Cultivations: Inventory Tracking System. A Manicure Batch may be combined with a Harvest Batch containing the same plants, provided that the Regulated Marijuana is homogenized prior to sampling and testing, uniform in strain, cultivated utilizing the same Pesticide and other agricultural chemicals. Manicure and Harvest Batches must be clearly identified at the Licensed Premises with the Manicure Batch and Harvest Batch name and date as it appears in the Inventory Tracking System.

F. Conduct While Using Inventory Tracking System.

1. Misstatements or Omissions Prohibited. A Regulated Marijuana Business and its designated Inventory Tracking System Administrator(s) and Inventory Tracking System User(s) shall enter data into the Inventory Tracking System that fully and transparently accounts for all inventory tracking activities. Both the Regulated Marijuana Business and the individuals using the Inventory Tracking system are responsible for the accuracy of all information entered into the Inventory Tracking System. Any misstatements or omissions may be considered a license violation affecting public safety.

2. Use of Another User's Login Prohibited. Individuals entering data into the Inventory Tracking System shall only use that individual's Inventory Tracking System account.

3. Loss of System Access. If at any point a Regulated Marijuana Business loses access to the Inventory Tracking System for any reason, the Regulated Marijuana Business must keep and maintain comprehensive records detailing all Regulated Marijuana tracking inventory activities that were conducted during the loss of access. *See* Rule 3-905 – Business Records Required. Once access is restored, all Regulated Marijuana inventory tracking activities that occurred during the loss of access must be entered into the Inventory Tracking System. A Regulated Marijuana Business must document when access to the system was lost and when it was restored. A Regulated Marijuana Business shall not Transfer any Regulated Marijuana to another Regulated Marijuana Business until such time as access is restored and all information is recorded into the Inventory Tracking System.

G. System Notifications.

1. Compliance Notifications. A Regulated Marijuana Business must monitor all compliance notifications from the Inventory Tracking System. The Licensee must resolve the issues detailed in the compliance notification in a timely fashion. Compliance notifications shall not be dismissed in the Inventory Tracking System until the Regulated Marijuana Business resolves the compliance issues detailed in the notification.

2. Informational Notifications. A Regulated Marijuana Business must take appropriate action in response to informational notifications received through the Inventory Tracking System, including but not limited to notifications related to RFID billing, enforcement alerts, and other pertinent information.

H. Lawful Activity Required. Proper use of the Inventory Tracking System does not relieve a Licensee of its responsibility to maintain compliance with all laws, rules, and other requirements at all times.

I. Inventory Tracking System Procedures Must Be Followed. A Regulated Marijuana Business must utilize Inventory Tracking System in conformance with these rules and Inventory Tracking System procedures, including but not limited to:

1. Properly indicating the creation of a Harvest Batch and/or Production Batch including the assigned Harvest Batch and/or Production Batch Number;

2. Accurately identifying the cultivation rooms and location of each plant within those rooms on the Licensed Premises;

3. Accurately identifying when inventory is no longer on the Licensed Premises;

4. Properly indicating that a Test Batch is being used as part of achieving a Reduced Testing Allowance;

5. Accurately indicating the Inventory Tracking System category for all Regulated Marijuana; and

6. Accurately including a note explaining the reason for any destruction of Regulated Marijuana, and reason for any adjustment of weights to Inventory Tracking System packages.

7. Properly designating one or more Sampling Managers before Transferring any Sampling Units;

8. Fully and accurately tracking the Transfer of any Sampling Unit from a Regulated Marijuana Business to a Sampling Manager identified by name and license number; and

9. When entering into the Inventory Tracking System a unit of Regulated Marijuana the Inventory Tracking System Trained Administrator or Inventory Tracking System User shall also identify the net contents of each unit consistent with Rules 3-1005(B)(2)(e) and (C)(2)(a)(iv). For example, if the Inventory Tracking System User enters 1 unit of Retail Marijuana Product that contains 100 milligrams of Retail Marijuana Product, then the Inventory Tracking System User shall also identify that each unit contains 100 milligrams. Further, if the Inventory Tracking System User enters 1 unit of Medical Marijuana Product that contains 200 mg of Medical Marijuana Product, the Inventory Tracking System User shall also identify that each unit contains 200 mg.

Basis and Purpose – 3-810

The statutory authority for this rule includes but is not limited to sections, 44-10-201, 44-10-202(1)(a), 44-10-202(1)(c), 44-10-203(2)(n), 44-10-501(1)(b), 44-10-502(2), 44-10-503(1)(b), 44-10-505(3), 44-10-601(1)(d), 44-10-601(4), 44-10-602(1), 44-10-602(6)(f), 44-10-603(1)(b), and 44-10-605(3), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to maintain a system that will allow the State Licensing Authority and the industry to jointly track Regulated Marijuana from either seed or immature plant stage until the Regulated Marijuana is sold to the patient or consumer or destroyed.

3-810 – Minimum Tracking Requirements

A. Requirement to Track Regulated Marijuana From Seed-to-Sale. Licensees must use the Inventory Tracking System to ensure Regulated Marijuana is identified and tracked from the point the Regulated Marijuana is Propagated from seed or cutting to the point when it is Transferred to another Regulated Marijuana Business, the Medical Marijuana Transporter or Retail Marijuana Transporter takes control of the Regulated Marijuana by removing it from the originating Licensee's Licensed Premises and placing the Regulated Marijuana in the transport vehicle, or it is Transferred to a Sampling Manager as a designated Sampling Unit, and through the delivery, point-of-sale, or the Regulated Marijuana is otherwise disposed of. *See* Rule 3-805 – Inventory Tracking System

B. Ability to Reconcile Required. Licensees must have the ability to reconcile transported and on-hand Regulated Marijuana inventory with the Inventory Tracking System and the associated transaction history and transportation order receipts. *See* Rule 3-905 – Business Records Required.

Basis and Purpose – 3-815

The statutory authority for this rule includes but is not limited to 44-10-201, 44-10-202(1)(a), 44-10-202(1)(c), 44-10-313(5)(b), 44-10-505(3), and 44-10-605(2) C.R.S. The purpose of this rule is to allow the State Licensing Authority and the industry to jointly track the Transfer and delivery of Regulated Marijuana and Regulated Marijuana Product between licensed Regulated Marijuana Businesses. It also prescribes the manner in which licensed entities will track inventory in the transport process to prevent diversionary practices.

3-815 – Transport Manifest Required

A. Transport of Regulated Marijuana Without Transport Manifest Prohibited. Licensees are prohibited from transporting any Regulated Marijuana without a valid transport manifest generated by the Inventory Tracking System.

B. Accepting Regulated Marijuana Without Transport Manifest Prohibited. Licensees are prohibited from accepting any Regulated Marijuana from another Regulated Marijuana Business without receiving a valid transport manifest generated from the Inventory Tracking System.

C. Information Must Be Accurate. All information on the Inventory Tracking System generated transport manifest must be accurate.

Basis and Purpose – 3-820

The statutory authority for this rule includes but is not limited to sections 44-10-201, 44-10-202(1)(a), 44-10-202(1)(c), 44-10-502(3), 44-10-503(10), 44-10-602(6), and 44-10-603(10). The purpose of this rule is to establish inventory tracking, reporting and recordkeeping requirements for Sampling Units to ensure that any Regulated Marijuana or Regulated Marijuana Products designated as a Sampling Unit is identified and tracked from the point of such designation.

3-820 – Sampling Unit Tracking Requirements

A. Applicability. This Rule 3-820 applies to Medical Marijuana Cultivation Facilities, Retail Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, and Retail Marijuana Products Manufacturers.

B. Sampling Unit Tracking Requirements.

1. In addition to all other requirements set forth in these rules, a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer shall utilize the Inventory Tracking System to ensure that any Regulated Marijuana designated as a Sampling Unit is identified and tracked from the point of such designation until the Sampling Unit is Transferred to a Sampling Manager. *See* Rules 5-230, 5-320, 6-225, 6-320 – Sampling Unit Protocols.

2. The Inventory Tracking System must adequately reflect all Transfers of Sampling Units. At a minimum, a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer must ensure that the Inventory Tracking System reflects the date the

Sampling Unit was Transferred, the weight of the Sampling Unit, and the name and license number of the recipient Sampling Manager.

3. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer must have the ability to reconcile its Sampling Manager and Sampling Unit records with the Inventory Tracking System and any associated transaction history.

Basis and Purpose – 3-825

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-203(2)(d)(I), 44-10-504, and 44-10-604 The Purpose of this rule is to establish reporting standards for Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities.

3-825 – Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities Specific Tracking Requirements

A. Required Procedures. A Regulated Marijuana Testing Facility must establish procedures to ensure that results are accurate, precise, and scientifically valid prior to reporting such results.

B. Reports. Every final report, whether submitted to the Division, to a Regulated Marijuana Business, or to any other Person authorized to receive the report, must include the following:

1. Report quantitative results that are only above the lowest concentration of calibrator or standard used in the analytical run;

2. Verify results that are below the lowest concentration of calibrator or standard and above the LOQ by using a blank and a standard that falls below the expected value of the analyte in the sample in duplicate prior to reporting a quantitative result;

3. Qualitatively report results below the lowest concentration of calibrator or standard and above the LOD as either trace or using a non-specific numerical designation;

4. Adequately document the available external chain of custody information;

5. Ensure all final reports contain the name and location of the Regulated Marijuana Testing Facility that performed the test, name, and unique identifier of Sample, submitting client, Sample received date, date of report, type of Sample tested, test result, units of measure, and any other information or qualifiers needed for interpretation when applicable to the test method and results being reported, to include any identified and documented discrepancies; and

6. Provide the final report to the Division, as well as the Regulated Marijuana Business, and/or any other Person authorized to receive the report in a timely manner.

C. Inventory Tracking System. Each Regulated Marijuana Testing Facility shall:

1. Report all test results to the Division as part of daily reconciliation by the close of business and in accordance with all Inventory Tracking System Procedures under Rule 3-805 – All Regulated Marijuana Businesses: Inventory Tracking System. The requirement to report all test results includes:

a. Both positive and negative test results;

b. Results from both mandatory and voluntary testing; and

c. For quantitative tests, a quantitative value.

2. As part of Inventory Tracking System reporting, when results of tested Samples exceed maximum levels of allowable potency or contamination, or otherwise result in failed potency, homogeneity, or contaminant testing, the Regulated Marijuana Testing Facility shall, in the Inventory Tracking System, indicate failed test results for the Inventory Tracking System package associated with the failed Sample. This requirement only applies to testing of Samples that are comprised of Regulated Marijuana.

D. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

3-900 Series – Business Records

Basis and Purpose – 3-905

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-301, and 44-10-1001(1), C.R.S. This rule explains what business records a Licensee must maintain and clarifies that such records must be made available to the Division on demand. This Rule 3-905 was previously Rules M and R 901, 1 CCR 212-1 and 1 CCR 212-2.

3-905 – Business Records Required

A. General Requirements.

1. A Regulated Marijuana Business must maintain the information required in this Rule in a format that is readily understood by a reasonably prudent business person and may be stored electronically.

2. Each Regulated Marijuana Business shall retain all books and records necessary to fully account for the business transactions conducted under its license for the current year and three preceding calendar years.

a. On premises records: The Regulated Marijuana Business's books and records for the preceding six months (or complete copies of such records) must be maintained on the Licensed Premises at all times. Electronic records that are accessible from, but not physically located at, a Licensee's Licensed Premises may also satisfy the requirements of this Rule 3-905.

b. On- or off-premises records: Books and records associated with older periods may be archived on or off of the Licensed Premises.

3. Books and records necessary to fully account for the business transactions conducted under its License shall be made available to the State Licensing Authority or Division upon request.

B. The books and records must fully account for the transactions of the business and must include, but shall not be limited to:

1. Secure Facility Information – For its Licensed Premises and any associated permitted off-premises storage facility, a Regulated Marijuana Business must maintain the business contact information for vendors that maintain video surveillance systems and Security Alarm Systems.

2. Security Alarm Systems documents required by Rule 3-220(A)(3).

3. Advertising Records – All records related to Advertising and marketing, including, but not limited to, audience composition data.

4. Child Resistance Certificates – A copy of the certificate that each Container into which a Licensee places Regulated Marijuana is Child Resistant.

5. Diagram for the Licensed Premises – Diagram of all approved Limited Access Areas, Restricted Access Areas, and any permitted off-premises storage facilities.

6. Visitor Log – List of all visitors entering Limited Access Areas or Restricted Access Areas.

7. All records normally retained for tax purposes.

8. Waste Log and Fibrous Waste Records – Comprehensive records regarding all waste and Fibrous Waste material that accounts for, reconciles, and evidences all waste and Fibrous Waste activity related to the disposal of marijuana.

9. Consumer Waste Records – All contracts, standard operating procedures, and receipts relating to collection and Transfer of Marijuana Consumer Waste as required by Rule 3-240.

10. Surveillance Logs – Surveillance logs identify all authorized employees and service personnel who have access to the surveillance system and maintenance and activity log as required by Rule 3-225.

11. Every Licensee shall maintain a record of its identity statement and Standardized Graphic Symbol. A Licensee may elect to have its Identity Statement also serve as its Standardized Graphic Symbol for purposes of complying with this rule.

12. Testing Records Required to be Maintained by Regulated Marijuana Testing Facilities:

    a. All testing records required by Rule 5-450 and Rule 6-450.

    b. Digital photographs of each Test Batch.

    c. Any delegation of responsibilities from the laboratory director to a qualified supervisory analyst as permitted by Rule 5-240(B)9 or 6-240(B).

13. Testing Records Required to be Maintained by Regulated Marijuana Businesses and Accelerator Licensees:

    a. Documentation of Designated Test Batch Collector Training required by Rule 4-110(C)(3).

    b. Records regarding wet whole plant that was not tested for microbials pursuant to Rule 4-121(F)(3).

    c. Evidence of any achieved Reduced Testing Allowance - If a Licensee utilizes any Reduced Testing Allowances, then they must maintain documentation demonstrating how it was obtained and maintained throughout the allowance with all applicable rules.

14. Sampling Unit Records – All records related to designated Sampling Managers, identified Sampling Units, and Transfers of Sampling Units. *See* Rules 3-810, 5-230, 5-320, 6-225, 6-320. This includes, but is not limited to, standard operating procedures that explain the

requirements of sections 44-10-502(5), 44-10-503(10), 44-10-602(6) and 44-10-603(10), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements imposed by Rules 5-230, 5-320, 6-225, 6-320. 6-725, and 6-280.

15. License Application Records – All records provided by the Licensee to both the state and local licensing authorities in connection with an application for licensure pursuant to the Marijuana Code and these Rules.

16. Standard Operating Procedures – All standard operating procedures as required by these Rules, including up-to-date records of employee training, as follows:

    a. Identification of required training of employees;

    b. Documentation of training topic, training method, date of initial training, date of any necessary re-training, name and signature of trainer, and name and signature of employee;

    c. Competency and effectiveness of employee training shall be adequately assessed in an appropriate manner determined by the Licensee that is described in the standard operating procedures.

17. Audited Product and/or Alternative Use Product Records – All records required to demonstrate compliance with Rule 5-325 and 6-325.

18. Corrective Action and Preventive Action records required by Rules 5-115, 5-210, 5-310, 6-110, 6-210, 6-310.

19. Certificates of analysis or other records demonstrating the full composition of each Ingredient used in the manufacture of Vaporizer Delivery Devices or Pressurized Metered Dose Inhalers as required by Rule 5-310(F).

20. Records required to be maintained by Delivery Permit holders including delivery order requirements and contracts for delivery pursuant to Rule 3-615.

21. Recall records required by Rule 3-336 including the recall plan, recall notice, and results of any action taken pursuant to the recall plan.

22. All records related to Material Changes as required by Rules 3-330(D) and 3-335(L).

23. Records related to Adverse Health Events as required by Rule 3-920.

24. Internal Security Controls – Licensees must establish and maintain a security plan for each Licensed Premises, including at a minimum:

    a. Protocols for the end-of-day handling of Regulated Marijuana and cash;

    b. Protocols for reporting theft or burglaries when they are discovered to Local Law Enforcement, the Division, and Local Licensing Authority or Local Jurisdiction;

    c. Protocols for reconciling inventory after a theft or burglary has been discovered;

    d. Identification of exterior lighting of the Licensed Premises and any exterior camera angles, and protocols for maintenance of the lighting and cameras; and

e. Identification of ingress and egress routes for the property and identification of any access control measures taken outside of the Licensed Premises.

25. Patient Documents – Documents required for a patient to register a primary Medical Marijuana Store as required by Rule 5-115(D).

26. Regulated Marijuana Concentrate Production Records – All records required by Rules 5-315, 6-315, and 6-815 regarding production of Regulated Marijuana Concentrate.

27. Marijuana Research and Development Facility Records – Documents and correspondence sent to or received from an independent reviewer or the Scientific Advisory Council and any testing records if required by Rule 5-725.

28. Documents Related to Pesticide Manufacturers – Affidavit from a Pesticide Manufacturer that it meets the requirements of the Rule and the written agreement between the Licensee and the Pesticide Manufacturer as required by Rule 7-115.

29. Expiration date documents required by Rules 3-330(F) and 3-335(M).

30. Written report of change of management personnel as required by Rule 3-920(A)(2).

31. Current Owner and Employee List – This list must provide the full name and License number of all Owner Licensees and every employee who works for a Regulated Marijuana Business. The list shall include all employees who work for the Regulated Marijuana Business, whether or not they report to the Licensed Premises as part of their employment. A Regulated Marijuana Business can fulfill the requirements of this Rule by listing all employees in the Inventory Tracking System for each Licensed Premises. If a Regulated Marijuana Business does not use the Inventory Tracking System to list all employees, it must maintain a separate record for employees who do not report to the Licensed Premises.

32. Documentation required to demonstrate valid responsible vendor designation(s).

33. All other records required by these Rules.

C. Records Required to be Maintained in the Inventory Tracking System. The following records must be maintained by Licensees in the Inventory Tracking System:

1. Records Related to Inventory Tracking. A Regulated Marijuana Business must maintain accurate and comprehensive inventory tracking records that account for, reconcile, and evidence all inventory activity for Regulated Marijuana from either seed or Immature Plant stage until the Regulated Marijuana is destroyed or Transferred to another Regulated Marijuana Business, a consumer, a patient, or a Pesticide Manufacturer.

2. Records Related to Transport. A Regulated Marijuana Business must maintain adequate records for the transport of all Regulated Marijuana. See Rule 3-605 – Transport: All Regulated Marijuana Businesses.

3. Employees Required to be Listed in the Inventory Tracking System. A Regulated Marijuana Business must use the Inventory Tracking System to list all employees who report to the Licensed Premises. The employee list in the Inventory Tracking System must include the full name and Employee License number of every employee who works on the premises. The Regulated Marijuana Business is responsible for updating its list of employees who work at the Licensed Premises in the Inventory Tracking System within 10 days of an employee commencing or ceasing employment.

4. Testing results.

D. Loss of Records and Data. Any loss of electronically-maintained records shall not be considered a mitigating factor for violations of this Rule. Licensees are required to exercise due diligence in preserving and maintaining all required records.

E. Violation Affecting Public Safety. Violation of this Rule may constitute a license violation affecting public safety.

F. Provision of Any Requested Record to the Division. A Licensee must provide on-demand access to on-premises records following a request from the Division during normal business hours or hours of apparent operation, and must provide access to off-premises records within three business days following a request from the Division.

Basis and Purpose – 3-910

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), and 44-10-203(2)(j), C.R.S. A Regulated Marijuana Business must collect and remit sales tax on all retail sales made pursuant to the licensing activities. The purpose of this rule is to clarify when such taxes must be remitted to the Colorado Department of Revenue. This Rule 3-910 was previously Rules M and R 902, 1 CCR 212-1 and 1 CCR 212-2.

3-910 – Reporting and Transmittal of Taxes

A. Sales and Use Tax Returns Required. All state and state-collected sales and use tax returns must be filed, and all taxes must be remitted to the Department of Revenue, on or before the 20th day of the month following the reporting month. For example, a January return and remittance will be due to the Department of Revenue by February 20th. If the due date (20th of the month) falls on a weekend or holiday, the next business day is considered the due date for the return and remittance.

B. Excise and Retail Marijuana Sales Tax Returns Required. A Retail Marijuana Business shall submit any applicable tax returns and remit any payments due pursuant to Article 28.8 of Title 39, C.R.S.

C. Proof of Tax Remittance Required. All state tax payments shall require proof of remittance with the State Licensing Authority. A Retail Marijuana Cultivation Facility must maintain records evidencing the payment of all required excise taxes. Proof of retail sales taxes shall be identified in required tax records, tracking systems, and sales receipts provided to consumers.

Basis and Purpose – 3-915

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), and 44-10-1001(1), C.R.S. The Marijuana Code mandates that a Regulated Marijuana Business must pay for an audit when the State Licensing Authority deems an audit necessary. This rule explains when an audit may be deemed necessary and sets forth possible consequences of a Regulated Marijuana Business's refusal to cooperate or pay for the audit. This Rule 3-915 was previously Rules M and R 903, 1 CCR 212-1 and 1 CCR 212-2.

3-915 – Independent Audit May Be Required

A. State Licensing Authority May Require Independent Audit.

1. When the State Licensing Authority deems it necessary, it may require a Regulated Marijuana Business to undergo an audit by an independent accountant. The scope of the

audit may include, but need not be limited, to financial transactions and inventory control measures.

2. In such instances, the Division may attempt to mutually agree upon the selection of the independent accountant with a Regulated Marijuana Business. However, the Division always retains the right to select the independent accountant regardless of whether mutual agreement can be reached. The independent accountant shall be a certified public accountant licensed by, and in good standing with, the Colorado State Board of Accountancy.

3. The Regulated Marijuana Business will be responsible for all direct costs associated with the independent audit.

B. When Independent Audit Is Necessary. The State Licensing Authority has discretion to determine when an audit by an independent accountant is necessary. The following is a non-exhaustive list of examples that may justify an independent audit:

1. A Regulated Marijuana Business does not provide requested records to the Division;

2. The Division has reason to believe that the Regulated Marijuana Business does not properly maintain its business records;

3. A Regulated Marijuana Business has a prior violation related to recordkeeping or inventory control;

4. A Regulated Marijuana Business has a prior violation related to diversion.

5. As determined by the Division, the scope of an audit conducted by the Division would be so extensive as to jeopardize the regular duties and responsibilities of the Division's audit or enforcement staff.

C. Compliance Required. A Regulated Marijuana Business must pay for and timely cooperate with the State Licensing Authority's requirement that it undergo an audit in accordance with this Rule.

D. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 3-920

The statutory authority for this rule includes but is not limited to sections 44-10-201(4), 44-10-204(1)(a), 44-10-202(1)(c), 44-10-202(1)(a), 44-10-204(1)(a), 44-10-203(1)(k), 44-10-313(12), and 44-10-701(2)(a), C.R.S. The State Licensing Authority must be able to immediately access information regarding a Regulated Marijuana Business's managing individual. Accordingly, this rule reiterates the statutory mandate that Licensees provide any management change to the Division within seven days of any change, and also clarifies that a Licensee must save a copy of any management change report to the Division, and clarifies that failure to follow this rule can result in discipline.

The State Licensing Authority finds it essential to the stringent and comprehensive enforcement of the Marijuana Code to regulate, monitor, and track all Regulated Marijuana in order to prevent diversion and to ensure that all Regulated Marijuana grown, processed, sold, and disposed of in the Regulated Marijuana market is accounted for transparently in accordance with the Marijuana Code.

Requiring Licensees to report instances when the Regulated Marijuana they cultivate, manufacture, distribute, sell, test, or dispose of is stolen, unlawfully Transferred, or otherwise diverted from the regulated market, or when Licensees discover plans to divert the Regulated Marijuana, emphasizes that

Licensees are accountable for their Regulated Marijuana at all times and contributes to the transparency of the regulated market.

In addition to maintaining transparency in the regulated marijuana industry, the State Licensing Authority also must ensure the confidentiality of certain Licensee information and records, including information in the Inventory Tracking System. Requiring Licensees to report instances where the Inventory Tracking System was compromised or planned to be compromised through unlawful access, use for unlawful purposes, the deliberate alteration or deletion of data, or deliberately entering false data, contributes to ensuring the accuracy and transparency of the system and therefore the regulated market, and aids in maintaining the confidentiality of Licensee data.

This Rule 3-920 was previously Rules M and R 904, 1 CCR 212-1 and 1 CCR 212-2.

3-920 – Regulated Marijuana Business Reporting Requirements

A. Management Personnel Change Must Be Reported.

1. When Required. A Regulated Marijuana Business shall provide the Division a written report within seven days after any change in management personnel occurs. In addition, a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer shall report any designation or change of Sampling Manager(s) through the Inventory Tracking System.

2. Licensee Must Maintain Record of Reported Change. A Regulated Marijuana Business must also maintain a copy of this written report with its business records as required in Rule 3-905.

3. Consequence of Failure to Report. Failure to report a change in a timely manner may result in discipline.

B. Reporting of Crime on the Licensed Premises or Otherwise Related to a Regulated Marijuana Business. A Regulated Marijuana Business and all Licensees employed by the Regulated Marijuana Business shall report to the Division any discovered plan or other action of any Person to (1) commit theft, burglary, underage sales, diversion of marijuana or marijuana product, or other crime related to the operation of the subject Regulated Marijuana Business; or (2) compromise the integrity of the Inventory Tracking System. A report shall be made as soon as possible after the discovery of the action, but not later than 14 days. Nothing in this paragraph (B) alters or eliminates any obligation a Regulated Marijuana Business or Licensee may have to report criminal activity to a local law enforcement agency.

C. Adverse Health Event Reporting. If a Regulated Marijuana Business is notified of any possible Adverse Health Event, as defined by Rule 1-115, associated with Regulated Marijuana, it must report the Adverse Health Event to the Division within 48 hours from its receipt of notification of the Adverse Health Event. To the extent known after reasonable diligence to ascertain the information, the report must contain the name and contact information of the complainant, the date the complaint was received, the nature of the complaint, the Production Batch or Harvest Batch number, and any other identifying information found on the label of the Regulated Marijuana. The Regulated Marijuana Business must maintain records of reports of Adverse Health Events in accordance with Business Records Rule 3-905

Basis and Purpose – 3-925

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-204(1)(a), 44-10-203(2)(j), 44-10-203(2)(k), 44-10-203(1)(k), and 44-10-307(1)(e), C.R.S. *See also* articles 21, 22,

26 and 28.8 of title 39, C.R.S. The purpose of this rule is to clarify the Division's authority to provide taxation divisions within the Department copies of or access to reports or other information obtained from or regarding a Licensee, for the purpose of ensuring accurate and complete filing of tax returns and payment of sales, excise and income taxes required by Title 39 of the Colorado Revised Statutes. Such information sharing is for a purpose authorized by the Marijuana Code. This Rule 3-925 was previously Rules M and R 905, 1 CCR 212-1 and 1 CCR 212-2.

3-925 – Department Information Access

A. Department Access to Reports or Other Information. The Division may provide taxation divisions within the Department copies of or access to reports or other information obtained from or regarding a Licensee for the purpose of ensuring accurate and complete filing of tax returns and payment of sales, excise, and income taxes required by Title 39 of the Colorado Revised Statutes.

B. Confidentiality. Reports or other information provided to or accessed by taxation divisions within the Department for the purpose of ensuring accurate and complete filing of tax returns and payment of sales, excise, and income taxes required by Title 39 of the Colorado Revised Statutes shall be considered part of the Department's investigation pursuant to subsection 39-21-113(4)(a), C.R.S., and the Division shall continue to maintain such records and information in its possession or control as confidential pursuant to subsection 44-10-204(1)(a), C.R.S.

Basis and Purpose – 3-930

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-204, 44-10-301, and 44-10-1001(1), C.R.S. This rule identifies the business records a Licensee can request from the Division and how the business records will be provided to the Licensee.

3-930 – Request for Business Records from the Division.

A. A Controlling Beneficial Owner, a Passive Beneficial Owner who is licensed or disclosed to the Division or an authorized representative according to the Division's records may request from the Division a copy of applications which the Controlling Beneficial Owner, the Passive Beneficial Owner or a Regulated Marijuana Business for which the requestor was identified on the ownership structure that has previously been submitted to the Division. The following limitations apply to requests for business records from the Division:

1. Requests for records under this rule are limited to applications submitted by a Licensee in the prior two (2) calendar years during which the requesting Controlling Beneficial Owner or Passive Beneficial Owner that was licensed or disclosed was identified on the Licensee's ownership structure on file with the Division.

2. Applications provided by the Division in response to a request under this rule will not include supporting documents. For example, business records provided by the Division under this rule will not include leases, operating agreements, or premises diagrams.

3. Business records provided to a Controlling Beneficial Owner, Passive Beneficial Owner that was licensed disclosed, or authorized representative under this rule will only be provided in an electronic format and sent only to the Controlling Beneficial Owner, disclosed Passive Beneficial Owner, or to an individual with a valid authorization letter on file with the Division.

B. The Division will not provide any business records or provide business records to any person which could violate the obligation to maintain the confidentiality of documents and information

provided by Applicants and Licensees to the State Licensing Authority as provided in Section 44-10-204, C.R.S.

3-1000 Series – Labeling, Packaging, and Product Safety

Basis and Purpose – 3-1005

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(c), 44-10-202(6), 44-10-203(2)(f), 44-10-203(1)(k), 44-10-203(3)(a)-(b), 44-10-601(2)(a), 44-10-601(5), 44-10-603(1)(d), 44-10-603(4)(a), and 44-10-603(8), C.R.S. The purpose of this rule is to define minimum packaging and labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product Transferred between Regulated Marijuana Businesses. The State Licensing Authority finds it essential to regulate and establish labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product and that this is in the interest of the health and safety of the people of Colorado. This rule identifies information that is required on all labels to provide information necessary for the Division to regulate the cultivation, production, and sale of Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product. This rule also seeks to minimize, to the extent practicable, the burden of labeling compliance to Licensees. The labeling requirements in this rule apply to all Containers immediately containing Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product. This Rule 3-1005 was previously Rules M and R 1001-1, 1 CCR 212-1 and 1 CCR 212-2.

3-1005 - Packaging and Labeling: Minimum Requirements Prior to Transfer to a Regulated Marijuana Business, except to a Regulated Marijuana Testing Facility

A. Applicability. This Rule establishes minimum requirements for packaging and labeling Regulated Marijuana prior to Transfer to a Regulated Marijuana Business, except to a Regulated Marijuana Testing Facility. See Rule 3-1025 for minimum requirements for packaging and labeling Regulated Marijuana prior to Transfer to a Regulated Marijuana Testing Facility. The labeling requirements in this Rule apply to all Containers immediately containing Medical Marijuana, Retail Marijuana, Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, and Retail Marijuana Product.

B. Packaging and Labeling of Regulated Marijuana Flower, Trim, Wet Whole Plant, and Regulated Marijuana Concentrate, Prior to Transfer to a Regulated Marijuana Business. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Medical Marijuana flower, trim, wet whole plant, or Medical Marijuana Concentrate to another Medical Marijuana Business, or Retail Marijuana flower, trim, wet whole plant, or Retail Marijuana Concentrate to another Retail Marijuana Business:

1. Packaging of Regulated Marijuana Flower and Trim, and Regulated Marijuana Concentrate.

    a. Prior to Transfer to a Regulated Marijuana Business, Regulated Marijuana flower, trim, wet whole plant, or Regulated Marijuana Concentrate shall be placed into a Container. The Container may but is not required to be Child-Resistant.

    b. Each Container of Regulated Marijuana flower or trim that is Transferred to a Regulated Marijuana Business shall not exceed 50 pounds of Regulated Marijuana flower or trim, but may include pre-weighed units that are within the sales limit in Rules 5-115(C),6-110(C), and 6-925(G).

    c. A Container of wet whole plant that is Transferred to a Regulated Marijuana Business may exceed 50 pounds, but shall not exceed 100 pounds.

d. Each Container of Medical Marijuana Concentrate that is Transferred to a Medical Marijuana Business, or Retail Marijuana Concentrate that is Transferred to a Retail Marijuana Business, shall not exceed 50 pounds of Medical Marijuana Concentrate or Retail Marijuana Concentrate, but may include pre-weighed units that are within the applicable sales limit in Rules 5-115(C),6-110(C), and 6-925(G).

2. Labeling of Regulated Marijuana Flower, Trim, Wet Whole Plant, and Regulated Marijuana Concentrate. Prior to Transfer to a Regulated Marijuana Business, every Container of Regulated Marijuana flower, trim, wet whole plant, or Regulated Marijuana Concentrate shall be affixed with a label that includes at least the following information:

a. The license number of the Medical Marijuana Cultivation Facility where the Medical Marijuana was grown, the Retail Marijuana Cultivation Facility where the Retail Marijuana was grown, or the Accelerator Cultivator where the Retail Marijuana was grown;

b. The Harvest Batch Number(s) assigned to the Regulated Marijuana or the Production Batch Number(s) assigned to the Regulated Marijuana Concentrate;

c. If applicable, the license number of the Medical Marijuana Cultivation Facility(ies) that produced the Physical Separation-Based Medical Marijuana Concentrate, the Retail Marijuana Cultivation Facility(ies) that produced the Physical Separation-Based Retail Marijuana Concentrate, or the license number of the Accelerator Cultivator;

d. If applicable, the license number of the Medical Marijuana Products Manufacturer(s) where the Medical Marijuana Concentrate was produced, the Retail Marijuana Products Manufacturer(s) where the Retail Marijuana Concentrate was produced, or the Accelerator Manufacturer(s) where the Retail Marijuana Concentrate was produced;

e. The net contents, using a standard of measure compatible with the Inventory Tracking System, of the Regulated Marijuana or Regulated Marijuana Concentrate prior to its placement in the Container; and

f. Potency test results as required to permit the receiving Regulated Marijuana Business to label the Medical Marijuana, Retail Marijuana, Medical Marijuana Concentrate, or Retail Marijuana Concentrate as required by these rules.

g. Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers. A list of all Ingredients, including Additives, used to manufacture the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler.

h. Expiration/Use-By Date. Beginning January 1, 2024, the expiration or use-by date as required in Rule 3-1015.

i. Storage Conditions. Beginning January 1, 2024, if a Licensee establishes a use-by date that is longer than nine months based on shelf stability testing in accordance with Rule 3-1015(B)(2)(a.5), then the label for the Regulated Marijuana shall include storage conditions as determined by the Regulated Marijuana Business that cultivated or manufactured the Regulated Marijuana.

C. Packaging and Labeling of Regulated Marijuana Product Prior to Transfer to a Regulated Marijuana Business. A Regulated Marijuana Business shall comply with the following minimum

packaging and labeling requirements prior to Transferring Medical Marijuana Product to another Medical Marijuana Business, or Transferring Retail Marijuana Product to another Retail Marijuana Business:

1. Packaging of Regulated Marijuana Product.

    a. Transfer to a Regulated Marijuana Business Other Than a Medical Marijuana Store or Retail Marijuana Store. Prior to Transfer to a Regulated Marijuana Business other than a Medical Marijuana Store or Retail Marijuana Store, Regulated Marijuana Product shall be placed into a Container. The Container may but is not required to be Child-Resistant.

    b. Transfer to a Medical Marijuana Store or Retail Marijuana Store. Prior to Transfer to a Medical Marijuana Store or Retail Marijuana Store, all Regulated Marijuana Product shall be packaged in a Child-Resistant Container that is ready for sale to the patient or consumer as required by the Rule 3-1010(D).

2. Labeling of Regulated Marijuana Product.

    a. Transfer to a Regulated Marijuana Business other than a Medical Marijuana Store or Retail Marijuana Store. Prior to Transfer to a Regulated Marijuana Business other than a Medical Marijuana Store or Retail Marijuana Store, every Container of Regulated Marijuana Product shall be affixed with a label that includes at least the following information:

        i. The license number of the Regulated Marijuana Cultivation Facility(ies) where the Medical Marijuana or Retail Marijuana was grown;

        ii. The license number of the Regulated Marijuana Products Manufacturer that produced the Medical Marijuana Product or Retail Marijuana Product;

        iii. The Production Batch Number(s) assigned to the Regulated Marijuana Product;

        iv. The net contents, using a standard of measure compatible with the Inventory Tracking System, of the Regulated Marijuana Product prior to its placement in the Container; and

        v. Potency test results as required to permit the receiving Regulated Marijuana Business to label the Regulated Marijuana Product as required by these rules.

    b. Transfer to a Medical Marijuana Store or Retail Marijuana Store. Prior to Transfer to a Regulated Marijuana Store, every Container of Regulated Marijuana Product shall be affixed with a label ready for sale to the patient or consumer including all information required by Rules 3-1010(D)(2) and 3-1015(B).

D. Packaging and Labeling of Regulated Marijuana Seeds and Immature Plants Prior to Transfer to a Regulated Marijuana Business. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Regulated Marijuana seeds or Immature plants to another Regulated Marijuana Business:

1. Packaging of Regulated Marijuana Seeds.

a. Prior to Transfer to a Regulated Marijuana Business, Regulated Marijuana seeds shall be placed into a Container. The Container may but is not required to be Child-Resistant.

b. Each Container of Regulated Marijuana seeds that is Transferred to a Regulated Marijuana Business shall not exceed 10 pounds of Regulated Marijuana seeds.

2. Packaging of Immature Plants. Prior to Transfer to a Regulated Marijuana Business, Immature plants shall be placed into a receptacle. The receptacle may but is not required to be Child-Resistant.

3. Labeling of Regulated Marijuana Seeds and Immature Plants. Prior to Transfer to a Regulated Marijuana Business, every Container of Regulated Marijuana seeds and all receptacles holding an Immature plant shall be affixed with a label that includes at least the license number of the Regulated Marijuana Cultivation Facility where the Regulated Marijuana that produced the seeds or the Immature plant was grown.

E. Packaging and Labeling of Sampling Units. Regulated Marijuana Cultivation Facilities and Regulated Marijuana Products Manufacturers shall comply with the following minimum packaging and labeling requirements prior to Transferring any Sampling Unit to a Sampling Manager.

1. Packaging of Sampling Units. Prior to Transfer to a Sampling Manager, a Sampling Unit must be placed in a Container. If the Sampling Unit is Regulated Marijuana flower, trim, Medical Marijuana Concentrate, or Retail Marijuana Concentrate, the Container may, but is not required to, be Child-Resistant; however, the Container shall be placed into a Child-Resistant Exit Package at the point of Transfer to the Sampling Manager. If the Sampling Unit is composed of Regulated Marijuana Product, the Sampling Unit shall be packaged in a Child-Resistant Container.

2. Labeling of Sampling Units. Prior to Transfer to a Sampling Manager, every Container for a Sampling Unit shall be affixed with a label that includes at least the following information:

a. Required License Number. The license number for the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer Transferring the Sampling Unit.

b. Batch Number(s). The relevant Harvest Batch number and/or Production Batch number from which the Sampling Unit was designated.

c. Universal Symbol. The Universal Symbol on the front of the Container and any Marketing Layer, no smaller than ½ of an inch by ½ of an inch, with the following statement directly below the Universal Symbol: "**Contains Marijuana. Keep away from children.**"

d. Required Potency Statement.

i. For a Sampling Unit composed of Regulated Marijuana, Medical Marijuana Concentrate, or Retail Marijuana Concentrate, the potency of the Sampling Unit's active THC and CBD expressed as a percentage.

ii. For a Sampling Unit composed of Regulated Marijuana Product, the potency of the Sampling Unit's active THC and CBD expressed in

milligrams. If the potency of the Sampling Unit's active THC or CBD is less than 1 milligram, the potency may be expressed as "<1 mg."

iii. The required potency statement shall be displayed either: (1) In a font that is bold, and enclosed within an outlined shape such as a circle or square; or (2) highlighted with a bright color, such as yellow.

e. Date of Transfer. The label shall include the date of Transfer to the Sampling Unit.

f. Patient Number. If the Sampling Unit contains Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana Product, the label must also include the patient registration number of the recipient Sampling Manager.

g. Required Warning Statements. Either the label affixed to the Container or the Marketing Layer shall include the following information:

i. "This product was received as a Sampling Unit and may have been produced with undisclosed allergens, solvents, or pesticides, and may pose unknown physical or mental health risks. This product is not for resale and should not be used by anyone else."

F. Prohibited Transfers – All Regulated Marijuana Businesses. A Regulated Marijuana Business shall not Transfer to a Medical Marijuana Store, Retail Marijuana Store, Accelerator Store, or Retail Marijuana Hospitality and Sales Business—and a Medical Marijuana Store, Retail Marijuana Store, Accelerator Store, or Retail Marijuana Hospitality and Sales Business shall not accept nor offer for sale—any Regulated Marijuana that is not packaged and labeled in conformance with the requirements of these rules or that does not provide all information necessary to permit the Medical Marijuana Store, Retail Marijuana Store, Accelerator Store or Retail Marijuana Hospitality and Sales Business to package and label the Regulated Marijuana prior to Transfer to a patient or consumer. However, a Medical Marijuana Store or Retail Marijuana Store is not required to open any tamper evident Marketing Layer received from a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or a Retail Marijuana Products Manufacturer to verify the Container is Child-Resistant or labeled.

G. Shipping Containers. Licensees may Transfer multiple Containers of Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product to a Regulated Marijuana Business in a Shipping Container.

1. RFID Tag Required. Licensees shall ensure that either the multiple Containers placed within a Shipping Container each have an RFID tag, or the Shipping Container itself must have an RFID tag. If the Licensee elects to place the RFID tag on the Shipping Container, the Shipping Container shall contain only one Harvest Batch of Regulated Marijuana, one Production Batch of Regulated Marijuana Concentrate, or one Production Batch of Regulated Marijuana Product. If a Shipping Container consists of more than one Harvest Batch or Production Batch, then each group of multiple Containers shall be affixed with an RFID tag. *See* Rule 3-805 – Inventory Tracking System; Rule 3-605 – Transport: All Regulated Marijuana Businesses.

2. Labeling of Shipping Containers. Any Shipping Container that will not be displayed to the consumer is not required to be labeled according to these rules.

H. Packaging and Labeling of Regulated Marijuana Flower and Trim Prior to Transfer to a Pesticide Manufacturer or a Marijuana Research and Development Facility. The packaging and labeling

requirements in these 3-1000 Series Rules also apply to any Transfer of Regulated Marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Product to a Pesticide Manufacturer or a Marijuana Research and Development Facility.

I. Marijuana Research and Development Facility Transfers to Persons as Part of an Approved Research Project. Any Marijuana Research and Development Facility conducting research as part of an approved Research Project involving human subjects shall comply with all packaging and labeling requirements that are applicable to a Medical Marijuana Store prior to Transfer to a patient, unless the Marijuana Research and Development Facility requests and receives in advance a waiver of specific packaging or labeling requirements in connection with the approved Research Project.

J. Research Transfers Prohibited. A Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store shall not Transfer any Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Product, Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product to a Pesticide Manufacturer or a Licensed Research Business.

K. Violation Affecting Public Safety. A violation of any rule in these 3-1000 Series Rules may be considered a license violation affecting public safety.

Basis and Purpose – 3-1010

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(c), 44-10-202(6), 44-10-203(2)(f), 44-10-203(1)(k), 44-10-203(3)(a)-(b), 44-10-601(2)(a), 44-10-601(5), 44-10-603(1)(d), 44-10-603(4)(a), and 44-10-603(8), C.R.S. The purpose of this rule is to define general packaging and labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product prior to Transfer to a patient or consumer. The labeling requirements in this rule apply to all Containers immediately containing Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product. The State Licensing Authority finds it essential to regulate and establish labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product and that this is in the interest of the health and safety of the people of Colorado. This rule identifies information that is required on all labels to provide necessary information to patients and consumers to make informed decisions and first responders in the event of accidental ingestion, over ingestion or allergic reaction. This rule also seeks to minimize, to the extent practicable, the burden of labeling compliance to Licensees. This Rule 3-1010 was previously Rules M and R 1002-1, 1 CCR 212-1 and 1 CCR 212-2.

3-1010 – Packaging and Labeling: General Requirements Prior to Transfer to a Patient or Consumer

A. Applicability. This Rule establishes general requirements for packaging and labeling Regulated Marijuana prior to Transfer to a patient or consumer. The labeling requirements in this Rule apply to all Containers immediately containing any Regulated Marijuana. The labeling requirements based on intended use in Rule 3-1015 are in addition to, not in lieu of, the requirements in this Rule.

1. Exemption for Transfers to Consumers by a Retail Marijuana Hospitality and Sales Business. Unless otherwise provided by these rules, a Retail Marijuana Hospitality and Sales Business Transferring Retail Marijuana to consumers in compliance with the packaging and labeling requirements of Rule 3-1020 is exempt from the requirements of this Rule.

B. Labeling Requirements – All Regulated Marijuana.

1. Font Size. Required labeling text on the Container and any Marketing Layer must be no smaller than 1/16 of an inch.

2. Labels Shall Not Be Designed to Appeal to Children. A Regulated Marijuana Business shall not place any content on a Container or the Marketing Layer in a manner that reasonably appears to target individuals under the age of 21, including but not limited to, cartoon characters or similar images.

3. False or Misleading Statements. Label(s) on a Container and any Marketing Layer shall not include any false or misleading statements.

4. Trademark Infringement Prohibited. No Container or Marketing Layer shall be intentionally or knowingly labeled so as to cause a reasonable consumer confusion as to whether the Regulated Marijuana is a trademarked product or labeled in a manner that violates any federal trademark law or regulation.

5. Health and Benefit Claims. The label(s) on the Container and any Marketing Layer shall not make any claims regarding health or physical benefits to the patient or consumer.

6. Use of English Language. Labeling text on the Container and any Marketing Layer must be clearly written or printed and in the English language. In addition to the required English label, Licensees may include an additional, accurate foreign language translation on the label that otherwise complies with these rules.

7. Unobstructed and Conspicuous. Labeling text on the Container and any Marketing Layer must be unobstructed and conspicuous. A Licensee may affix multiple labels to the Container, provided that none of the information required by these rules is obstructed and permanently hidden from view. For example and not by means of limitation, labels may be accordion, expandable, extendable or layered to permit labeling of small Containers.

8. Use of the Word “Candy” and/or “Candies” Prohibited.

    a. Licensees shall not use the word(s) “candy” and/or “candies” on the label of any Container holding Regulated Marijuana, or of any Marketing Layer.

    b. Notwithstanding the requirements of this subparagraph, a Regulated Marijuana Business whose identity statement contains the word(s) “candy” and/or “candies” may place its Identity Statement on the label of the Container holding Regulated Marijuana, or of any Marketing Layer.

9. Child Resistant Certificate(s). A Licensee shall maintain a copy of the certificate showing that each Child-Resistant Container into which the Licensee places Regulated Marijuana is Child-Resistant and complies with the requirements of 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995) in accordance with the requirements of Rule 3-905(A).

    a. Note that this Rule does not include any later amendments or editions to the Code of Federal Regulations. The Division has maintained a copy of 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995), which is available to the public for inspection and copying during the Division’s regular business hours.

10. Containers and Marketing Layers. The Container and any Marketing Layer shall have a label with all information required by these 3-1000 Series Rules. Any intermediary packaging between the Container and the Marketing Layer is not required to be labeled in accordance with these rules.

11. Exit Packages.

    a. Exit Packages Permitted for Child-Resistant Containers. A Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store may but is not required to place a Child-Resistant Container into an Opaque Exit Package at the point of Transfer to the patient or consumer.

    b. Exit Packages Required for Regulated Marijuana Flower, Trim, and Seeds. Any Regulated Marijuana flower, trim, or seeds in a Container that is not Child-Resistant shall be placed into a Child-Resistant Exit Package at the point of Transfer to a patient or consumer. The Exit Package is not required to be labeled but may include the Medical Marijuana Store's, Retail Marijuana Store's, or Accelerator Store's Identity Statement and/or Standardized Graphic Symbol.

C. Packaging and Labeling of Regulated Marijuana Flower and Trim, and Regulated Marijuana Concentrate Prior to Transfer to a Patient or Consumer. A Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store shall comply with the following minimum packaging and labeling requirements prior to Transferring Medical Marijuana flower and trim, Retail Marijuana flower and trim, Medical Marijuana Concentrate, or Retail Marijuana Concentrate to a patient or consumer:

1. Packaging of Regulated Marijuana Flower and Trim. Prior to Transfer to a patient or a consumer, Regulated Marijuana flower and trim shall be in a Container that does not exceed the sales limit in Rules 5-115(C) and 6-110(C). The Container may but is not required to be Child-Resistant. Any Regulated Marijuana flower and trim in a Container that is not Child-Resistant shall be placed into a Child-Resistant Exit Package at the point of Transfer to a patient or consumer.

2. Packaging of Regulated Marijuana Concentrate. Prior to Transfer to a patient or consumer, Regulated Marijuana Concentrate shall be in a Child-Resistant Container that does not exceed the sales limit in Rules 5-115(C) and 6-110(C).

    a. A Pressurized Metered Dose Inhaler, Vaporizer Delivery Device, or syringe-type device that is within an intended use that is listed in Rule 3-1015(B) and is not an Alternative Use Product need not itself be Child-Resistant but must be placed into a Child-Resistant Container prior to Transfer to a patient or consumer.

    b. A Pressurized Metered Dose Inhaler, Vaporizer Delivery Device, or syringe-type device with an intended use that is listed in Rule 3-1015(B) and that is not an Alternative Use Product must be labeled with at least the Universal Symbol, but is not required to include "**Contains Marijuana. Keep away from children.**", prior to Transfer to a patient or consumer. The Universal Symbol shall be legible and no smaller than ¼ of an inch by ¼ of an inch.

    c. A Marketing Layer or Container for a Pressurized Metered Dose Inhaler or Vaporizer Delivery Device must be affixed with a label that states "**Not approved by the FDA.**"

    d. Nothing in this Rule authorizes the use of a syringe for any type of injection involving a needle piercing the skin.

3. Labeling of Regulated Marijuana Flower and Trim, and Regulated Marijuana Concentrate. Prior to Transfer to a patient or consumer, every Container of Regulated Marijuana flower and trim, or Regulated Marijuana Concentrate and any Marketing Layer shall be affixed with a label that includes at least the following information:

a. Required License Number(s). The license number for each of the following:

i. The Regulated Marijuana Cultivation Facility where the Regulated Marijuana was grown;

ii. If applicable, the Regulated Marijuana Cultivation Facility(ies) where the Physical Separation-Based Medical Marijuana Concentrate or Physical Separation-Based Retail Marijuana Concentrate was produced;

iii. If applicable, the Regulated Marijuana Products Manufacturer where the Medical Marijuana Concentrate or Retail Marijuana Concentrate was produced; and

iv. The Regulated Marijuana Store that sold the Medical Marijuana, Retail Marijuana, Medical Marijuana Concentrate, or Retail Marijuana Concentrate to the patient or consumer, except the Regulated Marijuana Store may affix its license number to the Container or Marketing Layer.

v. Retail Marijuana that was designated as Medical Marijuana pursuant to Rule 5-235, 6-230, 6-730 must be labeled with the license number of the Retail Marijuana Cultivation Facility.

vi. Retail Marijuana Concentrate that was designated as Medical Marijuana Concentrate pursuant to Rule 5-335, 6-335, 6-830 must be labeled with the license number of the Retail Marijuana Products Manufacturer.

b. Batch Numbers. The Harvest Batch Number(s) assigned to the Regulated Marijuana or the Production Batch Number(s) assigned to the Regulated Marijuana Concentrate.

c. Statement of Net Contents. The statement of net contents must identify the net weight of the Regulated Marijuana or net weight or volume of Regulated Marijuana Concentrate prior to its placement in the Container, using a standard of measure compatible with the Inventory Tracking System.

d. Universal Symbol. The Universal Symbol on the front of the Container and any Marketing Layer, no smaller than ½ of an inch by ½ of an inch, with the following statement directly below the Universal Symbol: “**Contains Marijuana. Keep away from children.”**

e. Required Potency Statement.

i. The potency of Regulated Marijuana flower or trim shall be expressed as: (1) the percentage of total THC and CBD from the test results for that Harvest Batch, or (2) if the Harvest Batch is not required to be tested, either as: (i) a range of percentages of total THC and CBD that extends from the lowest percentage to the highest percentage for each cannabinoid listed, from every test conducted on that strain of Regulated Marijuana cultivated by the same Regulated Marijuana Cultivation Facility during the preceding six months or (ii) an average for each cannabinoid listed, from every test conducted on that strain of Regulated Marijuana cultivated by the Regulated Marijuana Cultivation Facility during the preceding six months. If CBD is not detected in Harvest Batch, then Total CBD potency is not required.

ii. The potency of Medical Marijuana Concentrate's or Retail Marijuana Concentrate's Total THC and CBD shall be expressed as a percentage. If CBD is not detected in the Production Batch, then Total CBD potency is not required. The potency of Regulated Marijuana, Medical Marijuana Concentrate, and Retail Marijuana Concentrate shall be displayed either: (i) In a font that is bold, and enclosed within an outlined shape such as a circle or square; or (ii) Highlighted with a bright color such as yellow.

f. Date of Sale. The Regulated Marijuana Store shall affix the date of sale to the patient or consumer to the Container or Marketing Layer.

g. Patient Number. The Medical Marijuana Store shall affix the patient's registration number to the Container or Marking Layer at the time of Transfer to the patient.

h. Solvent List. A list of any solvent(s) used to produce any Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate.

i. Ingredient List Including Major Allergens. If applicable, a list of all Ingredients used to manufacture the Regulated Marijuana Concentrate including identification of any major allergens contained in the Regulated Marijuana Concentrate in accordance with the Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010). The Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010) requires disclosure of the following major food allergens: milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat, and soybeans.

i. Note that this Rule does not include any later amendments or editions to the United States Code. The Division maintains a copy of 21 U.S.C. § 343 (2010), which is available to the public for inspection and copying during the Division's regular business hours.

j. Required Warning Statements. Either the label affixed to the Container or the Marketing Layer shall include the following information:

i. "**This product was produced without regulatory oversight for health, safety, or efficacy.**"

ii. "**There may be long term physical or mental health risks from use of marijuana including additional risks for women who are or may become pregnant or are breastfeeding. Use of marijuana may impair your ability to drive a car or operate machinery**."

k. Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers.

i. Ingredient List. A list of all Ingredients, including Additives, used to manufacture the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler.

ii. Expiration Date. Effective July 1, 2022, a Marijuana Products Manufacturer that produces a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler shall include an expiration date pursuant to Rule 3-335(M).

iii. Storage Conditions. Effective July 1, 2022, a Marijuana Products Manufacturer that produces a Vaporizer Delivery Device or Pressurized

Metered Dose Inhaler shall include ideal storage conditions for the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler pursuant to Rule 3-335(M).

D. Packaging and Labeling of Regulated Marijuana Product, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, and Audited Product. A Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, Accelerator Manufacturer, Medical Marijuana Store, Retail Marijuana Store, and an Accelerator Store shall comply with the following minimum packaging and labeling requirements prior to Transferring Regulated Marijuana Product:

1. Packaging of Regulated Marijuana Product. Every Regulated Marijuana Product shall be in a Child-Resistant Container at the time of Transfer to a Medical Marijuana Store or Retail Marijuana Store in accordance with the following packaging limits:

a. Regulated Marijuana Product Other than Edible Medical Marijuana Product or Edible Retail Marijuana Product. Medical Marijuana Product that is not Edible Medical Marijuana Product and Retail Marijuana Product that is not Edible Retail Marijuana Product shall be placed into a Child-Resistant Container that does not exceed the sales limit in Rule 5-115(C) and 6-110(C). A Pressurized Metered Dose Inhaler, Vaporizer Delivery Device, or syringe-type device that is within the intended use that is listed in Rule 3-1015(B) and is not an Alternative Use Product need not itself be Child-Resistant but must be placed into a Child-Resistant Container prior to Transfer to a patient or consumer. A Pressurized Metered Dose Inhaler, Vaporizer Delivery Device, or syringe-type device within an intended use that is listed in Rule 3-1015(B) and that is not an Alternative Use Product must be labeled with at least the Universal Symbol, but is not required to include "**Contains Marijuana. Keep away from children.**", prior to Transfer to a patient or consumer. The Universal Symbol shall be legible and no smaller than ¼ of an inch by ¼ of an inch. Nothing in this Rule authorizes the use of a syringe for any type of injection involving a needle piercing the skin.

b. Edible Medical Marijuana Product. Every Edible Medical Marijuana Product including Liquid Edible Medical Marijuana Product shall be in a Child-Resistant Container. If the Edible Medical Marijuana Product contains multiple portions then it shall be placed into a Child-Resistant Container that is Resealable.

c. Edible Retail Marijuana Product. Edible Retail Marijuana Product shall be in a Child-Resistant Container as follows:

i. Single-Serving Edible Retail Marijuana Product. Every Single-Serving Edible Retail Marijuana Product must be placed into a Child-Resistant Container.

ii. Bundled Single-Serving Edible Retail Marijuana Product. Single-Serving Edible Retail Marijuana Products that are placed into a Child-Resistant Container may be bundled into a larger Marketing Layer so long as the total amount of active THC per Marketing Layer does not exceed 100 milligrams.

iii. Multiple-Serving Edible Retail Marijuana Product. Every Multiple-Serving Edible Retail Marijuana Product shall be placed into a Child-Resistant Container that is Resealable and shall not exceed 100 milligrams of active THC per Container.

d. Liquid Edible Medical Marijuana Product and Liquid Edible Retail Marijuana Product. Liquid Edible Medical Marijuana Product and Single-Serving Liquid Edible Retail Marijuana Product shall be packaged in a Child-Resistant Container:

i. Repealed.

ii. Multiple-Serving Liquid Edible Retail Marijuana Product. Each Liquid Edible Retail Marijuana Product that is a Multiple-Serving Edible Retail Marijuana Product shall be:

a. Packaged in a structure that uses a single mechanism to achieve both Child-Resistant properties and accurate pouring measurement of each liquid serving in increments equal to or less than 10 milligrams of active THC per serving, with no more than 100 milligrams of active THC total per Container; and

b. The measurement component is within the Child-Resistant cap or closure of the bottle and is not a separate component.

iii. Multiple-Serving Liquid Edible Medical Marijuana Product. Each Liquid Edible Medical Marijuana Product that is a Multiple-Serving Edible Medical Marijuana Product shall be:

a. Packaged in a structure that uses a single mechanism to achieve both Child-Resistant properties and accurate pouring measurement of each liquid serving; and

b. The measurement component is within the Child-Resistant cap or closure of the bottle, and is not a separate component.

e. Audited Product. The Container containing Audited Product for administration by: (i) metered dose nasal spray or (ii) vaginal administration must be Child Resistant and labeled. A Container holding Audited Product for rectal administration need not be Child-Resistant but must be placed into a Child-Resistant Container prior to Transfer to a patient or consumer.

i. A metered dose nasal spray must be affixed with a label that states: "**Not approved by FDA.**"

ii. The Container holding Audited Product for vaginal administration and rectal administration must be affixed with a label that states: "**Not approved by FDA.**"

iii. For example and not by means of limitation, labels may be affixed using the following methods: accordion, expandable, extendable, layered, tags, or stickers.

2. Labeling of Regulated Marijuana Product. Prior to Transfer to a Regulated Marijuana Store and a patient or consumer, every Container of Regulated Marijuana Product and any Marketing Layer shall be affixed with a label that includes at least the following information:

a. Required License Number(s). The license number for each of the following:

i. The Regulated Marijuana Cultivation Facility where the Medical Marijuana or Retail Marijuana was grown;

ii. The Regulated Marijuana Products Manufacturer where the Medical Marijuana Product or Retail Marijuana Product was produced; and

iii. The Regulated Marijuana Store that sold the Medical Marijuana Product to a patient or consumer, except the Regulated Marijuana Store may affix its license number to the Container or Marketing Layer.

b. Batch Numbers. The Production Batch Number(s) assigned to the Regulated Marijuana Product.

c. Statement of Net Contents. The statement of net contents must identify the net weight, volume, or number of Regulated Marijuana Products prior to its placement in the Container, using a standard of measure compatible with the Inventory Tracking System.

d. Universal Symbol. The Universal Symbol on the front of the Container and any Marketing Layer, no smaller than ½ of an inch by ½ of an inch, with the following statement directly below the Universal Symbol: "**Contains Marijuana. Keep away from children**."

e. Ingredient List Including Major Allergens. A list of all Ingredients used to manufacture the Regulated Marijuana Product including identification of any major allergens contained in the Regulated Marijuana Product in accordance with the Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010). The Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010) requires disclosure of the following major food allergens: milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat, and soybeans.

i. Note that this Rule does not include any later amendments or editions to the United States Code. The Division maintains a copy of 21 U.S.C. § 343 (2010), which is available to the public for inspection and copying during the Division's regular business hours.

f. Required Potency Statement. The Target Potency or potency value determined from testing by a Regulated Marijuana Testing Facility of the Regulated Marijuana Product's active THC and CBD expressed in milligrams. If the Regulated Marijuana Product's Target Potency or potency value of THC or CBD is less than 1 milligram, the potency may be expressed as "<1 mg." If CBD is not detected in the Regulated Marijuana Product, then active CBD potency is not required. The Target Potency or potency value, shall be displayed either:

i. In a font that is bold, and enclosed within an outlined shape such as a circle or square; or

ii. Highlighted with a bright color such as yellow.

g. Solvent List. A list of any solvent(s) used to produce any Solvent-Based Medical Marijuana Concentrate used as a production input in any Medical Marijuana Product, or Solvent-Based Retail Marijuana Concentrate used as a production input in any Retail Marijuana Product.

h. Date of Sale. The Regulated Marijuana Store shall affix the date of sale to the Container or Marketing Layer at the time of Transfer to the patient or consumer.

i. Patient Number. The Medical Marijuana Store shall affix the patient's registration number to the Container or Marking Layer at the time of Transfer to the patient.

j. Required Warning Statements. Either the label affixed to the Container or the Marketing Layer shall include the following information:

i. "**This product was produced without regulatory oversight for health, safety, or efficacy.**"

ii. "**There may be long term physical or mental health risks from use of marijuana including additional risks for women who are or may become pregnant or are breastfeeding. Use of marijuana may impair your ability to drive a car or operate machinery.**"

3. Labeling of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana. Prior to Transfer to a Regulated Marijuana Store and to a patient or consumer, every Container of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana and any Marketing Layer shall be affixed with a label that includes at least the following information:

a. Required License Number(s). The license number for each of the following:

i. The Regulated Marijuana Cultivation Facility where the Medical Marijuana or Retail Marijuana was grown;

ii. The license number of the Regulated Marijuana Business where the Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana was produced; and

iii. The Regulated Marijuana Store that sold the Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana to a patient or consumer, except the Regulated Marijuana Store may affix its license number to the Container or Marketing Layer.

b. Batch Numbers. The Production Batch Number(s) assigned to the Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana.

c. Statement of Net Contents. The statement of net contents must identify the net weight (excluding the paper, wrapper, filter and/or equivalent) of each Pre-Rolled Marijuana joint or Infused Pre-Rolled Marijuana joint prior to its placement in the Container and the number of joints in each Container of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana, using a standard of measure compatible with the Inventory Tracking System.

d. Universal Symbol. The Universal Symbol on the front of the Container and any Marketing Layer, no smaller than ½ of an inch by ½ of an inch, with the following statement directly below the Universal Symbol: **"Contains Marijuana. Keep away from children."**

e. Solvent List. If applicable, a list of any solvent(s) used to produce any Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate used in the creation of Infused Pre-Rolled Marijuana.

f. Required Potency Statement. The potency of Pre-Rolled Marijuana shall be expressed as: (1) the percentage of total THC and CBD from the test results of each Production Batch, or (2) if each Production Batch is not required to be tested, either as: (i) a range of percentages of total THC and CBD that extends from the lowest percentage to the highest percentage for each cannabinoid listed, from every test conducted for a particular type of Pre-Rolled Marijuana produced by the same Regulated Marijuana Business during the preceding six months or (ii) an average for each cannabinoid listed, from every test conducted for a particular type of Pre-Rolled Marijuana produced by the same Regulated Marijuana Business during the preceding six months. If CBD is not detected in the Production Batch, then Total CBD potency is not required. The potency of Infused Pre-Rolled Marijuana shall be expressed as the percentages of total THC and CBD from the test results of each Production Batch. If CBD is not detected in the Production Batch, then Total CBD potency is not required. The potency of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana shall be displayed either:

i. In a font that is bold, and enclosed within an outlined shape such as a circle or square; or

ii. Highlighted with a bright color such as yellow.

g. Date of Sale. The Regulated Marijuana Store shall affix the date of sale to the Container or Marketing Layer at the time of Transfer to the patient or consumer.

h. Patient Number. The Medical Marijuana Store shall affix the patient's registration number to the Container or Marking Layer at the time of Transfer to the patient.

i. Required Warning Statements. Either the label affixed to the Container or the Marketing Layer shall include the following information:

i. **"This product was produced without regulatory oversight for health, safety, or efficacy."**

ii. **"There may be long term physical or mental health risks from use of marijuana including additional risks for women who are or may become pregnant or are breastfeeding. Use of marijuana may impair your ability to drive a car or operate machinery."**

E. Packaging and Labeling of Seeds and Immature Plants Prior to Transfer to a Patient or Consumer. A Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store shall comply with the following minimum packaging and labeling requirements prior to Transferring seeds or Immature plants to a patient or consumer:

1. Packaging of Regulated Marijuana Seeds. Prior to Transfer to a patient or consumer, Regulated Marijuana seeds shall be in a Container. The Container may but is not required to be Child-Resistant. Any Regulated Marijuana seeds in a Container that is not Child-Resistant shall be placed into a Child-Resistant Exit Package at the point of Transfer to a patient or consumer.

2. Packaging of Immature Plants. Prior to Transfer to a patient or consumer, Immature plants shall be placed into a receptacle. The receptacle may but is not required to be Child-Resistant.

3. Labeling of Seeds and Immature Plants. Prior to Transfer to a patient or consumer, every Container holding Regulated Marijuana seeds and any receptacle containing an

Immature plant must be affixed with a label that includes at least the following information:

a. Required License Number(s). The license number for each of the following:

i. The Medical Marijuana Cultivation Facility where the Medical Marijuana that produced the seeds or Immature plant was grown, the Retail Marijuana Cultivation Facility where the Retail Marijuana that produced the seeds or the Immature plant was grown, or the Accelerator Cultivator where the Retail Marijuana that produced the seeds or the Immature plant was grown; and

ii. The Medical Marijuana Store that sold the seeds or Immature plant to the patient, the Retail Marijuana Store that sold the seeds or Immature plant to the consumer, or the Accelerator Store that sold the seeds or Immature plant to the consumer.

b. Universal Symbol. The Universal Symbol on the front of the Container holding seeds and the receptacle containing each Immature plant, no smaller than ½ of an inch by ½ of an inch, with the following statement directly below the Universal Symbol: "**Contains Marijuana. Keep away from children.**"

c. Statement of Net Contents for Seeds. A statement of net contents identifying the number of seeds in the Container.

d. Date of Sale. The Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store shall affix the date of sale to the patient or consumer to the Container or receptacle.

e. Patient Number. The Medical Marijuana Store shall affix the patient's registration number to the Container or receptacle at the time of Transfer to the patient.

f. Required Warning Statements:

i. "**This product was produced without regulatory oversight for health, safety, or efficacy**."

ii. "**There may be long term physical or mental health risks from use of marijuana including additional risks for women who are or may become pregnant or are breastfeeding. Use of marijuana may impair your ability to drive a car or operate machinery**."

F. Permissive Information.

1. Identity Statement. A label affixed to a Container of Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product or any Marketing Layer may include, but is not required to include, the Identity Statement and/or Standardized Graphic Symbol for:

a. The Regulated Marijuana Cultivation Facility(ies) where the Medical Marijuana or Retail Marijuana was grown;

b. The Regulated Marijuana Products Manufacturer that manufactured the Regulated Marijuana Product or Regulated Marijuana Concentrate; and/or

c. The Regulated Marijuana Store that sold the Regulated Marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Product.

2. Nutritional Fact Panel. Label(s) may include, but are not required to include, a nutritional fact panel or dietary supplement fact panel in substantial conformance with 21 CFR 101.9 (2016) or 21 C.F.R. 101.36 (2016) as follows:

a. For Edible Medical Marijuana Products or Edible Retail Marijuana Products other than pills, capsules, and tinctures and Food-Based Medical Marijuana Concentrate or Food-Based Retail Marijuana Concentrate the nutritional fact panel shall be in substantial conformance with the requirements of 21 C.F.R. 101.9(C) (2016) which provides the FDA's nutritional labeling requirements for food;

b. For pills, capsules, and tinctures, the dietary supplement fact panel shall be in substantial conformance with the requirements of 21 C.F.R. 101.36 (2016) which provides the FDA's nutritional labeling requirements for dietary supplements.

i. Note that this Rule does not include any later amendments or editions to the Code of Federal Regulations. The Division maintains copies of 21 C.F.R. 101.9(C) (2016) and 21 C.F.R. 101.36 (2016), which are available to the public for inspection and copying during the Division's regular business hours.

3. Other Permissive Information. The labeling requirements in the 3-1000 Series Rules provide only the minimum labeling requirements. Licensees may include additional information on the label(s) so long as such information is consistent with the requirements of these Rules.

Basis and Purpose – 3-1015

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(c), 44-10-202(6), 44-10-203(2)(d)(IV)(A)-(C), 44-10-203(2)(f), 44-10-203(2)(w), 44-10-203(1)(a), 44-10-601(2)(a), 44-10-603(4)(a), and 44-10-603(8), C.R.S. The purpose of this rule is to define additional labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and/or Regulated Marijuana Product (except Regulated Marijuana seeds and Immature plants) based on its intended use. These labeling requirements are in addition to, not in lieu of, the labeling requirements in Rule 3-1010. This Rule 3-1015 was previously Rules M and R 1003-1, 1 CCR 212-1 and 1 CCR 212-2. The Division and State Licensing Authority intend to monitor data regarding Regulated Marijuana use-by dates following implementation of these rules, and will make any necessary changes, including but not limited to, reducing the nine months use-by date if Licensees choose not to conduct stabilization studies.

3-1015 – Additional Labeling Requirements Prior to Transfer to a Patient or Consumer

A. Applicability. This Rule establishes additional labeling requirements for Regulated Marijuana (except seeds and Immature plants), Regulated Marijuana Concentrate, and Regulated Marijuana Product prior to Transfer to a patient or consumer. The labeling requirements in this Rule apply to all Containers immediately containing Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product. These labeling requirements based on intended use are in addition to, not in lieu of, the requirements in Rule 3-1010.

1. Exemption for Transfers to Consumers by a Retail Marijuana Hospitality and Sales Business. Unless otherwise provided by these rules, a Retail Marijuana Hospitality and Sales Business Transferring Retail Marijuana to consumers in compliance with the

packaging and labeling requirements of Rule 3-1020 is exempt from the requirements of this Rule.

B. Additional Information Required on Every Container (Except Seeds and Immature Plants) Prior to Transfer to a Patient or Consumer. Prior to Transfer to a patient or consumer, every Container of Regulated Marijuana (except seeds and Immature plants), Regulated Marijuana Concentrate, or Regulated Marijuana Product and any Marketing Layer must have a label that includes at least the following additional information.

1. Statement of Intended Use. The Container and any Marketing Layer shall identify one or more intended use(s) for Medical Marijuana, Retail Marijuana, Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, and Retail Marijuana Product from the following exclusive list:

a. Inhaled Product:

i. Flower, shake, or trim;

ii. Pre-Rolled Marijuana and Infused-Pre-Rolled Marijuana;

iii. Solvent-Based Medical Marijuana Concentrate;

iv. Solvent-Based Retail Marijuana Concentrate;

v. Physical Separation-Based Medical Marijuana Concentrate;

vi. Physical Separation-Based Retail Marijuana Concentrate;

vii. Heat/Pressure-Based Medical Marijuana Concentrate;

viii. Heat/Pressure-Based Retail Marijuana Concentrate;

ix. Vaporizer Delivery Device;

x. Pressurized Metered Dose Inhaler.

b. For Oral Consumption:

i. Food or drink infused with Regulated Marijuana;

ii. Regulated Marijuana Concentrate intended to be consumed orally;

iii. Pills and capsules;

iv. Tinctures.

c. Skin and Body Products:

i. Topical;

ii. Transdermal.

d. Audited Product:

i. Metered Dose Nasal Spray;

ii. Vaginal Administration;

iii. Rectal Administration.

2. Inhaled Product. The "Inhaled Product" intended use may be used only for products intended for consumption by smoking or Vaporizer Delivery Device where the product is heated or burned prior to consumption, or through use of a Pressurized Metered Dose Inhaler. The label(s) on all inhaled product intended use shall also include:

a. The potency statement required by Rule 3-1010 for: (1) flower, shake, or trim, (2) Pre-Rolled Marijuana, (3) Infused-Pre-Rolled Marijuana, (4) Solvent-Based Medical Marijuana Concentrate, (5) Solvent-Based Retail Marijuana Concentrate, (6) Physical Separation-Based Medical Marijuana Concentrate, (7) Physical Separation-Based Retail Marijuana Concentrate, (8) Heat/Pressure-Based Medical Marijuana Concentrate, (9) Heat/Pressure-Based Retail Marijuana Concentrate shall be stated as the percentage of Total THC and CBD. If CBD is not detected, then total CBD potency is not required.

a.5. Use-By Date. Effective January 1, 2024, a product use-by date, upon which the Regulated Marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Product will no longer be fit for consumption, or upon which the Regulated Marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Product will no longer be optimally fresh. Once a label with a use-by date has been affixed to a Container containing Regulated Marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Product and any Marketing Layer, a Licensee shall not alter that use-by date or affix a new label with a later use-by date. The use-by date shall not be longer than nine months from the harvest or production date, unless shelf stability testing, including but not limited to potency, microbial, and water activity testing, supports a longer shelf life. All use-by dates must be entered into the Inventory Tracking System prior to Transfer. Prior to Transfer to a patient or consumer, a Regulated Marijuana Store or Accelerator Store must inform the patient or consumer if the Regulated Marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Product is past its use-by date.

b. The potency statement required by Rule 3-1010 for Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers shall be stated as either the percentage of Total THC and CBD, or the number of milligrams of Total THC and CBD, per cartridge, pen, or inhaler. If the potency value for Total THC or CBD of the Vaporizer Delivery Devices or Pressurized Metered Dose Inhalers is less than one milligram, the potency may be expressed as "<1 mg." If CBD is not detected in the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler, then total CBD potency is not required.

c. Additional Labeling Requirement for Regulated Marijuana Concentrate to Promote Consumer Health and Awareness: Effective January 1, 2023, if a Regulated Marijuana Concentrate that is an Inhaled Product cannot easily be measured or separable to the recommended serving size established under Rule 3-335(D)(3)(d) and (f), the Regulated Marijuana Manufacturer that manufacturers the Regulated Marijuana Concentrate must:

i. Affix the Container of Regulated Marijuana Concentrate with a measuring device that permits the patient or consumer to measure each serving in a manner consistent with the recommended serving established under Rule 3-335(D); or

ii. Include a label on the Container of Regulated Marijuana Concentrate that provides instructions to allow the patient or consumer to measure each recommended serving pursuant to Rule 3-335(D).

3. For Oral Consumption. The label(s) on all Edible Medical Marijuana Products and Edible Retail Marijuana Products, including but not limited to confections, liquids, pills, capsules and tinctures, shall also include:

a. Potency Statement. The potency statement required by Rule 3-1010 shall be stated as: (1) milligrams of active THC and CBD per serving and (2) milligrams of active THC and CBD per Container where the Container contains more than one serving. The Target Potency may be used to fulfill the requirement of this Rule. If CBD is not detected, then active CBD potency is not required.

i. If the Edible Medical Marijuana Product's or Edible Retail Marijuana Product's Target Potency or potency value of active THC or CBD is less than one milligram per serving, the potency may be expressed as "<1 mg." If "<1 mg" was used to display the active THC or CBD per serving, then a corresponding statement regarding the total THC or CBD content for the entire Container shall be included on the Container. For example, if there are five servings in the Container, "<5 mg" should be displayed for the active THC or CBD statement that was represented as "<1 mg" per serving.

b. Additional Warning Statement Required. The following additional warning statement shall be included on the label on the Container or Marketing Layer for all Edible Medical Marijuana Product and Edible Retail Marijuana Product: **"The intoxicating effects of this product may be delayed by up to 4 hours.**"

c. Expiration/Use-By Date. A product expiration date, upon which the Edible Medical Marijuana Product or Edible Retail Marijuana Product will no longer be fit for consumption, or a use-by-date, upon which the Edible Medical Marijuana Product or Edible Retail Marijuana Product will no longer be optimally fresh. Once a label with an expiration or use-by date has been affixed to a Container containing an Edible Medical Marijuana Product or Edible Retail Marijuana Product and any Marketing Layer, a Licensee shall not alter that expiration or use-by date or affix a new label with a later expiration or use-by date. All expiration or use-by dates must be entered into the Inventory Tracking System prior to Transfer. Prior to Transfer to a patient or consumer, a Regulated Marijuana Store or Accelerator Store must inform the patient or consumer if the Edible Medical Marijuana Product or Edible Retail Marijuana Product is past its expiration or use-by date.

d. Production Date. The date on which the Edible Medical Marijuana Product or Edible Retail Marijuana Product was produced which may be included in the Batch Number required by Rule 3-1010.

e. Statement Regarding Refrigeration. If an Edible Medical Marijuana Product or Edible Retail Marijuana Product is perishable, a statement that the product must be refrigerated.

4. Skin and Body Products (Topical and Transdermal). The "Skin and Body Products" intended use may be used only for products intended for consumption by topical or transdermal application, and must be intended for external use only. The label(s) on all skin and body products shall also include:

a. Topical Product Potency Statement. For topical product the potency statement required by Rule 3-1010 shall be stated as the number of milligrams of active THC and CBD per Container. The Target Potency may be used to fulfill the requirement of this Rule. If CBD is not detected, then active CBD potency is not required. If the THC or CBD comprises less than one percent of the total cannabinoids, the potency may be expressed as less than one percent of the total cannabinoids.

b. Transdermal Product Potency Statement. For transdermal product, the potency statement required by Rule 3-1010 shall be stated as the number of milligrams of active THC and CBD per transdermal product, and the total number of milligrams of active THC and CBD per Container. The Target Potency may be used to fulfill the requirement of this Rule. If CBD is not detected, then active CBD potency is not required.

i. If the transdermal product's Target Potency or potency value of active THC or CBD is less than one milligram per transdermal product, the potency may be expressed as "<1 mg." If "<1 mg" was used to display the active THC or CBD per transdermal product, then a corresponding statement regarding the total THC or CBD content for the entire Container shall be included on the Container. For example, if there are five servings in the Container, "<5 mg" should be displayed for the active THC or CBD statement that was represented as "<1 mg" per serving.

c. Expiration/Use-By Date. A product expiration or use-by date, after which the skin and body product will no longer be fit for use. Once a label with an expiration or use-by date has been affixed to any Container holding a skin and body product and any Marketing Layer, a Licensee shall not alter that expiration or use-by date or affix a new label with a later expiration or use-by date. All expiration or use-by dates must be entered into the Inventory Tracking System prior to Transfer. Prior to Transfer to a patient or consumer, a Regulated Marijuana Store or Accelerator Store must inform the patient or consumer if the skin and body product is past its expiration or use-by date.

d. Production Date. The date on which the skin and body product was produced which may be included in the Batch Number required by Rule 3-1010.

5. Audited Product. Packaging and labeling for all Audited Products: (i) metered dose nasal spray, (ii) vaginal administration, or (iii) rectal administration shall include:

a. All packaging and labeling requirements required by this 3-1000 Series for Regulated Marijuana Products; except Rules 5-325 and 6-325 control where the context otherwise clearly requires.

b. Audited Product shall be packaged and labeled for Transfer to a patient or consumer prior to Transfer from a Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer.

c. Expiration/Use-By Date. A product expiration date that is appropriate for the Audited Product when stored at room temperature as verified by testing required by Rules 5-325 and 6-325. Once a label with an expiration date has been affixed to a Container containing an Audited Product, a Licensee shall not alter that expiration date, or affix a new label with a later expiration date. All expiration or use-by dates must be entered into the Inventory Tracking System prior to Transfer. Prior to Transfer to a patient or consumer, a Regulated Marijuana Store

or Accelerator Store must inform the patient or consumer if the Audited Product is past its expiration or use-by date.

d. Production Date. The date on which the Audited Product was produced, which may be included in the Batch Number required by Rule 3-1010.

C. No Other Intended Use Permitted. No intended use other than those identified in this Rule shall be identified on any label, except as permitted by an Alternative Use Designation approved by the State Licensing Authority pursuant to Rules 5-325 and 6-325. Licensees shall accurately identify all intended use(s) from the exclusive list of intended uses in this Rule, or as required by the Alternative Use Designation, on the label.

1. Alternative Use Product. No Regulated Marijuana Business shall Transfer or accept an Alternative Use Product unless the Alternative Use Product received an Alternative Use Designation in accordance with Rules 5-325 and 6-325 and complied with all the requirements of Rules 5-325, 6-325, and 3-1005 through 3-1015, and with any additional packaging and labeling requirements identified in the Alternative Use Designation. At a minimum the label(s) on all Alternative Use Products shall include:

a. All packaging and labeling requirements applicable to the Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer by these 3-1000 Series Rules unless inconsistent with the Alternative Use Designation in which case the Alternative Use Designation shall control.

b. Expiration/Use-By Date. A product expiration date that is appropriate for the Alternative Use Product when stored at room temperature as verified by a Regulated Marijuana Testing Facility. Once a label with an expiration date has been affixed to a Container containing Alternative Use Product, a Licensee shall not alter that expiration date, or affix a new label with a later expiration date.

c. Production Date. The date on which the Alternative Use Product was produced, which may be included in the Batch Number required by Rule 3-1010.

d. All other requirements identified by the Alternative Use Designation.

D. Multiple Intended Uses. Any Regulated Marijuana having more than one intended use shall identify every intended use on the label and shall comply with all labeling requirements for each intended use. If there is any conflict between the labeling requirements for multiple intended uses, the most restrictive labeling requirements shall be followed. Licensees shall not counsel or advise any patient or consumer to use Regulated Marijuana other than in accordance with the intended use(s) identified on the label.

Basis and Purpose – 3-1020

The statutory authority for this rule includes but is not limited to 44-10-202(1)(a), 44-10-202(1)(c), 44-10-202(6), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to define minimum packaging and labeling requirements for Retail Marijuana Hospitality and Sales Businesses.

3-1020 – Packaging and Labeling: Requirements for Transfers to a Consumer at a Retail Marijuana Hospitality and Sales Business

A. Applicability. This Rule establishes minimum requirements for packaging and labeling Retail Marijuana Transferred to a consumer at a Retail Marijuana Hospitality and Sales Business.

B. Packaging and Labeling Exemptions and Minimum Requirements. A Retail Marijuana Hospitality and Sales Business may Transfer Retail Marijuana to a consumer without packaging and labeling under the following conditions:

1. The consumer intends to consume the Retail Marijuana on the Licensed Premises of the Retail Marijuana Hospitality and Sales Business;

2. At the time of Transfer to a consumer, the Retail Marijuana Hospitality and Sales Business provides the consumer with a written statement of the potency of the Retail Marijuana's active THC and CBD, which shall be expressed as a percentage for Retail Marijuana and Retail Marijuana Concentrate, and expressed in milligrams for Retail Marijuana Product. If CBD is not detected in the Retail Marijuana, then active CBD potency is not required;

3. The Retail Marijuana Hospitality and Sales Business maintains within the Restricted Access Area of the Licensed Premises—and makes available to the consumer upon request—written or electronic documentation reflecting all relevant information required in Rules 3-1010 and 3-1015; and

4. For Multiple-Serving Edible Retail Marijuana Product or Multiple-Serving Liquid Edible Retail Marijuana Product, the Retail Marijuana Hospitality and Sales Business shall at the time of Transfer to the consumer provide a measurement device necessary for the consumer to achieve accurate measurements of each serving in increments equal to or less than 10 milligrams of active THC per serving.

C. Packaging and Labeling Required Before Retail Marijuana is Removed from the Licensed Premises. Prior to a consumer removing any unconsumed Retail Marijuana from the Licensed Premises, the Retail Marijuana Hospitality and Sales Business shall:

1. Provide the consumer with written or electronic documentation reflecting all relevant information required in Rules 3-1010 and 3-1015; and

2. Place the unconsumed Retail Marijuana into a Child-Resistant Container, or if the Container is not Child-Resistant, a Child-Resistant Exit Package. The Container must be affixed with a label that includes at least the following:

i. Universal Symbol. The Universal Symbol on the Container, no smaller than ½ inch by ½ inch, with the following statement directly below the Universal Symbol: "**Contains Marijuana. Keep away from children.**"; and

ii. Required Potency Statement. A written statement of the potency of the Retail Marijuana's total THC and CBD expressed as a percentage. A written statement of the potency of the Retail Marijuana Product's active THC and CBD expressed in milligrams. If the potency of the Regulated Marijuana Product's active THC or CBD is less than 1 milligram, the potency may be expressed as "<1 mg." If CBD is not detected in the Retail Marijuana, then active CBD potency is not required.

iii. For Multiple-Serving Edible Retail Marijuana Product or Multiple-Serving Liquid Edible Retail Marijuana Product, the Retail Marijuana Hospitality and Sales Business shall provide a measurement device necessary for the consumer to achieve accurate measurements of each serving in increments equal to or less than 10 milligrams of active THC per serving.

D. Additional Packaging and Labeling Requirements for Retail Marijuana Hospitality and Sales Businesses.

1. Font Size. Required labeling text on the Container must be no smaller than 1/16 of an inch.

2. Labels Shall Not Be Designed to Appeal to Children. A Retail Marijuana Hospitality and Sales Business shall not place any content on a Container that reasonably appears to target individuals under the age of 21, including but not limited to, cartoon characters or similar images.

3. False or Misleading Statements. Label(s) on a Container shall not include any false or misleading statements.

4. Trademark Infringement Prohibited. No Container shall be intentionally or knowingly labeled so as to cause a reasonable consumer confusion as to whether the Retail Marijuana is a trademarked product or labeled in a manner that violates any federal trademark law or regulation.

5. Health and Benefit Claims. The label(s) on the Container shall not make any claims regarding health or physical benefits to the consumer.

6. Use of English Language. Labeling text on the Container must be clearly written or printed and in the English language. In addition to the required English label, Licensees may include an additional, accurate foreign language translation on the label that otherwise complies with these rules.

7. Unobstructed and Conspicuous. Labeling text on the Container must be unobstructed and conspicuous. A Licensee may affix multiple labels to the Container, provided that none of the information required by these rules is obstructed. For example and not by means of limitation, labels may be accordion, expandable, extendable or layered to permit labeling of small Containers.

8. Use of the Word “Candy” and/or “Candies” Prohibited. Licensees shall not use the word(s) “candy” and/or “candies” on the label of any Container.

9. Child Resistant Certificate(s). A Licensee shall maintain a copy of the certificate showing that each Child-Resistant Container into which the Licensee places Retail Marijuana is Child-Resistant and complies with the requirements of 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995) in accordance with the requirements of Rule 3-905(A). Note that this Rule does not include any later amendments or editions to the Code of Federal Regulations. The Division has maintained a copy of 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995), which is available to the public for inspection and copying during the Division’s regular business hours.

Basis and Purpose – 3-1025

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(c), 44-10-202(6), 44-10-203(2)(f), 44-10-203(1)(k), 44-10-203(3)(a)-(b) The purpose of this rule is to define minimum packaging and labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product Transferred to a Regulated Marijuana Testing Facility. The labeling requirements in this rule apply to all Containers immediately containing Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product being Transferred to a Regulated Marijuana Testing Facility.

3-1025 – Packaging and Labeling: Minimum Requirements for Test Batch Transfers to a Regulated Marijuana Testing Facility

A. Applicability. This Rule establishes minimum requirements for packaging and labeling of Regulated Marijuana Test Batches prior to Transfer to a Regulated Marijuana Testing Facility. The labeling requirements in this Rule apply to all Containers immediately containing Medical Marijuana, Retail Marijuana, Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, and Retail Marijuana Product.

B. Packaging and Labeling of Test Batches of Regulated Marijuana Flower, Trim, Wet Whole Plant, and Regulated Marijuana Concentrate, Prior to Transfer to a Regulated Marijuana Testing Facility. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Test Batches of Medical Marijuana flower, trim, wet whole plant, or Medical Marijuana Concentrate to a Medical Marijuana Testing Facility, and prior to Transferring Test Batches of Retail Marijuana flower, trim, wet whole plant, or Retail Marijuana Concentrate to a Retail Marijuana Testing Facility:

1. Packaging of Test Batches of Regulated Marijuana Flower, Trim, Wet Whole Plant and Regulated Marijuana Concentrate.

    a. A Licensee shall submit Test Batches of Regulated Marijuana flower, trim, wet whole plant, or Regulated Marijuana Concentrate in a transparent Container to allow for the Samples of the Test Batch to be photo documented.

    b. Each Container containing a Test Batch of Regulated Marijuana flower, trim, or wet whole plant shall have at least 20% empty space. Test Batch Containers shall not be completely full so that individual Samples of the Test Batch can be photo documented.

    c. Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers. Test Batches from Production Batches of Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers must be packaged in the hardware or inhaler, respectively, that allows for the consumption.

2. Labeling of Test Batches of Regulated Marijuana Flower, Trim, Wet Whole Plant and Regulated Marijuana Concentrate. Prior to Transfer to a Regulated Marijuana Testing Facility, every Container containing a Test Batch of Regulated Marijuana flower, trim, wet whole plant, or Regulated Marijuana Concentrate shall be affixed with a label that includes at least the following information, some of which may be included on the Inventory Tracking System RFID Tag:

    a. For Test Batches from Harvest Batches, the license number of the Medical Marijuana Cultivation Facility where the Medical Marijuana was grown, or the Retail Marijuana Cultivation Facility where the Retail Marijuana was grown;

    b. For Test Batches of Concentrates from Production Batches, the license number of the Medical Marijuana Products Manufacturer(s) where the Medical Concentrate was produced, or the Retail Marijuana Products Manufacturer(s) where the Retail Marijuana Concentrate was produced; and

    c. The net contents, using a standard of measure compatible with the Inventory Tracking System, of the Regulated Marijuana or Regulated Marijuana Concentrate prior to its placement in the Container.

C. Packaging and Labeling of Test Batches of Regulated Marijuana Product Prior to Transfer to a Regulated Marijuana Testing Facility. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Test Batches of Regulated Marijuana Product to a Regulated Marijuana Testing Facility:

1. Packaging Test Batches of Regulated Marijuana Product.

    a. Prior to any Transfer of a Test Batch to a Regulated Marijuana Testing Facility, the Test Batch of Regulated Marijuana Product subject to testing shall be placed into the Container(s) in which the rest of the Production Batch will be sold. The Container may but is not required to be Child-Resistant.

2. Labeling of Test Batches of Regulated Marijuana Product. Prior to Transfer to a Regulated Marijuana Testing Facility, every Container containing a Test Batch of Regulated Marijuana Product shall be affixed with a label, which can be noted on the Inventory Tracking System RFID Tag, that includes at least the following information:

    a. The license number of the Medical Marijuana Products Manufacturer or the Retail Marijuana Products Manufacturer that produced the Regulated Marijuana Product;

    b. The Production Batch Number(s) assigned to the Regulated Marijuana Product;

    c. The net contents, using a standard of measure compatible with the Inventory Tracking System, of the Regulated Marijuana Product prior to its placement in the Container; and

    d. The serving size, number of serving per package, and the Target Potency as required for a Regulated Marijuana Testing Facility to assess potency variance.

D. Packaging and Labeling of Test Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana, Prior to Transfer to a Regulated Marijuana Testing Facility. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Test Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana to a Medical Marijuana Testing Facility, and prior to Transferring Test Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana to a Retail Marijuana Testing Facility:

1. Packaging of Test Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana.

    a. Prior to any Transfer of a Test Batch to a Regulated Marijuana Testing Facility, the Test Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana subject to testing shall be placed into the Container(s) in which the rest of the Production Batch will be sold. The Container may but is not required to be Child-Resistant.

2. Labeling of Test Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana. Prior to Transfer to a Regulated Marijuana Testing Facility, every Container containing a Test Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana shall be affixed with a label that includes at least the following information, some of which may be included on the Inventory Tracking System RFID Tag:

    a. For Test Batches from Harvest Batches, the license number of the Medical Marijuana Cultivation Facility where the Medical Marijuana was grown, or the Retail Marijuana Cultivation Facility where the Retail Marijuana was grown which was used to create Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana;

    b. For Test Batches of Concentrates from Production Batches, the license number of the Medical Marijuana Products Manufacturer(s) where the Medical Concentrate was produced, or the Retail Marijuana Products Manufacturer(s) where the Retail Marijuana Concentrate was produced which was used to create Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana;

c. The Production Batch Number(s) assigned to the Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana; and

d. The net contents, using a standard of measure compatible with the Inventory Tracking System, of the Regulated Marijuana or Regulated Marijuana Concentrate prior to its placement in the Container.

3-1100 Series – Accelerator Program Operations

Basis and Purpose – 3-1105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(aa), 44-10-310(2), and 44-10-311(2), C.R.S. The purpose of this rule is to establish requirements for Accelerator-Endorsed Licensees and Accelerator Licensees participating in the accelerator program. The Accelerator Program permits different structures. The first option is for the Accelerator-Endorsed Licensee and the Accelerator Licensee to have a mentor/apprentice relationship at the same premises pursuant to Rules 3-1105 and 3-1110. The second option is for the Accelerator-Endorsed Licensee and the Accelerator Licensee to have a separate premises relationship pursuant to Rules 3-1105 and 3-1115.

3-1105 – Accelerator Program Participation and Privileges

A. Licensed Premises. An Accelerator Licensee may share a Licensed Premises or operate at a separate premises of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, or Retail Marijuana Store that is an Accelerator-Endorsed Licensee.

1. Shared Premises. An Accelerator Licensee may share the Licensed Premises of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, or Retail Marijuana Store pursuant to this Rule 3-1105 and Rule 3-1110.

2. Separate Premises. An Accelerator Licensee participating in the accelerator program may operate at a separate premises of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, or Retail Marijuana Store pursuant to this Rule 3-1105 and Rule 3-1115.

B. Number of Licenses held by an Accelerator Licensee.

1. An Accelerator Licensee may initially apply to be an Accelerator Cultivator, Accelerator Manufacturer or Accelerator Store and hold a single license.

2. After 180 days of demonstrated operations, an Accelerator Licensee may apply for additional accelerator licenses, which may include different accelerator license types. An Accelerator Licensee may not apply for more than one accelerator license until at least 180 days of demonstrated operations.

3. A Controlling Beneficial Owner who holds an accelerator license shall not have an Owner's Interest in more than three of the same accelerator license type. No Controlling Beneficial Owner shall have an Owner's Interest in more than nine total accelerator licenses.

C. Accelerator-Endorsed Licensee Required Equity Assistance Proposal.

1. An Accelerator-Endorsed Licensee must disclose its equity assistance proposal to the Division and to any prospective Social Equity Licensee pursuant to Rule 2-285 and these 3-1100 Series Rules prior to entering any contractual agreements with an Accelerator Licensee.

2. Required Information. An equity assistance proposal must detail the technical, compliance, and/or capital assistance the Accelerator-Endorsed Licensee intends to provide an Accelerator Licensee. All equity assistance proposals must, at a minimum, including the following:

    a. The types of assistance the Accelerator-Endorsed Licensee intends to provide, which may include but is not limited to, the following types of assistance:

        i. Accounting;

        ii. Business services (e.g. sales and marketing);

        iii. Financial or capital support;

        iv. Information technology support;

        v. Access to legal services from an attorney licensed in the state of Colorado; or

        vi. Regulatory compliance support.

    b. Whether the Accelerator-Endorsed Licensee intends to subcontract with any third parties to provide technical or compliance assistance, and the identity of the prospective third parties, if known;

    c. Any applicable timelines associated with the provisions of the assistance the Accelerator-Endorsed Licensee intends to provide;

    d. Whether the Accelerator-Endorsed Licensee intends to charge rent for a prospective Accelerator Licensee's use of the premises, and the amount of rent and required deposits, if applicable;

    e. How the Accelerator-Endorsed Licensee plans to protect or minimize disruptions on a prospective Accelerator Licensee in the event of a change of Controlling Beneficial Owner of the Accelerator-Endorsed Licensee's license; and

    f. Whether the Accelerator-Endorsed Licensee has been subject to any administrative action by the State Licensing Authority or the Local Jurisdiction within the preceding two years and, if so, whether there are any restrictions on the Licensee as a result of such administrative action.

3. Voluntary Information. An equity assistance proposal may, but is not required to, include additional information about the Accelerator-Endorsed Licensee, including but not limited to the following:

    a. The Accelerator-Endorsed Licensee's business objectives and organizational values;

    b. A description of the Accelerator-Endorsed Licensee's work environment;

    c. Information regarding the Accelerator-Endorsed Licensee's business profile, including company size, revenue, and distribution capabilities;

    d. Any educational or training assistance provided to the Accelerator Licensee in navigating human resources matters; and

e. Any other information that may be useful to informing prospective Accelerator Licensees and determining compatibility between an Accelerator-Endorsed Licensee and Accelerator Licensee.

4. Modification of Equity Assistance Proposal. Nothing in these rules shall preclude an Accelerator-Endorsed Licensee from amending or modifying its equity assistance proposal. The Accelerator-Endorsed Licensee shall submit the updated equity assistance proposal to the Division within 30 days of finalizing any such amendments or modifications.

5. The Accelerator-Endorsed Licensee may request that a prospective Social Equity Licensee enter into a non-disclosure agreement prior to providing the prospective Social Equity Licensee a copy of the Accelerator-Endorsed Licensee's equity assistance proposal in order to ensure the information remains confidential.

D. Equity Partnership Agreement – General Requirements. Prior to hosting or offering technical and/or capital support to an Accelerator Licensee, an Accelerator-Endorsed Licensee must first enter into an equity partnership agreement with the Accelerator Licensee. In addition to any other requirements in Rules 3-1110 and 3-1115, an equity partnership agreement must include the following minimum requirements:

1. The equity partnership agreement must be executed by both the Accelerator-Endorsed Licensee and the Accelerator Licensee.

2. The executed equity partnership agreement must represent the full legal and business relationship between the Accelerator-Endorsed Licensee and Accelerator Licensee unless additional agreements are permitted or required pursuant to Rules 3-1110 or Rule 3-1115.

3. The executed equity partnership agreement shall at a minimum, include the following:

a. A description of the types of technical, compliance, and/or capital assistance the Accelerator-Endorsed Licensee is providing to the Accelerator Licensee;

b. The timeline associate with the assistance the Accelerator-Endorsed Licensee is providing;

c. If the Accelerator-Endorsed Licensee is charging rent for the Accelerator Licensee's use of the Licensed Premises, the rent amount, any required deposits, and length of lease;

d. How the Accelerator-Endorsed Licensee will protect or minimize disruptions to the Accelerator Licensee in the event of a change of owner of the Accelerator-Endorsed Licensee's license;

e. Conditions for amendments to the equity partnership agreement; and

f. Conditions for dissolution of the equity partnership agreement.

4. An Accelerator-Endorsed Licensee must provide technical, compliance, and/or capital assistance to an Accelerator Licensee pursuant to its equity partnership agreement with an Accelerator Licensee. An Accelerator-Endorsed Licensee may provide technical and/or compliance assistance to an Accelerator Licensee through third parties. However, an equity partnership agreement cannot require an Accelerator Licensee to receive such assistance from a specific provider unless permitted pursuant to Rule 3-1115.

E. There shall not be any agreement(s) or contracts between the Accelerator-Endorsed Licensee and the Accelerator Licensee that are not disclosed to the Division.

F. Dissolution of Business Relationship. If the business relationship between the Accelerator-Endorsed Licensee and Accelerator Licensee dissolves, both parties must notify the Division within 10 days. The notification of dissolution must include the reasons for the dissolution of the business relationship between the Accelerator-Endorsed Licensee and Accelerator Licensee.

1. The Accelerator Licensee will have until renewal of the Accelerator License to identify a new Accelerator-Endorsed Licensee or apply for a new Regulated Marijuana Business license unless this deadline is extended by the Division. The Division may waive or reduce the application and/or licensing fees affiliated with the application. However, the Accelerator Licensee cannot operate without a Licensed Premises or an executed and valid equity partnership agreement with an Accelerator-Endorsed Licensee.

2. Upon notification of dissolution of the accelerator business relationship, the Division will determine whether the Accelerator-Endorsed Licensee retains the social equity leader designation for that calendar year.

G. Additional Privileges for Accelerator-Endorsed Licensees.

1. Social Equity Leader Designation. A Retail Marijuana Store, Retail Marijuana Cultivation Facility, or Retail Marijuana Products Manufacturer that is an Accelerator-Endorsed Licensee and that is operating under an equity partnership agreement with an Accelerator Licensee may be designated by the Division as a social equity leader for each year the Accelerator-Endorsed Licensee hosts an Accelerator Licensee on its premises. A social equity leader may use a logo or symbol created or approved by the Division to indicate its leadership status. The Accelerator-Endorsed Licensee may only use the social equity leader logo or symbol while the designation remains valid.

2. Mitigation. The Division and the State Licensing Authority may consider a social equity leader designation as a mitigating factor when determining the initiation of administrative action or assessment of penalties.

3. Compliance Assistance and Education Engagement. For an Accelerator-Endorsed Licensee operating under an equity partnership agreement with an Accelerator Licensee, the Division will conduct an on-site compliance assistance and education engagement with the Accelerator-Endorsed Licensee for purposes of supporting the Licensee's activities as an Accelerator-Endorsed Licensee.

4. Application and License Fee Exemptions. An Accelerator-Endorsed Licensee may submit a request to the State Licensing Authority for an exemption from application and license fees for a change of Controlling Beneficial Owner, change of location, or modification of premises that is directly related to its participation in the accelerator program.

a. The request for an exemption may be included with the submission of the application for which it is requesting an exemption from fees. The request for exemption must include any information demonstrating the application is related to its participation in the accelerator program, including but not limited to, the positive impact to the Accelerator Licensee.

b. If a request for an exemption is denied, the Applicant shall submit required fees within 10 days from notice that the fee exemption request was denied. Failure to submit required fees may result in denial of the application.

Basis and Purpose – 3-1110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(aa), 44-10-310(2), and 44-10-311(2), C.R.S. The purpose of this rule is to establish requirements for Accelerator-Endorsed Licensees and Social Equity Licensees to participate in the accelerator program. This option is for the Accelerator-Endorsed Licensee and the Social Equity Licensee to have a mentor/apprentice type relationship pursuant to Rules 3-1105 and 3-1110.

3-1110 – Accelerator Shared Premises

A. Equity Assistance Plan – Additional Requirements. In addition to all equity assistance proposal requirements outlined in Rule 3-1105(C)(1), an Accelerator-Endorsed Licensee intending to share its Licensed Premises with an Accelerator Licensee must also include the following in tis equity assistance proposal:

1. How the Accelerator-Endorsed Licensee will protect or minimize disruptions to a prospective Accelerator Licensee in the event of a change of location of the Accelerator-Endorsed Licensee's Licensed Premises;

2. The extent to which the Accelerator-Endorsed Licensee will provide equipment, ingredients, or other resources to an Accelerator Licensee pursuant to an equity partnership agreement.

B. Equity Partnership Agreement – Additional Requirements. An Accelerator-Endorsed Licensee's equity assistance proposal that includes the information required by Rule 3-1105 and this Rule 3-1110 may also serve as the equity partnership agreement.

1. How the Accelerator-Endorsed Licensee will protect or minimize disruptions to the Accelerator Licensee in the event of a change of location of the Accelerator-Endorsed Licensee's Licensed Premises;

2. Any intellectual property protections or restrictions;

3. Any agreements about operational control of any shared equipment, premises, or shared personnel;

4. Any agreements related to division of liability pursuant this Rule; and

5. Any non-disclosure agreements.

C. Division of Liability.

1. Shared Equipment. An Accelerator-Endorsed Licensee and Accelerator Licensee may share equipment in the same Licensed Premises if they have standard operating procedures addressing the following:

a. Rotational/time schedule for utilizing equipment;

b. Changes to the schedule; and

c. Sanitizing equipment.

2. Shared Ingredients and/or Co-Mingling of Inventory. An Accelerator-Endorsed Licensee and Accelerator Licensee may share non-marijuana ingredients such as soil, growing medium, fertilizers, sugar, flour, etc. If the Accelerator-Endorsed Licensee and the

Accelerator Licensee share non-marijuana ingredients, they must have standard operating procedures for the protection, use, and maintenance of such products.

3. Inventory Tracking and Record Keeping. Both the Accelerator-Endorsed Licensee and the Accelerator Licensee are each required to comply with the Inventory Tracking Requirements in the 3-800 Series Rules and all business records requirements in the 3-900 Series Rules. Nothing in this Rule prohibits an Accelerator-Endorsed Licensee from providing the Accelerator Licensee financial support to comply with these requirements such as purchasing RFID tags for use by the Accelerator Licensee.

4. Security and Surveillance. Both the Accelerator-Endorsed Licensee and the Accelerator Licensee are each required to comply with security and surveillance requirements in the 3-220 Series Rules. Nothing in this Rule prohibits an Accelerator-Endorsed Licensee from providing the Accelerator Licensee financial support to comply with these requirements.

5. Other. Both the Accelerator-Endorsed Licensee and the Accelerator Licensee will be jointly liable for any violations related to the Licensed Premises, security requirements, video surveillance requirements, health and safety requirements, possession limits, and waste rules, unless the Licensees have expressly established severed liability in the equity partnership agreement. It may be considered mitigation if the Accelerator-Endorsed Licensee demonstrated the Accelerator Licensee failed to comply with the standard operating procedures.

D. Accelerator License Operational Control. The Accelerator-Endorsed Licensee and the Accelerator Licensee may define the division of operational control of equipment in the shared premises.

E. Intellectual Property Protections. The Accelerator-Endorsed Licensee and the Accelerator Licensee shall maintain control over their individual intellectual property unless expressly agreed to in the equity partnership agreement.

Basis and Purpose – 3-1115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(aa), 44-10-310(2), and 44-10-311(2), C.R.S. The purpose of this rule is to establish requirements for Accelerator-Endorsed Licensees and Social Equity Licensees participating in the accelerator program. This option allows the Accelerator-Endorsed Licensee and the Social Equity Licensee to have a separate premises relationship pursuant to Rules 3-1105 and 3-1115.

3-1115 – Accelerator Separate Premises

A. Equity Assistance Proposal – Additional Requirements. In addition to all equity assistance proposal requirements outlined in Rule 3-1105(C)(1), an Accelerator-Endorsed Licensee intending to share a separate premises in its possession or control with an Accelerator Licensee must also include the following in its equity assistance proposal:

1. Estimate of the Accelerator Licensee's initial investment, if any;

2. Estimate of the Accelerator-Endorsed Licensee's initial investment;

3. Any anticipated application and/or licensing fees for which the Accelerator Licensee will be responsible;

4. Restrictions on the Accelerator Licensee's business (including any restrictions on sources of products or required vendors);

5. Assistance provided by the Accelerator-Endorsed Licensee to the Accelerator Licensee (including assistance in installing required security; hiring and training employees; providing necessary equipment; establishing prices; establishing administrative, bookkeeping, accounting, and inventory control procedures; etc.);

6. Advertising that will benefit the Accelerator Licensee;

7. Use of the Accelerator-Endorsed Licensee's brand, trade name, or trademarks;

8. Total number of licenses and locations of businesses the Accelerator-Endorsed License owns, operates, or is affiliated with;

9. Anticipated terms of the financing agreement, including leases and installment contracts offered directly or indirectly to the Accelerator Licensee;

10. Terms of renewal, termination, transfer, and dispute resolution procedures;

11. All proposed agreements, including any property or equipment leases;

12. The Accelerator-Endorsed Licensee's total annual revenue and fair financial projections of the Accelerator Licensee; and

13. The anticipated annual fee or percentage of profits the Accelerator Licensee will be required to pay the Accelerator-Endorsed Licensee for use of the Accelerator-Endorsed Licensee's brand, trade name, or trademarks.

B. Equity Partnership Agreement – Additional Requirements. In addition to all equity partnership agreement requirements outlined in Rule 3-1105, an equity partnership agreement between an Accelerator-Endorsed Licensee and Accelerator Licensee who is operating on a separate premises from the Accelerator-Endorsed Licensee must include the following:

1. Initial Investment.

   a. The Accelerator Licensee's initial business investment, if any; and

   b. The Accelerator-Endorsed Licensees initial business investment.

2. Fees. The fees, if any, the Accelerator Licensee and the Accelerator-Endorsed Licensee will be responsible for, which may include, but need not be limited to:

   a. Application and license fees;

   b. Assistance with legal fees, if any; and

   c. The annual fee or percentage of profits the Accelerator Licensee will be required to pay the Accelerator-Endorsed Licensee for use of the Accelerator-Endorsed Licensee's brand, trade name, or trademarks.

3. Restrictions on Accelerator Licensee Business Operations. Any restrictions placed on the Accelerator Licensee's business operations, which may include, but are not limited to:

   a. Ingredients, formulas, and processes the Accelerator Licensee is required to use;

   b. Sources of products;

c. Advertising; and

d. Third party vendors the Accelerator-Endorsed Licensee contracted with that the Accelerator Licensee will also be required to utilize;

4. Accelerator-Endorsed Licensee Obligations. All assistance the Accelerator-Endorsed Licensee will provide which may include, but is not limited to:

a. Assistance in hiring and training of employees;

b. Establishing prices;

c. Establishing administrative, bookkeeping, accounting, and inventory control procedures;

d. Resolving operating problems; and

e. Licensed Premises and equipment buildout.

5. Accelerator Licensee Obligations. If the Accelerator Licensee will be required to:

a. Comply with branding;

b. Utilize only the intellectual property of the Accelerator-Endorsed Licensee;

c. Use of identified third-party vendors; and

d. Selling product to specific purchasers.

6. Terms of Renewal, Termination, and Dispute Resolution. Any terms regarding renewal of the business relationship, termination of the business relationship, and dispute resolution. Any dispute resolution terms may not require Division or State Licensing Authority involvement.

7. Advertising. Any terms regarding advertising including the amount and methods of advertising, the distribution of costs for advertising, whether the Accelerator Licensee may do its own advertising, and how the costs of advertising will be distributed.

8. Agreements. All agreements between the Accelerator-Endorsed Licensee and Accelerator Licensee, including leases for property or equipment and any nondisclosure agreements.

C. Division of Liability.

1. Equipment. The Accelerator-Endorsed Licensee and the Accelerator licensee are individually and separately responsible for their own equipment.

2. Ingredients. The Accelerator-Endorsed Licensee and the Accelerator Licensee are individually and separately responsible for their own ingredients, unless otherwise expressly agreed to in the equity partnership agreement.

3. Inventory Tracking and Record Keeping. Both the Accelerator-Endorsed Licensee and the Accelerator Licensee are each required to comply with the Inventory Tracking Requirements in the 3-800 Series Rules and the Business Records in the 3-900 Series Rules. Nothing in this Rule prohibits an Accelerator-Endorsed Licensee from providing

the Accelerator Licensee financial support to comply with these requirements such as purchasing RFID tags for use by the Accelerator Licensee.

4. Security and Surveillance. The Accelerator-Endorsed Licensee and the Accelerator Licensee are individually and separately required to comply with security and surveillance requirements in the 3-200 Series Rules. Nothing in this Rule prohibits an Accelerator-Endorsed Licensee from providing the Accelerator Licensee financial support to comply with these requirements.

5. Other.

a. Accelerator Licensee Liability. An Accelerator Licensee is solely liable and responsible for all conduct and any violations that occur on the Accelerator Licensee's Licensed Premises.

b. Accelerator-Endorsed Licensee Liability. An Accelerator-Endorsed Licensee that makes available a separate premises in the Accelerator-Endorsed Licensee's possession to an Accelerator Licensee and who is in compliance with the Marijuana Code and these Rules will only be liable and responsible for conduct and any violations that occur on the Accelerator-Endorsed Licensee's Licensed Premises.

D. Operational Control. The Accelerator-Endorsed Licensee and the Accelerator Licensee are each responsible for the operational control at their separate Licensed Premises.

E. Intellectual Property. An Accelerator-Endorsed Licensee must permit and require the Accelerator Licensee to use the Accelerator-Endorsed Licensee's intellectual property. The Accelerator-Endorsed Licensee will maintain ownership and control of its intellectual property. The Accelerator Licensee shall maintain ownership and control of intellectual property it creates.

Part 4 – Regulated Marijuana Testing Program

Basis and Purpose – 4-105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing the mandatory testing portion of the Division's Regulated Marijuana sampling and testing program. This Rule 4-105 was previously Rules M and R 1502, 1 CCR 212-1 and 1 CCR 212-2.

4-105 – Regulated Marijuana Testing Program: Mandatory Testing

A. Required Sample Submission. A Regulated Marijuana Business may be required by the Division to submit a Sample(s) of Regulated Marijuana it possesses to a Medical Marijuana Testing Facility or a Retail Marijuana Testing Facility at any time regardless of whether it has achieved a Reduced Testing Allowance and without notice.

1. Samples collected pursuant to this Rule may be tested for potency or contaminants which may include, but is not be limited to, Pesticide, microbials, mycotoxin, molds, elemental impurities, residual solvents, biological contaminants, and chemical contaminants.

2. When a Sample(s) is required to be submitted for testing, the Regulated Marijuana Business may not Transfer or process into a Medical Marijuana Concentrate or Medical Marijuana Product any Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana Product, or Transfer or process into a Retail Marijuana Concentrate or Retail Marijuana Product any Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product, from the Inventory Tracking System package, Harvest Batch or Production Batch from which the Sample was taken, until it passes all required testing.

B. Methods for Determining Required Testing.

1. Random Testing. The Division may require Samples to be submitted for testing through any one or more of the following processes: random process, risk-based process, or other internally developed process, regardless of whether a Regulated Marijuana Business has achieved a Reduced Testing Allowance.

2. Inspection or Enforcement Tests. In addition, the Division may require a Regulated Marijuana Business to submit a Sample for testing if the Division has reasonable grounds to believe that:

a. Regulated Marijuana is contaminated or mislabeled;

b. A Regulated Marijuana Business is in violation of any product safety, health or sanitary statute, rule or regulation; or

c. The results of a test would further an investigation by the Division into a violation of any statute, rule, or regulation.

3. Beta Testing. The Division may require a Regulated Marijuana Business to submit Samples from certain randomly selected Harvest Batches or Production Batches for potency or contaminant testing prior to implementing mandatory testing.

C. Minimum Testing Standards. The testing requirements contained in this 4-100 Series are the minimum required testing standards. Regulated Marijuana Businesses are responsible for ensuring adequate testing on any Regulated Marijuana they produce or Transfer to ensure safety for human consumption.

D. Additional Sample Types. The Division may also require a Regulated Marijuana Business to submit Samples comprised of items other than Regulated Marijuana to be tested for contaminants which may include, but may not be limited to, Pesticide, microbials, molds, elemental impurities, residual solvents, biological contaminants, and chemical contaminants. The following is a non-exhaustive list of the types of Samples that may be required to be submitted for contaminant testing:

1. Specific Regulated Marijuana plant(s) or any portion of a Regulated Marijuana plant(s);

2. Any growing medium, water, or other substance used in the cultivation process;

3. Any water, solvent, or other substance used in the processing of a Regulated Marijuana Concentrate;

4. Any Ingredient or substance used in the manufacturing of a Regulated Marijuana Product; or

5. Swab of any equipment or surface.

E. R&D Testing.

1. R&D Tests. A Regulated Marijuana Business may submit Test Batches from a Harvest or Production Batch for R&D testing. R&D testing may be performed for any test required by these 4-100 Series Rules or any other test.

a. Passing R&D Test Results. If a Harvest or Production Batch passes an R&D test it shall not constitute a pass for the purposes of compliance with required contaminant or potency testing. If a Harvest or Production Batch passes an R&D test it shall not constitute a pass for purposes of achieving or maintaining a Reduced Testing Allowance. *See* Rules 4-120 and 4-125.

b. Failed R&D Test Results. If a Harvest or Production Batch fails an R&D test, it does not require compliance with failed test procedures. *See* Rule 4-135.

c. Failed R&D Test Results – Reduced Testing Allowance. A failing R&D test that is a contaminant or potency test required by these Rules shall be considered a failing result for the purposes of achieving or maintaining a Reduced Testing Allowance.

i. If a Regulated Marijuana Business that is actively working to achieve a Reduced Testing Allowance fails a R&D test, it must restart the process of achieving Reduced Testing Allowance.

ii. If a Regulated Marijuana Business that has achieved and maintained a Reduced Testing Allowance fails a R&D test for a test type required by these Rules, it must follow the appropriate Reduced Testing Allowance re-authorization procedure for the failed test type to maintain that Reduced Testing Allowance. *See* Rules 4-120(F)(2)(b), 4-121(H), and 4-125(H)(2)(b).

F. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing sampling procedures and rules for the Division's Regulated Marijuana sampling and testing program. This Rule 4-110 was previously Rules M and R 1504, 1 CCR 212-1 and 1 CCR 212-2.

4-110 – Regulated Marijuana Testing Program: Sampling Procedures

A. Collection of Samples.

1. Sample Increment Collection. All Samples submitted for testing pursuant to this Rule must be collected by Division representatives or in accordance with the Division's sampling policy reflected in the marijuana laboratory testing reference library available at the Colorado Department of Public Health and Environment's website. This reference library may be continuously updated as new materials become available in accordance with section 25-1.5-106(3.5)(d), C.R.S.

2. Sample Increment Selection. The Division may elect, at its sole direction, to assign Division representatives to collect Sample Increments, or may otherwise direct Sample Increment selection, including, but not limited to, through Division designation of a Harvest Batch or Production Batch in the Inventory Tracking System from which a Regulated Marijuana Business shall select Samples for testing. A Regulated Marijuana Business, its Controlling Beneficial Owners, Passive Beneficial Owners, and employees shall not attempt to influence the Sample Increments selected by Division representatives. If the Division does not select the Harvest Batch or Production Batch to be tested, a Regulated Marijuana Business must collect and submit Sample Increments that are representative of the Harvest Batch or Production Batch being tested.

3. Adulteration or Alteration Prohibited. Pursuant to section 44-10-701(3)(b) and (9), C.R.S., it is unlawful for a Licensee or its agent to knowingly adulterate or alter, or attempt to adulterate or alter, any Sample Increments or Test Batches of Regulated Marijuana. The Sample Increments collected and submitted for testing must be representative of the Harvest Batch or Production Batch being tested. A violation of this sub-paragraph (A)(3) shall be considered a license violation affecting public safety and the person who commits adulteration or alteration of Sample Increments or Test Batches commits a class 2 misdemeanor and may be punished as provided in section 18-1.3-501, C.R.S.

4. Timing of Sample Increments for Harvest Batches and Production Batches. A Licensee shall not collect Sample Increments or submit Test Batches for testing until the Test Batch has completed all required steps and is in its final form as outlined in the standard operating procedures of the Licensee submitting the Test Batch, with the exception of packaging and labeling requirements which shall comply with Rule 3-1025.

    a. The following examples illustrate various methods, which are not limited to those listed herein, that a Licensee's standard operating procedures may include to verify a Test Batch completed all required steps and is in its final form pursuant to this Rule:

        i. The Licensee's standard operating procedures may include procedures that ensure the addition of all Ingredients or Additives has occurred and that the Harvest Batch or Production Batch associated with the Test Batch is completely ready to be packaged pending results of testing required by these Rules. This also includes creating Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana;

        ii. For a Production Batch of Concentrate, the Licensee's standard operating procedure may include procedures that ensure the entire Production Batch associated with the Test Batch has completed all sifting, extracting, purging, winterizing, and steps to remove plant pigments and ensuring the addition of all Ingredients and Additives has occurred.

        iii. For a Production Batch of Regulated Marijuana Product, the Licensee's standard operating procedure may include procedures that ensure the addition of all Ingredients and Additives has occurred and the Production Batch associated with the Test Batch is completely ready to be packaged pending results of testing required by these Rules.

    b. A Test Batch from a Harvest Batch or Production Batch shall be packaged and labeled according to Series 3-1025 prior to Transfer to a Regulated Marijuana Testing Facility.

c. This Rule 4-110(A)(4) does not apply for the submission of Test Batches submitted for R&D testing.

5. Vaporizer Delivery Device. This subsection (A)(5) is effective January 1, 2022. Retail Marijuana Concentrate that has been placed into a Vaporizer Delivery Device must be sampled and tested using a methodology that allows the laboratory to analyze the emission of the contents of the Vaporizer Delivery Device.

B. Designated Test Batch Collector Training, Documentation, and Designation.

1. Required Sample Increment Collection Training. To become a Designated Test Batch Collector an Owner Licensee or Employee Licensee involved in the Sample Increment Collection of Regulated Marijuana must be designated by a manager or Owner Licensee as such and must also complete either in-house training provided by the Regulated Marijuana Business or training from a third-party vendor. Nothing in this rule requires a Designated Test Batch Collector to be employed by the Regulated Marijuana Business making the designation.

2. Designated Test Batch Collection Training Required Topics. The training required to become a Designated Test Batch Collector must include at least the following topics:

a. Part 4–100 Series Rules - Regulated Marijuana Testing Program;

b. The Marijuana Business's standard operating procedures on creating a Sampling Plan and Test Batches, and the CDPHE's Sampling Procedures.

c. “Guidance on Marijuana Sampling Procedures” Training Video or an equivalent training covering the following subjects:

i. Introduction to Sample Increment Collection:

A. Cross contamination as it relates to Sample Increment Collection;

B. Sample Increment Collection and how it works;

C. Sample Increment Collection documentation and record keeping requirements;

D. Penalties for Sample Increment or Test Batch adulteration or alteration;

E. Use of and disinfection of the Designated Test Batch Collection Area; and

F. Use of the Sample Plan.

3. Documentation of Designated Test Batch Collector Training. Any individual receiving the Designated Test Batch Collector training must sign and date a document which shall be maintained by the Regulated Marijuana Business as a business record pursuant to Rule 3-905. The document must acknowledge the following:

a. The identity of the Person that created the training, such as the Regulated Marijuana Business or a third-party vendor; and

b. That all required topics of the training identified in this Rule have been reviewed and understood by the Owner Licensee or Employee Licensee.

C. Test Batch Collection Requirements.

1. Required Minimum of Two Test Batch Collectors. At a minimum, two Designated Test Batch Collectors shall be involved in the collection of Sample Increments such that at least one Designated Test Batch Collector is responsible for collecting the Sample Increments and another Designated Test Batch Collector is responsible for reviewing documentation associated with the collection of Sample Increments in a timely manner and prior to any Transfer of the Production Batch or Harvest Batch from which Sample Increments were collected. This review can be completed in person or may be completed remotely by reviewing image(s) of the Test Batch and associated documentation.

2. Sample Plan Required. A Designated Test Batch Collector must establish a Sample Plan consistent with the Regulated Marijuana Business's Standard Operating Procedure for Sample Increment Collection. At a minimum, a Sample Plan must include the following:

a. The date, amount or weight, and specific location for each Sample Increment collected;

b. Identification of and acknowledgements from all Designated Test Batch Collectors involved in the Sample Increment Collection; and

c. If applicable, the strain name(s) for each Harvest Batch from which Sample Increments are collected.

D. Minimum Number of Sample Increments Per Test Batch Submission. These sampling rules shall apply until such time as the State Licensing Authority revises these rules to implement a statistical sampling model. Unless a greater amount is required to comply with these rules or is required by a Regulated Marijuana Testing Facility to perform all requested testing, each Test Batch of Regulated Marijuana must contain at least the number of Sample Increments prescribed by this Section.

1. A Test Batch of Regulated Marijuana must be packaged and labeled according to Rule 3-1025.

2. The minimum number of Sample Increments required to be collected for each Test Batch from a Harvest Batch of Retail Marijuana or Medical Marijuana shall be determined by Table 4-110.D.2.T.

3. The minimum number of Sample Increments required to be collected for each Test Batch from a Production Batch of Regulated Marijuana Product, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, Audited Product and Alternative Use Product shall be determined by Table 4-110.D.2.T.

a. The Retail Marijuana Products Manufacturer or Medical Marijuana Products Manufacturer shall determine what constitutes a "Serving" and thus how many Servings are contained in a Production Batch of Regulated Marijuana Product, except that no serving of Edible Retail Marijuana Product can contain more than 10mg of active THC

b. Because all Test Batches of Regulated Marijuana Product, Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana are required to be submitted for testing in their final form, in the event the required number of Sample Increments does not

match up within a finished package, the manufacturer must increase the number of Sample Increments collected for the Test Batch such that only finished packages of Regulated Marijuana Products, Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana are submitted for testing. For example, if a Production Batch of 4000 chocolate bars is manufactured, with each bar containing 100 mg THC and 10 servings per bar, the Production Batch would contain 40,000 Sample Increments which would require collection of at least 33 Sample Increments per Test Batch. But in this case, the manufacturer would have to collect 40 Sample Increments for testing (4 complete chocolate bars in final form).

c. No matter how small the Production Batch of Regulated Marijuana Product, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana a minimum of two finished packages in final form must be submitted for a Test Batch.

4. The minimum number of Sample Increments required to be collected for each Test Batch from a Production Batch of Retail Marijuana Concentrate or Medical Marijuana Concentrate shall be determined by Table 4-110.D.2.T.

a. Because all Test Batches of Retail Marijuana Concentrate and Medical Marijuana Concentrate are required to be submitted for testing in their final form, in the event the required number of Sample Increments does not match up with the number of Sample Increments in a finished package, the manufacturer must increase the number of Sample Increments collected for the Test Batch such that only finished packages of Marijuana Concentrate are submitted for testing. For example, if a Production Batch of 4,000 Vaporizer Delivery Devices is manufactured, with each Vaporizer Delivery Device containing 500 milligrams of Marijuana Concentrate, the Production Batch would contain 2,000 grams of Marijuana Concentrate, which would require collection of at least 15 Sample Increments per Test Batch. But in this case, the manufacturer would have to collect 16 Sample Increments for testing (8 vaporizer Delivery Devices in final form).

b. No matter how small the Production Batch of Retail Marijuana Concentrate or Medical Marijuana Concentrate, a minimum of two finished packages must be submitted for a Test Batch.

Table 4-110.D.2.T

Minimum Number of Sample Increments Required to be Collected per Test Batch	**Regulated Marijuana (Sample Increment = 0.5 grams)**		
	Total Weight of Harvest Batch (lbs)	Total Weight of Harvest Batch (grams)	**Minimum Weight of Test Batch (grams)**
5	0.000 -0.999	0.0 -453.5	**2.50**
8	1.00 -9.999	453.6 -4535.9	**4.00**
15	10.000 -19.999	4536.0 - 9071.8	**7.50**
22	20.000 -39.999	9071.9 - 18143.6	**11.00**
33	40.000 -99.999	18143.7 - 45359.2	**16.50**

43	100.000 - 199.999	45359.3 - 90718.4	**21.50**
53	200.000 - 499.999	90718.5 -226796.1	**26.50**
80	500 or more	226796.2 or more	**40.00**

Minimum Number of Sample Increments Required to be Collected per Test Batch	**Regulated Marijuana Concentrate (Sample Increment = 0.25 g)**		
	Total Weight of Production Batch (lbs)	Total Weight of Production Batch (grams)	**Minimum Weight of Test Batch (grams)**
5	0.000 -0.999	0.0-453.5	**1.25**
8	1.00 - 1.999	453.6-907.1	**2.00**
15	2.00 - 4.999	907.2-2267.9	**3.75**
22	5.000 - 14.999	2268.0-6803.8	**5.50**
33	15.000 – 49.999	6803.9-22679.6	**8.25**
43	50.000 – 99.999	22679.7-45359.2	**10.75**
53	100.000 – 249.999	45359.3-113398.0	**13.25**
80	250 or more	113398.1 or more	**20.00**

Minimum Number of Sample Increments Required to be Collected per Test Batch	**Regulated Marijuana Products (Sample Increment = 1 Serving)**				
	Number of Servings within Production Batch	**Minimum Number of Units for a Test Batch for a 5-Serving Unit***	**Minimum Number of Units for a Test Batch for a 10-Serving Unit***	**Minimum Number of Units for a Test Batch for a 20-Serving Unit***	**Minimum Number of Units for a Test Batch for a 100-Serving Unit***
5	0 - 99	**2**	**2**	**2**	**2**
8	100 - 999	**2**	**2**	**2**	**2**
15	1000 - 4999	**3**	**2**	**2**	**2**
22	5000 - 9999	**5**	**3**	**2**	**2**
33	10000 - 49999	**7**	**4**	**2**	**2**

43	50000 - 99999	**9**	**5**	**3**	**3**
53	100000 - 249999	**11**	**6**	**3**	**3**
80	250000 or more	**16**	**8**	**4**	**4**
*Other serving amounts per unit are acceptable. These are provided as examples.					

Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana								
Minimum Number of Sample Increments Required to be Collected per Test Batch	**Number of Pre-Rolls within the Production Batch**	**Minimum Number of Pre-Rolls for a Test Batch when each Pre-Roll is**						
		< or = 0.39 g	**0.40g to 0.50g**	**0.51g to 0.75g**	**0.76g - 1.00g**	**1.01g - 2.00g**	**2.01g - 3.00g**	**3.01g +**
5	0 - 99	5	4	3	2	2	2	2
8	100 - 999	8	5	4	3	2	2	2
15	1000 - 4999	15	10	8	5	4	2	2
22	5000 - 9999	22	14	11	8	6	3	2
33	10000 - 49999	33	21	17	11	9	5	3
43	50000 - 99999	43	27	22	15	11	6	4
53	100000 - 249999	53	34	26	18	14	7	5
80	250000 or more	80	50	40	27	20	10	7

E. Regulated Marijuana Testing Facility Selection. Unless otherwise restricted or prohibited by these rules or ordered by the State Licensing Authority, a Regulated Marijuana Business may select which Medical Marijuana Testing Facility or Retail Marijuana Testing Facility will test a Test Batch made up of Sample Increments collected pursuant to this Rule. However, the Division may elect, at its sole discretion, to assign a Regulated Marijuana Testing Facility to which a Regulated Marijuana Business must submit for testing any Test Batch made up of Sample Increments collected pursuant to this Rule.

F. Industrial Hemp Product Sampling Procedures. Absent sampling and testing standards established by the Colorado Department of Public Health and Environment for the sampling and testing of Industrial Hemp Product, a Person Transferring an Industrial Hemp Product to a Licensee pursuant to the Marijuana Code and these Rules shall comply with the sampling and testing standards set forth in these 4-100 Series Rules – Regulated Marijuana Testing Program and as required by these Rules.

G. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish the portion of the Division's mandatory testing and sampling program that is applicable to Regulated Marijuana Businesses, and specifically Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities. While the Marijuana Code requires the State Licensing Authority to establish acceptable limits of potential contaminants, it also requires the State Licensing Authority to enact a plus or minus 15 percent potency variance, which is also included in this rule. This Rule 4-115 was previously Rules M and R 712, 1 CCR 212-1 and 1 CCR 212-2.

4-115 – Regulated Marijuana Testing Program: Sampling and Testing Program

A. Division Authority. The Division may require that a Test Batch be submitted to a specific Regulated Marijuana Testing Facility for testing to verify compliance, perform investigations, compile data or address a public health and safety concern.

1. Independent Third Party Review. The Division may require Regulated Marijuana to undergo an independent third-party review to verify that the Regulated Marijuana does not pose a threat to public health and safety when the Division, in consultation with the Colorado Department of Public Health and Environment, has objective and reasonable grounds to believe and finds, upon a full investigation, one of the following:

    a. The Regulated Marijuana contains one or more substances known to cause harm; or

    b. The Regulated Marijuana contains one or more substances that could be toxic as consumed or applied in accordance with the intended use.

2. The fact that Regulated Marijuana contains marijuana shall not constitute grounds to require an independent third-party review. Ingredients Generally Recognized as Safe by the U.S. Food & Drug Administration or that are regulated by the U.S. Food & Drug Administration under the Dietary Supplement Health and Education Act of 1994 that are included in Edible Medical Marijuana Product or Edible Retail Marijuana Product shall not constitute grounds to require an independent third-party review.

3. Quarantine. In addition to any other remedies provided by law, the Division may immediately quarantine Regulated Marijuana pursuant to Rule 4-135(A) in any one of the following circumstances:

    a. The Division has objective and reasonable grounds to believe and finds, upon a full investigation, that a Regulated Marijuana Business has been guilty of deliberate and willful violations of these rules;

    b. The Regulated Marijuana or Alternative Use Product poses a potential threat to public health and safety;

    c. The Division has received one or more reports of an adverse event related to Regulated Marijuana or Alternative Use Product. For purpose of this Rule,

adverse event means any untoward medical occurrence associated with the use of Regulated Marijuana or Alternative Use Product—this could include any unfavorable and unintended sign (including hospitalization, emergency department visit, doctor's visit, abnormal laboratory finding), symptom, or disease temporally associated with the use of a Regulated Marijuana or Alternative Use Product;

d. The Division determines the independent third-party audit submitted pursuant to Rules 5-325(B) or 6-325(B) does not meet the requirements of Rules 5-325 or 6-325; or

e. The Regulated Marijuana Products Manufacturer has violated or is not in compliance with all of the requirements in Rules 5-325 or 6-325.

4. Any quarantine pursuant to subparagraph (A)(3) above shall remain in effect unless the Regulated Marijuana undergoes an independent third-party review to verify the Regulated Marijuana does not pose a risk to public health and safety.

5. For the purpose of this Rule, full investigation means a reasonable ascertainment of the underlying facts on which the agency action is based.

B. Standard Minimum Weight of Test Batches and Photo Documentation.

1. Standard Minimum Weight of Test Batches.

a. Regulated Marijuana and Regulated Marijuana Concentrate. A Medical Marijuana Testing Facility must establish a standard minimum weight of Medical Marijuana and Medical Marijuana Concentrate, and a Retail Marijuana Testing Facility must establish a standard minimum weight of Retail Marijuana and Retail Marijuana Concentrate that must be included in a Test Batch for every type of test that it conducts.

b. Regulated Marijuana Product, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana. Regulated Marijuana Testing Facilities must establish a standard number of Samples required to be included in each Test Batch of Regulated Marijuana Product, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana for every type of test that it conducts. *See* Rule 4-110 – Regulated Marijuana Testing Program – Sampling Procedures.

2. Photo Documentation of Test Batches.

a. A Regulated Marijuana Testing Facility shall digitally photograph each Test Batch it receives to document the Sample Increments collected, condition of the Test Batch, and compliance with these rules.

b. The Regulated Marijuana Testing Facility must maintain the digital photographs of each Test Batch as business records. *See* Rule 3-905 - Required Business Records.

c. Upon request by the Division, a Regulated Marijuana Testing Facility must provide copies of the digital photographs of Test Batches within seven days of the request unless a different deadline is agreed to.

C. Rejection of Test Batches.

1. A Regulated Marijuana Testing Facility shall not accept a Test Batch that is smaller than its standard minimum amount.

2. A Regulated Marijuana Testing Facility shall not accept a Test Batch that does not contain the minimum number and weight of Sample Increments, or the Regulated Marijuana Testing Facility has reason to believe it was not collected in accordance with Test Batch collection requirements in Rule 4-110.

3. Effective July 1, 2023, if a Regulated Marijuana Testing Facility suspects or has reason to suspect a Sample Increment or Test Batch has been adulterated, the Regulated Marijuana Testing Facility must:

   a. Notify the Division; and

   b. Quarantine the Sample Increment or Test Batch for a minimum of 48 hours from the time of notification to the Division before proceeding with any testing.

D. Permissible Levels of Contaminants. If Regulated Marijuana is found to have a contaminant in levels exceeding those established as permissible under this Rule, then it shall be considered to have failed contaminant testing. Notwithstanding the permissible levels established in this Rule, the Division reserves the right to determine, upon good cause and reasonable grounds, that a particular Test Batch presents a risk to the public health or safety and therefore shall be considered to have failed a contaminant test.

1. Microbials (Bacteria, Fungus)

Substance	**Acceptable Limits**	**Product to be Tested**
–Shiga-toxin producing *Escherichia coli* (STEC)*- Bacteria	Absent in 1 g	• Regulated Marijuana flower, shake, and trim (other than wet whole plant allocated for extraction); • Regulated Marijuana Products
Salmonella species* – Bacteria	Absent in 1 g	
*Aspergillus (A. fumigatus, A. flavus, A. niger, A. terreus)***	Absent in 1 g	

Total Yeast and Mold	< 1.0 x 10^4 Colony Forming Unit (CFU) per 1 ml or 1 g	(other than Audited Product); • Pre-Rolled Marijuana; • Infused Pre-Rolled Marijuana; • Physical Separation-Based, Heat/Pressure-Based, and Food-Based Medical Marijuana Concentrate; • Physical Separation-Based, Heat/Pressure-Based, and Food-Based Retail Marijuana Concentrate; • Industrial Hemp Products; • Pressurized Metered Dose Inhalers; • Vaporizer Delivery Device; • Solvent-Based Medical Marijuana Concentrate produced through Remediation; • Solvent-Based Retail Marijuana Concentrate produced through Remediation; • Solvent-Based Medical Marijuana Concentrate produced from Regulated Marijuana wet whole plant that was not tested for microbials; • Solvent-Based Retail Marijuana Concentrate produced from Regulated Marijuana wet whole plant that was not tested for microbials; • Re-testing of Regulated Marijuana flower, shake, and trim that has undergone Decontamination.
	≤ 1.0 x 10^1 CFU/ml or ≤ 1.0 x 10^1 CFU/g	Audited Product: administration by metered dose nasal spray or vaginal administration
	≤ 1.0 x 10^2 CFU/ml or ≤ 1.0 x 10^2 CFU/g	Audited Product: rectal administration
Total aerobic microbial count	≤ 1.0 x 10^2 CFU/ml or ≤ 1.0 x 10^2 CFU/g	Audited Product: administration by metered dose nasal spray or vaginal administration
	≤ 1.0 x 10^3 CFU/ml or ≤ 1.0 x 10^3 CFU/g	Audited Product: rectal administration
Staphylococcus aureus	Absent in 1 ml or 1 g	Audited Product: administration by metered dose nasal spray or vaginal administration

Pseudomonas aeruginosa	Absent in 1 ml or 1 g	Audited Product: administration by metered dose nasal spray or vaginal administration
Bile tolerant gram negative bacteria	Absent in 1 ml or 1 g	Audited Product: administration by metered dose nasal spray
Candida albicans	Absent in 1 ml or 1 g	Audited Product: vaginal administration

*The Regulated Marijuana Testing Facility shall contact the Colorado Department of Public Health and Environment when STEC and Salmonella are detected beyond the acceptable limits.

** Regulated Marijuana Products with intended use for oral consumption or skin and body products are exempt from required aspergillus testing.

1.5 Water Activity

Substance	**Acceptable Limits**	**Product to be Tested**
Water Activity	0.65 aW	• Regulated Marijuana flower shake, and trim (other than wet whole plant); • Retesting of Regulated Marijuana flower, shake, and trim that has undergone Decontamination; • Pre-Rolled Marijuana; • Infused Pre-Rolled Marijuana.

2. Mycotoxins

Substance	**Acceptable Limits**	**Product to be Tested**
Aflatoxins (B1, B2, G1, and G2)	< 20 Parts Per Billion (PPB) (total of B1 + B2 + G1 + G2)	• Solvent-Based Medical Marijuana Concentrate manufactured from Medical Marijuana flower or trim that failed microbial testing; • Solvent-Based Retail Marijuana Concentrate manufactured from Retail Marijuana flower or trim that failed microbial testing; • Solvent-Based Medical Marijuana Concentrate produced from Regulated Marijuana wet whole plant that was not tested for microbials; • Solvent-Based Retail Marijuana Concentrate produced from Regulated Marijuana wet whole plant that was not tested for
Ochratoxin A	< 20 PPB	

		microbials; • Regulated Marijuana flower, shake, and trim that has undergone Decontamination.

3. Residual Solvents

Substance	**Acceptable Limits**	**Product to be Tested**
Acetone	< 1,000 Parts Per Million (PPM)	• Solvent-Based Medical Marijuana Concentrate; • Solvent-Based Retail Marijuana Concentrate; • Industrial Hemp Product (if a solvent was used)
Butanes	< 1,000 PPM	
Ethanol***	< 1,000 PPM	
Heptanes	< 1,000 PPM	
Isopropyl Alcohol	< 1,000 PPM	
Propane	< 1,000 PPM	
Benzene**	< 2 PPM	
Toluene**	< 180 PPM	
Pentane	< 1,000 PPM	
Hexane**	< 60 PPM	
Total Xylenes (m,p, o-xylenes)**	< 430 PPM	
Methanol**	< 600 PPM	
Ethyl Acetate	< 1000 PPM	
Any other solvent not permitted for use pursuant to Rules 5-315 and 6-315.	None Detected	

** Note: These solvents are not approved for use. Due to their possible presence in the solvents approved for use per Rule 6-315, limits have been listed here accordingly.

***Note: Solvent-Based Medical Marijuana Concentrate and Solvent-Based Retail Marijuana Concentrate that exceeds the acceptable limit for ethanol may only be used in Medical Marijuana Concentrate or Medical Marijuana Product, or Retail Marijuana Concentrate or Retail Marijuana Product, which intended use is oral consumption, skin and body products, a vaporizer delivery device, pressurized metered dose inhaler, or Audited Product.

4. Elemental Impurities

Substance	**Acceptable Limits Based on Intended Use**	**Product to be Tested**
Elemental Impurities (Arsenic, Cadmium, Lead and Mercury)	**Inhaled Product or Audited Product: administration by metered dose nasal spray** Lead – Max Limit: < .5 PPM Arsenic – Max Limit: < 0.2 PPM Cadmium – Max Limit: < 0.2 PPM Mercury – Max Limit: < 0.1 PPM	• Regulated Marijuana flower, shake, trim, and wet whole plant; • Physical Separation-Based, Food-Based, Heat/Pressure-Based,

	Topical and/or Transdermal Lead – Max Limit: < 10 PPM Arsenic – Max Limit: < 3 PPM Cadmium – Max Limit: < 3 PPM Mercury – Max Limit: < 1 PPM	and Solvent-Based Medical Marijuana Concentrate; • Physical Separation-Based, Food-Based, Heat/Pressure-Based and Solvent Based Retail Marijuana Concentrate; • Regulated Marijuana Product; • Pre-Rolled Marijuana; • Infused Pre-Rolled Marijuana; • Pressurized Metered Dose Inhaler; • Vaporizer Delivery Device; • Audited Product; • Industrial Hemp Product
	Oral Consumption or Audited Product: rectal or vaginal administration Lead – Max Limit: < 1 PPM Arsenic – Max Limit: < 1.5 PPM Cadmium – Max Limit: < 0.5 PPM Mercury – Max Limit: < 1.5 PPM	

5. Pesticides.

a. Effective January 1, 2023, the following pesticides are currently subject to required testing, at the associated action limits:

Substance	**Action Limit**	**Product to be Tested**
Abamectin (Avermectins: B1a & B1b)	< 0.1 PPM	• Regulated Marijuana flower, shake, trim, and wet whole plant; • Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Medical Marijuana Concentrate; • Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Retail Marijuana Concentrate; • Pre-Rolled Marijuana; • Infused Pre-Rolled Marijuana. • Industrial Hemp Product
Azoxystrobin	< 0.02 PPM	
Bifenazate	< 0.02 PPM	
Etoxazole	< 0.02 PPM	
Imazalil	< 0.05 PPM	
Imidacloprid	< 0.02 PPM	
Malathion	< 0.02 PPM	
Myclobutanil	< 0.02 PPM	
Permethrin (mix of isomers)	< 0.5 PPM	
Spinosad (Mixture of A and D)	< 0.1 PPM	
Spiromesifen	< 3.0 PPM	
Spirotetramat	< 0.02 PPM	
Tebuconazole	< 0.05 PPM	

b. Effective July 1, 2023, the following pesticides will be subject to required testing, at the associated action limits:

Substance	**Action Limit**	**Product To Be Tested**
Abamectin (Avermectins B1a & B1b)	< 0.1 PPM	• Regulated Marijuana flower, shake, trim, and wet whole plant; • Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Medical Marijuana Concentrate; • Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Retail Marijuana Concentrate; • Pre-Rolled Marijuana; • Infused Pre-Rolled Marijuana. • Industrial Hemp Product
Azoxystrobin	< 0.02 PPM	
Bifenthrin	< 1.0 PPM	
Bifenazate	< 0.02 PPM	
Boscalid	< 0.02 PPM	
Carbaryl	< 0.05 PPM	
Chlorpyrifos	< 0.04 PPM	
Clothianidin	< 0.05 PPM	
Cyhalothrin lambda	< 0.25 PPM	
Dichlorvos	< 0.1 PPM	
Dimethoate	< 0.02 PPM	
Dinotefuran	< 0.1 PPM	
Diuron	< 0.125 PPM	
Etoxazole	< 0.02 PPM	
Imazalil	< 0.05 PPM	
Imidacloprid	< 0.02 PPM	
Malathion	< 0.02 PPM	
Metalaxyl	< 0.02 PPM	
Myclobutanil	< 0.02 PPM	
Permethrins	< 0.5 PPM	
Propiconazole	< 0.1 PPM	
Pyriproxyfen	< 0.01 PPM	
Spinosad	< 0.1 PPM	
Spriomesifen	< 3.0 PPM	
Spirotetramat	< 0.02 PPM	
Tebuconazole	< 0.05 PPM	
Thiabendazole	< 0.02 PPM	
Thiamethoxam	< 0.02 PPM	

c. Effective July 1, 2024, the following pesticides will be subject to required testing, at the associated action limits:

Substance	**Action Limit**	**Product To Be Tested**

Abamectin (Avermectins B1a & B1b)	< 0.1 PPM	• Regulated Marijuana flower, shake, trim, and wet whole plant; • Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Medical Marijuana Concentrate; • Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Retail Marijuana Concentrate; • Pre-Rolled Marijuana; • Infused Pre-Rolled Marijuana. • Industrial Hemp Product
Acephate	< 0.02 PPM	
Acequinocyl	< 0.03 PPM	
Acetamiprid	< 0.1 PPM	
Aldicarb	< 1.0 PPM	
Allethrin	< 0.2 PPM	
Atrazine	< 0.025 PPM	
Azoxystrobin	< 0.02 PPM	
Benzovindiflupyr	< 0.02 PPM	
Bifenazate	< 0.02 PPM	
Bifenthrin	< 1.0 PPM	
Boscalid	< 0.02 PPM	
Buprofezin	< 0.02 PPM	
Carbaryl	< 0.05 PPM	
Carbofuran	< 0.02 PPM	
Chlorantraniliprole	< 0.02 PPM	
Chlorphenapyr	< 0.05 PPM	
Chlorpyrifos	< 0.04 PPM	
Clofentezine	< 0.02 PPM	
Clothianidin	< 0.05 PPM	
Coumaphos	< 0.02 PPM	
Cyantraniliprole	< 0.02 PPM	
Cyfluthrin	< 0.2 PPM	
Cyhalothrin lambda	< 0.25 PPM	
Cypermethrin	< 0.3 PPM	
Cyprodinil	< 0.25 PPM	
Daminozide	< 0.1 PPM	
Deltamethrin	< 0.5 PPM	
Diazinon	< 0.02 PPM	
Dichlorvos	<.01 PPM	
Dimethoate	< 0.02 PPM	
Dimethomorph	< 0.05 PPM	
Dinotefuran	< 0.1 PPM	
Diuron	< 0.125 PPM	
Dodemorph	< 0.05 PPM	

Endosulfan sulfate	< 0.05 PPM	
Endosulfan-alpha	< 0.2 PPM	
Endosulfan-beta	< 0.05 PPM	
Ethoprophos	< 0.02 PPM	
Etofenprox	< 0.05 PPM	
Etoxazole	< 0.02 PPM	
Etridiazole	< 0.03 PPM	
Fenhexamid	< 0.125 PPM	
Fenoxycarb	< 0.02 PPM	
Fenpyroximate	< 0.02 PPM	
Fensulfothion	< 0.02 PPM	
Fenthion	< 0.02 PPM	
Fenvalerate	< 0.1 PPM	
Fipronil	< 0.06 PPM	
Flonicamid	< 0.05 PPM	
Fludioxonil	< 0.02 PPM	
Fluopyram	< 0.02 PPM	
Hexythiazox	< 0.01 PPM	
Imazalil	< 0.05 PPM	
Imidacloprid	< 0.02 PPM	
Iprodione	< 1.0 PPM	
Kinoprene	< 0.5 PPM	
Krosoxim-methyl	< 0.02 PPM	
Malathion	< 0.02 PPM	
Metalaxyl	< 0.02 PPM	
Methiocarb	< 0.02 PPM	
Methomyl	< 0.05 PPM	
Methoprene	< 2.0 PPM	
Mevinphos	< 0.05 PPM	
MGK-264	< 0.05 PPM	
Myclobutanil	< 0.02 PPM	
Naled	< 0.1 PPM	
Novaluron	< 0.05 PPM	
Oxamyl	< 3.0 PPM	
Paclobutrazol	< 0.02 PPM	

Parathion-methyl	< 0.05 PPM	
Permethrins	< 0.5 PPM	
Phenothrin	< 0.05 PPM	
Phosmet	< 0.02 PPM	
Pirimicarb	< 0.02 PPM	
Prallethrin	< 0.05 PPM	
Propiconazole	< 0.1 PPM	
Propoxur	< 0.02 PPM	
Pyraclostrobin	< 0.02 PPM	
Pyridaben	< 0.05 PPM	
Pyriproxyfen	< 0.01 PPM	
Quintozene	< 0.02 PPM	
Resmethrin	< 0.1 PPM	
Spinetoram	< 0.02 PPM	
Spinosad	< 0.1 PPM	
Spirodiclofen	< 0.25 PPM	
Spriomesifen	< 3.0 PPM	
Spirotetramat	< 0.02 PPM	
Spiroxamine	< 0.1 PPM	
Tebuconazole	< 0.05 PPM	
Tebuenozide	< 0.02 PPM	
Teflubenzuron	< 0.05 PPM	
Tetrachlorvinphos	< 0.02 PPM	
Tetramethrin	< 0.1 PPM	
Thiabendazole	< 0.02 PPM	
Thiacloprid	< 0.02 PPM	
Thiamethoxam	< 0.02 PPM	
Thiophanate-methyl	< 0.05 PPM	
Trifloxystrobin	< 0.02 PPM	

6. Other Contaminants. If any Test Batch is found to contain levels of any microorganism, chemical, elemental impurity, or pesticides that could be toxic if consumed or present, then the Regulated Marijuana Testing Facility must notify the Regulated Marijuana Business and the Division, in accordance with subparagraph (7) of this Rule, and initiate corrective actions with all parties.

7. Division Notification. A Regulated Marijuana Testing Facility must notify the Division by timely input in the Inventory Tracking System if a Test Batch is found to contain levels of

a contaminant not listed within this Rule that could be injurious to human health if consumed. *See* Rule 3-825.

E. Potency Testing.

1. Cannabinoids Potency Profiles. A Regulated Marijuana Testing Facility may test and report results for any Cannabinoid provided the test is conducted in accordance with the Regulated Marijuana Testing Facility's standard operating procedure.

2. Reporting of Results.

a. For potency tests on Regulated Marijuana, Regulated Marijuana Concentrate, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana, results must be reported by listing a single percentage concentration for each Cannabinoid that represents an average of all Samples within the Test Batch. This includes reporting the Total THC in addition to each Cannabinoid required in Rule 4-125.

b. For potency tests conducted on Regulated Marijuana Product, whether conducted on each individual Production Batch or via a Reduced Testing Allowance per Rule 4-125, results must be reported by listing the total number of milligrams contained within a single Regulated Marijuana Product unit for sale for each Cannabinoid and stating whether the THC content is homogenous as defined in Paragraphs 3 and 4 of this subparagraph E.

c. Effective Date for Reporting D8-THC, D10-THC, and Exo-THC. Requirements for reporting potency test results for D8-THC, D10-THC, and Exo-THC shall take effect on July 1, 2022.

3. Failed Potency Tests for Medical Marijuana Product.

a. If the Cannabinoid content of Medical Marijuana Product is determined not to be homogeneous, then it shall be considered to have failed potency testing. A Production Batch of Medical Marijuana Product shall be considered homogeneous if a minimum of a total of four servings from two packaged units of a Test Batch has a relative standard deviation of less than 10 percent for each Cannabinoid listed on the label. A Production Batch of Medical Marijuana Product shall be considered homogenous if a minimum of a total of four servings from four individual single serve packaged units of a Test Batch has a relative standard deviation of less than 10 percent for each Cannabinoid listed on the label.

i. The four servings must also test within the allowed potency variance set forth in subparagraph E(5) of this Rule 4-115.

ii. Any Cannabinoid that makes up less than 10 percent of the total amount of Cannabinoids in the Medical Marijuana Product shall not be subject to the requirements set forth in this subparagraph (E)(3).

b. If an individually packaged Edible Medical Marijuana Product is determined to have more than the total milligrams of THC stated on the Container, or less than the total milligrams of THC stated on the Container, then the Test Batch shall be considered to have failed potency testing. Except that the potency variance provided for in subparagraph (E)(5) of this Rule 4-115 shall apply to potency testing.

4. Failed Potency Tests for Retail Marijuana Product.

   a. If the Cannabinoid content of Retail Marijuana Product is determined not to be homogeneous, then it shall be considered to have failed potency testing. A Production Batch of Retail Marijuana Product shall be considered homogeneous if a minimum of a total of four servings from two packaged units of a Test Batch has a relative standard deviation of less than 10 percent for each Cannabinoid listed on the label. A Production Batch of Retail Marijuana Product shall be considered homogenous if a minimum of a total of four servings from four individual single serve packaged units of a Test Batch has a relative standard deviation of less than 10 percent for each Cannabinoid listed on the label.

      i. The four servings must also test within the allowed potency variance set forth in subparagraph E(5) of this Rule 4-115.

      ii. Any Cannabinoid that makes up less than 10 percent of the total amount of Cannabinoids in the Retail Marijuana Product shall not be subject to the requirements set forth in this subparagraph (E)(4).

   b. If an individually packaged Edible Retail Marijuana Product is determined to have more than 100 milligrams of THC within it, then the Test Batch shall be considered to have failed potency testing. If an individually packaged Edible Retail Marijuana Product is determined to have more than the total milligrams of THC stated on the Container, or less than the total milligrams of THC stated on the Container, then the Test Batch shall be considered to have failed potency testing. If a single serving in an individually packaged Edible Retail Marijuana Product is determined to have more than 10 milligrams of THC then the Test Batch shall be considered to have failed potency testing. Except that the potency variance provided for in subparagraph (E)(5) of this Rule 4-115 shall apply to potency testing.

5. Potency Variance. Regulated Marijuana Product provided to the Regulated Marijuana Testing Facility must comply with the following potency variance:

   a. For Regulated Marijuana Product with a Target Potency or making a potency claim for any cannabinoid of more than 2.5 milligrams per serving the potency variance shall differ no more than plus or minus 15 percent.

   b. For Regulated Marijuana Product with a Target Potency or making a potency claim for any cannabinoid of 2.5 milligrams or less per serving the potency variance shall differ no more than the greater of plus or minus 0.5 mg or 40 percent per serving.

F. Testing Regulated Marijuana Ready for Transfer. All tests must occur at the time the Regulated Marijuana is ready for Transfer to another Regulated Marijuana Business, according to the required steps outlined in the standard operating procedures of the Licensee submitting the Test Batch.

G. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-120

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-

10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing the contaminant testing and related Reduced Testing Allowance portion of the Division's Regulated Marijuana sampling and testing program. This Rule 4-120 was previously Rules M and R 1501, 1 CCR 212-1 and 1 CCR 212-2.

4-120 – Regulated Marijuana Testing Program: Contaminant Testing

A. Contaminant Testing Required.

1. A Regulated Marijuana Business shall not Transfer or process Regulated Marijuana, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, Regulated Marijuana Concentrate or Regulated Marijuana Product unless Test Batches from each Harvest Batch or Production Batch from which that Regulated Marijuana was derived has been tested by a Regulated Marijuana Testing Facility for contaminants and passed all contaminant tests required by this Rule, except as permitted in Rule 5-205(C), 6-205(C), or the cultivation or production process has achieved a Reduced Testing Allowance under this Rule.

B. Reduced Testing Allowance and Ongoing Testing – Contaminant Testing.

1. Regulated Marijuana. A Regulated Marijuana Cultivation Facility's cultivation process may achieve a Reduced Testing Allowance for contaminant testing if every Harvest Batch that it produced during at least a six-week period (minimum 42 days) but no longer than a 12-week period (maximum 84 days) passed all contaminant tests required by Paragraph (C) of this Rule. This must include at least six Test Batches. The period begins from the date of the creation of the first Harvest Batch that passed reduced testing allowance testing. A Medical Marijuana Cultivation Facility, a Retail Marijuana Cultivation Facility, or an Accelerator Cultivator can achieve a Reduced Testing Allowance for all contaminants listed in paragraph (C) of this Rule at the same time or separately for each contaminant.

    a. Visual Microbial Growth. If a Regulated Marijuana Cultivation Facility is aware that a Harvest Batch contains visual microbial contamination, the Regulated Marijuana Cultivation Facility shall subject the Harvest Batch to microbial contaminant testing pursuant to Rule 4-120(C)(1). If the Test Batch fails testing, then the Harvest Batch shall be subject to the requirements in Rule 4-135(C). The Licensees must also follow Rule 4-120(F)(2).

2. Regulated Marijuana Concentrate, Regulated Marijuana Product, Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana. A Regulated Marijuana Business's production process may achieve a Reduced Testing Allowance for contaminant testing if for a particular type of Regulated Marijuana Concentrate, Regulated Marijuana Product, or Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana every Production Batch that it produced during at least a four-week period (minimum 28 days) but no longer than an eight-week period (maximum 56 days) passed all contaminant tests required by Paragraph (C) of this Rule. This must include Test Batches from at least four Production Batches. This period begins from the date of the creation of the first Production Bach that passed reduced testing allowance testing. If a Regulated Marijuana Concentrate or Regulated Marijuana Product is manufactured using a different extraction process or infusion process or using any different Additives or Botanically Derived Compounds, it will be considered a different type of Regulated Marijuana Concentrate or Regulated Marijuana Product and therefore must separately achieve a Reduced Testing Allowance. If Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana is produced using different input materials, such as a different marijuana category (e.g. flower or trim), different wrapper materials, different processes, or different equipment, they must achieve separate Reduced Testing Allowances.

3. Reduced Testing Allowances are Effective for One Year. Once a Regulated Marijuana Business has successfully achieved a Reduced Testing Allowance for each of the contaminants listed in paragraph (C) of this Rule, the Reduced Testing Allowance is effective for one year (365 days inclusive, or 366 days inclusive during a leap year) from the date of the first passing harvest date or production date required to satisfy the Reduced Testing Allowance requirements.

4. Regulated Marijuana Ongoing Contaminant Testing. After successfully achieving a Reduced Testing Allowance, once every 30 days a Regulated Marijuana Business shall subject at least one Harvest Batch to all contaminant testing required by Paragraph (C) of this Rule. If during any 30-day period the Regulated Marijuana Business does not possess a Harvest Batch that is ready for testing, the Regulated Marijuana Business must subject its first Harvest Batch that is ready for testing to the required contaminant testing prior to Transfer or processing of the Regulated Marijuana. If a Harvest Batch subject to ongoing contaminant testing fails contaminant testing, the Regulated Marijuana Business shall follow the procedure in Paragraph (F)(2) of this Rule. Ongoing contaminant testing pursuant to this Rule 4-120 shall be subject to the requirements in Rule 4-110. *See* Rule 4-110(A) – Collection of Samples.

    a. The Division may reduce the frequency of ongoing contaminant testing required if the Division has reasonable grounds to believe Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities have reached maximum capacity to perform testing required by this Rule. The Division will provide notification of any reduction to the frequency of ongoing contaminant testing to the Licensee's last electronic mailing address provided to the Division.

    b. If the Licensee fails to comply with paragraph (B)(4) of this Rule, the Regulated Marijuana Business is no longer authorized a Reduced Testing Allowance.

5. Regulated Marijuana Concentrate, Regulated Marijuana Product, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana Ongoing Contaminant Testing. After successfully achieving a Reduced Testing Allowance, once every 30 days the Regulated Marijuana Business shall subject at least one Production Batch of each particular type of Regulated Marijuana Concentrate, Regulated Marijuana Product, Pre-Rolled Marijuana, or Infused Pre-Rolled Marijuana for which it has achieved a Reduced Testing Allowance to all contaminant testing required by Paragraph (C) of this Rule. If during any 30-day period the Regulated Marijuana Business does not possess a Production Batch that is ready for testing, the Regulated Marijuana Business must subject its first Production Batch that is ready for testing to the required contaminant testing prior to Transfer or processing of the Regulated Marijuana. If a Production Batch submitted for ongoing contaminant testing fails contaminant testing, the Regulated Marijuana Business shall follow the procedure in Paragraph (F)(2) of this Rule.

    a. The Division may reduce the frequency of ongoing contaminant testing required if the Division has reasonable grounds to believe Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities have reached maximum capacity to perform testing required by this Rule. The Division will provide notification of any reduction to the frequency of ongoing contaminant testing to the Licensee's last electronic mailing address provided to the Division.

    b. If the Licensee fails to comply with paragraph (B)(5) of this Rule, the Regulated Marijuana Business is no longer authorized under a Reduced Testing Allowance.

C. Required Contaminant Tests.

1. Microbial Contaminant Testing. Harvest Batches of Regulated Marijuana, flower, shake, and trim, re-testing of Regulated Marijuana flower, shake, and/or trim that has undergone Decontamination, Production Batches of Physical Separation-, Heat/Pressure-, or Food-Based Medical Marijuana Concentrate, Production Batches of Physical Separation-, Heat/Pressure-, or Food-Based Retail Marijuana Concentrate, Solvent-Based Medical Marijuana Concentrate produced through Remediation, Solvent-Based Retail Marijuana Concentrate produced through Remediation, Regulated Marijuana Product, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, Industrial Hemp Products, Pressurized Metered Dose Inhalers, Vaporizer Delivery Devices, and Audited Product must be tested for microbial contamination by a Regulated Marijuana Testing Facility at the frequency established by Paragraphs (A) and (B) of this Rule. The microbial contamination test must include, but need not be limited to, testing to determine the presence of and/or amounts present of microbial contaminants listed in Rule 4-115(D)(1): Shiga-toxin producing Escherichia coli (STEC)*- Bacteria, *Aspergillus (A. fumigatus, A. flavus, A. niger, A. terreus),* Salmonella species* – Bacteria, Total Yeast and Mold, Total aerobic microbial count, *Staphylococcus Aureus, Pseudomonas aeruginosa, Bile tolerant gram negative bacteria and Candida albicans*.

    a. Effective Date for Required *Aspergillus* Testing. Requirements for *Aspergillus* testing pursuant to this rule shall take effect on July 1, 2022.

1.5 Water Activity Testing. Harvest Batches of Regulated Marijuana, flower, shake, and trim (other than wet whole plant), re-testing of Regulated Marijuana flower, shake, and/or trim that has undergone Decontamination, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana at the frequency established by Paragraphs (A) and (B) of this Rule.

2. Residual Solvent Contaminant Testing. Production Batches of Solvent-Based Medical Marijuana Concentrate, Solvent-Based Retail Marijuana Concentrate, and Audited Product that contains any Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate produced by a Regulated Marijuana Products Manufacturer must be tested by a Regulated Marijuana Testing Facility for residual solvent contamination at the frequency established by Paragraphs (A) and (B) of this Rule. The residual solvent contamination test must include, but need not be limited to, testing to determine the presence of, and amounts present of acetone, butane, ethanol, heptanes, isopropyl alcohol, propane, benzene*, toluene*, pentane, hexane*, methanol*, ethyl acetate, and total xylenes* (m, p, o – xylenes).

    * Note: These solvents are not approved for use. Testing is required for these solvents due to their possible presence in the solvents approved for use per Rule 5-315 and 6-315.

3. Mycotoxin Contaminant Testing. As part of Remediation, each Production Batch of Solvent-Based Medical Marijuana Concentrate produced by a Medical Marijuana Products Manufacturer or Solvent-Based Retail Marijuana Concentrate produced by a Regulated Marijuana Products Manufacturer from Regulated Marijuana that failed microbial contaminant testing produced must be tested by a Regulated Marijuana Testing Facility for mycotoxin contamination. Each failed Harvest Batch of Regulated Marijuana flower, shake, and/or trim and each failed Production Batch of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana that has undergone Decontamination must be tested by a Regulated Marijuana Testing Facility for mycotoxin contamination. Each Production Batch of Regulated Marijuana Concentrate produced from wet whole plant that was not tested for microbial contamination must be tested for mycotoxin contamination. The mycotoxin contaminant test must include, but need not be limited to, testing to determine the presence of, and amounts present of, aflatoxins (B1, B2, G1, and G2) and ochratoxin A. This is in addition to all other contaminant testing required by this Paragraph (C). This contaminant test cannot be exempt from testing by a Reduced Testing Allowance in

accordance with subparagraph (B)(2) of this Rule, except Regulated Marijuana Concentrate produced from wet whole plant that was not tested for microbial contamination pursuant to Rule 4-121.

4. Pesticide Contaminant Testing. Harvest Batches of Regulated Marijuana, Production Batches of Regulated Marijuana Concentrate, Production Batches of Pre-Rolled Marijuana, and Production Batches of Infused Pre-Rolled Marijuana must be tested for Pesticide contamination by a Regulated Marijuana Testing Facility at the frequency established by this Rule 4-120(A) and (B). The Pesticide contamination test must include, but need not be limited to, testing to determine the presence of, and amounts present of, the Pesticides listed in Rule 4-115(E)(5).

   a. Effective Date for Required Pesticide Contaminant Testing for Production Batches of Regulated Marijuana Concentrate: Requirements for Pesticide contaminant testing for Production Batches of Regulated Marijuana Concentrate pursuant to this rule shall take effect on July 1, 2021.

5. Elemental Impurities Testing.

   a. Each Harvest Batch and Production Batch of Regulated Marijuana must be tested for elemental impurities by a Regulated Marijuana Testing Facility at the frequency established in paragraphs (A) and (B) of this Rule. The elemental impurities test must include, but need not be limited to, testing to determine the presence of, and amounts present of, arsenic, cadmium, lead, and mercury.

   b. Emissions Testing. This subsection (C)(5)(b) is effective January 1, 2022. Each Harvest Batch and Production Batch of Regulated Marijuana Concentrate in a Vaporized Delivery Device must be tested for elemental impurities via emissions testing by a Regulated Marijuana Testing Facility at the frequency established in subparagraphs (A) and (B) of this Rule. The elemental impurities test must include, but need not be limited to, testing to determine the presence and amounts of arsenic, cadmium, lead, and mercury.

D. Additional Required Tests. The Division may require additional tests to be conducted on a Harvest Batch or Production Batch prior to a Regulated Marijuana Cultivation Facility or Regulated Marijuana Products Manufacturer Transferring or processing any Regulated Marijuana from that Harvest Batch or Production into a Regulated Marijuana Concentrate or Regulated Marijuana Product. Additional tests may include, but need not be limited to, screening for Pesticide, chemical contaminants, biological contaminants, or other types of microbials, molds, elemental impurities, or residual solvents.

E. Exemptions.

1. Medical Marijuana Concentrate.

   a. A Medical Marijuana Products Manufacturer who combines multiple Production Batches of Solvent-Based Medical Marijuana Concentrate into a Production Batch of Solvent-Based Medical Marijuana Concentrate shall be considered exempt from residual solvent testing pursuant to this Rule only if all original Production Batches passed residual solvent testing. This does not apply if a solvent, Additive, or any other Ingredient was introduced during the combination of the Production Batches.

   b. A Production Batch of Medical Marijuana Concentrate shall be considered exempt from contaminant testing requirements pursuant to this Rule if the

Medical Marijuana Products Manufacturer that produced it does not Transfer any portion of the Production Batch and uses the entire Production Batch to manufacture Medical Marijuana Product, except that a Solvent-Based Medical Marijuana Concentrate must still be submitted for residual solvent contaminant testing and Medical Marijuana Concentrate must still be submitted for pesticide contaminant testing. The manufactured Medical Marijuana Product shall be subject to mandatory testing under this Rule.

2. Retail Marijuana Concentrate.

a. A Retail Marijuana Products Manufacturer or Accelerator Manufacturer who combines multiple Production Batches of Solvent-Based Retail Marijuana Concentrate into a Production Batch of Solvent-Based Retail Marijuana Concentrate shall be considered exempt from residual solvent testing pursuant to this Rule only if all original Production Batches passed residual solvent testing. This does not apply if a solvent, Additive or any other Ingredient was introduced during the combination of the Production Batches.

b. A Production Batch of Retail Marijuana Concentrate shall be considered exempt from contaminant testing requirements pursuant to this Rule if the Retail Marijuana Products Manufacturer that produced it does not Transfer any portion of the Production Batch and uses the entire Production Batch to manufacture Retail Marijuana Product, except that a Solvent-Based Retail Marijuana Concentrate must still be submitted for residual solvent contaminant testing and Retail Marijuana Concentrate must still be submitted for pesticide contaminant testing. The manufactured Retail Marijuana Product shall be subject to testing under this Rule.

3. Regulated Marijuana Product. A Regulated Marijuana Business that produces Regulated Marijuana Products with intended use for oral consumption or skin and body products, is exempt from aspergillus testing as required by these 4-100 Series Rules.

F. Events Requiring Re-Authorization for a Reduced Testing Allowance - Contaminants.

1. Material Change. If a Licensee makes a Material Change to its cultivation or production process or its standard operating procedures , then it must have the first five Harvest Batches or Production Batches produced using the new procedures tested for all of the contaminants required by Paragraph (C) of this Rule regardless of whether its process has previously achieved a Reduced Testing Allowance regarding contaminants. If any of those tests fail, then the Regulated Marijuana Business's process must achieve a new Reduced Testing Allowance.

a. Pesticide or other Agricultural Substances. It is a Material Change if a Regulated Marijuana Cultivation Facility begins using a new or different Pesticide or other agricultural substances (e.g. nutrients, fertilizers) during its cultivation process.

b. Solvents. It is a Material Change if a Regulated Marijuana Products Manufacturer begins using a new or different solvent or combination of solvents or changes any parameters for equipment related to the solvent purging process, including but not limited to, time, temperature, or pressure.

c. Cultivation. It is a Material Change if a Regulated Marijuana Cultivation Facility begins using a new or different method for any material part of the cultivation process, including, but not limited to, changing from one growing medium to another.

d. Environmental Conditions. It is a Material Change if a Regulated Marijuana Cultivation Facility changes parameters associated with environmental conditions, including temperature, humidity, or lighting.

e. Cleaning and Sanitation. It is a Material Change if a Regulated Marijuana Cultivation Facility makes changes to cleaning or sanitation processes.

f. Inputs and Contact Surfaces. It is a Material Change if a Regulated Marijuana Cultivation Facility changes materials that have direct contact with product components, including but not limited to, ingredients, additives, or hardware such as Vaporizer Delivery Devices.

g. Testing Required Prior to Transfer or Processing. When a Harvest Batch or Production Batch is required to be submitted for testing pursuant to this Rule, the Licensee that produced it may not Transfer or process Regulated Marijuana, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, Regulated Marijuana Concentrate or Regulated Marijuana Product unless the Harvest Batch or Production Batch passes all required testing.

2. Failed Contaminant Testing and Reduced Testing Allowance. Failed contaminant testing may constitute a violation of these rules.

a. If a Test Batch is required to be tested by these Rules or required to be tested by the Division pursuant to Rule 4-120(A) and fails contaminant testing, the Licensee shall follow the procedures in Rule 4-135(B) for any Inventory Tracking System package, Harvest Batch, or Production Batch from which the failed Sample was taken.

b. The Licensee shall also submit Test Batches from three new Harvest Batches or Production Batches of the Regulated Marijuana for contaminant testing by a Regulated Marijuana Testing Facility within no more than 30 days. If any one of the three submitted Test Batches fails contaminant testing, the Licensee shall achieve a new Reduced Testing Allowance for contaminants.

G. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-121

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish requirements and exemptions for contaminant testing for wet whole plant.

4-121 – Regulated Marijuana Testing Program: Wet Whole Plant Contaminant Testing

A. Microbial Contaminant Testing. A Regulated Marijuana Cultivation Facility shall not Transfer wet whole plant or process wet whole plant into Regulated Marijuana Concentrate unless Test Batches from each Harvest Batch of Regulated Marijuana wet whole plant were tested for microbial contamination by a Regulated Marijuana Testing Facility and passed all microbial contaminant tests except as permitted in Rules 5-205(C), 6-205(C), or the cultivation process has achieved a Reduced Testing Allowance under this Rule. The microbial contamination test must include, but need not be limited to, testing to determine the presence of and/or amounts present

of microbial contaminants listed in Rule 4-115(D)(1): Shiga-toxin producing Escherichia coli (STEC)*- Bacteria, *Aspergillus (A. fumigatus, A. flavus, A. niger, A. terreus),* Salmonella species* – Bacteria, Total Yeast and Mold.

B. Reduced Testing Allowance and Ongoing Testing – Microbial Contaminant Testing. A Regulated Marijuana Cultivation Facility's cultivation process for wet whole plant shall be deemed acceptable for a Reduced Testing Allowance for microbial contaminant testing if every Harvest Batch of wet whole plant that it produced during at least a three-week (minimum 21 days) period but no longer than a 12-week (maximum 84 days) period passed all microbial contaminant tests required by this Rule. This must include at least six Test Batches. A Medical Marijuana Cultivation Facility, a Retail Marijuana Cultivation Facility, or an Accelerator Cultivator can achieve a Reduced Testing Allowance for contaminants listed in this Rule 4-121.

C. Reduced Testing Allowances are Effective for One Year. Once a Regulated Marijuana Business has successfully achieved a Reduced Testing Allowance for a contaminant test, the Reduced Testing Allowance is effective for one year (365 days inclusive, or 366 days inclusive during a leap year) from the date of the first passing harvest date or required to satisfy the Reduced Testing Allowance requirements.

D. Regulated Marijuana Ongoing Contaminant Testing. After successfully achieving a Reduced Testing Allowance, once every 30 days a Regulated Marijuana Cultivation Facility shall subject at least one Harvest Batch of wet whole plant to microbial contaminant testing. If during any 30-day period a Regulated Marijuana Cultivation Facility does not possess a Harvest Batch of wet whole plant that is ready for testing, the Regulated Marijuana Cultivation Facility must subject its first Harvest Batch of wet whole plant that is ready for testing to a microbial contaminant testing prior to Transfer or processing of the Regulated Marijuana wet whole plant. If a Harvest Batch of wet whole plant subject to ongoing contaminant testing fails contaminant testing, the Regulated Marijuana Cultivation Facility shall follow the procedure in Paragraph (F)(2) of Rule 4-120. Ongoing contaminant testing pursuant to this Rule shall be subject to the requirements in Rule 4-110. *See* Rule 4-110(A) – Collection of Samples.

1. The Division may reduce the frequency of ongoing contaminant testing required if the Division has reasonable grounds to believe Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities have reached maximum capacity to perform testing required by this Rule. The Division will provide notification of any reduction to the frequency of ongoing contaminant testing to the Licensee's last electronic mailing address provided to the Division.

2. If the Licensee fails to comply with Paragraph (D) of this Rule, the Regulated Marijuana Cultivation Facility is no longer authorized a Reduced Testing Allowance.

E. Testing Exemptions for Wet Whole Plant.

1. Harvest Batches of Regulated Marijuana wet whole plant are exempt from required water activity testing.

2. Harvest Batches of Regulated Marijuana wet whole plant is exempt from required microbial contaminant testing if a Regulated Marijuana Cultivation Facility Transfers the Regulated Marijuana wet whole plant for the purposes of extraction to a Regulated Marijuana Business with at least one identical Controlling Beneficial Owner and in accordance with this Rule. If a Regulated Marijuana wet whole plant Harvest Batch is not tested for microbial contamination, each resulting Regulated Marijuana Concentrate Production Batch shall be tested for microbial contamination pursuant to Rule 4-120.

F. Regulated Marijuana Concentrate Produced from Wet Whole Plant That Was Not Tested for Microbial Contaminants.

1. Required Testing. Each Production Batch of Regulated Marijuana Concentrate produced from wet whole plant that was not tested for microbial contaminants in accordance with the exemption in paragraph (E)(2) of this Rule must be tested for microbial contaminants and mycotoxins. In addition, the Regulated Marijuana Concentrate must be tested in accordance with Rule 4-120 for other contaminants, including pesticides, elemental impurities, and residual solvents if applicable.

2. Regulated Marijuana Concentrate Produced from Wet Whole Plant Not Tested for Microbial Contamination. A Regulated Marijuana Business that produces Regulated Marijuana Concentrate may achieve a Reduced Testing Allowance for a Regulated Marijuana Concentrate produced from wet whole plant that was not tested for microbial contamination, subject to the following requirements:

a. Qualification Form. The Regulated Marijuana Business that produces Regulated Marijuana Concentrate from wet whole plant not tested for microbial contamination shall obtain a completed qualification form from the Regulated Marijuana Business that cultivated the wet whole plant. The qualification form must detail the following information related to the cultivation of the wet whole plant:

i. Implemented quality management systems;

ii. Record keeping;

iii. Notification of Material Change;

iv. Notification of a wet whole plant microbial Test Batch failure;

v. Cultivation and post-harvest procedures;

vi. Cleaning; and

vii. Corrective action and preventative action.

b. Completion Required. The Regulated Marijuana Business that wishes to Transfer the wet whole plant that was not tested for microbial contamination must provide a completed qualification form detailing the information listed above.

c. Approval. The Regulated Marijuana Business that receives a Transfer of wet whole plant is responsible for ensuring it conforms with specified approval requirements, which shall include but is not limited to the following:

i. The receiving Regulated Marijuana Business has confirmed it has not received notification by the Regulated Marijuana Cultivation Facility of a Material Change to its cultivation process;

ii. The receiving Regulated Marijuana Business has inspected the wet whole plant Harvest Batch for visual microbial contamination. If visual microbial contamination is identified in the Harvest Batch of wet whole plant, the Licensee shall subject the Harvest Batch to microbial contaminant testing pursuant to Rule 4-121. If the Test Batch fails

testing, then the Harvest Batch shall be subject to the requirements in Rule 4-135(C).; and

iii. The receiving Regulated Marijuana Business has obtained evidence of compliance with testing requirements for the wet whole plant and proof of any Reduced Testing Allowances, if appliable.

d. Origin Verification. Verification of the Regulated Marijuana Business that cultivated the wet whole plant used to manufacture the Regulated Marijuana Concentrate.

3. Recordkeeping Requirements. A Regulated Marijuana Business shall maintain copies of documents and other records evidencing compliance with this Rule as part of its business books and records. *See* Rule 3-905 – Business Records Required.

G. Pesticide and Elemental Impurities Testing for Regulated Marijuana Wet Whole Plant. Each Harvest Batch of Regulated Marijuana wet whole plant must be tested for Pesticide and Elemental Impurities testing in accordance with Rule 4-120.

H. Events Requiring Re-Authorization for a Reduced Testing Allowance. A Regulated Marijuana Cultivation Facility must follow Rule 4-120 for any events that would require a Re-Authorization for a Reduced Testing Allowance. That may include a failed test or a Material Change described in Rule 4-120 (F). The Licensee must act in accordance with Rule 4-120 (F)(2) if either scenario occurs.

I. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-125

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing the potency testing and related Reduced Testing Allowance portion of the Division's Regulated Marijuana sampling and testing program. This Rule 4-125 was previously Rules M and R 1503, 1 CCR 212-1 and 1 CCR 212-2.

4-125 – Regulated Marijuana Testing Program: Potency Testing

A. Potency Testing – General.

1. Test Batches. A Test Batch submitted for potency testing may only be comprised of sample increments that are of the same strain of Medical Marijuana or Retail Marijuana or from the same Production Batch of Medical Marijuana Concentrate or Medical Marijuana Product, or from the same Production Batch of Retail Marijuana Concentrate or Retail Marijuana Product, or from the same Production Batch of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana.

2. Cannabinoid Profile. A potency test conducted pursuant to this Rule must at least determine the level of concentration of D8-THC, D9-THC, D-10 THC, Exo-THC, THCA, CBD, CBDA, and CBN.

B. Potency Testing for Regulated Marijuana.

1. Initial Potency Testing. A Regulated Marijuana Cultivation Facility must have potency tests conducted by a Regulated Marijuana Testing Facility on four Harvest Batches, created a minimum of one week apart, for each strain of Regulated Marijuana that it cultivates. *See* Rule 4-105(B).

    a. The first potency test must be conducted on each strain prior to the Regulated Marijuana Cultivation Facility Transferring or processing into a Medical Marijuana Concentrate any Medical Marijuana of that strain, or into a Retail Marijuana Concentrate any Retail Marijuana of that strain.

    b. All four potency tests must be conducted on each strain no later than December 1, 2014 or six months after the Regulated Marijuana Cultivation Facility begins cultivating that strain, whichever is later.

2. Ongoing Potency Testing. After the initial four potency tests, a Regulated Marijuana Cultivation Facility shall have each strain of Regulated Marijuana that it cultivates tested for potency at least once per quarter.

    a. If the Licensee fails to comply with paragraph (B)(2) of this Rule, the Regulated Marijuana Cultivation Facility is no longer authorized for a Reduced Testing Allowance.

C. Potency Testing for Regulated Marijuana Concentrate except Kief.

1. A Medical Marijuana Cultivation Facility or a Medical Marijuana Products Manufacturer must have a potency test conducted by a Medical Marijuana Testing Facility on every Production Batch of Medical Marijuana Concentrate that it produces prior to Transferring or processing into a Medical Marijuana Product any of the Medical Marijuana Concentrate from that Production Batch.

2. A Retail Marijuana Cultivation Facility, Accelerator Cultivator, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer must have a potency test conducted by a Retail Marijuana Testing Facility on every Production Batch of Retail Marijuana Concentrate that it produces prior to Transferring or processing into a Retail Marijuana Product any of the Retail Marijuana Concentrate from that Production Batch.

D. Repealed.

E. Potency Testing for Regulated Marijuana Product.

1. Potency Testing Required for Regulated Marijuana Product. A Regulated Marijuana Products Manufacturer shall have potency tests conducted by a Regulated Marijuana Testing Facility on every Production Batch of each type of Regulated Marijuana Product that it produces prior to Transferring any of the Regulated Marijuana Product from that Production Batch, unless the Regulated Marijuana Products Manufacturer has successfully achieved a Reduced Testing Allowance for potency and homogeneity for the particular type of Regulated Marijuana Product.

2. Required Tests. Potency and homogeneity tests conducted on Regulated Marijuana Product must determine the level of concentration of the required Cannabinoids and whether or not THC is homogeneously distributed throughout the product.

3. Partially Infused Regulated Marijuana Products. If only a portion of a Regulated Marijuana Product is infused with Regulated Marijuana, then the Regulated Marijuana Products Manufacturer must inform the Regulated Marijuana Testing Facility of exactly

which portions of the Regulated Marijuana Product are infused and which portions are not infused.

E.1. Potency Testing Required for Pre-Rolled Marijuana.

1. A Regulated Marijuana Business shall have potency tests conducted by a Regulated Marijuana Testing Facility on every Production Batch of each type of Pre-Rolled Marijuana product that it produces prior to Transferring or selling any of the Pre-Rolled Marijuana from that Production Batch if the Regulated Marijuana Business is using multiple strains from different sources (e.g. self-grown source, wholesale source) and/or selecting only a part of the Harvest Batch(es) that is not representative of the entire Harvest Batch each time they produce a certain type of Pre-Rolled Marijuana (e.g. using only the shake/trim out of a Harvest Batch).

2. If each type of Pre-Rolled Marijuana is created using select parts of a single strain (e.g. flower only, shake/trim only) or a specific ratio of strains from specified sources (e.g. self-grown source, wholesale source) defined by the Regulated Marijuana Business' standard operating procedures, a Regulated Marijuana Business shall have potency tests conducted according to paragraph (E.1)(2)(a) and (b) of this Rule by a Regulated Marijuana Testing Facility for each type of Pre-Rolled Marijuana product that it produces prior to Transferring or selling any of the Pre-Rolled Marijuana from a Production Batch.

   a. Initial Potency Testing. Initial potency tests shall be conducted by a Regulated Marijuana Testing Facility on four Production Batches, created a minimum of one week apart, for each type of Pre-Rolled Marijuana that is created using a single strain or a specific ratio of strains defined by the Regulated Marijuana Business' standard operating procedures.

   b. Ongoing Potency Testing. After the initial four potency tests, ongoing potency tests shall be conducted by a Regulated Marijuana Testing Facility at least once per quarter for each type of Pre-Rolled Marijuana that is created using a single strain or a specific ratio of strains defined by the Regulated Marijuana Business' standard operating procedures.

3. A Regulated Marijuana Business shall be considered exempt from potency testing if the Pre-Rolled Marijuana Production Batch uses a single strain and uses all parts of the Harvest Batch that were included in the potency testing of the Harvest Batch prior to creating the Pre-Rolled Marijuana Production Batches. In this case, the potency test results of the Harvest Batch shall be used for the Pre-Rolled Marijuana Production Batch.

4. Production Batches of Pre-Rolled Marijuana are exempt from homogeneity testing.

E.2. Potency Testing Required for Infused Pre-Rolled Marijuana.

1. A Regulated Marijuana Business shall have potency tests conducted by a Regulated Marijuana Testing Facility on every Production Batch of Infused Pre-Rolled Marijuana product that it produces prior to Transferring any of the Infused Pre-Rolled Marijuana from that Production Batch.

2. Production Batches of Infused Pre-Rolled Marijuana are exempt from homogeneity testing.

F. Reduced Testing Allowance - Potency and Homogeneity.

1. A Retail Marijuana Products Manufacturer or Accelerator Manufacturer may achieve a Reduced Testing Allowance for potency and homogeneity for each type of Retail Marijuana Product it manufactures.

    a. For Edible Retail Marijuana Products a potency test result that is within 15 percent of the target potency will count towards a Reduced Testing Allowance.

        i. For Edible Retail Marijuana Products that contain 2.5 milligrams of THC or less per serving, a potency test result that is within the greater of plus or minus 0.5 milligrams or 40 percent per serving will count towards a Reduced Testing Allowance.

2. A Medical Marijuana Products Manufacturer may achieve a Reduced Testing Allowance for potency and homogeneity for each type of non-Edible Medical Marijuana Product and each type of Edible Medical Marijuana Product that it manufactures.

    a. For Edible Medical Marijuana Products that contain 100 milligrams of THC or less per Container, a potency test result that is within 15 percent of the target potency will count towards a Reduced Testing Allowance.

        i. For Edible Medical Marijuana Products that contain 2.5 milligrams of THC or less per serving and less than 100 milligrams of THC per Container, a potency test result that is within the greater of plus or minus 0.5 milligrams or 40 percent per serving will count towards a Reduced Testing Allowance.

    b. For Edible Medical Marijuana Products that contain between 101 and 500 milligrams of THC per Container, a potency test result that is within 10 percent of the target potency will count towards a Reduced Testing Allowance.

    c. For Edible Medical Marijuana Products that contain 501 milligrams of THC or more per Container, a potency test result that is within 5 percent of the target potency will count towards a Reduced Testing Allowance.

3. A Regulated Marijuana Products Manufacturer's production process for a particular type of Regulated Marijuana Product shall be deemed acceptable for a Reduced Testing Allowance for potency and homogeneity testing if every Production Batch that it produces for that particular type of Regulated Marijuana Product during at least a four-week period but no longer than an eight-week period passes all potency and homogeneity tests required by Rule 4-125. This must include at least four Test Batches.

4. Expiration of a Reduced Testing Allowance. A Regulated Marijuana Products Manufacturer is required to achieve a new Reduced Testing Allowance every 12 months from the date the Reduced Testing Allowance is achieved (365 days inclusive, or 366 days inclusive during a leap year from the date of the first Production Batch utilized to initiate establishing a Reduced Testing Allowance), after which point the Reduced Testing Allowance expires. When the Reduced Testing Allowance expires, the Regulated Marijuana Business shall comply with the requirements of this Rule.

5. Regulated Marijuana Product Ongoing Potency and Homogeneity Testing. After successfully achieving a Reduced Testing Allowance, once per quarter a Regulated Marijuana Products Manufacturer shall subject at least one Production Batch of each type of Medical Marijuana Product or Retail Marijuana Product that it produces to potency and homogeneity testing required by Paragraph (D) of this Rule. If during any quarter the Regulated Marijuana Products Manufacturer does not possess a Production Batch that is

ready for testing, the Licensee must subject its first Production Batch that is ready for testing to the required potency and homogeneity testing prior to Transfer or processing of the Regulated Marijuana. If a Test Batch submitted for ongoing potency and homogeneity testing fails potency and homogeneity testing, the Licensee shall follow the procedure in Paragraph (H) of this Rule. Ongoing potency and homogeneity testing pursuant to this Rule 4-125 shall be subject to the requirements in Rule 4-110. *See* Rule 4-110(A) – Collection of Samples.

a. The Division may reduce the frequency of ongoing potency and homogeneity testing required if the Division has reasonable grounds to believe Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities have reached maximum capacity to perform testing required by this Rule. The Division will provide notification of any reduction to the frequency of ongoing potency and homogeneity testing to the Licensee's last electronic mailing address provided to the Division.

b. If the Licensee fails to comply with paragraph (F)(5) of this Rule, the Regulated Marijuana Cultivation Facility is no longer authorized for a Reduced Testing Allowance.

G. Exemption. Any Regulated Marijuana that will be allocated for extraction in the Inventory Tracking System shall be considered exempt from potency testing pursuant to this Rule.

H. Events Requiring Re-Authorization for a Reduced Testing Allowance - Potency and Homogeneity - Regulated Marijuana Product.

1. Material Change. If a Regulated Marijuana Products Manufacturer elects to achieve a Reduced Testing Allowance for any Regulated Marijuana Products for potency and homogeneity and it makes a Material Change to its production process for that particular type of Regulated Marijuana Product, then the Regulated Marijuana Products Manufacturer shall achieve a new Reduced Testing Allowance.

a. New Equipment. It is a Material Change if the Regulated Marijuana Products Manufacturer begins using new or different equipment for any material part of the production process.

b. Repealed.

c. Testing Required Prior to Transfer. When a Production Batch is required to be submitted for testing pursuant to this Rule, the Regulated Marijuana Products Manufacturer that produced it may not Transfer Regulated Marijuana Product from that Production Batch unless it obtains a passing test.

2. Failed Potency Testing. Failed potency testing may constitute a violation of these rules.

a. If a Test Batch is required to be tested by these Rules or required to be tested by the Division pursuant to Rule 4-115(A) and fails potency testing, the Regulated Marijuana Products Manufacturer shall follow the procedures in Rule 4-135(C) for any Inventory Tracking System package or Production Batch associated with the failed Sample.

b. The Regulated Marijuana Products Manufacturer shall also submit Test Batches from three new Production Batches of the Regulated Marijuana Product t for potency testing by a Regulated Marijuana Testing Facility within no more than 30 days. If any one of the three submitted Test Batches fails potency testing, the

Regulated Marijuana Products Manufacturer shall achieve a new Reduced Testing Allowance.

I. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-130

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing rules requiring Regulated Marijuana Businesses to cover certain costs associated with the Division's Regulated Marijuana Sampling and Testing Program. This Rule 4-130 was previously Rules M and R 1506, 1 CCR 212-1 and 1 CCR 212-2.

4-130 – Regulated Marijuana Testing Program: Costs

The cost for all sampling and tests conducted pursuant to these rules shall be the financial responsibility of the Regulated Marijuana Business that is required to submit the Sample for testing.

Basis and Purpose – 4-135

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing rules governing the quarantining of potentially contaminated product and the destruction of product that failed contaminant or potency testing for Division's Regulated Marijuana Sampling and Testing Program. This Rule 4-135 was previously Rules M and R 1507, 1 CCR 212-1 and 1 CCR 212-2.

4-135 – Regulated Marijuana Testing Program: Contaminated Product and Failed Test Results and Procedures

A. Quarantining of Product.

1. If the Division has reasonable grounds to believe that a particular Harvest Batch, Production Batch, or Inventory Tracking System package of Regulated Marijuana is contaminated or presents a risk to public safety, then the Division may require a Regulated Marijuana Business to quarantine it until the completion of the Division's investigation, which may include, but is not limited to, the receipt of any test results.

2. If a Regulated Marijuana Business is notified by any local or state agency, or by a Regulated Marijuana Testing Facility that a Test Batch failed a contaminant or potency testing, then the Regulated Marijuana Business shall quarantine any Regulated Marijuana from any Inventory Tracking System package, Harvest Batch or Production Batch associated with that failed Test Batch and must follow the procedures established pursuant to this Rule.

3. Except as provided by this Rule, Regulated Marijuana that has been quarantined pursuant to this Rule must be physically separated from all other inventory and the Licensee may not Transfer or further process the Regulated Marijuana.

4. In addition to any other method authorized by law, the Division may implement the quarantine through the Inventory Tracking System by (a) indicating failed test results and (b) limiting the Licensee's ability to Transfer the quarantined Regulated Marijuana unless otherwise permitted by these rules.

B. Failed Contaminant Testing: All Contaminant Testing Except Microbial and Water Activity Testing of Regulated Marijuana Flower, Trim, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, Pesticide Testing, and Elemental Impurities Testing of Regulated Marijuana Flower or Trim. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch failed contaminant testing (except microbial and water activity testing of Regulated Marijuana flower or trim, Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana, Pesticide testing, and elemental impurities testing of Regulated Marijuana flower or trim), then for each Inventory Tracking System package, Harvest Batch, or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch or Production Batch pursuant to Rule 3-230 – Waste Disposal;

2. Decontaminate the Inventory Tracking System package, Harvest Batch, or Production Batch, if possible, and create two new Test Batches, each containing the requisite number of Samples, and have those Test Batches tested for the required contaminant test that failed. Such testing must comport with the sampling procedures under Rule 4-110.

    a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Medical Marijuana Testing Facilities or Retail Marijuana Testing Facilities;

    b. If both new Test Batches pass the required contaminant testing, then the Inventory Tracking System package, Harvest Batch, or Production Batch of Regulated Marijuana or Regulated Marijuana Product associated with each Test Batch may be Transferred or processed into a Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, or Retail Marijuana Product;

    c. If one or both of the Test Batches do not pass contaminant testing, then the Regulated Marijuana Business must destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch included in that Test Batch pursuant to Rule 3-230 – Waste Disposal.

3. The Regulated Marijuana Business may Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch that failed contaminant testing to another Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer for Decontamination, if possible, and create two new Test Batches after Decontamination has occurred, each containing the requisite number of Samples, and have those Test Batches tested for the required contaminant test that failed. Such testing must comport with the sampling procedures under Rule 4-110.

    a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Medical Marijuana Testing Facilities or Retail Marijuana Testing Facilities;

b. If both new Test Batches pass the required contaminant testing, then the Inventory Tracking System package, Harvest Batch, or Production Batch of Regulated Marijuana or Regulated Marijuana Product associated with each Test Batch may be Transferred or processed into a Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, or Retail Marijuana Product;

c. If one or both of the Test Batches do not pass contaminant testing, then the Regulated Marijuana Business must destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch included in that Test Batch pursuant to Rule 3-230 – Waste Disposal.

C. Failed Contaminant Testing: Microbial Testing of Regulated Marijuana Flower, Wet Whole Plant, Trim, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch of Regulated Marijuana flower, wet whole plant, trim, Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana failed microbial testing, then for each Inventory Tracking System package, Harvest Batch, or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 2-230 – Waste Disposal;

2. Decontaminate the Inventory Tracking System package, Harvest Batch, or Production Batch, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments, and submit those Test Batches for microbial contaminant testing. Such testing must comply with the sampling procedures under Rule 4-110. If the Inventory Tracking System package, Harvest Batch, or Production Batch has undergone Decontamination, then it must also pass a mycotoxin and water activity test prior to Transfer. The mycotoxin and water activity testing is not required to occur until after the Inventory Tracking System package, Harvest Batch, or Production Batch has passed microbial testing. If a Test Batch fails mycotoxin or water activity testing the Regulated Marijuana Business must follow the failed contaminant testing procedures pursuant to Paragraph (B) above. Pursuant to Rule 4-120(C), wet whole plant is exempt from water activity testing.

   a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Regulated Marijuana Testing Facilities.

   b. If both Test Batches pass the required microbial testing, then the Inventory Tracking System package, Harvest Batch, or Production Batch associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

   c. If one or both of the Test Batches do not pass microbial testing, then the Regulated Marijuana Business must:

      i. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 – Waste Disposal;

      ii. Decontaminate and re-test in accordance with this Paragraph (C)(2); or

iii. Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch for Decontamination or Remediation pursuant to Paragraph (C)(3)(b) below.

3. In lieu of Decontamination pursuant to Paragraph (C)(2) above, the Regulated Marijuana Business may Transfer all Regulated Marijuana from the Inventory Tracking System packages, Harvest Batches, and Production Batches associated with that failed Test Batch to a Regulated Marijuana Cultivation Facility for Decontamination, or may Transfer such Regulated Marijuana to a Regulated Marijuana Products Manufacturer for Decontamination and/or Remediation. If the Regulated Marijuana Business receiving the Regulated Marijuana for Decontamination will Transfer the Regulated Marijuana back to the originating Regulated Marijuana Business following the Decontamination procedures, then the originating Regulated Marijuana Business is responsible for all required testing. If the Regulated Marijuana Business receiving the Regulated Marijuana for Decontamination will Transfer the Regulated Marijuana to a different Regulated Marijuana Business or further processes the Regulated Marijuana following Decontamination, then the receiving Regulated Marijuana Business that performed the Decontamination is responsible for all required testing.

a. Decontamination. The Regulated Marijuana Business may Decontaminate the Inventory Tracking System package, Harvest Batch, or Production Batch, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments, and submit those Test Batches for microbial contaminant testing. Such testing must comply with the sampling procedures under Rule 4-110. If the Inventory Tracking System package, Harvest Batch, or Production Batch has undergone Decontamination, then it must also pass a mycotoxin and water activity test prior to Transfer. The mycotoxin and water activity testing is not required to occur until after the Inventory Tracking System package, Harvest Batch, or Production Batch has passed microbial testing. If a Test Batch fails mycotoxin or water activity testing the Regulated Marijuana Business must follow the failed contaminant testing procedures pursuant to Paragraph (B) above. Pursuant to Rule 4-120(C), wet whole plant is exempt from water activity testing.

i. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Medical Marijuana Testing Facilities or Retail Marijuana Testing Facilities

ii. If both Test Batches pass the required microbial testing, then the Inventory Tracking System packages, Harvest Batch, or Production Batch associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

iii. If one or both of the Test Batches that were created from Harvest Batches or Production Batches pursuant to Paragraph (C)(3)(a) do not pass microbial testing, the Regulated Marijuana Business must either:

A. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 Waste Disposal;

B. Decontaminate and re-test in accordance with this paragraph;

C. Attempt Remediation pursuant to Paragraph (C)(3)(b), except for Production Batches of Infused Pre-Rolled Marijuana; or

D. Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana for Decontamination or Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana for Remediation pursuant to Paragraph (C)(3)(b).

b. Remediation. The Regulated Marijuana Products Manufacturer may Remediate the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments. The new Test Batches are required to be re-tested for Microbial, Mycotoxin, and Water Activity contaminant testing. Such testing must comport with sampling procedures under Rule 4-110.

i. For Remediation, the Regulated Marijuana Business shall process the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana associated with the failed Test Batch into a Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate.

ii. The Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate that was manufactured pursuant to Paragraph (C)(3)(b) shall undergo all required contaminant testing pursuant to Rule 4-120(C) – Regulated Marijuana Testing Program – Contaminant Testing, potency testing pursuant to Rule 4-125 – Regulated Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Marijuana Code or these rules, including but not limited to microbial and mycotoxins contamination. Such testing must comport with the sampling procedures under Rule 4-110.

iii. If the Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate that was manufactured pursuant to Paragraph (C)(3)(b) fails contaminant testing, the Regulated Marijuana Business shall destroy and document the destruction of the Inventory Tracking System package(s) or Production Batch(es) of Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate pursuant to Rule 3-230 – Waste Disposal.

4. Nothing in this Rule removes or alters the responsibility of the Retail Marijuana Business Transferring the Retail Marijuana that failed microbial testing from complying with the requirement to pay excise tax pursuant to article 28.8 of title 39, C.R.S.

C.5. Failed Contaminant Testing: Water Activity Testing. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch of Regulated Marijuana flower, trim, Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana failed water activity testing, then for each Inventory Tracking System package, Harvest Batch, or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 2-230 – Waste Disposal; or

2. Decontaminate the Inventory Tracking System package, Harvest Batch, or Production Batch, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments, and submit those Test Batches for water activity testing.

Such testing must comply with the sampling procedures under Rule 4-110. If the Inventory Tracking System package, Harvest Batch, or Production Batch has undergone Decontamination, then it must also pass a microbial contaminant test prior to Transfer. The microbial contaminant test is not required to occur until after the Inventory Tracking System package, Harvest Batch, or Production Batch has passed water activity testing. If a Test Batch fails microbial contaminant testing the Regulated Marijuana Business must follow the failed contaminant testing procedures pursuant to Paragraph (C) above. Pursuant to Rule 4-120(E), wet whole plant is exempt from water activity testing.

a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Regulated Marijuana Testing Facilities.

b. If both Test Batches pass the required water activity testing, then the Inventory Tracking System package, Harvest Batch, or Production Batch associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

c. If one or both of the Test Batches do not pass water activity testing, then the Regulated Marijuana Business must:

i. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 – Waste Disposal;

ii. Decontaminate and re-test in accordance with this Paragraph (C.5)(2); or

iii. Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch for Decontamination or Remediation pursuant to Paragraph (C)(3)(b) below.

3. In lieu of Decontamination pursuant to Paragraph (C.5)(2) above, the Regulated Marijuana Business may Transfer all Regulated Marijuana from the Inventory Tracking System packages, Harvest Batches, or Production Batches associated with that failed Test Batch to a Regulated Marijuana Cultivation Facility for Decontamination, or may Transfer such Regulated Marijuana to a Regulated Marijuana Products Manufacturer for Decontamination and/or Remediation. If the Regulated Marijuana Business receiving the Regulated Marijuana for Decontamination will Transfer the Regulated Marijuana back to the originating Regulated Marijuana Business following the Decontamination procedures, then the originating Regulated Marijuana Business is responsible for all required testing. If the Regulated Marijuana Business receiving the Regulated Marijuana for Decontamination will Transfer the Regulated Marijuana to a different Regulated Marijuana Business or further process the Regulated Marijuana following Decontamination, then the receiving Regulated Marijuana Business that performed the Decontamination is responsible for all required testing.

a. Decontamination. The Regulated Marijuana Business may Decontaminate the Inventory Tracking System package, Harvest Batch, or Production Batch, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments, and submit those Test Batches for water activity testing. Such testing must comply with the sampling procedures under Rule 4-110. If the Inventory Tracking System package, Harvest Batch, or Production Batch has undergone Decontamination, then it must also pass a microbial contaminant test prior to Transfer. The microbial contaminant testing is not required to occur until after the Inventory Tracking System package, Harvest Batch, or Production Batch has passed water activity testing. If a Test Batch fails microbial

contaminant testing the Regulated Marijuana Business must follow the failed contaminant testing procedures pursuant to Paragraph (C) above. Pursuant to Rule 4-120(C), wet whole plant is exempt from water activity testing.

i. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Medical Marijuana Testing Facilities or Retail Marijuana Testing Facilities

ii. If both Test Batches pass the required testing, then the Inventory Tracking System packages, Harvest Batch, or Production Batch associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

iii. If one or both of the Test Batches that were created from Harvest Batches or Production Batches pursuant to Paragraph (C.5)(3)(a) do not pass water activity testing, the Regulated Marijuana Business must either:

A. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 Waste Disposal;

B. Decontaminate and re-test in accordance with this paragraph;

C. Attempt Remediation pursuant to Paragraph (C.5)(3)(b), except for Production Batches of Infused Pre-Rolled Marijuana; or

D. Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana for Decontamination or Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana for Remediation pursuant to Paragraph (C.5)(3)(b).

b. Remediation. The Regulated Marijuana Products Manufacturer may Remediate the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments. The new Test Batches are required to be re-tested for Microbial, Mycotoxin, and Water Activity contaminant testing. Such testing must comport with sampling procedures under Rule 4-110.

i. For Remediation, the Regulated Marijuana Business shall process the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana associated with the failed Test Batch into a Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate.

ii. The Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate that was manufactured pursuant to Paragraph (C)(3)(b) shall undergo all required contaminant testing pursuant to Rule 4-120(C) – Regulated Marijuana Testing Program – Contaminant Testing, potency testing pursuant to Rule 4-125 – Regulated Marijuana Testing Program – Potency Testing, and any other

testing required or allowed by the Marijuana Code or these rules, including but not limited to microbial and mycotoxins contamination. Such testing must comport with the sampling procedures under Rule 4-110.

iii. If the Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate that was manufactured pursuant to Paragraph (C.5)(3)(b) fails contaminant testing, the Regulated Marijuana Business shall destroy and document the destruction of the Inventory Tracking System package(s) or Production Batch(es) of Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate pursuant to Rule 3-230 – Waste Disposal.

4. Nothing in this Rule removes or alters the responsibility of the Retail Marijuana Business Transferring the Retail Marijuana that failed microbial testing from complying with the requirement to pay excise tax pursuant to article 28.8 of title 39, C.R.S.

D. Failed Contaminant Testing: Pesticide Testing. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch failed Pesticide testing, then for each Inventory Tracking System package, Harvest Batch, or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 – Waste Disposal; or

2. Request that the Regulated Marijuana Testing Facility that reported the original fail conduct two additional analyses of the original Test Batch submitted in accordance with Rule 4-110.

a. If both retesting analyses pass the required Pesticide testing, then the Inventory Tracking System package, Harvest Batch, or Production Batch of Regulated Marijuana, Regulated Marijuana Concentrate, Regulated Marijuana Product, Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

b. If one or both of the retesting analyses do not pass Pesticide testing, then the Regulated Marijuana Business must destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 – Waste Disposal.

D.1. Failed Contaminant Testing: Elemental Impurities Testing of Regulated Marijuana Flower, Wet Whole Plant, and Trim. If a Regulated Marijuana Business is notified by the Division or a Testing Facility that a Test Batch of Regulated Marijuana flower, wet whole plant, or trim failed elemental impurities testing, then for each Inventory Tracking System package or Harvest Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package or Harvest Batch pursuant to Rule 3-230 Waste Disposal.

2. Request that the Regulated Marijuana Testing Facility that reported the original fail conduct two additional analyses of the original Test Batch submitted in accordance with Rule 4-110.

a. If both retesting analyses pass the required elemental impurities testing, then the Inventory Tracking System package or Harvest Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

b. If one or both of the retesting analyses do not pass elemental impurities testing, then the Regulated Marijuana Business must either destroy and document the destruction of the Inventory Tracking System package or Harvest Batch pursuant to Rule 3-230 – Waste Disposal or Remediate the Inventory Tracking System package or Harvest Batch pursuant to Paragraph (3).

3. If the failed Test Batch is not deemed hazardous waste per the Resource Conservation and Recovery Act or other applicable federal, state, or local regulations, then the Regulated Marijuana Business may Transfer all Regulated Marijuana from the Inventory Tracking System packages or Harvest Batch associated with that failed Test Batch to a Regulated Marijuana Products Manufacturer for Remediation.

a. The Regulated Marijuana Business that Transfers the Retail Marijuana that failed elemental impurities testing must comply with the requirement to pay excise tax pursuant to article 28.8 of title 39, C.R.S.

b. The Regulated Marijuana Products Manufacturer may Remediate the Inventory Tracking System package or Harvest Batch associated with the failed Test Batch by processing it into a Regulated Marijuana Concentrate. The Regulated Marijuana Products Manufacturer is prohibited from adding any other Regulated Marijuana to the Regulated Marijuana Concentrate it manufactures pursuant to this Rule.

c. In addition to all applicable regulations, the Regulated Marijuana Products Manufacturer must comply with 3-230 (C)(1), 5-315(D)(9), and 6-315 (D)(9).

d. The Regulated Marijuana Concentrate that was manufactured pursuant to Paragraph (D.1)(3)(b) shall undergo all required contaminant testing pursuant to Rule 4-120(C) Regulated Marijuana Testing Program Contaminant Testing, potency testing pursuant to Rule 4-125 - Regulated Marijuana Testing Program - Potency Testing, and any other testing required or allowed by the Marijuana Code or these rules, including but not limited to elemental impurities testing. Such testing must comport with the sampling procedures under Rule 4- 110.

e. For elemental impurities testing, the Regulated Marijuana Business must create two new Test Batches from the Remediated Production Batch, each containing the requisite number of Samples, and have those Test Batches tested. Such testing must comport with the sampling procedures under Rule 4-110.

i. A Licensee must either (1) submit both new Test Batches to the same Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Marijuana Testing Facilities.

ii. If both Test Batches pass the required elemental impurities testing, then the Inventory Tracking System package or Harvest Batch associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

iii. If one or both of the Test Batches do not pass elemental impurities testing, then the Regulated Marijuana Business must destroy and document the destruction of the Inventory Tracking System package or Harvest Batch pursuant to Rule 3-230 - Waste Disposal.

f. All Production Batches undergoing Remediation for elemental impurities must be tested and are not eligible for a Reduced Testing Allowance or otherwise exempt from required testing.

4. Nothing in this Rule eliminates or alters the responsibility of the Retail Marijuana Business Transferring the Retail Marijuana that failed elemental impurities testing from complying with the requirement to pay excise tax pursuant to article 28.8 of Title 39, C.R.S.

E. Failed Potency Testing. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch of Regulated Marijuana Product failed potency testing, then for each Inventory Tracking System package or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package or Production Batch pursuant to Rule 3-230 – Waste Disposal; or

2. Attempt corrective measures, if possible, and create two new Test Batches each containing the requisite number of Samples, and have those Test Batches tested for the required potency test that failed. Such testing must comport with the sampling procedures under Rule 4-110.

a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Regulated Marijuana Testing Facilities.

b. If both new Test Batches pass potency testing, then the Inventory Tracking System package or Production Batch associated with each Test Batch may be Transferred.

c. If one or both of the Test Batches do not pass potency testing, then the Regulated Marijuana Products Manufacturer must destroy and document the destruction of Inventory Tracking System package or Production Batch pursuant to Rule 3-230 – Waste Disposal.

F. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Part 5 – Medical Marijuana Business License Types

5-100 Series – Medical Marijuana Stores

Basis and Purpose – 5-105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(d)(I)-(VI), 44-10-313(7), 44-10-313(4), 44-10-313(14), 44-10-401(2)(a)(I), 44-10-501, and 44-10-505, C.R.S. The purpose of this rule is to establish a Medical Marijuana Store's license privileges. This Rule 5-105 was previously Rule M 401, 1 CCR 212-1.

5-105 – Medical Marijuana Store: License Privileges

A. Licensed Premises. To the extent authorized by Rule 3-215 – Medical Marijuana Business and Retail Marijuana Business – Shared Licensed Premises and Operational Separation, a Medical Marijuana Store may share a Licensed Premises with a commonly-owned Retail Marijuana Store. However, a separate license is required for each specific business or business entity, regardless of geographical location.

B. Authorized Sources of Medical Marijuana. A Medical Marijuana Store may only Transfer Medical Marijuana that was obtained from a Medical Marijuana Business.

C. Authorized Transfers. A Medical Marijuana Store may only Transfer Medical Marijuana to a patient, a primary caregiver, another Medical Marijuana Store, a Medical Marijuana Cultivation Facility, a Medical Marijuana Products Manufacturer, or a Medical Marijuana Testing Facility.

D. Samples Provided for Testing. A Medical Marijuana Store may provide Samples of its products to a Medical Marijuana Testing Facility for testing and research purposes. The Medical Marijuana Store shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

E. Authorized On-Premises Storage. A Medical Marijuana Store is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.

F. Authorized Marijuana Transport. A Medical Marijuana Store is authorized to utilize a licensed Medical Marijuana Transporter for transportation of its Medical Marijuana so long as the place where transportation orders are taken and delivered is a licensed Medical Marijuana Business. Nothing in this Rule prevents a Medical Marijuana Store from transporting its own Medical Marijuana.

G. Performance-Based Incentives. A Medical Marijuana Store may compensate its employees using performance-based incentives, including sales-based performance-based incentives.

H. Authorized Transfers of Industrial Hemp Products. This rule is effective July 1, 2020. A Medical Marijuana Store may Transfer Industrial Hemp Product to a patient only after it has verified:

1. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Medical Marijuana Testing Facility; and

2. That the Person Transferring the Industrial Hemp Product to the Medical Marijuana Store is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

I. Medical Marijuana Store Delivery Permit. A Medical Marijuana Store with a valid delivery permit may accept delivery orders and deliver Medical Marijuana to a patient who is 21 years of age or older, or the patient's parent or guardian who is also the patient's primary caregiver pursuant to Rule 3-615. A Medical Marijuana Store that does not possess a valid delivery permit cannot deliver Medical Marijuana to a patient, parent, or guardian.

J. Automated Dispensing Machines. A Medical Marijuana Store may use an automated machine in the Restricted Access Area of its Licensed Premises to dispense Regulated Marijuana to patients without interaction with an Owner Licensee or Employee Licensee if the automated machine is reasonably monitored and complies with all requirements of these rules including but not limited to:

1. Health and safety standards,

2. Testing,

3. Packaging and labeling requirements,

4. Inventory tracking,

5. Identification requirements, and

6. Transfer limits to patients.

K. Walk-up or Drive-Up Window. A Medical Marijuana Store may serve patients through a walk-up window or drive-up window pursuant to the requirements of this rule.

1. Modification of Premises Required. Before accepting orders for sales of Medical Marijuana to a patient through either a walk-up window or a drive-up window, a Medical Marijuana Store shall apply for, and obtain approval of, an application for a modification of its Licensed Premises for the addition of a walk-up window or a drive-up window.

2. The area immediately outside the walk-up window or drive-up window must be under the Licensee's possession and control and cannot include any public property such as public streets, public sidewalks, or public parking lots.

3. Order and Identification Requirements.

a. Prior to accepting an order or Transferring Medical Marijuana to a patient, the Employee Licensee or Owner Licensee must physically view and inspect the patient's identification and the patient's registry identification card.

b. The Medical Marijuana Store may accept internet or telephone orders or may accept orders from the patient at the walk-up or drive-up window.

c. All orders received through a walk-up window or drive-up window must be placed by the patient from a menu. The Medical Marijuana Store may not display Medical Marijuana at the walk-up window or drive-up window.

4. Payment Requirements. Cash, credit, debit, cashless ATM, or other payment methods are permitted for payment for Medical Marijuana at the walk-up window or drive-up window.

5. Video Surveillance Requirements. For every Transfer of Regulated Marijuana through either a walk-up window or drive-up window, the Medical Marijuana Store's video surveillance must enable the recording of the patient's identity (and patient's vehicle in the event of drive-up window), and must enable the recording of the Licensee verifying the patient's identification, registry identification card, and completion of the transaction through the Transfer of Regulated Marijuana.

6. Packaging and Labeling Requirements. A Medical Marijuana Store utilizing a walk-up or drive-up window must ensure that all Medical Marijuana is packaged and labeled in accordance with Rules 3-1010 and Rule 3-1015 prior to Transfer to the patient.

7. Local Restrictions. Transfers of Regulated Marijuana using a walk-up window or drive-up window are subject to requirements and restrictions imposed by the relevant Local Licensing Authority.

Basis and Purpose – 5-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-313(7), 44-10-313(4), 44-10-401(2)(a)(I), and 44-10-501, C.R.S. The purpose of this rule is to establish the requirements and processes applicable to a Medical Marijuana Store registering patients for primary store purposes. This Rule 5-110 was previously Rule M 402, 1 CCR 212-1.

5-110 – Registration of a Primary Medical Marijuana Store

A. Patient Designation Required. A Medical Marijuana Store may possess in the aggregate, only the amount of Medical Marijuana permitted by Rule 5-115 for each patient who has designated the Medical Marijuana Store as being his or her primary store. A patient's designation of a Medical Marijuana Store as his or her primary Medical Marijuana Store in accordance with these Rules establishes the Medical Marijuana Store registration requirements set forth in section 25-1.5-106(8)(f), C.R.S.

B. Change Only Allowed Every 30 Days. A Medical Marijuana Store shall not register a patient as being the patient's primary store if the patient has designated another Medical Marijuana Store as his or her primary store in the preceding 30 days. The Medical Marijuana Store and its employees must require a patient to sign in writing that he or she has not designated another Medical Marijuana Store as his or her primary store before including that patient's Medical Marijuana in its maximum allowed on-hand Medical Marijuana inventory calculation under Rule 5-115.

C. Notification to Former Medical Marijuana Store. A Medical Marijuana Store must maintain a copy of a written or electronic notification that it provided to a patient's former primary Medical Marijuana Store advising that the Medical Marijuana Store has been designated as the patient's new primary Medical Marijuana Store.

D. Documents Required. In addition to all records required to be maintained by Rule 3-905 – Business Records Required, the new primary Medical Marijuana Store shall maintain:

1. Written authorization from the patient;

2. A hard or electronic copy of the patient's registry card;

3. A copy of the patient's proof of identification; and.

4. The physician certification and, if authorized for sales exceeding the statutory daily limits the patient's uniform certification form.

E. Violation Affecting Public Safety. Notwithstanding the provisions in Rule 5-110(B), it may be considered a violation affecting public safety for a Medical Marijuana Store and its employees to become a patient's primary store when the patient already had designated one or more other Medical Marijuana Stores as his or her primary store.

Basis and Purpose – 5-115

The statutory authority for this includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-313(7), 44-10-313(4), 44-10-401(2)(a)(I), 44-10-501, and 44-10-505, 44-10-501(10) C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 14(4). The purpose of this rule is to clarify those acts that are prohibited, or limited in some fashion, by a licensed Medical Marijuana Store.

The sales limitations provision reflects the sales limitation imposed by statute. Clarifying the limitations on sales provides Medical Marijuana Stores and their employees with necessary information to avoid being complicit in a patient acquiring more Medical Marijuana than is lawful under the Colorado Constitution pursuant to Article XVIII, Subsection 14(4).

This Rule 5-115 was previously Rule M 403, 1 CCR 212-1.

5-115 – Medical Marijuana Sales: General Limitations or Prohibited Acts

A. Possession Limits. A Medical Marijuana Store may only possess at its Licensed Premises the number of ounces of Medical Marijuana (excluding Medical Marijuana Products and Medical Marijuana Concentrate) that equals the greater of: 1) twice the total, aggregate ounces of Medical Marijuana all of its registered patients are allowed to possess, or 2) the total, aggregate ounces of Medical Marijuana that the Medical Marijuana Store Transferred to patients in the thirty (30) previous calendar days. Under no circumstance shall a Medical Marijuana Store possess more Medical Marijuana than permitted by this subparagraph.

B. Medical Marijuana Products Manufacturers. A Medical Marijuana Store may also contract for the manufacture of Medical Marijuana Product with Medical Marijuana Products Manufacturer Licensees utilizing a contract as provided for in Rule 5-310 – Medical Marijuana Products Manufacturer: General Limitations or Prohibited Acts (Infused Product Contracts). Medical Marijuana distributed to a Medical Marijuana Products Manufacturer by a Medical Marijuana Store pursuant to such a contract for use solely in Medical Marijuana Product(s) that are returned to the contracting Medical Marijuana Store shall not be included for purposes of determining compliance with paragraph A.

B.5 Standard Operating Procedures. A Medical Marijuana Store must establish written standard operating procedures for the management and storage of Medical Marijuana inventory and the sale of Medical Marijuana to patients. A written copy of the standard operating procedures must be maintained on the Licensed Premises.

1. A Medical Marijuana Store must provide adequate training to every Owner Licensee and Employee Licensee who performs a task or set of tasks that are referenced in the standard operating procedures. Adequate training must include, but need not be limited to, providing a copy of the standard operating procedures for that Licensed Premises detailing at least all of the topics required to be included in the standard operating procedures.

C. Patient Sales Requirements. A Medical Marijuana Store shall comply with the sales and Inventory Tracking requirements in Rule 5-125.

C.5. Educational Resource. When completing a sale of Medical Marijuana Concentrate, a Medical Marijuana Store shall provide the patient with the tangible educational resource created by the State Licensing Authority regarding the use of Regulated Marijuana Concentrate

D. Repealed.

E. Transfer Restriction.

1. Sampling Units. A Medical Marijuana Store may not possess or Transfer Sampling Units.

2. Research Transfers Prohibited. A Medical Marijuana Store shall not Transfer any Medical Marijuana to a Pesticide Manufacturer or a Marijuana Research and Development Facility.

F. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to Transfer Medical Marijuana to a patient.

G. Delivery Outside Colorado Prohibited. A Medical Marijuana Store holding a valid delivery permit shall not deliver Medical Marijuana to an address that is outside the state of Colorado.

H. Storage and Display Limitations. A Medical Marijuana Store shall not display Medical Marijuana outside of a designated Restricted Access Area or in a manner in which Medical Marijuana can be seen from outside the Licensed Premises. Storage of Medical Marijuana shall otherwise be maintained in Limited Access Areas or Restricted Access Area.

I. Transfer of Expired Product Prohibited. A Medical Marijuana Store shall not Transfer any expired Medical Marijuana Product to a patient.

J. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit.

1. The Transfer of Edible Medical Marijuana Product in the following shapes is prohibited:

   a. The distinct shape of a human, animal, or fruit; or

   b. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

2. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Medical Marijuana Business. Nothing in this subparagraph (L)(2) alters or eliminates a Licensee's obligation to comply with the requirements of the 3-1000 Series Rules – Packaging, Labeling, and Product Safety.

3. Edible Medical Marijuana Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and

4. Edible Medical Marijuana Products that are manufactured in the shape of a marijuana leaf are permissible.

K. Adverse Health Event Reporting. A Medical Marijuana Store must report Adverse Health Events pursuant to Rule 3-920.

L. Corrective and Preventive Action. This paragraph L shall be effective January 1, 2021. A Medical Marijuana Store shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

M. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-120

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(b), 44-10-203(1)(k), and 44-10-203(3)(h), C.R.S. The purpose of this rule is to establish that a Medical Marijuana Store must control and safeguard access to certain areas where Medical Marijuana will be sold, and to prevent diversion to non-patients. This Rule 5-120 was previously Rule M 404, 1 CCR 212-1.

5-120 – Point of Sale: Restricted Access Area

A. Identification of Restricted Access Area. All areas where Medical Marijuana is sold, possessed for sale, displayed, or dispensed for sale shall be identified as a Restricted Access Area and shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, “Restricted Access Area – Only Medical Marijuana Patients Allowed.”

B. Patients in Restricted Access Area. The Restricted Access Area must be supervised by a Licensee at all times to ensure that only persons with a valid patient registry card, primary caregivers of minors with a valid patient registry card (which may include guardians or parents of minors), advising caregivers who accompany patients that hold a valid registry card and whom they are advising, or transporting caregivers permitted to deliver Medical Marijuana to homebound patients as permitted by section 25-1.5-106(9)(e), C.R.S., are present in the Restricted Access Area. When allowing a patient or caregiver access to a Restricted Access Area, Employee Licensees shall make reasonable efforts to limit the number of patients and caregivers in relation to the number of Employee Licensees in the Restricted Access Area at any time.

C. Display of Medical Marijuana. The display of Medical Marijuana for sale is allowed only in Restricted Access Areas. Any product displays that are readily accessible to the patient must be supervised by the Employee Licensee at all times when patients are present.

D. Pregnancy Warning. Medical Marijuana Stores must post, at all times and in a prominent place inside the Restricted Access Area, a warning that is at minimum three inches high and six inches wide that reads:

> **WARNING:** Using marijuana, in any form, while you are pregnant or breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of marijuana use during pregnancy or breastfeeding.

Basis and Purpose– 5-125

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(d)(I)-(VI), 44-10-313(7), 44-10-313(4), 44-10-401(2)(a)(I), 44-10-501, and 44-10-505, C.R.S. The purpose of this rule is to identify Medical Marijuana Store sales requirements including patient quantity limits, Inventory Tracking System requirements to identify discrepancies with daily authorized quantity limits and THC potency authorizations and to require that Medical Marijuana Stores provide an educational resource to patients regarding the use of Medical Marijuana Concentrate.

5-125 – Patient Sale Requirements

A. Sales Limitations.

1. A Medical Marijuana Store and its employees shall not sell to a patient in a single business day, individually or in any combination, more than:

   a. Two ounces of medical marijuana flower; or

   b. Eight grams of Medical Marijuana Concentrate for a patient 21 years old of age or older, or two grams of Medical Marijuana Concentrate for a patient between 18 and 20 years old; or

   c. Medical Marijuana Products containing a combined total of 20,000 mg.

2. A Medical Marijuana Store and its employees shall not sell more than:

   a. Six Immature plants unless the patient has designated the Medical Marijuana Store as his or her primary store and supplied it with documentation from the patient's physician allowing the patient more than six plants;

   b. One half of the patient's extended plant count to a patient who has designated the Medical Marijuana Store as his or her primary store and supplied it with documentation from the patient's physician allowing the patient more than six plants; or

   c. Six Medical Marijuana plant seeds unless the patient has designated the Medical Marijuana Store as his or her primary store and supplied it with documentation from the patient's physician allowing the patient more than six Medical Marijuana seeds. One Medical Marijuana plant is equivalent to one Medical Marijuana seed.

3. Exemptions to Sales Limitations.

   a. A Medical Marijuana Store may sell Medical Marijuana or Medical Marijuana Product in an amount that exceeds the sales limitation in subparagraph (C)(1) of this Rule if:

      i. The patient has received a physician recommendation for more than two ounces of Medical Marijuana flower and the patient has designated the Medical Marijuana Store as his or her primary store;

      ii. The patient has received a physician recommendation exempting the patient from the Medical Marijuana Product sales limitation and the patient has designated the Medical Marijuana Store as his or her primary store;

      iii. The patient has designated the Medical Marijuana Store as his or her primary store and the patient has received a physician recommendation

exempting the patient from the Medical Marijuana Concentrate sales limitation because:

A. Repealed;

B. The uniform certification form specifically states that the patient needs more than eight grams of Medical Marijuana Concentrate if a patient is 21 years or age or older, or two grams of Medical Marijuana Concentrate if the patient is between 18 and 20 years old;

C. It would be a significant Physical or Geographic Hardship for the patient to make a daily purchase; or

D. The patient had a registry identification card prior to 18 years of age.

iv. If the patient is homebound, with a physician recommendation exempting the patient from the Medical Marijuana Concentrate sales limitation, the patient is not required to register with a Medical Marijuana Store.

b. Significant Physical Hardship: A patient's physician who has a bona fide patient-physician relationship may provide an exemption to the patient's daily Medical Marijuana Concentrate sales limits based on the physician's determination that the patient has a significant physical hardship. The physician's determination of a significant physical hardship must be documented on the patient's uniform certification form which must be signed by the patient's physician. The circumstances that constitute a significant physical hardship are as follows:

i. The patient has been diagnosed with a chronic or debilitating disease or disabling medical condition or limited physical condition that restricts the mobility of the patient;

ii. The patient does not have the ability to obtain a driver's license based on the patient's medical condition; or

iii. The patient cannot use, or it would be onerous for the patient to use, public transportation or another ride sharing service based on the patient's medical condition.

c. Significant Geographic Hardship: A patient's physician who has a bona fide patient-physician relationship may provide an exemption to the patient's daily Medical Marijuana Concentrate sales limits based on the physician's determination that the patient has a significant geographic hardship. The physician's determination of a significant geographic hardship must be documented on the patient's uniform certification form which must be signed by the patient's physician. The circumstances that constitute a significant geographic hardship are as follows:

i. The patient does not reside in the following counties: Adams, Arapahoe, Boulder, Denver, Douglas, El Paso, Jefferson, Larimer, or Pueblo; and

ii. At least one of the following circumstances:

A. The patient resides in a county that does not permit the operation of Medical Marijuana Stores and that county is not listed above; or

B. The patient does not have a means of transportation and resides in an area without public transportation or Medical Marijuana Stores cannot be accessed by a patient using public transportation; or

C. The physician recommended a Medical Marijuana Concentrate that is not available from a Medical Marijuana Store located in the patient's county of residence.

B. Multiple Transactions. For purposes of Rule 5-125(A), a single transaction to a patient includes multiple Transfers to the same patient during the same business day where the Medical Marijuana Store employee knows or reasonably should know that such Transfer would result in the patient possessing more than the quantities of Medical Marijuana set forth above. In determining the imposition of any penalty for violation of this Rule 5-125(A), the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235(C).

C. Inventory Tracking Requirements.

1. Before Completing a Transfer of Medical Marijuana to a patient, a Medical Marijuana Store and its Employee Licensee shall access and retrieve real-time sales data based on the patient identification number to verify that a sale to the patient will not exceed the daily authorized sales limit. The Medical Marijuana Store and Employee Licensee shall decline to complete the Transfer of Medical Marijuana to the patient if it would exceed the patient's daily authorized purchase limit which may be determined by a user error message from the Inventory Tracking System.

2. At the time of the sale to the patient the Medical Marijuana Store and its Employee Licensee shall record the sale in real time in the Inventory Tracking System. A Medical Marijuana Store may use a secondary software platform to transmit patient sale data to the Inventory Tracking system.

3. Temporary Outage of Inventory Tracking System. A Medical Marijuana Store may rely on the uniform certification form and is not responsible for any unintentional sale in excess of the authorized Medical Marijuana quantity limit that occurs during the outage, provided that the Medical Marijuana Store uploads its sales data into the Inventory Tracking System as soon as reasonably practicable after the end of the outage. A temporary outage is any event in which there is a technology-related inability to enter or retrieve real time sales data from the Inventory Tracking System.

D. Educational Resource. When completing a sale of Medical Marijuana Concentrate, a Medical Marijuana Store shall provide the patient with the tangible educational resource created by the State Licensing Authority regarding the use of Regulated Marijuana Concentrate.

E. Confidentiality. All data collected pursuant to Rule, including any personal identifying patient information, is subject to the confidentiality requirements of 44-10-204, C.R.S.

F. Violation Affecting Public Safety. Violation of this Rule may be considered a license violation affecting public safety

5-200 Series – Medical Marijuana Cultivation Facility: License Privileges

Basis and Purpose – 5-205

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-401(2)(a)(II), 44-10-313, 44-10-502, and 44-10-503, C.R.S. The purpose of this rule is to establish a Medical Marijuana Cultivation Facility's license privileges in addition to the privileges outlined in these rules. This Rule 5-205 was previously Rule M 501, 1 CCR 212-1.

5-205 – Medical Marijuana Cultivation Facility: License Privileges

A. Licensed Premises. To the extent authorized by Rule 3-215 – Regulated Marijuana Business – Shared Licensed Premises and Operational Separation, a Medical Marijuana Cultivation Facility may share a Licensed Premises with a commonly owned Retail Marijuana Cultivation Facility. However, a separate license is required for each specific business entity regardless of geographical location. In addition, a Medical Marijuana Cultivation Facility may share and operate at the same Licensed Premises as a Marijuana Research and Development Facility so long as:

1. Each business or business entity holds a separate license;

2. The Marijuana Research and Development Facility obtains an R&D Co-Location Permit;

3. Both the Marijuana Research and Development Facility and the Medical Marijuana Cultivation Facility comply with all terms and conditions of the R&D Co-Location Permit; and

4. Both the Marijuana Research and Development Facility and the Medical Marijuana Cultivation Facility comply with all applicable rules. *See* 5-700 Series Rules.

B. Cultivation of Medical Marijuana and Production of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Medical Marijuana Concentrate Authorized. A Medical Marijuana Cultivation Facility may propagate, cultivate, harvest, prepare, cure, package, store, and label Medical Marijuana and Physical Separation-Based Medical Marijuana Concentrate. A Medical Marijuana Cultivation Facility may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Medical Marijuana Concentrate.

C. Authorized Transfers. A Medical Marijuana Cultivation Facility may Transfer Medical Marijuana and Physical Separation-Based Medical Marijuana Concentrate to another Medical Marijuana Cultivation Facility, a Medical Marijuana Store, a Medical Marijuana Products Manufacturer, a Medical Marijuana Testing Facility, a Marijuana Research and Development Facility, or a Pesticide Manufacturer.

1. A Medical Marijuana Cultivation Facility shall not Transfer Flowering plants. A Medical Marijuana Cultivation Facility may only Transfer Vegetative plants as authorized pursuant to Rule 3-605.

2. A Medical Marijuana Cultivation Facility may Transfer Sampling Units of Medical Marijuana or Medical Marijuana Concentrate to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-502(5), C.R.S., and Rule 5-230.

3. A Medical Marijuana Cultivation Facility may Transfer Medical Marijuana or Medical Marijuana Concentrate to another Medical Marijuana Cultivation Facility prior to testing required by these rules only if such Transfer is in accordance with one of the two options below.

a. The Medical Marijuana Cultivation Facility may Transfer Medical Marijuana or Medical Marijuana Concentrate to another Medical Marijuana Cultivation Facility prior to testing if such Transfer is for the purpose of Decontamination and only after all other steps outlined in the Medical Marijuana Cultivation Facility's standard operating procedures have been completed, including but not limited to drying, curing, and trimming; or

b. The Medical Marijuana Cultivation Facility may Transfer Medical Marijuana or Medical Marijuana Concentrate to another Medical Marijuana Cultivation Facility prior to testing, drying, curing, trimming, or completion of any other steps in the Medical Marijuana Cultivation Facility's standard operating procedures, subject to the following additional requirements:

i. The Medical Marijuana Cultivation Facility receiving the Transfer is identified as a centralized processing hub in the Inventory Tracking System and must have identical Controlling Beneficial Owner(s) with the originating Medical Marijuana Cultivation Facility;

ii. An originating Medical Marijuana Cultivation Facility may only Transfer Medical Marijuana to one receiving Medical Marijuana Cultivation Facility that will be serving as a centralized processing hub.

iii. The Medical Marijuana or Medical Marijuana Concentrate is weighed prior to leaving the originating Medical Marijuana Cultivation Facility and immediately upon receipt at the receiving Medical Marijuana Cultivation Facility and in accordance with Rule 3-605;

iv. The Transfer, weighing and entry into the Inventory Tracking System are all completed within 24 hours from initiating the Transfer;

v. The receiving Medical Marijuana Cultivation Facility is responsible for compliance with all testing requirements regardless of any testing performed prior to Transfer. If the receiving Medical Marijuana Cultivation Facility is pursuing a Reduced Testing Allowance, a Reduced Testing Allowance must be achieved separately for Medical Marijuana received from each originating Medical Marijuana Cultivation Facility. A Medical Marijuana Cultivation Facility that has achieved a Reduced Testing Allowance must maintain and produce complete testing records that can verify that facility's compliance with testing and Reduced Testing Allowance requirements; and

vi. The standard operating procedures for the originating Medical Marijuana Cultivation Facility and receiving Medical Marijuana Cultivation Facility clearly reflect the steps taken by each facility to Transfer, transport, receive, process, and test Harvest Batches.

4. A Medical Marijuana Cultivation Facility may Transfer Medical Marijuana to a Retail Marijuana Cultivation Facility or Accelerator Cultivator in accordance with Rules 5-235, 6-230, and 6-730.

D. Packaging Processed Medical Marijuana. Processed Medical Marijuana plants shall be packaged in units of ten pounds or less and labeled pursuant to the 3-1000 Series Rules – Labeling, Packaging, and Product Safety, and securely sealed in a tamper-evident manner.

E. Authorized Marijuana Transport. A Medical Marijuana Cultivation Facility is authorized to utilize a licensed Medical Marijuana Transporter for transportation of its Medical Marijuana so long as the place where transportation orders are taken is a Medical Marijuana Business and the transportation order is delivered to a licensed Medical Marijuana Business or Pesticide Manufacturer. Nothing in this Rule prevents a Medical Marijuana Cultivation Facility from transporting its own Medical Marijuana.

F. Performance-Based Incentives. A Medical Marijuana Cultivation Facility may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, a Medical Marijuana Cultivation Facility may not compensate a Sampling Manager using Sampling Units. *See* Rule 5-230 – Sampling Unit Protocols.

G. Authorized Sources of Medical Marijuana, Seeds, and Immature Plants. A Medical Marijuana Cultivation Facility shall only obtain Medical Marijuana seeds or Immature Plants from its own Medical Marijuana, properly Transferred Retail Marijuana cultivated at a Retail Marijuana Cultivation Facility with at least one identical Controlling Beneficial Owner, or properly Transferred from another Medical Marijuana Business pursuant to the inventory tracking requirements in the Rule 3-800 Series. A Medical Marijuana Cultivation Facility may also receive Transfers of Retail Marijuana from a Retail Marijuana Cultivation Facility or Accelerator Cultivator in compliance with Rules 5-235, 6-230, and 6-730. A Medical Marijuana Cultivation facility may not bring seeds, Immature Plants, or other marijuana that is not Regulated Marijuana onto the Licensed Premises at any time.

H. Centralized Distribution Permit. A Medical Marijuana Cultivation Facility may apply to the State Licensing Authority for a Centralized Distribution Permit for authorization to temporarily store Medical Marijuana Concentrate and Medical Marijuana Product received from a Medical Marijuana Products Manufacturer for the sole purpose of Transfer to commonly owned Medical Marijuana Stores.

1. For purposes of a Centralized Distribution Permit only, the term “commonly owned” means at least one natural person who is disclosed to the Division who has a minimum of five percent ownership in both the Medical Marijuana Cultivation Facility possessing a Centralized Distribution Permit and the Medical Marijuana Store to which the Medical Marijuana Concentrate and Medical Marijuana Product will be Transferred.

2. To apply for a Centralized Distribution Permit, a Medical Marijuana Cultivation Facility may submit an addendum to its new or renewal application or a separate addendum prior to a renewal application on forms prepared by the Division to request a Centralized Distribution Permit. The Medical Marijuana Cultivation Facility shall send a copy of its Centralized Distribution Permit addendum to the Local Licensing Authority in the jurisdiction in which the Centralized Distribution Permit is proposed at the same time it submits the addendum to the State Licensing Authority.

3. A Medical Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit and has obtained all required approvals from the local licensing jurisdiction where it is located, if any, may accept Transfers of Medical Marijuana Concentrate and Medical Marijuana Product from a Medical Marijuana Products Manufacturer for the sole purpose of temporary storage and Transfer to commonly owned Medical Marijuana Stores.

    a. A Medical Marijuana Cultivation Facility may only accept Medical Marijuana Concentrate and Medical Marijuana Product that is packaged and labeled for sale to a patient pursuant to the 3-1000 Series Rules.

    b. A Medical Marijuana Cultivation Facility storing Medical Marijuana Concentrate and Medical Marijuana Product pursuant to a Centralized Distribution Permit shall not store such Medical Marijuana Concentrate or Medical Marijuana

Product on the Medical Marijuana Cultivation Facility's Licensed Premises for more than 90 days from the date of receipt.

c. All Transfers of Medical Marijuana Concentrate and Medical Marijuana Product by a Medical Marijuana Cultivation Facility shall be without consideration.

4. All security and surveillance requirements that apply to a Medical Marijuana Cultivation Facility apply to activities conducted pursuant to the privileges of a Centralized Distribution Permit.

I. Transition Permit. A Medical Marijuana Cultivation Facility may only operate at two geographical locations pursuant to Rule 2-255(D).

Basis and Purpose – 5-210

The statutory authority for this rule includes but is not limited to sections 44-10-201, 44-10-202(1)(c), 44-10-203(1)(k), 44-10-313, 44-10-401(2)(a)(II), 44-10-501, 44-10-502, 44-10-503, and 44-10-505, C.R.S. The purpose of this rule is to clarify what activity is or is not allowed at a Medical Marijuana Cultivation Facility. This Rule 5-210 was previously Rule M 502, 1 CCR 212-1.

5-210 – Medical Marijuana Cultivation Facility: General Limitations or Prohibited Acts

A. Packaging and Labeling Standards Required. A Medical Marijuana Cultivation Facility is prohibited from Transferring Medical Marijuana and Medical Marijuana Concentrate that is not packaged and labeled in accordance with these rules. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

B. Transfer to Patient Prohibited. A Medical Marijuana Cultivation Facility is prohibited from Transferring Medical Marijuana to a patient. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-502(5), C.R.S., and Rule 5-230.

C. Inventory Limit. A Medical Marijuana Cultivation Facility shall not possess more plants than it is permitted to possess based on its production management class. *See* Rule 5-225 – Medical Marijuana Cultivation Facility: Production Management.

D. Corrective and Preventive Action. This paragraph D shall be effective January 1, 2021. A Medical Marijuana Cultivation Facility shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

E. Adverse Health Event Reporting. A Medical Marijuana Cultivation Facility must report Adverse Health Events pursuant to Rule 3-920.

Basis and Purpose – 5-215

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(i), 44-10-203(2)(d)(I)-(VI), 44-10-502(3), and 44-10-401(2)(a)(II), C.R.S. The purpose of this rule is to permit laboratory testing of Medical Marijuana for Medical Marijuana Cultivation Facilities. The State Licensing Authority intends this rule to help maintain the integrity of Colorado's Medical Marijuana Businesses. This Rule 5-215 was previously Rule M 505, 1 CCR 212-1.

5-215 – Medical Marijuana Cultivation Facility: Testing

A. Samples on Demand. Medical Marijuana Cultivation Facility shall, upon request of the Division, submit a sufficient quantity of Medical Marijuana to a Medical Marijuana Testing Facility to enable laboratory or chemical analysis thereof. The Division will notify the Licensee of the results of the analysis. *See* Rule 3-805 – Regulated Marijuana Business: Inventory Tracking System and Rule 3-405 – Business Records Required.

B. Samples Provided for Testing. A Medical Marijuana Cultivation Facility may provide Samples of its Medical Marijuana to a Medical Marijuana Testing Facility for testing and research purposes. The Medical Marijuana Cultivation Facility shall maintain the testing results as part of its business books and records. *See* Rule 3-405 – Business Records Required.

Basis and Purpose – 5-220

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(d), 44-10-203(1)(k), 44-10-203(1)(c), 44-10-203(2)(d)(I)-(VI), and 44-10-401(2)(a)(II), C.R.S. The purpose of this rule is to establish the categories of Medical Marijuana Concentrate that may be produced at a Medical Marijuana Cultivation Facility and standards for the production of those concentrate. This Rule 5-220 was previously Rule M 506, 1 CCR 212-1.

5-220 – Medical Marijuana Cultivation Facility: Medical Marijuana Concentrate Production

A. Permitted Production of Certain Categories of Medical Marijuana Concentrate. A Medical Marijuana Cultivation Facility may only produce Physical Separation-Based Medical Marijuana Concentrate on its Licensed Premises and only in an area clearly designated as a Limited Access Area. *See* Rule 3-405- Business Records Required. No other method of production or extraction for Medical Marijuana Concentrate may be conducted within the Licensed Premises of a Medical Marijuana Cultivation Facility unless the Controlling Beneficial Owner(s) of the Medical Marijuana Cultivation Facility also has a valid Medical Marijuana Products Manufacturer license and the

room in which Medical Marijuana Concentrate is to be produced is physically separated from all cultivation areas and has clear signage identifying the room.

B. Safety and Sanitary Requirements for Concentrate Production. If a Medical Marijuana Cultivation Facility produces Physical Separation-Based Medical Marijuana Concentrate, then all areas in which those concentrates are produced and all Owner Licensees and Employees Licensees engaged in the production of those concentrate shall be subject to all of requirements imposed upon a Medical Marijuana Products Manufacturer that produces Medical Marijuana Concentrate, including general requirements. *See* 3-300 Series Rules – Health and Safety Regulations and Rule 5-315 Medical Marijuana Products Manufacturer: Medical Marijuana Concentrate Production.

C. Possession of Other Categories of Medical Marijuana Concentrate.

1. It shall be considered a violation of this Rule if a Medical Marijuana Cultivation Facility possesses a Medical Marijuana Concentrate other than a Physical Separation-Based Medical Marijuana Concentrate on its Licensed Premises unless: the Controlling Beneficial Owner(s) of the Medical Marijuana Cultivation Facility also has a valid Medical Marijuana Products Manufacturer license, or the Medical Marijuana Cultivation Facility has been issued a Centralized Distribution Permit and is in possession of the Medical Marijuana Concentrate in compliance with Rule 5-205(H).

2. Notwithstanding subparagraph (C)(1) of this Rule 5-220, a Medical Marijuana Cultivation Facility shall be permitted to possess Solvent-Based Medical Marijuana Concentrate only when the possession is due to the Transfer of Medical Marijuana flower or trim that failed microbial testing to a Medical Marijuana Products Manufacturing Facility for processing into a Solvent-Based Medical Marijuana Concentrate, and the Medical Marijuana Products Manufacturer Transfers the resultant Solvent-Based Medical Marijuana Concentrate back to the originating Medical Marijuana Cultivation Facility.

a. The Medical Marijuana Cultivation Facility shall comply with all requirements in Rule 4-135(C) when having Solvent-Based Medical Marijuana Concentrate manufactured out of Medical Marijuana flower or trim that failed microbial testing.

b. The Medical Marijuana Cultivation Facility is responsible for submitting the Solvent-Based Medical Marijuana Concentrate for all required testing for contaminants pursuant to Rule 4-120 – Medical Marijuana Testing Program – Contaminant Testing, for potency pursuant to Rule 4-125 – Medical Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Marijuana Rules or Marijuana Code.

D. Production of Alternative Use Product or Audited Product Prohibited. A Medical Marijuana Cultivation Facility shall not produce an Alternative Use Product or Audited Product.

E. Possession of Alternative Use Product or Audited Product. A Medical Marijuana Cultivation Facility is authorized to possess or Transfer Alternative Use Product and/or Audited Product only if the Medical Marijuana Cultivation Facility received the Alternative Use Product and/or Audited Product pursuant to a Centralized Distribution Permit from a Medical Marijuana Products Manufacturer that is manufacturing and Transferring the Alternative Use Product or Audited Product in accordance with Rule 5-325.

Basis and Purpose – 5-225

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(5), 44-10-401(2)(a)(II), 44-10-502, C.R.S. The rule establishes a means by which to manage

the overall production of Medical Marijuana. The intent of this rule is to encourage responsible production to meet demand for Medical Marijuana, while also avoiding overproduction or underproduction. The establishment of production management is necessary to ensure there is not significant under or over production, either of which will increase incentives to engage in diversion and facilitate the sale of illegal marijuana. This Rule 5-225 was previously Rule M 507, 1 CCR 212-1.

5-225 – Medical Marijuana Cultivation Facility: Production Management

A. One Medical Marijuana Cultivation Facility per Licensed Premises. Except as permitted by subparagraph (B)(1)(b), a Licensed Premises shall only have one Medical Marijuana Cultivation Facility license and each Licensed Premises must be located at a distinct address recognized by the local jurisdiction.

1. Existing Medical Marijuana Cultivation Facilities that have Multiple Licenses at a single Licensed Premises.

a. Mandatory Collapse for Licenses with Identical Controlling Beneficial Owner Percentages.

i. Medical Marijuana Cultivation Facilities that have multiple licenses at a single Licensed Premises and that have identical Controlling Beneficial Owners holding identical ownership percentages are subject to mandatory collapse. Such Licensees shall notify the Division prior to June 30, 2019 which Medical Marijuana Cultivation Facility license they desire to survive. The Medical Marijuana Cultivation Facility license identified as the surviving license will remain active after July 1, 2019; all other Medical Marijuana Cultivation Facility licenses shall be surrendered effective July 1, 2019.

ii. The production management class for the surviving Medical Marijuana Cultivation Facility license will be calculated pursuant to subparagraph (B)(3) below using the aggregate average plants actually cultivated by all Medical Marijuana Cultivation Facility licenses that were located at the Licensed Premises during the period January 1, 2018 to December 31, 2018.

b. Optional Collapse for Licenses with Non-Identical Controlling Beneficial Owner Percentages. Medical Marijuana Cultivation Facilities that have multiple licenses at a single Licensed Premises and that do not have identical Controlling Beneficial Owners holding identical ownership percentages as of July 1, 2019, may continue operating all Medical Marijuana Cultivation Facility licenses that existed at that Licensed Premises prior to July 1, 2019. The maximum plant count for each such Medical Marijuana Cultivation Facility will be calculated pursuant to subparagraph (B)(3) below based on the number of average plants actually cultivated by that Medical Marijuana Cultivation Facility during the period January 1, 2018 to December 31, 2018.

i. Medical Marijuana Cultivation Facilities that are permitted to continue operating multiple licenses at a single Licensed Premises after July 1, 2019, may collapse through one or more approved change of ownership applications, or one or more voluntary license surrenders, establishing identical Controlling Beneficial Owners holding identical ownership percentages for all Medical Marijuana Cultivation Facilities at the single Licensed Premises.

ii. For any change of ownership application or voluntary license surrender seeking collapse after July 1, 2019, the Medical Marijuana Cultivation Facility shall identify the license that will survive. The Medical Marijuana Cultivation Facility license identified as the surviving license will remain after collapse; all other Medical Marijuana Cultivation Facility licenses will be surrendered at the time of collapse.

iii. The class for the surviving Medical Marijuana Cultivation Facility license will be determined according to subparagraph (B)(3) below based on the aggregate average number of Medical Marijuana plants actually cultivated by all Medical Marijuana Cultivation Facility Licensees that were located at the Licensed Premises during the 180 days prior to the collapse.

2. Collapse after July 1, 2019. After July 1, 2019, Medical Marijuana Cultivation Facility licenses shall be permitted to collapse at a single Licensed Premises through an approved change of location application if all Medical Marijuana Cultivation Facility licenses for which collapse is sought meet the following requirements:

a. All Medical Marijuana Cultivation Facility licenses sought to be collapsed have been consistently operating for at least 180 days prior to the proposed collapse;

b. All Medical Marijuana Cultivation Facility licenses sought to be collapsed have identical Controlling Beneficial Owners holding identical ownership percentages;

c. There is no pending administrative action regarding any of Medical Marijuana Cultivation Facility licenses sought to be collapsed;

d. The class for the surviving Medical Marijuana Cultivation Facility license has not been decreased in the 180 days prior to the change of location application;

e. All Medical Marijuana Cultivation Facility Licensees identify the desired surviving license and agree that all other Medical Marijuana Cultivation Facility licenses will be surrendered at the time of collapse; and

f. Determining Class for Surviving License.

i. Surviving License Class Will Not Decrease. The class for the surviving license will not be decreased as a result of any approved change of location application.

ii. Surrendered License is Class 1, Class 2, or Class 3. For the surviving license to increase one class or one increment of 3,000 plants if already higher than class 3, during the 180 days prior to the change of location application, the surrendered license must have cultivated at least 50% of the maximum authorized plant count and Transferred at least 85% of the inventory it produced during that time.

iii. Surrendered License is Higher than Class 3. For the surviving license to increase by the maximum authorized plant count of the surrendered license, during the 180 days prior to the change of location application the surrendered license must have cultivated at least 50% of the maximum authorized plant count and Transferred at least 85% of the inventory it produced during that time. If during the 180 days prior to the change of location application, the surrendering license did not cultivate

at least 50% of the maximum authorized plant count and Transfer at least 85% of the inventory it produced, the surviving license will only increase one class or one increment of 3,000 plants if already higher than class 3.

iv. Division Determination of Class. If a collapse results in a maximum authorized plant count in the middle of a class, the surviving license's maximum authorized plant count will be rounded up to the top of that class.

B. Production Management.

1. Production Management Classes.

a. Class 1: 1 – 500 plants

b. Class 2: 501 – 1,500 plants

c. Class 3: 1,501 – 3,000 plants

i. The maximum authorized plant count above 3,000 plants shall increase in one or two increments of 3,000 plants. A Medical Marijuana Cultivation Facility may be allowed to increase its maximum authorized plant count one or two increments of 3,000 plants at a time upon application and approval by the Division pursuant to the requirements of paragraph (E) of this Rule 5-225.

2. All initial Medical Marijuana Cultivation Facility licenses issued on or after July 1, 2019 will be issued as a Class 1 License.

3. Each Medical Marijuana Cultivation Facility with a license(s) granted before July 1, 2019, at a minimum, will be placed into the production management class that includes the average number of plants it cultivated during the period January 1, 2018 to December 31, 2018.

a. Medical Marijuana Cultivation Facilities with less than 180 days of consistent cultivation history will be placed into the class 1 production management class.

b. Any Medical Marijuana Cultivation Facility that artificially increases plant count or otherwise misrepresents any data in connection with its plant count will be placed into the class the Division determines it would have been placed into without the artificial increase or misrepresentation. In addition, any such artificial increase of plant count or other misrepresentation is a public safety violation that may result in administrative action.

4. Immature Plants. For purposes of calculating the maximum number of authorized plants, Immature Plants are excluded but must be fully accounted for in the Inventory Tracking System.

5. Ground for Denial. The Division may deny an application for additional plants pursuant to paragraph E of this Rule if the Licensee exceeded the authorized plant count during the relevant time period for production.

6. Violation Affecting Public Safety. It may be considered a license violation affecting public safety for a Licensee to exceed the authorized plant count pursuant to these Rules.

C. Inventory Management.

1. Inventory Management for Medical Marijuana Cultivation Facilities that Have One or Two Harvest Seasons a Year. Beginning the 721st day from the commencement of its first cultivation activities, a Medical Marijuana Cultivation Facility that has one or two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Medical Marijuana flower and trim the Licensee produced that was Transferred to another Medical Marijuana Business in the previous 720 days.

2. Inventory Management for Medical Marijuana Cultivation Facilities That Have More Than Two Harvest Seasons a Year. Beginning the 181st day from the commencement of its first cultivation activities, a Medical Marijuana Cultivation Facility that has more than two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Medical Marijuana flower and trim the Licensee produced that was Transferred to another Medical Marijuana Business in the previous 180 days.

D. Class Decrease. For any Medical Marijuana Cultivation Facility that is authorized to cultivate more than 500 plants, the Division may review the purchases, Transfers, and cultivated plant count in connection with the license renewal process or after an investigation. Based on the Division's review, it may reduce the Licensee's maximum allowed plant count to a lower production management class identified in subparagraph (B)(1) of this Rule 5-225. When determining whether to reduce the maximum authorized plant count, the Division may consider the following non-exhaustive factors including but not limited to:

1. The Licensee Transferred less than 70% of the inventory it reported as packaged in the Inventory Tracking System during any 180 day review period;

2. On average during the previous 180 days, the Licensee actually cultivated less than 90% of the maximum number of plants authorized by the next lower production management class;

3. Whether the plants/inventory suffered a catastrophic event during the review period;

4. Existing inventory and inventory history;

5. Sales contracts;

6 Number of patients registered to any commonly owned Medical Marijuana Store; and

7. Any other factors relevant to ensuring responsible cultivation, production, and inventory management.

E. Application for Additional Plants.

1. Medical Marijuana Cultivation Facilities That Have One or Two Harvest Seasons Per Year.

a. After one harvest season during which the Medical Marijuana Cultivation Facility Transferred and consistently cultivated, the Licensee may apply to the Division for a production management class increase to be authorized to cultivate the number of plants in the next highest production management class. The Licensee must demonstrate:

i. That during the previous harvest season, prior to the class increase application, it consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count;

ii. That the Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System in the previous 360 days to another Medical Marijuana Business;

iii. The Division may consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the previous 360 days, if the Licensee cultivated between 75% and 85% of its maximum authorized plant count; and

iv. Any other information requested to aid the Division in its evaluation of the production management class increase application.

b. If the Division approves the production management class increase application, the Licensee shall pay the applicable Expanded Production Management Class Fee prior to cultivating the additional authorized plants. *See* Rule 2-205 – Fees.

c. For a Licensee with an authorized plant count in Classes 2 or 3 to continue producing at its expanded authorized plant count, the Licensee shall pay the requisite Medical Marijuana Cultivation Facility license fee and the applicable expanded production management class fee at license renewal. *See* Rule 2-205 – Fees.

d. After one harvest season during which the Medical Marijuana Cultivation Facility Transferred and consistently cultivated the Licensee may apply to increase its authorized plant count by: (a) two production management classes, or (b) if already authorized to cultivate at a class 3, two increments of 3,000 plants (6,000 plants total), every 360 days. It is within the Division's discretion to determine whether or not to grant the requested two classes or two increments of 3,000 plant (6,000 plants total).

i. The Licensee must demonstrate:

A. That the Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count, and

B. That the Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Medical Marijuana Business;

C. If the Medical Marijuana Cultivation Facility cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a package in the Inventory Tracking System during that time period and/or Transfers into the Medical Marijuana Cultivation Facility or related Medical Marijuana Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Medical Marijuana Cultivation Facility currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two classes or two increments of 3,000 plants;

B. The Medical Marijuana Cultivation Facility cultivated on average at least 90% of its authorized plant count and during the preceding 360 days the Medical Marijuana Cultivation Facility and/or one or more commonly owned Medical Marijuana Stores Transferred in Medical Marijuana from one or more unrelated Medical Marijuana Cultivation Facility(ies);

C. The Medical Marijuana Cultivation Facility has entered into written agreement(s) or contract(s) for the sale of Medical Marijuana in the next 360 days supporting the requested two production management class increase or two increments of 3,000 plants; or

D. An established history of responsible cultivation and Transfer by the Medical Marijuana Cultivation Facility;

E. Any history of noncompliance with the Medical Code, Marijuana Code, and/or Rules by the Medical Marijuana Cultivation Facility, or any commonly owned Medical Marijuana Business, and/or any investigation of, or administrative action against, the Medical Marijuana Cultivation Facility or any commonly owned Medical Marijuana Business; or

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

2. Medical Marijuana Cultivation Facilities That Have More Than Two Harvest Seasons per Year.

a. After a 180-day period during which the Medical Marijuana Cultivation Facility Transferred and consistently cultivated, the Licensee may apply to the Division for a production management class increase to be authorized to cultivate the number of plants in the next highest production management class. The Division may consider the following in determining whether to approve the production management class increase:

i. That for the 180 days prior to the production management class increase application, the Licensee consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count, and

ii. That the Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Medical Marijuana Business.

iii. The Division may also consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the 180-day time period, if the Licensee cultivated between 75% and 85% of its maximum authorized plant count.

iv. Any other information requested to aid the Division in its evaluation of the production management class increase application.

b. If the Division approves the production management class increase application, the Licensee shall pay the applicable Expanded Production Management class License Fee prior to cultivating the additional authorized plants. *See* Rule 2-205 – Fees.

c. For a Licensee with an authorized plant count in Class 2 or Class 3 to continue producing at its expanded authorized plant count, the Licensee shall pay the requisite Medical Marijuana Cultivation Facility license fee and the applicable expanded production management class fee at license renewal. *See* Rule 2-205 – Fees.

d. After accruing 180 days during which the Medical Marijuana Cultivation Facility Transferred and consistently cultivated the Licensee may apply to increase its authorized plant count by: (a) two production management classes, or (b) if already authorized to cultivate at a class 3, two increments of 3,000 plants (6,000 plants total) every 180 days. It is within the Division's discretion to determine whether or not to grant the requested two classes or increments of 3,000 plants (6,000 plants total).

i. The Licensee must demonstrate:

A. That the Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count; and

B. That the Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Medical Marijuana Business;

C. If the Medical Marijuana Cultivation Facility cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a packing in the Inventory Tracking System during that time period and/or Transfers into the Medical Marijuana Cultivation Facility or related Medical Marijuana Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Medical Marijuana Cultivation Facility currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two classes or two increments of 3,000 plants;

B. The Medical Marijuana Cultivation Facility cultivated on average at least 90% of its authorized plant count and during the preceding 180 days the Medical Marijuana Cultivation Facility and/or one or more commonly owned Medical Marijuana Stores Transferred in Medical Marijuana from one or more unrelated Medical Marijuana Cultivation Facility(ies);

C. The Medical Marijuana Cultivation Facility has entered into a written agreement(s) or contract(s) for the sale of Medical Marijuana in the next 180 days supporting the requested two production management class increase or two increments of 3,000 plants;

D. An established history of responsible cultivation and Transfer by the Medical Marijuana Cultivation Facility;

E. Any history of noncompliance with the Medical Code, Marijuana Code, and/or Rules by the Medical Marijuana Cultivation Facility, or any commonly owned Medical Marijuana Business, and/or any investigation of, or administrative action against, the Medical Marijuana Cultivation Facility or any commonly owned Medical Marijuana Business; or

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

e. A Medical Marijuana Cultivation Facility that does not have 180 days of cultivating history may apply to increase its plant count to a Class 2 or Class 3 pursuant only to this subparagraph (E)(2)(e). A Medical Marijuana Cultivation Facility applying for a production management class increase request under this subparagraph (E)(2)(e) must demonstrate all of the following at the time of application:

i. The Medical Marijuana Cultivation Facility making the class increase request also owns at least three Medical Marijuana Stores with identical Controlling Beneficial Owners;

ii. The Controlling Beneficial Owners of the Medical Marijuana Cultivation Facility and three Medical Marijuana Stores used to support the class increase request have owned the aforementioned Medical Marijuana Store licenses for at least the preceding 180 days;

iii. The three Medical Marijuana Stores used to support the class increase request have consistently Transferred Regulated Marijuana to consumers in the preceding 180 days and have a history of wholesale purchases that justify the need for a class increase above a class 1;

iv. In the 180 days preceding the Licensee's class increase request pursuant to this subparagraph (e), the Medical Marijuana Cultivation Facility, three Medical Marijuana Stores, and identical Controlling Beneficial Owners have not been subject to administrative action by the State Licensing Authority;

v. The Medical Marijuana Cultivation Facility making the class increase request has an established history of responsible cultivation and Transfers of its Regulated Marijuana inventory; and

vi. The Medical Marijuana Cultivation Facility subject to the class increase request has not previously requested a class increase pursuant to this subparagraph (e).

3. Application for Class Increase. Applications for a class increase shall be submitted on Division forms, and shall be complete and accurate. Applications for a class increase that include any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation will be denied. In addition to denial, any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation is a public safety violation that may result in administrative action.

F. Maximum Allowed Medical Marijuana Cultivation Facility Licenses.

1. A Person that is a Controlling Beneficial Owner with an Interest in Three or More Medical Marijuana Cultivation Facility Licenses. For every multiple of three Medical Marijuana Cultivation Facility licenses in which a Person is a Controlling Beneficial Owner, the Person must also be a Controlling Beneficial Owner in at least one Medical Marijuana Store. For example: (1) a Person that is a Controlling Beneficial Owner in three, four, or five Medical Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least one Medical Marijuana Store; (2) a Person that is a Controlling Beneficial Owner in six, seven, or eight Medical Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least two Medical Marijuana Stores; (3) a Person that is a Controlling Beneficial Owner in nine, ten, or eleven Medical Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least three Medical Marijuana Stores; etcetera.

2. A Person that is a Controlling Beneficial Owner in Less than Three Medical Marijuana Cultivation Facility Licenses. A Person that is a Controlling Beneficial Owner in less than three Medical Marijuana Cultivation Facility licenses shall not be required to be a Controlling Beneficial Owner in a Medical Marijuana Store.

G. The State Licensing Authority, in his or her sole discretion, may adjust any of the plant limits described in this Rule 5-225 on an industry-wide aggregate basis for all Medical Marijuana Cultivation Facilities subject to that limitation.

Basis and Purpose – 5-230

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(a)(II), and 44-10-502(5), C.R.S. The purpose of this rule is to establish the circumstances under which a Medical Marijuana Cultivation Facility may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's regulated Medical Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting and recordkeeping requirements on a Medical Marijuana Cultivation Facility that Transfer Sampling Units. This Rule 5-230 was previously Rule M 508, 1 CCR 212-1.

5-230 – Medical Marijuana Cultivation Facility: Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, a Medical Marijuana Cultivation Facility may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Medical Marijuana Cultivation Facility who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. An individual designated as a Sampling Manager by a Medical Marijuana Cultivation Facility must possess a valid patient registry card.

3. An individual may be designated as a Sampling Manager by more than one Regulated Marijuana Business.

4. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

5. A Medical Marijuana Cultivation Facility that wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-502(5), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 5-230. *See also* Rule 3-905 – Business Records Required. A Medical Marijuana Cultivation Facility shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Harvest Batch or Production Batch. A Sampling Unit shall not be designated until the Harvest Batch or Production Batch has satisfied the testing requirements in 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Medical Marijuana flower or trim shall not exceed one gram.

2. A Sampling Unit of Medical Marijuana Concentrate shall not exceed one-quarter of one gram; except that a Sampling Unit of Medical Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Medical Marijuana Cultivation Facility as a Sampling Manager for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than one ounce of Medical Marijuana or fifteen grams of Medical Marijuana Concentrate.

4. The monthly limit established in subparagraph (C)(3) applies to each Sampling Manager, regardless of the number of Medical Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (C)(3). Before Transferring any Sampling Units, a Medical Marijuana Cultivation Facility shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limits established in subparagraph (C)(3).

6. A Sampling Manager shall not Transfer any Sampling unit to any other Person, including but not limited to any other Person designated as a Sampling Manager.

D. Compensation Prohibited. A Medical Marijuana Cultivation Facility may not use Sampling Units to compensate a Sampling Manager.

E. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

F. Acceptable Purposes. Sampling Units shall only be designated and Transferred for purposes of quality control and product development in accordance with section 44-10-502(5), C.R.S.

G. Recordkeeping Requirements. A Medical Marijuana Cultivation Facility shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, a Medical Marijuana Cultivation Facility shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of either quality control or product development. A Medical Marijuana Cultivation Facility shall also maintain copies of the Medical Marijuana Cultivation Facility's standard operating procedures provided to Sampling Managers.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-235

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(a)(II), 44-10-502(9)(a)-(c), 44-10-502(9.5), and 39-28.8-297, C.R.S. The purpose of this rule is to allow a Medical Marijuana Cultivation Facility to receive Transfers of Retail Marijuana from a Retail Marijuana Cultivation Facility in order to change its designation from "Retail" to "Medical."

5-235 – Medical Marijuana Cultivation Facility: Ability to Change Designation of Regulated Marijuana

A. Changing Designation from Retail Marijuana to Medical Marijuana. Beginning July 1, 2022, a Medical Marijuana Cultivation Facility may accept Retail Marijuana from a Retail Marijuana Cultivation Facility in order to change its designation from Retail Marijuana to Medical Marijuana pursuant to the following requirements:

1. The Medical Marijuana Cultivation Facility may only accept Retail Marijuana that has passed all required testing;

2. The Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility are co-located;

3. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility have at least one identical Controlling Beneficial Owner;

4. The Medical Marijuana Cultivation Facility must receive the Transfer and designate the inventory as Medical Marijuana in the Inventory Tracking System the same day. The Medical Marijuana Cultivation Facility must assign and attach an RFID tag reflecting its Medical Marijuana license number to the Medical Marijuana following completion of the Transfer in the Inventory Tracking System;

5. After the designation change, the Medical Marijuana cannot be Transferred to the originating or any other Retail Marijuana Business or otherwise treated as Retail Marijuana. The inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules;

6. Both the Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility must remain at, or under, its inventory limit before and after the Retail Marijuana changes its designation to Medical Marijuana; and

7. The Transfer and change of designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change of designation.

B. Changing Designation from Medical Marijuana to Retail Marijuana. Beginning January 1, 2023, a Medical Marijuana Cultivation Facility may Transfer Medical Marijuana to a Retail Marijuana Cultivation Facility or Accelerator Cultivator in order to change its designation from Medical Marijuana to Retail Marijuana pursuant to the following requirements:

1. The Medical Marijuana Cultivation Facility may only Transfer Medical Marijuana that has passed all required testing in accordance with the 4-100 Series Rules – Regulated Marijuana Testing Program;

2. The Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility or Accelerator Cultivator share a Licensed Premises in accordance with Rule 3-215, unless:

   a. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility or Accelerator Cultivator have at least one identical Controlling Beneficial Owner; and

   b. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility or Accelerator Cultivator cannot share a Licensed Premises because the Local Licensing Authority or Local Jurisdiction prohibits the operation of either a Medical Marijuana Cultivation Facility or a Retail Marijuana Cultivation Facility.

3. The Medical Marijuana Cultivation Facility must report the Transfer in the Inventory Tracking System the same day that the change in designation from Medical Marijuana to Retail Marijuana occurs;

4. After the designation change, the Retail Marijuana cannot be Transferred to the originating or any other Medical Marijuana Business or otherwise be treated as Medical Marijuana. The inventory is Retail Marijuana and is subject to all permissions and limitations in the 6-200 Series Rules;

5. Both the Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility or Accelerator Cultivator must remain at, or under, its respective inventory limit before and after the Medical Marijuana changes its designation to Retail Marijuana;

6. The Retail Marijuana Cultivation Facility or Accelerator Cultivator shall pay any Retail Marijuana excise tax that is imposed pursuant to section 39-28.8-302, C.R.S.;

7. The Retail Marijuana Cultivation Facility or Accelerator Cultivator shall notify the Local Licensing Authority or Local Jurisdiction where the Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility or Accelerator Cultivator operate and pay any applicable excise tax on the Retail Marijuana in the manner determined by the Local Licensing Authority or Local Jurisdiction; and

8. Pursuant to the requirements of this subparagraph (B), a Medical Marijuana Cultivation Facility may make a virtual Transfer of Medical Marijuana that is reflected in the Inventory Tracking System even if the Medical Marijuana is not physically moved prior to the change of designation to Retail Marijuana.

Basis and Purpose – 5-240

The Statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(j.5), 44-10-203(1)(k), 44-10-401(2)(a)(II), and 44-10-502(10)(a)-(c). The purpose of this rule is to allow a Medical Marijuana Cultivation Facility Licensee that plans to cultivate Medical Marijuana outdoors to submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event.

5-240 Medical Marijuana Cultivation Facility: Contingency Plan for Outdoor Cultivation

A. Submission of Contingency Plan.

1. Beginning January 1, 2022, Medical Marijuana Cultivation Facility Licensees that plan to cultivate Medical Marijuana outdoors may submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event. The Medical Marijuana Cultivation Facility shall also submit a copy of the plan to the Local Licensing Authority in the local jurisdiction where the Licensee operates, and if Transferring Medical Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

2. A Medical Marijuana Cultivation Facility may submit a contingency plan at any time, but it must be filed at least 7 days prior to taking action pursuant to the contingency plan and must be approved by the State Licensing Authority prior to taking action pursuant to the contingency plan.

3. After initial submission and approval of a contingency plan, a contingency plan must be submitted with the Medical Marijuana Cultivation Facility's license renewal application. Any material change to a contingency plan prior to a renewal application must be submitted for review and approval pursuant to subsection (A)(2) above prior to taking action pursuant to the revised contingency plan.

4. The Division shall notify the appropriate Local Licensing Authorities of the approval of the contingency plan.

B. Requirements for Outdoor Contingency Plans.

1. Identification of the type of Adverse Weather Event that the plan applies to, including any deviations based on the type of Adverse Weather Event.

2. Primary Contact. A primary contact for the Medical Marijuana Cultivation Facility must be identified on the contingency plan, including the: name, title, phone number, and email address of the primary contact. The Medical Marijuana Cultivation Facility shall notify the Division of any change to the primary contact or required contact information within 48 hours of the change.

3. Transport Manifest. If the contingency plan provides for the Transfer of Medical Marijuana, a Medical Marijuana Cultivation Facility shall submit a standing transport manifest that could be used by a Licensee upon approval during an Adverse Weather Event if creating a transport manifest through the Inventory Tracking System is impracticable. The standing transport manifest shall include: identification and address of the receiving Licensee.

4. Disclosure of Receiving Licensed Premises.

a. Medical Marijuana may only be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or an off-premises storage facility.

b. If Medical Marijuana will be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility pursuant to a contingency plan, that plan must include the name, ownership, and address of the receiving Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility, along with a diagram of the proposed receiving Licensed Premises.

c. The receiving Licensed Premises shall be an existing location that currently holds an approved state and local license or an off-premises storage facility permit. The receiving Licensee is not required to share any Controlling Beneficial Owners with the Transferring Medical Marijuana Cultivation Facility.

d. A Medical Marijuana Cultivation Facility that cultivates outdoors may identify and Transfer Medical Marijuana to no more than five receiving Licensed Premises' as part of a contingency plan.

5. Disclosure of Modifications to the Premises and Security and Surveillance. Proposed modifications to the Licensed Premises and any anticipated impacts to compliance with security and surveillance requirements pursuant to Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6).

C. License Requirements when Acting Pursuant to a Contingency Plan. To the extent that this subsection (C) conflicts with other rule sections, this subsection shall control during the time that a Licensee is acting pursuant to a contingency plan.

1. Notification.

a. Notification of action pursuant to an approved contingency plan shall be made to the Division within 24 hours after initiating action pursuant to a contingency plan. A Medical Marijuana Cultivation Facility that cultivates outdoors must also notify the Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Medical Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

b. Notification of ceasing action pursuant to the approved contingency plan shall be made to the Division within 24 hours of returning to normal business operations. If action will continue more than 7 days after initiating action pursuant to a contingency plan the licensee shall contact the Division and explain why they cannot return to normal business operations.

c. Any notification shall be made in writing and can be made by email to the Division.

2. Production Management. Medical Marijuana Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility pursuant to a contingency plan is not included in the receiving Licensed Premises' inventory limit until the Medical Marijuana Cultivation Facility acting pursuant to the contingency plan returns to normal business operations.

3. Modification of Premises. An application for a modification of a Licensed Premises is not required as part of a contingency plan unless the modification or change in premises becomes a permanent modification. If that change becomes a permanent change, a modification of premises application must be submitted within 14 days.

4. Security Requirements. All security and surveillance requirements that apply to a Medical Marijuana Cultivation Facility apply to activities conducted pursuant to the contingency plan. If the contingency plan does not require the Transfer of Regulated Marijuana to another Licensed Premises, but requires plants to be covered or video surveillance to be otherwise temporarily obstructed, exemptions to the video surveillance requirements in Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6) may be approved as part of the contingency plan.

5. Inventory Tracking Requirements. Licensees must use the Inventory Tracking System to ensure Medical Marijuana is identified and tracked during all times that action is being taken pursuant to a contingency plan. If a Medical Marijuana Cultivation Facility harvests, Transfers, or packages Medical Marijuana it must be fully reconciled in the Inventory Tracking System within 48 hours of initiating action pursuant to the contingency plan.

    a. Harvest Requirements. If Medical Marijuana is harvested, the weight of Medical Marijuana can be captured on a per harvest level and equally applied to individual plants rather than requiring the initial wet weight of each plant. This initial harvest weight may be captured at a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility upon arrival at the Licensed Premises approved as part of the contingency plan. Harvest Batches and Inventory Tracking System packages must be reported by the Medical Marijuana Cultivation Facility acting pursuant to the contingency plan in the Inventory Tracking System.

    b. Transport Manifest. The Medical Marijuana Cultivation Facility acting pursuant to the contingency plan must report all Medical Marijuana that is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility on a transport manifest.

        i. A Licensee may use the approved standing transport manifest during an Adverse Weather Event only when using the Inventory Tracking System is not possible.

        ii. The Licensee shall manually fill out the dates, times, and individual transporting Medical Marijuana on a copy of the standing transport manifest.

        iii. The Licensee shall ensure the standing transport manifest and copy of the approved Contingency plan remain in the Licensee's possession during any transport of Medical Marijuana when it is not possible to use an Inventory Tracking System generated transportation manifest at the time of the Adverse Weather Event.

6. Transfers. If Medical Marijuana is Transferred to another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility it is exempted from the packaging and labeling requirements in Rule 3-1005(B).

7. Virtual and Physical Separation. If Medical Marijuana is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility that inventory must be virtually separated by Harvest Batch and must also be virtually and physically separated from the receiving Licensee's inventory. Harvest Batches must also be clearly identified at the receiving Licensed Premises with the Harvest Batch name and date of harvest.

8. Finishing Product. After Transferring Medical Marijuana to another Licensed Premises, a Medical Marijuana Cultivation Facility may finish that harvest at the receiving Licensed Premises if all Medical Marijuana is accounted for in the Inventory Tracking System and the Licensed Premises is in compliance with all surveillance requirements.

9. Testing. The originating Licensee acting pursuant to a contingency plan is responsible for the submission of Test Batch(es).

    a. Each Harvest Batch or Production Batch Transferred pursuant to a contingency plan must be submitted for all required tests and is not eligible for a Reduced Testing Allowance or otherwise exempt from required testing.

    b. Any passing or failing tests of a Harvest Batch or Production Batch Transferred pursuant to a contingency plan will not count for or against a Licensee's Reduced Testing Allowance.

5-300 Series – Medical Marijuana Products Manufacturers

Basis and Purpose – 5-305

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(d)(I)-(VI), 44-10-313(14), and 44-10-503, C.R.S. The purpose of this rule is to establish a Medical Marijuana Products Manufacturer's license privileges. This Rule 5-305 was previously Rule M 601, 1 CCR 212-1.

5-305 – Medical Marijuana Products Manufacturer: License Privileges

A. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Products Manufacturer may share and operate at the same Licensed Premises with a commonly owned Medical Marijuana Products Manufacturer. However, a separate license is required for each specific business or business entity, regardless of geographical location. In addition, a Medical Marijuana Products Manufacturer may share, and operate at, the same Licensed Premises as a Marijuana Research and Development Facility so long as:

    1. Each business or business entity holds a separate license;

    2. The Marijuana Research and Development Facility obtains an R&D Co-Location Permit;

    3. Both the Marijuana Research and Development Facility and the Medical Marijuana Products Manufacturer comply with all terms and conditions of the R&D Co-Location Permit; and

    4. Both the Marijuana Research and Development Facility and the Medical Marijuana Products Manufacturer comply with all applicable rules. *See* 5-700 Series Rules.

B. Authorized Transfers. A Medical Marijuana Products Manufacturer is authorized to Transfer Medical Marijuana as follows:

1. Medical Marijuana Concentrate and Medical Marijuana Product.

a. A Medical Marijuana Products Manufacturer may Transfer its own Medical Marijuana Product and Medical Marijuana Concentrate to Medical Marijuana Stores, other Medical Marijuana Products Manufacturers, Medical Marijuana Testing Facility, Marijuana Research and Development Facility and Pesticide Manufactures.

b. A Medical Marijuana Products Manufacturer may Transfer Medical Marijuana Product and Medical Marijuana Concentrate to a Medical Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit.

i. Prior to any Transfer pursuant to this Rule 5-305(B)(1)(b), a Medical Marijuana Products Manufacturer shall verify Medical Marijuana Cultivation Facility possesses a valid Centralized Distribution Permit. *See* Rule 5-205 – Medical Marijuana Cultivation Facility: License Privileges.

ii. For any Transfer pursuant to this Rule 5-305(B)(1)(b), A Medical Marijuana Products Manufacturer shall only Transfer Medical Marijuana Product and Medical Marijuana Concentrate that is packaged and labeled for Transfer to a patient. *See* 3-1000 Series Rules.

2. Medical Marijuana.

a. A Medical Marijuana Products Manufacturer may Transfer Medical Marijuana to another Medical Marijuana Products Manufacturer, a Medical Marijuana Store, a Marijuana Research and Development Facility or a Pesticide Manufacturer.

3. Sampling Units. A Medical Marijuana Products Manufacturer may also Transfer Sampling Units of its own Medical Marijuana Products and Medical Marijuana Concentrate to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-503(10), C.R.S., and Rule 5-320.

C. Manufacture of Medical Marijuana Concentrate, Medical Marijuana Product, Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana Authorized. A Medical Marijuana Products Manufacturer may manufacture, prepare, package, and label Medical Marijuana Concentrate Medical Marijuana Product comprised of Medical Marijuana and other Ingredients intended for use or consumption, such as Edible Medical Marijuana Products, ointments, or tinctures. A Medical Marijuana Products Manufacturer may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana.

1. Industrial Hemp Product Authorized. This subparagraph (C)(1) is effective July 1, 2020. A Medical Marijuana Products Manufacturer that uses Industrial Hemp Product as an Ingredient in the manufacture and preparation of Medical Marijuana Product must comply with this subparagraph (C)(1) of this Rule.

a. Prior to accepting and taking possession of any Industrial Hemp Product for use as an Ingredient in a Medical Marijuana Product the Medical Marijuana Products Manufacturer shall verify the following:

i. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Medical Marijuana Testing Facility; and

ii. That the Person Transferring the Industrial Hemp Product to the Medical Marijuana Products Manufacturer is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

D. Location Prohibited. A Medical Marijuana Products Manufacturer may not manufacture, prepare, package, store, or label Medical Marijuana Product in a location that is operating as a retail food establishment.

E. Samples Provided for Testing.

1. A Medical Marijuana Products Manufacturer may provide samples of its Medical Marijuana Concentrate or Medical Marijuana Product to a Medical Marijuana Testing Facility for testing and research purposes. The Medical Marijuana Products Manufacturer shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

F. Authorized Marijuana Transport. A Medical Marijuana Products Manufacturer is authorized to utilize a Medical Marijuana Transporter for transportation of its Medical Marijuana Product or Medical Marijuana Concentrate so long as the place where transportation orders are taken is a licensed Medical Marijuana Business and the transportation order is delivered to a Medical Marijuana Business, or Pesticide Manufacturer. Nothing in this Rule prevents a Medical Marijuana Products Manufacturer from transporting its own Medical Marijuana or Medical Marijuana Concentrate.

G. Performance-Based Incentives. A Medical Marijuana Products Manufacturer may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, a Medical Marijuana Products Manufacturer may not compensate a Sampling Manager using Sampling Units. *See* Rule 5-320 – Sampling Unit Protocols.

H. Receipt of Retail Marijuana Concentrate. A Medical Marijuana Products Manufacturer may receive a Transfer of Retail Marijuana Concentrate in compliance with Rules 5-335, 6-335, and 6-730.

Basis and Purpose – 5-310

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-401(2)(a)(III), and 44-10-503, C.R.S. The Marijuana Code sets forth minimum requirements for written agreements between Medical Marijuana Products Manufacturers and Medical Marijuana Stores. Specifically, the written agreements must set forth the total amount of Medical Marijuana obtained from a Medical Marijuana Store to be used in the manufacturing process, and the total amount of Medical Marijuana Product to be manufactured from the Medical Marijuana obtained from the Medical Marijuana Store. This rule clarifies that the Division must approve such written agreements to ensure they meet those requirements. This rule also provides those acts that are generally limited or prohibited. This Rule 5-310 was previously Rule M 602, 1 CCR 212-1.

5-310 – Medical Marijuana Products Manufacturer: General Limitations or Prohibited Acts

A. Contract Required. Any contract required pursuant to section 44-10-503(3), C.R.S., shall contain such minimum requirements as to form and substance as required by statute. All contracts need

to be current and available for inspection on the Licensed Premises by the Division when requested. *See* Rule 3-905 – Business Records and Reporting.

B. Packaging and Labeling Standards Required. A Medical Marijuana Products Manufacturer is prohibited from Transferring Medical Marijuana Concentrate or Medical Marijuana Product that are not properly packaged and labeled. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety

C. Transfer to Patient Prohibited. A Medical Marijuana Products Manufacturer is prohibited from Transferring Medical Marijuana to a patient. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-503(10), C.R.S., and Rule 5-320.

D. Adequate Care of Perishable Product. A Medical Marijuana Products Manufacturer must provide adequate refrigeration for perishable Medical Marijuana Product that will be consumed and shall utilize adequate storage facilities and transport methods.

E. Homogeneity of Edible Medical Marijuana Product. A Medical Marijuana Products Manufacturer must ensure that its manufacturing processes are designed so that the Cannabinoid content of any Edible Medical Marijuana Product is homogenous.

F. Use of Ingredients. A Medical Marijuana Products Manufacturer must obtain and maintain certificates of analysis or other records demonstrating the full composition of each Ingredient used in the manufacture of Vaporizer Delivery Devices or Pressurized Metered Dose Inhalers.

G. Corrective and Preventive Action. This paragraph G shall be effective January 1, 2021. A Medical Marijuana Products Manufacturer shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

H. Adverse Health Event Reporting. A Medical Marijuana Products Manufacturer must report Adverse Health Events pursuant to Rule 3-920.

Basis and Purpose – 5-315

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(i), 44-10-401(2)(a)(III), and 44-10-503, C.R.S. The purpose of this rule is to establish the categories of Medical Marijuana Concentrate that may be produced at a Medical Marijuana Products Manufacturer and establish standards for the production of those concentrate. Nothing in this rule authorizes the unlicensed practice of engineering under Article 25 of Title 12, C.R.S. This Rule 5-315 was previously Rule M 605, 1 CCR 212-1.

5-315 – Medical Marijuana Products Manufacturer: Medical Marijuana Concentrate Production.

A. Permitted Categories of Medical Marijuana Concentrate Production.

1. A Medical Marijuana Products Manufacturer may produce Physical Separation-Based Medical Marijuana Concentrate, Food-Based Medical Marijuana Concentrate, and Heat/Pressure-Based Medical Marijuana Concentrate

2. A Medical Marijuana Products Manufacturer may also produce Solvent-Based Medical Marijuana Concentrate using only the following solvents: butane, propane, CO_2, ethanol, isopropanol, acetone, heptane, ethyl acetate, and pentane. The use of any other solvent is expressly prohibited unless it is approved by the Division.

3. A Medical Marijuana Products Manufacturer may submit a request to the Division to consider the approval of solvents not permitted for use under this Rule during the next formal rulemaking.

B. General Applicability. A Medical Marijuana Products Manufacturer that engages in the production of Medical Marijuana Concentrate, regardless of the method of extraction or category of concentrate being produced, must:

1. Ensure that the space in which any Medical Marijuana Concentrate is to be produced is a fully enclosed room and clearly designated on the current diagram of the Licensed Premises. *See* Rule 3-905 – Business Records Required.

2. Ensure that all applicable sanitary rules are followed. *See* 3-300 Series Rules.

3. Ensure that the standard operating procedure for each method used to produce a Medical Marijuana Concentrate includes, but need not be limited to, step-by-step instructions on how to safely and appropriately:

a. Conduct all necessary safety checks prior to commencing production;

b. Prepare Medical Marijuana for processing;

c. Extract Cannabinoids and other essential components of Medical Marijuana;

d. Purge any solvent or other unwanted components from a Medical Marijuana Concentrate,

e. Clean all equipment, counters and surfaces thoroughly; and

f. Dispose of any waste produced during the processing of Medical Marijuana in accordance with all applicable local, state and federal laws, rules and regulations. *See* Rule 3-230 – Waste Disposal.

4. Establish written and documentable quality control procedures designed to maximize safety for Owner Licensees and Employee Licensees and minimize potential product contamination.

5. Establish written emergency procedures to be followed by Owner Licensees or Employee Licensees in case of a fire, chemical spill or other emergency.

6. Have a comprehensive training manual that provides step-by-step instructions for each method used to produce a Medical Marijuana Concentrate. The training manual must include, but need not be limited to, the following topics:

a. All standard operating procedures for each method of concentrate production used;

b. The Medical Marijuana Products Manufacturer's quality control procedures;

c. The emergency procedures;

d. The appropriate use of any necessary safety or sanitary equipment;

e. The hazards presented by all solvents used as described in the safety data sheet for each solvent;

f. Clear instructions on the safe use of all equipment involved in each process and in accordance with manufacturer's instructions, where applicable; and

g. Any additional periodic cleaning required to comply with all applicable sanitary rules.

7. Provide adequate training to every Owner Licensee or Employee Licensee prior to that individual undertaking any step in the process of producing a Medical Marijuana Concentrate.

a. Adequate training must include, but need not be limited to, providing a copy of the training manual for that Licensed Premises and live, in-person instruction detailing at least all of the topics required to be included in the training manual.

b. The individual training an Owner Licensee or Employee Licensee must sign and date a document attesting that all required aspects of training were conducted and that he or she is confident that the Owner Licensee or Employee Licensee can safely produce a Medical Marijuana Concentrate. *See* Rule 3-905 – Business Records Required.

c. The Owner Licensee or Employee Licensee that received the training must sign and date a document attesting that he or she can safely implement all standard operating procedures, quality control procedures, and emergency procedures, operate all closed-loop extraction systems, use all safety, sanitary and other equipment and understands all hazards presented by the solvents to be used within the Licensed Premises and any additional periodic cleaning required to

maintain compliance with all applicable sanitary rules. *See* Rule 3-905 – Business Records Required.

8. Maintain clear and comprehensive records of the name, signature and Owner Licensee or Employee License number of every individual who engaged in any step related to the creation of a Production Batch of Medical Marijuana Concentrate and the step that individual performed. *See* Rule 3-905 – Business Records Required.

C. Physical Separation-Based Medical Marijuana Concentrate, Food-Based Medical Marijuana Concentrate, and Heat/Pressure-Based Medical Marijuana Concentrate. Medical Marijuana Products Manufacturer that engages in the production of a Medical Marijuana Concentrate must:

1. Ensure that all equipment, counters, and surfaces used in the production of a Medical Marijuana Concentrate is food-grade including ensuring that all counters and surface areas were constructed in such a manner that it reduces the potential for the development of microbials, molds and fungi and can be easily cleaned.

2. Ensure that all equipment, counters, and surfaces used in the production of a Medical Marijuana Concentrate are thoroughly cleaned after the completion of each Production Batch.

3. Ensure that any room in which dry ice is stored or used in processing Medical Marijuana into a Medical Marijuana Concentrate is well ventilated to prevent against the accumulation of dangerous levels of CO_2.

4. Ensure that the appropriate safety or sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Medical Marijuana Concentrate.

5. Ensure that only finished drinking water and ice made from finished drinking water is used in the production of a Physical Separation-Based Medical Marijuana Concentrate.

6. Ensure that if propylene glycol or glycerin is used in the production of a Food-Based Medical Marijuana Concentrate, then the propylene glycol or glycerin to be used is food-grade.

7. Follow all of the rules related to the production of a Solvent-Based Medical Marijuana Concentrate if a pressurized system is used in the production of a Medical Marijuana Concentrate.

D. Solvent-Based Medical Marijuana Concentrate. A Medical Marijuana Products Manufacturer that engages in the production of Solvent-Based Medical Marijuana Concentrate must:

1. Obtain a report from an Industrial Hygienist or a Professional Engineer that certifies that the equipment, Licensed Premises and standard operating procedures comply with these rules and all applicable local and state building codes, fire codes, electrical codes and other laws. If a local jurisdiction has not adopted a local building code or fire code or if local regulations do not address a specific issue, then the Industrial Hygienist or Professional Engineer shall certify compliance with the International Building Code of 2012 (http://www.iccsafe.org), the International Fire Code of 2012 (http://www.iccsafe.org) or the National Electric Code of 2014 (http://www.nfpa.org), as appropriate. Note that this Rule does not include any later amendments or editions to each Code. The Division has maintained a copy of each code, which are available to the public;

a. Flammable Solvent Determinations. If a Flammable Solvent is to be used in the processing of Medical Marijuana into a Medical Marijuana Concentrate, then the Industrial Hygienist or Professional Engineer must:

i. Establish a maximum amount of Flammable Solvents and other flammable materials that may be stored within that Licensed Premises in accordance with applicable laws, rules, and regulations.

ii. Determine what type of electrical equipment, which may include but need not be limited to outlets, lights, junction boxes, must be installed within the room in which Medical Marijuana Concentrate are to be produced or Flammable Solvents are to be stored in accordance with applicable laws, rules, and regulations.

iii. Determine whether a gas monitoring system must be installed within the room in which Medical Marijuana Concentrate are to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules, and regulations.

iv. Determine whether fire suppression system must be installed within the room in which Medical Marijuana Concentrate are to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules, and regulations.

b. CO_2 Solvent Determination. If CO_2 is used as solvent at the Licensed Premises, then the Industrial Hygienist or Professional Engineer must determine whether a CO_2 gas monitoring system must be installed within the room in which Medical Marijuana Concentrate are to be produced or CO_2 is stored, and if required the system's specifications, in accordance with applicable laws, rules, and regulations.

c. Exhaust System Determination. The Industrial Hygienist or Professional Engineer must determine whether a fume vent hood or exhaust system must be installed within the room in which Medical Marijuana Concentrate are to be produced, and if required the system's specifications, in accordance with applicable laws, rules, and regulations.

d. Material Change. If a Medical Marijuana Products Manufacturer makes a Material Change to its equipment or a concentrate production procedure, in addition to all other requirements, it must obtain a report from an Industrial Hygienist or Professional Engineer re-certifying its standard operating procedures and, if changed, its equipment as well.

e. Manufacturer's Instructions. The Industrial Hygienist or Professional Engineer may review and consider any information provided to the Medical Marijuana Products Manufacturer by the designer or manufacturer of any equipment used in the processing of Medical Marijuana into a Medical Marijuana Concentrate.

f. Records Retention. A Medical Marijuana Products Manufacturer must maintain copy of all reports received from an Industrial Hygienist and Professional Engineer on its Licensed Premises. Notwithstanding any other law, rule, or regulation, compliance with this Rule is not satisfied by storing these reports outside of the Licensed Premises. Instead the reports must be maintained on the Licensed Premises until the Licensee ceases production of Medical Marijuana Concentrate.

2. Ensure that all equipment, counters, and surfaces used in the production of a Solvent-Based Medical Marijuana Concentrate must be food-grade and must not react adversely with any of the solvents to be used in the Licensed Premises. Additionally, all counters and surface areas must be constructed in a manner that reduces the potential development of microbials, molds, and fungi and can be easily cleaned;

3. Ensure that the room in which Solvent-Based Medical Marijuana Concentrate shall be produced must contain an emergency eye-wash station;

4. Ensure that a professional grade, closed-loop extraction system capable of recovering the solvent is used to produce Solvent-Based Medical Marijuana Concentrate;

    a. UL or ETL Listing.

        i. If the system is UL or ETL listed, then a Medical Marijuana Products Manufacturer may use the system in accordance with the manufacturer's instructions.

        ii. If the system is UL or ETL listed but the Medical Marijuana Products Manufacturer intends to use a solvent in the system that is not listed in the manufacturer's instructions for use in the system, then, prior to using the unlisted solvent within the system, the Medical Marijuana Products Manufacturer must obtain written approval for use of the non-listed solvent in the system from either the system's manufacturer or a Professional Engineer after the Professional Engineer has conducted a peer review of the system. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

        iii. If the system is not UL or ETL listed, then there must a designer of record. If the designer of record is not a Professional Engineer, then the system must be peer reviewed by a Professional Engineer. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

    b. Ethanol or Isopropanol. A Medical Marijuana Products Manufacturer Facility need not use a professional grade, closed-loop system extraction system capable of recovering the solvent for the production of a Solvent-Based Medical Marijuana Concentrate if ethanol or isopropanol are the only solvents being used in the production process.

5. Ensure that all solvents used in the extraction process are food-grade or at least 99% pure;

    a. A Medical Marijuana Products Manufacturer must obtain a safety data sheet for each solvent used or stored on the Licensed Premises. A Medical Marijuana Products Manufacturer must maintain a current copy of the safety data sheet and a receipt of purchase for all solvents used or to be used in an extraction process. *See* Rule 3-905 – Business Records Required.

    b. A Medical Marijuana Products Manufacturer is prohibited from using denatured alcohol to produce a Medical Marijuana Concentrate, unless the denaturant is an approved solvent listed in Rule 5-315(A)(2) and the alcohol and the denaturant meet all other requirements set forth in this Rule.

6. Ensure that all Flammable Solvents or other flammable materials, chemicals and waste are stored in accordance with all applicable laws, rules and regulations. At no time may a Medical Marijuana Products Manufacturer store more Flammable Solvent on its Licensed Premises than the maximum amount established for that Licensed Premises by the Industrial Hygienist or Professional Engineer;

7. Ensure that the appropriate safety and sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Solvent-Based Medical Marijuana Concentrate; and

8. Ensure that a trained Owner Licensee or Employee Licensee is present at all times during the production of a Solvent-Based Medical Marijuana Concentrate whenever an extraction process requires the use of pressurized equipment.

9. Medical Marijuana Products Manufacturers Engaged in the Remediation of Medical Marijuana for elemental impurities. Medical Marijuana Products Manufacturers engaged in the Remediation of Medical Marijuana for elemental impurities shall:

    a. Implement effective cleaning procedures, additional testing plans, and other measures that will be performed to prevent cross contamination.

        i. If potentially contaminated equipment, ingredients, or solvents used in the Remediation process are used for processing other 'non Remediated' material, the subsequent Production Batch made using the equipment, ingredients, or solvent must then be tested for elemental impurities, and the Production Batch made using that equipment, ingredients, or solvents is not eligible for testing exemptions through a Reduced Testing Allowance or otherwise exempt from required testing.

        ii. Manufacturers must document the equipment and lots of ingredients/solvents used in Remediation to ensure this requirement is met.

    b. Register as a hazardous waste generator, obtain a U.S. Environmental Protection Agency ID number for manifesting hazardous waste, and must have a disposal contract in place with a hazardous waste management company prior to attempting Remediation.

    c. Have a staff member who has received basic training in hazardous waste identification, storage, and disposal procedures, or hire a consultant who satisfies this criteria.

    d. Regardless of which type of analyte, if the Medical Marijuana flower, wet whole plant, or trim has failed elemental impurities testing, the Licensee must implement Standard Operating Procedures to ensure:

        i. That contaminated material is stored in a labelled container identifying the material as potentially hazardous, and that the container seals in such a way to prevent the risk of cross contamination or inhalation of dusts.

        ii. That when material is removed from the sealed container and handled in any fashion (preparation, the extraction or other Remediation process, wasting, etc.), any workers exposed to dusts or particulates generated

from the material must wear appropriate personal protective equipment (PPE), including at minimum: gloves, American National Standards Institute (ANSI) Z87.1 safety glasses, and a respirator rated to protect them from airborne dusts or particulates that may contain elemental impurities. Respirators should utilize National Institute for Occupational Safety and Health rated particulate filters of sufficient grade to prevent exposure to airborne dusts that could contain elemental impurities.

A. Workers utilizing a respirator must comply with applicable Occupational Safety and Health Administration regulations regarding respirator use before handling contaminated material. This includes receiving respirator clearance from a qualified professional and passing a respirator fit test before using a respirator.

e. Additional forms of environmental airborne particulate control, such as industrial air filtration systems, handling material inside of enclosures, etc. must be implemented by the Licensee to minimize the risk of exposure or cross contamination of contaminated dusts.

f. These steps must be documented in the Licensee's respiratory protection program that all employees exposed to plant material or waste products contaminated with elemental impurities must be trained on.

g. The Licensee must establish and train employees on standard operating procedures designed to safely handle this contaminated material and prevent cross contamination.

h. Mercury poses additional workplaces hazards since it is easily volatilized and since mercury vapor is highly toxic. Before attempting to remediate any Regulated Marijuana flower, wet whole plant, or trim that has failed elemental impurities testing and contains mercury, Licensees must additionally:

i. Work with a certified industrial hygienist to develop and implement some form of monitoring program that is capable of detecting mercury vapor concentrations in the areas where material contaminated with mercury will be processed and can be used to generate time weighted average exposures to mercury vapor. The monitoring system must be sufficient to ensure airborne concentrations of mercury do not exceed Occupational Safety and Health Administration Permissible Exposure Limits for Airborne Contaminants.

ii. Have a certified industrial hygienist approve the Licensee's air handling system for managing mercury vapors in a fashion that is compliant with the Occupational Safety and Health Administration, and other applicable federal, state, and local regulations.

iii. Utilize a National Institute for Occupational Safety and Health rated half mask respirator with cartridges rated specifically for mercury vapor.

i. A Licensee must ensure their processes and safety practices comply with applicable federal, state, and local environmental health and safety regulations.

10. Medical Marijuana Products Manufacturer Engaged in the Remediation of Medical Marijuana for Microbial Contamination. Medical Marijuana Products Manufacturers engaged in the Remediation of Medical Marijuana for microbial contamination shall:

    a. Implement effective cleaning procedures, additional testing plans, and other measures that will be performed to prevent cross contamination.

    b. Ensure that contaminated material is stored in a labeled container identifying the material as potentially hazardous, and that the container seals in such a way to prevent the risk of cross contamination or inhalation of dusts.

    c. Ensure that when material is removed from the sealed container and handled in any fashion (preparation, the extraction or other Remediation process, wasting, etc.), any workers exposed to dusts or particulates generated from the material must wear appropriate personal protective equipment (PPE), including at minimum: gloves, American National Standards (ANSI) Z87.1 safety glasses, and a respirator rated to protect them from airborne dusts or particulates that may contain elemental impurities. Respirators should utilize National Institute for Occupational Safety and Health rated particulate filters of sufficient grade to prevent exposure to airborne dusts that could contain elemental impurities.

        i. Workers utilizing a respirator must comply with applicable Occupational Safety and Health Administration regulations regarding respirator use before handling contaminated material. This includes receiving respirator clearance from a qualified professional and passing a respirator fit test before using a respirator.

    d. Implement additional forms of environmental airborne particulate control, such as industrial air filtration systems, handling material inside of enclosures, etc. must be implemented by the Licensee to minimize the risk of exposure or cross contamination of contaminated dusts.

    e. These steps must be documented in the Licensee's respiratory protection program that all employees exposed to plant material or waste products contaminated with elemental impurities must be trained on.

    f. The Licensee must establish and train employees on standard operating procedures designed to safely handle this contaminated material and prevent cross contamination.

    g. The Licensee must ensure their processes and safety practices comply with applicable federal, state, and local environmental health and safety regulations.

E. Ethanol and Isopropanol. If a Medical Marijuana Products Manufacturer only produces Solvent-Based Medical Marijuana Concentrate using ethanol or isopropanol at its Licensed Premises and no other solvent, then it shall be considered exempt from the requirements in paragraph D of this Rule and instead must follow the requirements in paragraph C of this Rule. Regardless of which rule is followed, the ethanol or isopropanol must be food grade or at least 99% pure and denatured alcohol cannot be used. The Medical Marijuana Products Manufacturer shall comply with contaminant testing required in Rule 4-120(C)(3).

F. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-320

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(a)(III), and 44-10-503 C.R.S. The purpose of this rule is to establish the circumstances under which a Medical Marijuana Products Manufacturer may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's regulated Medical Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting, and recordkeeping requirements on a Medical Marijuana Products Manufacturer that Transfer Sampling Units. This Rule 5-320 was previously Rule M 606, 1 CCR 212-1.

5-320 – Medical Marijuana Products Manufacturer: Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, a Medical Marijuana Products Manufacturer may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Medical Marijuana Products Manufacturer who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. An individual designated as a Sampling Manager by a Medical Marijuana Products Manufacturer must possess a valid patient registry card.

3. An individual may be designated as a Sampling Manager by more than one Medical Marijuana Business.

4. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

5. A Medical Marijuana Products Manufacturer that wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-503(10), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 5-320. *See also* Rule 3-905 – Business Records Required. A Medical Marijuana Products Manufacturer shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Production Batch. A Sampling Unit shall not be designated until the Production Batch has satisfied the testing requirements in 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Edible Medical Marijuana Product shall not exceed one serving size. Before designating any Sampling Units, a Medical Marijuana Products Manufacturer shall establish the specific serving size for each Edible Medical Marijuana Product it produces and maintain a record of the serving size in its standard operating procedures provided pursuant to subparagraph (A)(5).

2. A Sampling Unit of non-Edible Medical Marijuana Product shall not exceed the equivalent of one serving size. Before designating any Sampling Units, a Medical Marijuana Products Manufacturer shall establish the specific serving size for each non-Edible Medical Marijuana Product it produces and maintain a record of the serving size in its standard operating procedures provided pursuant to subparagraph (A)(5).

3. A Sampling Unit of Medical Marijuana Concentrate shall not exceed one-quarter of one gram; except that a Sampling Unit of Medical Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Medical Marijuana Products Manufacturer as a Sampling Manager for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than:

a. Fourteen servings of Medical Marijuana Products; and

b. Fifteen grams of Medical Marijuana Concentrate.

4. The monthly limit established in subparagraph (C)(3) applies to each Sampling Manager, regardless of the number of Medical Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (C)(3). Before Transferring any Sampling Units, a Medical Marijuana Products Manufacturer shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limit established in subparagraph (C)(3).

6. A Sampling Manager shall not Transfer any Sampling Unit to any other Person, including but not limited to any Person designated as a Sampling Manager.

D. Compensation Prohibited. A Medical Marijuana Products Manufacturer may not use Sampling Units to compensate a Sampling Manager.

E. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

F. Acceptable Purposes. Sampling Units shall only be designated and Transferred for purposes of quality control and product development in accordance with section 44-10-503(10), C.R.S.

G. Record keeping requirements. A Medical Marijuana Products Manufacturer shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, A Medical Marijuana Products Manufacturer shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of either quality control or product development. A Medical Marijuana Products Manufacturer shall also maintain copies of the Medical Marijuana Products Manufacturer's standard operating procedures provided to Sampling Managers.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-325

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(i), 44-10-203(3)(b), 44-10-203(2)(d), 44-10-203(3)(a), 44-10-401(2)(a)(III), 44-10-503, and 44-10-701(3)(c), C.R.S. The purpose of this rule is to define requirements for manufacture of Audited Product for administration by: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration which may raise public health concerns. This rule defines audit, insurance, minimum product requirements, minimum production process requirements, and pre-production testing requirements for Medical Marijuana Products Manufacturers that manufacture Audited Products. The purpose of this rule further recognizes that Alternative Use Product not within an intended use identified in Rule 3-1015 may raise public health concerns that outweigh its manufacturer or Transfer entirely or that require additional safeguards to protect public health and safety prior to manufacturer or Transfer. This rule identifies general requirements for Medical Marijuana Products Manufacturer to seek an Alternative Use Designation from the State Licensing Authority to manufacture any type of Medical Marijuana Product that is not within an intended use identified in Rule 3-1015. This Rule 5-325 was previously Rule M 607, 1 CCR 212-1.

5-325 – Medical Marijuana Products Manufacturer: Audited Product and Alternative Use Product

A. General Rule. A Medical Marijuana Products Manufacturer shall not Transfer Audited Product to a Medical Marijuana Store, another Medical Marijuana Products Manufacturer, or a Medical Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit except in accordance with all requirements of this Rule 5-325. The requirements of this Rule 5-325 are in addition to all other Rules that apply to Medical Marijuana Products Manufacturers; except where the context otherwise clearly requires this Rule 5-325 controls.

B. Audited Products – Mandatory Audit Prior to Transfer. Following submission of an independent third-party audit to the Division and to the Local Licensing Authority as required by this Rule, a Medical Marijuana Products Manufacturer may Transfer Audited Product with an intended use of: (1) metered dose nasal spray, (2) vaginal administration, or (4) rectal administration to another Medical Marijuana Products Manufacturer, a Medical Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit, or a Medical Marijuana Store.

1. A written audit report from an independent third-party auditor that was completed within the last twenty-four (24) months shall be submitted to the Division and to the Local Licensing Authority: (i) before the first Transfer of Audited Product to any Medical Marijuana Store, (ii) prior to Transfer of any Audited Product following a Material Change to any standard operating procedure or master formulation record regarding the Audited Product, and (iii) with the Medical Marijuana Products Manufacturer's renewal application if the Medical Marijuana Products Manufacturer will Transfer Audited Product after renewal.

2. The independent third-party audit shall be performed by either a certified quality auditor or a certified GMP auditor. The Medical Marijuana Products Manufacturer shall be responsible for all costs associated with obtaining the independent third-party audit.

3. The independent third-party written audit report shall include the following minimum requirements:

    a. The independent third-party auditor's qualifications and an attestation that the certified quality auditor or certified GMP auditor has no conflict of interest;

    b. Establish that the Medical Marijuana Products Manufacturer and the Audited Product meet all requirements of this Rule 5-325, including but not limited to the

specific requirements of this Rule 5-325(C), 5-325(D), 5-325(E), 5-325(G), and 5-325(H);

c. Verify the written standard operating procedure(s) for Audited Product include sufficient and detailed step-by-step instructions on how to produce the Audited Product in a manner that prevents contamination and protects the public health and safety;

d. Verify, based upon a physical inspection, the manufacture of Audited Product by the Medical Marijuana Products Manufacturer adheres to all applicable standard operating procedures;

e. Verify, based upon a physical inspection, of any Licensed Premises that such Licensed Premises complies with the requirements of this Rule 5-325(E), including any Limited Access Area where the Audited Product is to be manufactured;

f. Include the independent third-party auditor's findings;

g. Include the plan of correction identifying any corrective actions and/or preventative actions implemented as a result of the findings of the independent third-party audit; and

h. Include the independent third-party auditor's assessment that the Medical Marijuana Products Manufacturer demonstrated compliance with all requirements of Rule 5-325 and with the requirements of all standard operating procedures, master formulation records, and Batch manufacturing records that apply to the Audited Product.

C. Products Liability Insurance. Any Medical Marijuana Products Manufacturer that intends to Transfer Audited Product shall first obtain products liability insurance providing coverage for liability arising from manufacture or Transfer of Audited Product and shall provide an unredacted certificate of product liability insurance to the Division and the independent third-party auditor.

D. Audited Product Requirements. Audited Product shall meet the following minimum product requirements:

1. Inactive Ingredients. Audited Product must meet the requirements outlined in Rule 3-335 – Production of Regulated Marijuana Products.

a. If the Audited Product contains a fungicidal or bactericidal Ingredient listed in, and with a concentration that is at or below the maximum concentration permitted in, the Federal Food and Drug Administration Inactive Ingredients Database, https://www.accessdata.fda.gov/scripts/cder/iig/index.cfm, the Audited Product is not required to undergo microbial contaminant testing required by Rules 4-115 and 4-120.

2. Required Product Development Testing. The Medical Marijuana Products Manufacturer must establish the Audited Product meets the following through independent third-party testing:

a. The Audited Product must deliver the amount of each cannabinoid identified on the label throughout the entire volume of the Audited Product using the intended delivery device and in accordance with the instructions provided by the Medical

Marijuana Products Manufacturer, as demonstrated by testing at a Medical Marijuana Testing Facility.

i. For Audited Product with an intended use of metered dose nasal spray, compliance with this requirement shall be established by test results verifying the delivered dose of each cannabinoid identified on the label using the methods described in The United States Pharmacopeia Physical Test and Determination Chapter 601, *Aerosols, Nasal Sprays, Metered-Dose Inhalers, and Dry Powder Inhalers*.

ii. For Audited Product with an intended use of either vaginal administration or rectal administration, compliance with this testing requirement shall be established by test results demonstrating that each cannabinoid identified on the label is within +/- 15% of the amount identified on the label.

b. The expiration date identified on the label of the Audited Product is appropriate when the Audited Product is stored at room temperature, as demonstrated by testing from a Medical Marijuana Testing Facility.

c. Identification of all non-marijuana derived Ingredients and constituents in the Audited Product at concentrations of 1%, which verification is obtained from one or more of the following:

i. Testing by a Medical Marijuana Testing Facility;

ii. Testing by a laboratory that is ISO 17025 accredited but is not a Medical Marijuana Testing Facility, except that no Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana Product may be Transferred to such a laboratory; and/or

iii. One or more certificate(s) of analysis from the manufacturer of any Ingredient or constituent included in the Audited Product.

E. Additional Production Requirements for Audited Product. In addition to all other requirements applicable to Medical Marijuana Products Manufacturers, a Medical Marijuana Products Manufacturer that manufactures and Transfers Audited Product shall meet the following additional requirements:

1. Personnel Training. All personnel directly involved in the manufacture and handling of Audited Product must be trained, must demonstrate competency, and must undergo annual refresher training, which shall be documented and maintained at the Medical Marijuana Products Manufacturer's Licensed Premises. Personnel directly involved in the manufacture and handling of Audited Product must be trained and demonstrate proficiency in hand hygiene, cleaning and sanitizing, performing necessary calculations, measuring and mixing, and documenting the manufacturing process including master formulation records and batch manufacturing records.

2. Facility Requirements. A Medical Marijuana Products Manufacturer must have a space that is specifically designated for the manufacture of Audited Products that is designed and operated to prevent cross contamination from other areas of the Licensed Premises. The surfaces, walls, floors, fixtures, shelving, work surfaces, and cabinets in this designated area must be non-porous and cleanable.

3. Cleaning and Sanitizing. A Medical Marijuana Products Manufacturer must clean and sanitize surfaces where Audited Product is manufactured and handled on a regular basis and at a minimum, work surfaces and floors must be cleaned and sanitized daily. All other surfaces must be cleaned and sanitized at least every three months. A Medical Marijuana Products Manufacturer must clean and sanitize all surfaces when a spill occurs and when surfaces, floors, and walls are visibly soiled.

4. Hand Hygiene. Hand hygiene is required when entering and re-entering any area where Audited Product is manufactured and handled. Hand hygiene includes washing hands and forearms up to the elbows with soap and water for at least 30 seconds followed by drying completely with disposable towels. Alcohol hand sanitizers alone are not sufficient.

    a. Gloves are required to be worn for all mixing activities. Other garb such as shoe covers, head and facial hair covers, face masks, and gowns must be worn as appropriate to protect Employee Licensees and/or prevent contamination of the Audited Product.

5. Equipment. Mechanical, electronic, and other types of equipment used in mixing, measuring, or testing of Audited Product must be inspected prior to use and verified for accuracy at the frequency recommended by the manufacturer, and at least annually.

6. Ingredient Quality. All Ingredients used to manufacture Audited Product must be handled and stored in accordance with the manufacturer's instructions. Ingredients that lack a manufacturer's expiration date shall not be used if a reasonable manufacturer would not use the Ingredient or after 1 year from the date of receipt, whichever period is shorter.

7. Master Formulation Record. A master formulation record must be prepared and maintained for each unique Audited Product a Medical Marijuana Products Manufacturer manufactures. A master formulation record must include at least the following information:

    a. Name of the Audited Product;

    b. Ingredient identities and amounts;

    c. Specifications on the delivery device (if applicable);

    d. Complete instructions for preparing the Audited Product, including equipment, supplies, and description of the manufacturing steps;

    e. Quality control procedures; and

    f. Any other information needed to describe the Medical Marijuana Products Manufacturer's production and ensure its repeatability.

8. Batch Manufacturing Records. A batch manufacturing record shall be created for each Production Batch of Audited Product. This record shall include at the least the following information:

    a. Name of the Audited Product;

    b. Master formulation record reference for the Audited Product;

    c. Date and time of preparation of the Audited Product;

d. Production Batch number;

e. Signature or initials of individuals involved in each manufacturing step;

f. Name, vendor, or manufacturer, Production Batch number, and expiration date of each Ingredient;

g. Weight or measurement of each Ingredient;

h. Documentation of quality control procedures;

i. Any deviations from the master formulation record, and any problems or errors experienced during the manufacture; and

j. Total quantity of the Audited Product manufactured.

F. Audited Product Testing. For each Production Batch, the Audited Product shall undergo all required testing in the 4-100 Series Rules for Medical Marijuana Product and/or Audited Product. *See also* Rule 4-115 – Regulated Marijuana Testing Program: Sampling and Testing Program.

G. Packaging and Labeling of Audited Product. Audited Product must be packaged and labeled in accordance with all requirements of the 3-1000 Series Rules regarding packaging and labeling for Transfer to a patient prior to any Transfer.

H. Adverse Event Reporting. A Medical Marijuana Products Manufacturer must report Adverse Health Events pursuant to Rule 3-920.

I. Alternative Use Designation – Any Other Method of Consumption or Administration. A Medical Marijuana Products Manufacturer shall not Transfer to a Medical Marijuana Store, to another Medical Marijuana Products Manufacturer, or a Medical Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit any Medical Marijuana Concentrate or Medical Marijuana Product that is not within any intended use identified in Rule 3-1015(B) until it applies for and receives an Alternative Use Designation from the State Licensing Authority in consultation with the Colorado Department of Public Health and Environment. In the process of applying for an Alternative Use Designation, the Medical Marijuana Products Manufacturer shall work with the Division and the Colorado Department of Public Health and Environment to determine whether the proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when particular independent review factors, safeguards, and tests are in place. The following are minimum requirements for any application for an Alternative Use Designation:

1. The Medical Marijuana Products Manufacturer shall identify provisions of this Rule 5-325 that apply to its Alternative Use Product, any proposed additional or alternative requirements, and how any proposed alternatives protect public health and safety. The Medical Marijuana Products Manufacturer shall also provide any additional information as may be requested by the Division, in consultation with the Colorado Department of Public Health and Environment.

2. The Medical Marijuana Products Manufacturer bears the burden of proving its proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when the identified independent review factors, safeguards and tests are in place.

3. A Medical Marijuana Products Manufacturer seeking an Alternative Use Designation shall cooperate with the Division. Failure to cooperate with the Division is grounds for denial of an Alternative Use Designation.

4. The granting of an Alternative Use Designation shall rest in the discretion of the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment. The State Licensing Authority may in his or her discretion deny an Alternative Use Designation where the Medical Marijuana Products Manufacturer does not meet the burden established in this Rule 5-325.

J. Alternative Use Designation – Packaging and Labeling Requirements. If the Division recommends, and the State Licensing Authority grants, an Alternative Use Designation, the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment shall provide the Medical Marijuana Products Manufacturer the appropriate statement of intended use label to be affixed to the Alternative Use Product, and any additional or distinct packaging and labeling requirements applicable to the Alternative Use Product. *See* Rules 3-1010 and 3-1015.

K. Required Records. A Medical Marijuana Products Manufacturer manufacturing or Transferring Audited Product and/or Alternative Use Product shall maintain accurate and comprehensive records on the Licensed Premises regarding the manufacturing process, a list of all active and inactive Ingredients used in the Audited Product and/or Alternative Use Product, and such other documentation as required by this Rule 5-325. *See* Rule 3-905 – Business Records Required.

5-330 – Recall of Medical Marijuana Concentrate or Medical Marijuana Product – Repealed effective January 1, 2021.

Basis and Purpose – 5-335

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-401(2)(a)(III), and 44-10-503, 44-10-503(12)(a)-(b), and 39-28.8-297, C.R.S. The purpose of this rule is to allow a Medical Marijuana Products Manufacturer to receive Transfers of Retail Marijuana Concentrate from a Retail Marijuana Products Manufacturer in order to change its designation from "Retail" to "Medical."

5-335 – Medical Marijuana Products Manufacturer: Ability to Change Designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate.

A. Changing Designation: Beginning July 1, 2022, a Medical Marijuana Products Manufacturer may accept Retail Marijuana Concentrate from a Retail Marijuana Products Manufacturer in order to change its designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate pursuant to the following requirements:

1. The Medical Marijuana Products Manufacturer may only accept Retail Marijuana Concentrate that has passed all required testing;

2. The Medical Marijuana Products Manufacturer and the Retail Marijuana Products Manufacturer share a Licensed Premises in accordance with Rule 3-215;

3. The Medical Marijuana Products Manufacturer and Retail Marijuana Products Manufacturer have at least one identical Controlling Beneficial Owner;

4. The Medical Marijuana Products Manufacturer must receive the Transfer and designate the inventory as Medical Marijuana Concentrate in the Inventory Tracking System the same day. The Medical Marijuana Products Manufacturer must assign and attach an

RFID tag reflecting its Medical Marijuana Products Manufacturer license number to the Medical Marijuana Concentrate following completion of the Transfer in the Inventory Tracking System;

5. After the designation change, the Medical Marijuana Concentrate cannot be Transferred to the originating or any other Retail Marijuana Business or otherwise treated as Retail Marijuana. The inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules; and

6. The Transfer and change of designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change of designation.

5-400 Series – Medical Marijuana Testing Facilities

Basis and Purpose – 5-405

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(h), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f)(II), 44-10-203(2)(f)(IV), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-313(8)(a), 44-10-313(14), 44-10-401(2)(a)(IV), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1), and 44-10-504(2), C.R.S. The purpose of this rule is to establish the license privileges of a Medical Marijuana Testing Facility. This Rule 5-405 was previously Rule M 701.5, 1 CCR 212-1.

5-405 - Medical Marijuana Testing Facilities: License Privileges

A. Licensed Premises. A separate License is required for each specific Medical Marijuana Testing Facility and only those privileges granted by the Marijuana Code and any rules promulgated pursuant to it may be exercised on the Licensed Premises. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Medical Marijuana Testing Facility may share and operate at the same Licensed Premises with a Retail Marijuana Testing Facility with identical ownership.

B. Testing of Medical Marijuana Authorized. A Medical Marijuana Testing Facility may accept Samples of Medical Marijuana from Medical Marijuana Businesses for testing and research purposes only, which purposes may include the provision of testing services for Samples submitted by a Medical Marijuana Business for the purpose of product development. The Division may require a Medical Marijuana Business to submit a Sample of Medical Marijuana to a Medical Marijuana Testing Facility upon demand.

C. Testing of Industrial Hemp Product Authorized.

1. A Medical Marijuana Testing Facility may accept and test samples of Industrial Hemp Products.

2. Before a Medical Marijuana Testing Facility accepts a sample of Industrial Hemp Product, the Medical Marijuana Testing Facility shall verify that the Person submitting the sample is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

3. A Medical Marijuana Testing Facility is responsible for entering and tracking samples of Industrial Hemp Product in the inventory tracking system pursuant to the 3-800 Series Rules.

4. A Medical Marijuana Testing Facility shall be permitted to test Industrial Hemp Product only in the category(ies) that the Medical Marijuana Testing Facility is certified to perform

testing in pursuant to Rule 5-415 – Medical Marijuana Testing Facilities: Certification Requirements.

5. A Medical Marijuana Testing Facility may provide the results of any testing performed on Industrial Hemp Product to the Person submitting the sample of Industrial Hemp Product.

6. Nothing in these rules shall be construed to require a Medical Marijuana Testing Facility to accept and/or test samples of Industrial Hemp Product.

D. Testing Medical Marijuana for Patients in Research Project. A Medical Marijuana Testing Facility is authorized to accept Samples of Medical Marijuana from an individual person for testing under only the following conditions:

1. The individual person is:

   a. A currently registered patient pursuant to section 25-1.5-106, C.R.S.; and

   b. A participant in an approved clinical or observational study conducted by a Marijuana Research and Development Facility.

2. The Medical Marijuana Testing Facility shall require the patient to produce a valid patient registry card and a current and valid photo identification. *See* Rule 3-405(A) – Acceptable Forms of Identification.

3. The Medical Marijuana Testing Facility shall require the patient to produce verification on a form approved by the Division from the Marijuana Research and Development Facility that the patient is a participant in an approved clinical or observational Research Project conducted by the Marijuana Research and Development Facility and that the testing will be in furtherance of the approved Research Project.

4. A primary caregiver may transport Medical Marijuana on behalf of a patient to the Medical Marijuana Testing Facility. A Medical Marijuana Testing Facility shall require the following documentation before accepting Medical Marijuana from a primary caregiver:

   a. A copy of the patient registry card and valid photo identification for the patient;

   b. A copy of the caregiver's registration with the State Department of Health pursuant to section 25-1.5-106, C.R.S. and a current and valid photo identification, *see* Rule 3-405 – Acceptable Forms of Identification; and

   c. A copy of the Marijuana Research and Development Facility's verification on a form approved by the Division that the patient is participating in an approved clinical or observational Research Project being conducted by the Marijuana Research and Development Facility and that the testing will be in furtherance of the approved Research Project.

5. The Medical Marijuana Testing Facility shall report all results of testing performed pursuant to this Paragraph (C.5) to the Marijuana Research and Development Facility identified in the verification form submitted pursuant to Paragraph (D)(3) or (4)(c), or as otherwise directed by the approved Research Project being conducted by the Marijuana Research and Development Facility. Testing result reporting shall conform with the requirements under these Rules.

E. Product Development Authorized. A Medical Marijuana Testing Facility may develop Medical Marijuana Product, but is not authorized to engage in the manufacturing privileges described in

section 44-10-503, C.R.S. and Rule 5-305 – Medical Marijuana Products Manufacturer: License Privileges.

F. Transferring Samples to Another Licensed and Certified Medical Marijuana Testing Facility. A Medical Marijuana Testing Facility may Transfer Samples to another Medical Marijuana Testing Facility for testing. All laboratory reports provided to or by a Medical Marijuana Business, or to a patient or primary caregiver must identify the Medical Marijuana Testing Facility that actually conducted the test.

G. Authorized Medical Marijuana Transport. A Medical Marijuana Testing Facility is authorized to utilize a licensed Medical Marijuana Transporter to transport Samples of Medical Marijuana for testing, in accordance with the Marijuana Code and the rules adopted pursuant thereto, between the originating Medical Marijuana Business requesting testing services and the destination Medical Marijuana Testing Facility performing testing services. Nothing in this Rule requires a Medical Marijuana Business to utilize a Medical Marijuana Transporter to transport Samples of Medical Marijuana for testing.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-410

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(h), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f)(II), 44-10-203(2)(f)(IV), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-313(8)(a), 44-10-401(2)(a)(IV), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1), and 44-10-504(2), 44-10-701, and 35-61-105.5, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Medical Marijuana Testing Facility. This Rule 5-410 was previously Rule M 702, 1 CCR 212-1.

5-410 – Medical Marijuana Testing Facilities: General Limitations or Prohibited Acts

A. Prohibited Financial Interest. A Person who is a Controlling Beneficial Owner or Passive Beneficial Owner of a Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturing Facility, Medical Marijuana Store, Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, or a Retail Marijuana Store shall not be a Controlling Beneficial Owner or Passive Beneficial Owner of a Medical Marijuana Testing Facility.

B. Conflicts of Interest. The Medical Marijuana Testing Facility shall establish policies to prevent the existence of or appearance of undue commercial, financial, or other influences that may diminish the competency, impartiality, and integrity of the Medical Marijuana Testing Facility's testing processes or results, or that may diminish public confidence in the competency, impartiality, and integrity of the Medical Marijuana Testing Facility's testing processes or results. At a minimum, employees, owners or agents of a Medical Marijuana Testing Facility who participate in any aspect of the analysis and results of a Sample are prohibited from improperly influencing the testing process, improperly manipulating data, or improperly benefiting from any on-going financial, employment, personal or business relationship with the Medical Marijuana Business that provided the Sample.

C. Transfer of Medical Marijuana Prohibited. A Medical Marijuana Testing Facility shall not Transfer Medical Marijuana to a Medical Marijuana Business, a consumer, a patient, or primary caregiver, except that a Medical Marijuana Testing Facility may Transfer a Sample to another Medical Marijuana Testing Facility.

D. Destruction of Received Samples. A Medical Marijuana Testing Facility shall properly dispose of all Samples it receives, that are not Transferred to another Medical Marijuana Testing Facility,

after all necessary tests have been conducted and any required period of storage. *See* Rule 3-230 – Waste Disposal.

E. Sample Rejection. A Medical Marijuana Testing Facility shall reject any Sample where the condition of the Sample at receipt indicates that that the Sample may have been tampered with.

F. Medical Marijuana Business Requirements Applicable. A Medical Marijuana Testing Facility shall be considered a Licensed Premises. A Medical Marijuana Testing Facility shall be subject to all requirements applicable to Medical Marijuana Businesses.

G. Medical Marijuana Testing Facility – Inventory Tracking System Required. A Medical Marijuana Testing Facility must use the Inventory Tracking System to ensure all Test Batches or Samples containing Medical Marijuana are identified and tracked from the point they are Transferred from a Medical Marijuana Business, a patient, or a patient's primary caregiver through the point of Transfer, destruction, or disposal. The Inventory Tracking System reporting shall include the results of any tests that are conducted on Medical Marijuana. *See* Rule 3-805 – Regulated Marijuana Business: Inventory Tracking System, Rule 3-825 – Reporting and Inventory Tracking System, and Rule 5-405(D)(5). The Medical Marijuana Testing Facility must have the ability to reconcile its Sample records with the Inventory Tracking System and the associated transaction history. *See* Rule 3-905 – Business Records Required and Rule 3-825 Reporting and Inventory Tracking

H. Industrial Hemp Testing Prohibited. A Medical Marijuana Testing Facility shall not perform testing on Industrial Hemp.

I. Testing of Unregistered or Untracked Industrial Hemp Products Prohibited. A Medical Marijuana Testing Facility is authorized to accept or test Industrial Hemp Product only if (1) the entity providing the Samples of Industrial Hemp Product is registered and regulated pursuant to Article 4 or Title 25, C.R.S., and (2) the Industrial Hemp Product being submitted for testing is tracked in the Inventory Tracking System.

J. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-415

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(h), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f)(II), 44-10-203(2)(f)(IV), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-313(8)(a), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish a frame work for certification for Medical Marijuana Testing Facilities. This Rule 5-415 was previously Rule M 703, 1 CCR 212-1.

5-415 – Medical Marijuana Testing Facilities: Certification Requirements

A. Certification Types. If certification in a testing category is required by the Division, then the Medical Marijuana Testing Facility must be certified in the category in order to perform that type of testing.

1. Microbials;

2. Mycotoxins;

3. Residual solvents;

4. Pesticides;

5. THC and other Cannabinoid potency;

6. Elemental Impurities; and

7. Water Activity.

B. In order to obtain certification for Pesticide testing, a Medical Marijuana Testing Facility must also obtain certification for mycotoxin testing.

C. Certification Procedures. The Medical Marijuana Testing Facility certification program is contingent upon successful on-site inspection, successful participation in Proficiency Testing, and ongoing compliance with the applicable requirements in this Rule.

1. Certification Inspection. A Medical Marijuana Testing Facility must be inspected prior to initial certification and annually thereafter by an inspector approved by the Division.

2. Standards for Certification. A Medical Marijuana Testing Facility must meet standards of performance, as established by these rules, in order to obtain and maintain certification. Standards of performance include but are not limited to: personnel qualifications, standard operating procedure manual, analytical processes, Proficiency Testing, quality control, quality assurance, security, chain of custody, Sample retention, space, records, and results reporting. In addition, a Medical Marijuana Testing Facility must be accredited under the International Organization for Standardization/International Electrotechnical Commission 17025:2005 Standard, or any subsequent superseding ISO/IEC 17025 standard. In order to obtain certification in a testing category from the Division, the Medical Marijuana Testing Facility's scope of accreditation must specify that particular testing category.

   a. Subsequent to initial approval of a Medical Marijuana Testing Facility License, the Division may grant provisional certification if the Applicant has not yet obtained ISO/IEC 17025:2005 accreditation, but meets all other Division requirements. Such provisional certification shall be for a period not to exceed twelve months.

3. Personnel Qualifications.

   a. Laboratory Director. A Medical Marijuana Testing Facility must employ, at a minimum, a laboratory director with sufficient education and experience in a regulated laboratory environment in order to obtain and maintain certification. *See* Rule 5-420 – Medical Marijuana Testing Facilities: Personnel.

   b. Employee Competency. A Medical Marijuana Testing Facility must have a written and documented system to evaluate and document the competency in performing authorized tests for employees. Prior to independently analyzing Samples, testing personnel must demonstrate acceptable performance on precision, accuracy, specificity, reportable ranges, blanks, and unknown challenge samples (proficiency samples or internally generated quality controls).

4. Standard Operating Procedure Manual. A Medical Marijuana Testing Facility must have a written standard operating procedure manual meeting the minimum standards set forth in these rules detailing the performance of all methods employed by the facility used to test the analytes it reports and made available for testing analysts to follow at all times.

a. The current laboratory director must approve, sign and date each procedure. If any modifications are made to those procedures, the laboratory director must approve, sign and date the revised version prior to use.

b. A Medical Marijuana Testing Facility must maintain a copy of all standard operating procedures to include any revised copies for a minimum of three years. *See* Rule 5-450 – Medical Marijuana Testing Facilities: Records Retention and Rule 3-905 – Business Records Required.

5. Analytical Processes. A Medical Marijuana Testing Facility must maintain a listing of all analytical methods used and all analytes tested and reported. The Medical Marijuana Testing Facility must provide this listing to the Division upon request.

6. Proficiency Testing. A Medical Marijuana Testing Facility must successfully participate in a Division approved Proficiency Testing program in order to obtain and maintain certification.

7. Quality Assurance and Quality Control. A Medical Marijuana Testing Facility must establish and follow a quality assurance and quality control program to ensure sufficient monitoring of laboratory processes and quality of results reported.

8. Security. A Medical Marijuana Testing Facility must be located in a secure setting as to prevent unauthorized persons from gaining access to the testing and storage areas of the laboratory.

9. Chain of Custody. A Medical Marijuana Testing Facility must establish a system to document the complete chain of custody for Samples from receipt through disposal.

10. Space. A Medical Marijuana Testing Facility must be located in a fixed structure that provides adequate infrastructure to perform analysis in a safe and compliant manner consistent with federal, state and local requirements.

11. Records. A Medical Marijuana Testing Facility must establish a system to retain and maintain all required records. *See* Rule 5-450 – Medical Marijuana Testing Facilities: Records Retention and Rule 3-905 – Business Records Required.

12. Results Reporting. A Medical Marijuana Testing Facility must establish processes to ensure results are reported in a timely and accurate manner. *See* Rule 3-825 – Reporting and Inventory Tracking System. A Medical Marijuana Testing Facility's process may require that the Regulated Marijuana Business remit payment for any test conducted by the Testing Facility prior to entry of the results of that test into the Inventory Tracking System. A Medical Marijuana Testing Facility's process established under this subparagraph (12) must be maintained on the Licensed Premises of the Medical Marijuana Testing Facility.

13. Conduct While Seeking Certification. A Medical Marijuana Testing Facility, and its agents and employees, shall provide all documents and information required or requested by the Colorado Department of Public Health and Environment and its employees, and the Division and its employees in a full, faithful, truthful, and fair manner.

D. Violation Affecting Public Safety. A violation of this Rule may be considered a license violation affecting public safety.

Basis and Purpose – 5-420

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(h), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f)(II), 44-10-203(2)(f)(IV), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-313(8)(a), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish personnel standards for the operation of a Medical Marijuana Testing Facility. This Rule 5-420 was previously Rule M 704, 1 CCR 212-1.

5-420 – Medical Marijuana Testing Facilities: Personnel

A. Laboratory Director. The laboratory director is responsible for the overall analytical operation and quality of the results reported by the Medical Marijuana Testing Facility, including the employment of personnel who are competent to perform test procedures, and record and report test results promptly, accurately, and proficiently and for assuring compliance with the standards set forth in this Rule.

1. The laboratory director may also serve as a supervisory analyst or testing analyst, or both, for a Medical Marijuana Testing Facility.

2. The laboratory director for a Medical Marijuana Testing Facility must meet one of the following qualification requirements:

a. The laboratory director must be a Medical Doctor (M.D.) licensed to practice medicine in Colorado and have at least three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body;

b. The laboratory director must hold a doctoral degree in one of the natural sciences and have at least three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body;

c. The laboratory director must hold a master's degree in one of the natural sciences and have at least five years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body; or

d. The laboratory director must hold a bachelor's degree in one of the natural sciences and have at least seven years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body.

B. What the Laboratory Director May Delegate. The laboratory director may delegate the responsibilities assigned under this Rule to a qualified supervisory analyst, provided that such delegation is made in writing and a record of the delegation is maintained. *See* Rule 3-905 – Business Records Required. Despite the designation of a responsibility, the laboratory director remains responsible for ensuring that all duties are properly performed.

C. Responsibilities of the Laboratory Director. The laboratory director must:

1. Ensure that the Medical Marijuana Testing Facility has adequate space, equipment, materials, and controls available to perform the tests reported;

2. Establish and adhere to a written standard operating procedure used to perform the tests reported;

3. Ensure that testing systems developed and used for each of the tests performed in the laboratory provide quality laboratory services for all aspects of test performance, which includes the preanalytic, analytic, and postanalytic phases of testing;

4. Ensure that the physical location and environmental conditions of the laboratory are appropriate for the testing performed and provide a safe environment in which employees are protected from physical, chemical, and biological hazards;

5. Ensure that the test methodologies selected have the capability of providing the quality of results required for the level of testing the laboratory is certified to perform;

6. Ensure that validation and verification test methods used are adequate to determine the accuracy, precision, and other pertinent performance characteristics of the method;

7. Ensure that testing analysts perform the test methods as required for accurate and reliable results;

8. Ensure that the laboratory is enrolled in and successfully participates in a Division approved Proficiency Testing program;

9. Ensure that the quality control and quality assessment programs are established and maintained to assure the quality of laboratory services provided and to identify failures in quality as they occur;

10. Ensure the establishment and maintenance of acceptable levels of analytical performance for each test system;

11. Ensure that all necessary remedial actions are taken and documented whenever significant deviations from the laboratory's established performance specifications are identified, and that test results are reported only when the system is functioning properly;

12. Ensure that reports of test results include pertinent information required for interpretation;

13. Ensure that consultation is available to the laboratory's clients on matters relating to the quality of the test results reported and their interpretation of said results;

14. Employ a sufficient number of laboratory personnel who meet the qualification requirements and provide appropriate consultation, properly supervise, and ensure accurate performance of tests and reporting of test results;

15. Ensure that prior to testing any samples, all testing analysts receive the appropriate training for the type and complexity of tests performed, and have demonstrated and documented that they can perform all testing operations reliably to provide and report accurate results;

16. Ensure that policies and procedures are established for monitoring individuals who conduct preanalytical, analytical, and postanalytical phases of testing to assure that they are competent and maintain their competency to process Samples, perform test procedures and report test results promptly and proficiently, avoid actual and apparent conflicts of interest, and whenever necessary, identify needs for remedial training or continuing education to improve skills;

17. Ensure that an approved standard operating procedure manual is available to all personnel responsible for any aspect of the testing process; and

18. Specify, in writing, the responsibilities and duties of each person engaged in the performance of the preanalytic, analytic, and postanalytic phases of testing, that identifies which examinations and procedures each individual is authorized to perform, whether supervision is required for Sample processing, test performance or results reporting, and whether consultant or laboratory director review is required prior to reporting test results.

D. Change in Laboratory Director. In the event that the laboratory director leaves employment at the Medical Marijuana Testing Facility, the Medical Marijuana Testing Facility shall:

1. Provide written notice to the Colorado Department of Public Health and Environment and the Division within seven days of the laboratory director's departure; and

2. Designate an interim laboratory director within seven days of the laboratory director's departure. At a minimum, the interim laboratory director must meet the qualifications of a supervisory analyst.

3. The Medical Marijuana Testing Facility must hire a permanent laboratory director within 60 days from the date of the previous laboratory director's departure.

4. Notwithstanding the requirement of subparagraph (D)(3), the Medical Marijuana Testing Facility may submit a waiver request to the Division Director to receive an additional 60 days to hire a permanent laboratory director provided that the Medical Marijuana Testing Facility submits a detailed oversight plan along with the waiver request.

E. Supervisory Analyst. Supervisory analysts must meet one of the qualifications for a laboratory director or have at least a bachelor's degree in one of the natural sciences and two years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body. A combination of education and experience may substitute for the two years of full-time laboratory experience.

F. Laboratory Testing Analyst.

1. Educational Requirements. An individual designated as a testing analyst must meet one of the qualifications for a laboratory director or supervisory analyst or:

a. Have at least a bachelor's degree in one of the natural sciences and one year of full-time experience in laboratory testing;

b. Have a least a bachelor's degree in one of the natural sciences;

c. Have earned an associated degree in a laboratory science from an accredited institution; or

d. Have education and training equivalent to that specified in subparagraph (F)(1) of this Rule that includes at least 60 semester hours, or equivalent, from an accredited institution that, at a minimum, include:

i. 24 semester hours of science courses that include six semester hours of chemistry, six semester hours of biology, and twelve semester hours of chemistry, biology, or cannabis laboratory sciences in any combination; and

ii. Have a laboratory training that includes at least three months documented laboratory training each testing category in which the individual performs testing; or

e. Have at least five years of full time experience in laboratory testing and have laboratory training that includes at least three months documented laboratory training in each testing category in which the individual performs testing.

2. Responsibilities. In order to independently perform any test for a Medical Marijuana Testing Facility, an individual must at least meet the educational requirements for a testing analyst.

G. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-425

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish standard operating procedures manual standards for the operation of a Medical Marijuana Testing Facility. This Rule 5-425 was previously Rule M 705, 1 CCR 212-1.

5-425 – Medical Marijuana Testing Facilities: Standard Operating Procedure Manual

A. A standard operating procedure manual must include, but need not be limited to, procedures for:

1. Test Batch receiving;

2. Test Batch accessioning;

3. Test Batch storage;

4. Identifying, rejecting, and reporting unacceptable Test Batches;

5. Recording and reporting discrepancies during Test Batch receiving and accessioning;

6. Security of Test Batches, aliquots and extracts and records;

7. Validating a new or revised method prior to testing of Test Batches to include: accuracy, precision, analytical sensitivity, analytical specificity (interferences), LOD, LOQ, and verification of the reportable range;

8. Test Batch preparation, including but not limited to, sub-sampling for testing, homogenization, and aliquoting Test Batches to avoid contamination and carry-over;

9. Test Batch archive retention to assure stability, as follows:

a. For Test Batches submitted for testing other than Pesticide contaminant testing, Test Batch archive retention for 14 days;

b. For Test Batches submitted for Pesticide contaminant testing, Test Batch retention for 90 days.

10. Disposal of Test Batches;

11. The theory and principles behind each assay;

12. Preparation and identification of reagents, standards, calibrators and controls and ensure all standards are traceable to National Institute of Standards of Technology (“NIST”);

13. Special requirements and safety precautions involved in performing assays;

14. Frequency and number of control and calibration materials;

15. Recording and reporting assay results;

16. Protocol and criteria for accepting or rejecting analytical procedure to verify the accuracy of the final report;

17. Pertinent literature references for each method;

18. Current step-by-step instructions with sufficient detail to perform the assay to include equipment operation and any abbreviated versions used by a testing analyst;

19. Acceptability criteria for the results of calibration standards and controls as well as between two aliquots or columns;

20. A documented system for reviewing the results of testing calibrators, controls, standards, and Test Batch results, as well as reviewing for clerical errors, analytical errors and any unusual analytical results and are corrective actions implemented and documented, and does the laboratory contact the requesting entity;

21. Policies and procedures to follow when Test Batches are requested for referral and testing by another certified Medical Marijuana Testing Facility or an approved local state agency's laboratory;

22. Investigating and documenting existing or potential Nonconformances and implementing Corrective Actions and/or Preventive Actions;

23. Contacting the requesting entity about existing Nonconformances; and

24. Retesting or additional analyses of Test Batches, including but ne not be limited to, when it is appropriate to retest or perform an additional analysis of the Test Batch, when it is appropriate for the requesting entity to request retesting (e.g., after failing Pesticide testing or elemental impurity testing on Regulated Marijuana flower, trim, shake, or wet whole plant as permitted by Rule 4-135(D) and 4-135(D.1)).

B. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-430

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish analytical processes standards for the operation of a Medical Marijuana Testing Facility. This Rule 5-430 was previously Rule M 706, 1 CCR 212-1.

5-430 – Medical Marijuana Testing Facilities: Analytical Processes

A. Gas Chromatography ("GC"). A Medical Marijuana Testing Facility using GC must:

1. Document the conditions of the gas chromatograph, including the detector response;

2. Perform and document preventive maintenance as required by the manufacturer;

3. Ensure that records are maintained and readily available to the staff operating the equipment;

4. Document the performance of new columns before use;

5. Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified;

6. Establish criteria of acceptability for variances between different aliquots and different columns; and

7. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.

B. Gas Chromatography Mass Spectrometry ("GC/MS"). A Medical Marijuana Testing Facility using GC/MS must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Document the changes of septa as specified in the standard operating procedure;

3. Document liners being cleaned or replaced as specified in the standard operating procedure;

4. Ensure that records are maintained and readily available to the staff operating the equipment;

5. Maintain records of mass spectrometric tuning;

6. Establish written criteria for an acceptable mass-spectrometric tune;

7. Document corrective actions if a mass-spectrometric tune is unacceptable;

8. Monitor analytic analyses to check for contamination and carry-over;

9. Use selected ion monitoring within each run to assure that the laboratory compares ion ratios and retention times between calibrators, controls and samples for identification of an analyte;

10. Use an internal standard for qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified and is isotopically labeled when available or appropriate for the assay;

11. Document the monitoring of the response (area or peak height) for the internal standard to ensure consistency overtime of the analytical system;

12. Define the criteria for designating qualitative results as positive;

13. When a library is used to qualitatively identify an analyte, the identity of the analyte must be confirmed before reporting results by comparing the relative retention time and mass spectrum to that of a known standard or control run on the same system; and

14. Evaluate the performance of the instrument after routine and preventive maintenance (*e.g.* clipping or replacing the column or cleaning the source) prior to analyzing subject Samples.

C. Immunoassays. A Medical Marijuana Testing Facility using Immunoassays must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Validate any changes or modifications to a manufacturer's approved assays or testing methods when a sample is not included within the types of samples approved by the manufacturer; and

4. Define acceptable separation or measurement units (absorbance intensity or counts per minute) for each assay, which must be consistent with manufacturer's instructions.

D. Thin Layer Chromatography ("TLC"). A Medical Marijuana Testing Facility using TLC must:

1. Apply unextracted standards to each thin layer chromatographic plate;

2. Include in their written procedure the preparation of mixed solvent systems, spray reagents and designation of lifetime;

3. Include in their written procedure the storage of unused thin layer chromatographic plates;

4. Evaluate, establish, and document acceptable performance for new thin layer chromatographic plates before placing them into service;

5. Verify that the spotting technique used precludes the possibility of contamination and carry-over;

6. Measure all appropriate RF values for qualitative identification purposes;

7. Use and record sequential color reactions, when applicable;

8. Maintain records of thin layer chromatographic plates; and

9. Analyze an appropriate matrix blank with each batch of samples analyzed.

E. High Performance Liquid Chromatography ("HPLC"). A Medical Marijuana Testing Facility using HPLC must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Monitor and document the performance of the HPLC instrument each day of testing;

4. Evaluate the performance of new columns before use;

5. Create written standards for acceptability when eluting solvents are recycled;

6. Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified when available or appropriate for the assay; and

7. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.

F. Liquid Chromatography Mass Spectroscopy ("LC/MS"). A Medical Marijuana Testing Facility using LC/MS must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Maintain records of mass spectrometric tuning;

4. Document corrective actions if a mass-spectrometric tune is unacceptable;

5. Use an internal standard with each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified and is isotopically labeled when available or appropriate for the assay;

6. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system;

7. Compare two transitions and retention times between calibrators, controls and samples within each run;

8. Document and maintain records when changes in source, source conditions, eluent, or column are made to the instrument; and

9. Evaluate the performance of the instrument when changes in: source, source conditions, eluent, or column are made prior to reporting test results.

G. Microbial Assays. A Medical Marijuana Testing Facility using microbial assays must:

1. Perform and document preventive maintenance as required by the manufacturer and standard operating procedures;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Validate any changes or modifications to a manufacturer's approved assays or testing methods when a test sample submitted for testing is not included within the types of Test Batches approved by the manufacturer;

4. Verify the method at the action levels for each analyte. Verification at the qualitative presence/absence limit shall include a fractional recovery study unless otherwise completed by the manufacturer and approved by an independent scientific body.

5. Include controls for each batch of test samples. Quantitative microbial methods shall use controls of a specific known value or set of values that lies within the quantifiable range of the method;

6. For molecular methods, the Medical Marijuana Testing Facility shall include controls for each individual analytical run. Quantitative molecular methods shall use controls of a specific known value or set of values that lies within the quantifiable range of the method;

7. PCR-based and qPCR-based methods must include validated internal amplification controls;

8. Microbial methods must include steps to confirm presumptive positive results; confirmation methods may be molecular or cultural or both. Confirmation methods must include quality controls that match the organism which is being confirmed.

H. Water Activity. A Medical Marijuana Testing Facility analyzing water activity must:

1. Perform and document preventive maintenance as required by the manufacturer and standard operating procedures;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Specify all unique method parameters, such as temperature, test sample surface area, volatile compound interferences, including but not limited to temperature;

4. Evaluate the performance of the method after routine and preventive maintenance prior to analyzing the Test Batch;

5. Establish criteria for acceptable instrument performance.

I. Analytical Methodology. A Medical Marijuana Testing Facility must validate new methodology and revalidate any changes to approved methodology prior to testing Test Batches. A Medical Marijuana Testing Facility must:

1. Implement a performance based measurement system for the selected methodology and validate the method following good laboratory practices prior to reporting results. Validation of other or new methodology must include when applicable, but is not limited to:

a. Verification of Accuracy

b. Verification of Precision

c. Verification of Analytical Sensitivity

d. Verification of Analytical Specificity

e. Verification of the LOD

f. Verification of the LOQ

g. Verification of the Reportable Range

h. Identification of Interfering Substances

2. Validation of the other or new methodology must be documented.

3. Prior to use, other or new methodology must have a standard operating procedure approved and signed by the laboratory director.

4. Testing analysts must have documentation of competency assessment prior to testing samples.

5. Any changes to the approved other or new methodology must be revalidated and documented prior to testing samples.

J. Testing and Validation of Complex Matrices. A Medical Marijuana Testing Facility must include a variety of matrices as part of the validation/verification process. During method validation/verification, a Medical Marijuana Testing Facility must:

1. Select matrices which best represent each category of products to be tested as listed in Rule 4-115(D). The laboratory shall independently determine the category of matrix a product falls within; properties to consider include fat content, cannabinoid content, pH, salt content, sugar content, water activity, the presence of know chemical compounds, microbial flora and antimicrobial compounds.

2. Perform a new matrix validation, prior to reporting results, on matrices which are either a new category of matrix or are considerably different from the original matrix validated within the category.

a. For example, the Medical Marijuana Testing Facility intends to receive the topical product “bath bombs” for testing, but previous validation studies for topical product included lotion and massage oil. A new validation should be performed for the product prior to testing since salt content and other properties differ vastly from the original matrices validated.

3. Perform a matrix verification (a client matrix spike or similar consisting of the target analyte(s) at the time of analysis) on matrices submitted for testing which differ slightly from those initially validated but which fall within a category already validated.

a. For example, the Medical Marijuana Testing Facility laboratory receives a new edible type matrix for testing (snickerdoodle cookies) but previous validation included gummies and hard candy. A spike of a portion of the submitted material must be analyzed prior to, or at the time of, sample analysis.

K. All Test Batches and Industrial Hemp Product must be tested as received, must not be manipulated, and tested in a manner that ensures results are representative of sample as received.

L. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-435

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish a proficiency testing program for Medical Marijuana Testing Facilities. This Rule 5-435 was previously Rule M 707, 1 CCR 212-1.

5-435 – Medical Marijuana Testing Facilities: Proficiency Testing

A. Proficiency Testing Required. A Medical Marijuana Testing Facility must participate in a Proficiency Testing Program for each approved category in which it seeks certification under Rule 5-415 – Medical Marijuana Testing Facilities: Certification Requirements.

B. Participation in Designated Proficiency Testing Event. If required by the Division as part of certification, the Medical Marijuana Testing Facility must have successfully participated in a proficiency test in the category for which it seeks certification, within the preceding 12 months.

C. Continued Certification. To maintain continued certification, a Medical Marijuana Testing Facility must participate in the designated proficiency testing program with continued satisfactory performance as determined by the Division as part of certification. The Division may designate a local agency, state agency, or independent third-party to provide Proficiency Testing.

D. Analyzing Proficiency Testing Samples. A Medical Marijuana Testing Facility must analyze Proficiency Testing Samples using the same procedures with the same number of replicate analyses, standards, testing analysts, and equipment as used in its standard operating procedures.

E. Proficiency Testing Attestation. The laboratory director and all testing analysts that participated in a Proficiency Testing must sign corresponding attestation statements.

F. Laboratory Director Must Review Results. The laboratory director must review and evaluate all Proficiency Testing results.

G. Remedial Action. A Medical Marijuana Testing Facility must take and document remedial action when a score of less than 100% is achieved on any test during a Proficiency Test. Remedial action documentation must include a review of Samples tested and results reported since the last successful proficiency testing event. A requirement to take remedial action does not necessarily indicate unsatisfactory participation in a Proficiency Testing event.

H. Unsatisfactory Participation in Proficiency Testing Event. Unless the Medical Marijuana Testing Facility positively identifies at least 80% of the target analytes tested, participation in the Proficiency Testing will be considered unsatisfactory. A positive identification must include accurate quantitative and qualitative results as applicable. Any false positive results reported will be considered an unsatisfactory score for the proficiency testing event.

I. Consequence of Unsatisfactory Participation in Proficiency Testing Event. Unsuccessful participation in a Proficiency Testing event may result in limitation, suspension or revocation of Rule 5-415 certification.

J. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-440

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish quality assurance and quality assurance standards for a Medical Marijuana Testing Facility. This Rule 5-440 was previously Rule M 708, 1 CCR 212-1.

5-440 – Medical Marijuana Testing Facilities: Quality Assurance and Quality Control

A. Quality Assurance Program Required. A Medical Marijuana Testing Facility must establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory preanalytic, analytic and postanalytic systems when they occur and must include, but is not limited to:

1. Review of instrument preventive maintenance, repair, troubleshooting and corrective actions documentation must be performed by the laboratory director or designated supervisory analyst on an ongoing basis to ensure the effectiveness of actions taken over time;

2. Review by the laboratory director or designated supervisory analyst of all ongoing quality assurance; and

3. Review of the performance of validated methods used by the Medical Marijuana Testing Facility to include calibration standards, controls and the standard operating procedures used for analysis on an ongoing basis to ensure quality improvements are made when problems are identified or as needed.

B. Quality Control Measures Required. A Medical Marijuana Testing Facility must establish, monitor, and document on an ongoing basis the quality control measures taken by the laboratory to ensure the proper functioning of equipment, validity of standard operating procedures and accuracy of results reported. Such quality control measures must include, but shall not be limited to:

1. Documentation of instrument preventive maintenance, repair, troubleshooting and corrective actions taken when performance does not meet established levels of quality;

2. Review and documentation of the accuracy of automatic and adjustable pipettes and other measuring devices when placed into service and annually thereafter;

3. Cleaning, maintaining and calibrating as needed the analytical balances and in addition, verifying the performance of the balance annually using certified weights to include three or more weights bracketing the ranges of measurement used by the laboratory;

4. Annually verifying and documenting the accuracy of thermometers using a NIST traceable reference thermometer;

5. Recording temperatures on all equipment when in use where temperature control is specified in the standard operating procedures manual, such as water baths, heating blocks, incubators, ovens, refrigerators, and freezers;

6. Properly labeling reagents as to the identity, the concentration, date of preparation, storage conditions, lot number tracking, expiration date and the identity of the preparer;

7. Avoiding mixing different lots of reagents in the same analytical run;

8. Performing and documenting a calibration curve with each analysis using at minimum three calibrators throughout the reporting range;

9. For qualitative analyses, analyzing, at minimum, a negative and a positive control with each batch of samples analyzed;

10. For quantitative analyses, analyzing, at minimum, a negative and two levels of controls that challenge the linearity of the entire curve;

11. Using a control material or materials that differ in either source or, lot number, or concentration from the calibration material used with each analytical run;

12. For multi-analyte assays, performing and documenting calibration curves and controls specific to each analyte, or at minimum, one with similar chemical properties as reported in the analytical run;

13. Analyzing an appropriate matrix blank and control with each analytical run, when available;

14. Analyzing calibrators and controls in the same manner as unknowns;

15. Documenting the performance of calibration standards and controls for each analytical run to ensure the acceptability criteria as defined in the Standard Operating Procedure is met;

16. Documenting all corrective actions taken when unacceptable calibration, control, and standard or instrument performance does not meet acceptability criteria as defined in the Standard Operating Procedure;

17. Maintaining records of validation data for any new or modified methods to include; accuracy, precision, analytical specificity (interferences), LOD, LOQ, and verification of the linear range; and

18. Performing testing analysts that follow the current standard operating procedures manual for the test or tests to be performed.

C. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-445

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish chain of custody standards for a Medical Marijuana Testing Facility. In addition, it establishes the requirement that a Medical Marijuana Testing Facility follow an adequate chain of custody for Samples it maintains. This Rule 5-445 was previously Rule M 709, 1 CCR 212-1.

5-445 – Medical Marijuana Testing Facilities: Chain of Custody

A. General Requirements. A Medical Marijuana Testing Facility must establish an adequate chain of custody and Test Batch requirement instructions that must include, but not be limited to;

1. Issue instructions for the minimum Test Batch requirements and storage requirements;

2. Document the condition of the external package and integrity seals utilized to prevent contamination of, or tampering with, the Test Batch;

3. Document the condition and amount of Test Batch provided at the time of receipt;

4. Document all persons handling the original Test Batches, aliquots, and extracts;

5. Document all Transfers of Test Batches, aliquots, and extracts referred to another certified Medical Marijuana Testing Facility Licensee for additional testing or whenever requested by a client;

6. Maintain a current list of authorized personnel and restrict entry to the laboratory to only those authorized;

7. Secure the Laboratory during non-working hours;

8. Secure short and long-term storage areas when not in use;

9. Utilize a secured area to log-in and aliquot Test Batches;

10. Ensure Test Batches are stored appropriately;

11. Document the disposal of Test Batches, aliquots, and extracts; and

12. Document the License number, Inventory Tracking System number, photograph(s), and the reason for rejection of Test Batches that were rejected to the Division within 7 days of Test Batch submission.

B. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-450

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish records retention standards for a Medical Marijuana Testing Facility. This Rule 5-450 was previously Rule M 710, 1 CCR 212-1.

5-450 – Medical Marijuana Testing Facilities: Records Retention

A. General Requirement. A Medical Marijuana Testing Facility must maintain all required business records. *See* Rule 3-905 - Business Records Required.

B. Specific Business Records Required: Records Retention. A Medical Marijuana Testing Facility must establish processes to preserve records in accordance with Rule 3-905 that includes, but is not limited to;

1. Test Results, including final and amended reports, and identification of analyst and date of analysis;

2. Quality Control and Quality Assurance Records, including accession numbers, Test Batch type, and acceptable reference range parameters;

3. Standard Operating Procedures;

4. Personnel Records;

5. Chain of Custody Records, including documentation of rejected Test Batches;

6. Proficiency Testing Records; and

7. Analytical Data to include data generated by the instrumentation, raw data calibration standards, and curves.

C. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-455

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(h), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f)(II), 44-10-203(2)(f)(IV), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-313(8)(a), 44-10-401(2)(a)(IV), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1), and 44-10-504(2), C.R.S. The purpose of this rule is to require Medical Marijuana Testing Facilities to provide failed test results to the Medical Marijuana Business or Person submitting the sample and to report any failed test result in the inventory tracking system. This Rule 5-455 was previously Rule M 712(D), 1 CCR 212-1.

5-455 – Notification of Medical Marijuana Business

If Medical Marijuana failed a contaminant test, then the Medical Marijuana Testing Facility must immediately (1) notify the Medical Marijuana Business that submitted the Test Batch or Sample for testing and any Person as directed by an approved Research Project being conducted by a Marijuana Research and Development Facility; and (2) report the failure in accordance with the Inventory Tracking System reporting requirements in Rule 3-825(C).

Basis and Purpose – 5-460

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(4), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(3)(c), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish a framework for suspending and reinstating a testing category certification for Medical Marijuana Testing Facilities. This rule also provides the ability for a Medical Marijuana Testing Facility to request a hearing following suspension of a testing category certification.

5-460 – Medical Marijuana Testing Facilities: Certification Suspension, Recertification, and Request for Hearing

A. Certification Suspension. When the Division has objective and reasonable grounds to believe and finds that a Medical Marijuana Testing Facility has been guilty of deliberate and willful violation(s) or that the public health, safety, or welfare imperatively require emergency action, the Division may immediately suspend the Medical Marijuana Testing Facility's testing category certification in accordance with section 24-4-104, C.R.S., and the 8-200 Series Rules.

B. Re-certification. A Medical Marijuana Testing Facility must provide evidence of corrective actions taken to resolve the certification suspension and may request that the Division re-certify the Medical Marijuana Testing Facility for a particular testing category in accordance with the requirements in Rule 5-415, if the Medical Marijuana Testing Facility provides documentation requested by the Division and/or the CDPHE demonstrating such corrective actions.

5-500 Series – Medical Marijuana Transporters

Basis and Purpose – 5-505

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-313(14), 44-10-401(2)(a)(V), 44-10-505, C.R.S. The purpose of this rule is to establish the license privileges of Medical Marijuana Transporter licensees. This Rule 5-505 was previously Rule M 1601, 1 CCR 212-1.

5-505 – Medical Marijuana Transporter: License Privileges

A. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Medical Marijuana Transporter may share a location with an identically owned Retail Marijuana Transporter. However, a separate license is required for each specific business or business entity, regardless of geographical location.

B. Transportation of Medical Marijuana and Medical Marijuana Product Authorized. A Medical Marijuana Transporter may take transportation orders, receive, transport, temporarily store, and deliver Medical Marijuana to a Medical Marijuana Business, a Retail Marijuana Cultivation Facility or Accelerator Cultivator in accordance with Rules 5-235, 6-230, and 6-730, or to a Pesticide Manufacturer. A Medical Marijuana Transporter may not sell, give away, buy, or receive

complimentary Medical Marijuana under any circumstances. A Medical Marijuana Transporter does not include a Licensee that transports its own Medical Marijuana.

C. Authorized Sources of Medical Marijuana. A Medical Marijuana Transporter may only transport and store Medical Marijuana that it receives directly from a Medical Marijuana Business in accordance with the 3-600 Series Rules.

D. Authorized On-Premises Storage. A Medical Marijuana Transporter is authorized to store transported Medical Marijuana on its Licensed Premises or permitted off-premises storage facility. All transported Medical Marijuana must be secured in a Limited Access Area, and tracked consistently with the inventory tracking rules.

E. Delivery to Patients Pursuant to Delivery Permit.

1. Prior to January 2, 2021, all Medical Marijuana Transporters are prohibited from delivering Regulated Marijuana to patients.

2. After January 2, 2021, only Medical Marijuana Transporters that possess a valid delivery permit may deliver Medical Marijuana pursuant to contracts with Medical Marijuana Stores that also possess valid delivery permits. All deliveries of Medical Marijuana to patients must comply with all requirements of Rule 3-615.

3. License Violation Affecting Public Safety. Any violation of subparagraph E of this Rule is a license violation affecting public safety.

Basis and Purpose – 5-510

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-401(2)(a)(V), 44-10-505, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion or prohibited by a Medical Marijuana Transporter. This Rule 5-510 was previously Rule M 1602, 1 CCR 212-1.

5-510 – Medical Marijuana Transporter: General Limitations or Prohibited Acts

A. Sales, Liens, and Secured Interests Prohibited. A Medical Marijuana Transporter is prohibited from buying, selling, or giving away Medical Marijuana or from receiving complimentary Medical Marijuana. A Medical Marijuana Transporter shall not place or hold a lien or secured interest on Medical Marijuana.

B. Licensed Premises Permitted. A Medical Marijuana Transporter shall maintain a Licensed Premises if it: (1) temporarily stores any Medical Marijuana, or (2) modifies any information in the Inventory Tracking System generated transport manifest. The Licensed Premises shall be in a local jurisdiction that authorizes the operation of Medical Marijuana Stores. If a Medical Marijuana Transporter Licensed Premises is shared with a Retail Marijuana Transporter Licensed Premises, then the combined Licensed Premises shall be in a local jurisdiction that authorizes the operation of both Medical Marijuana Stores and Retail Marijuana Stores.

C. Off-Premises Storage Permit. A Medical Marijuana Transporter may maintain one or more permitted off-premises storage facilities. *See* Rule 3-610 – Off-Premises Storage of Regulated Marijuana and Regulated Marijuana Product: All Regulated Marijuana Businesses.

D. Storage Duration. A Medical Marijuana Transporter shall not store Medical Marijuana for longer than seven days from receiving it at its Licensed Premises or off-premises storage facility. The total allowable seven day storage duration begins and applies regardless of which of the Medical Marijuana Transporter's premises receives the Medical Marijuana first, (i.e. the Medical Marijuana

Transporter's Licensed Premises, or any of its off-premises storage facilities). A Medical Marijuana Transporter with a valid delivery permit may store Medical Marijuana for delivery to patients pursuant to the delivery permit for no longer than seven days from receipt at its Licensed Premises or off-premises storage facility.

E. Control of Medical Marijuana. A Medical Marijuana Transporter is responsible for the Medical Marijuana once it takes control of the Medical Marijuana and until the Medical Marijuana Transporter delivers it to another Medical Marijuana Business, Retail Marijuana Cultivation Facility or Accelerator Cultivator in accordance with Rules 5-235, 6-230, and 6-730, Pesticide Manufacturer, or deliveries to a patient, parent, or guardian pursuant to a valid delivery permit. For purposes of this Rule, taking control of the Medical Marijuana means removing it from the Medical Marijuana Business's Licensed Premises and placing the Medical Marijuana in the transport vehicle or the Delivery Motor Vehicle.

F. Location of Orders Taken and Delivered. A Medical Marijuana Transporter is permitted to take orders on the Licensed Premises of any Medical Marijuana Business to transport Medical Marijuana between Medical Marijuana Businesses. The Medical Marijuana Transporter shall deliver the Medical Marijuana to the Licensed Premises of a licensed Medical Marijuana Business, or Pesticide Manufacturer. A Medical Marijuana Transporter may also deliver Medical Marijuana to patients, parents, or guardians pursuant to a contract with a Medical Marijuana Store if it possesses a valid delivery permit.

G. A Medical Marijuana Transporter shall receive Medical Marijuana from the originating Licensee packaged in the way that it is intended to be delivered to the final destination Licensee, or Pesticide Manufacturer. The Medical Marijuana Transporter shall deliver the Medical Marijuana in the same, unaltered packaging to the final destination Licensee.

H. A Medical Marijuana Transporter with a valid delivery permit shall receive Medical Marijuana that has been weighed, packaged, prepared, and labeled for delivery on the Licensed Premises of a Medical Marijuana Store or at the Medical Marijuana Store's off-premises storage facility after receipt of a delivery order. Medical Marijuana cannot be placed into a Delivery Motor Vehicle until after an order has been received and the Medical Marijuana has been packaged and labeled for delivery to the patient, parent, or guardian as required by the 3-1000 Series Rules.

I. A Medical Marijuana Transporter must not deliver Medical Marijuana to patients, parents, or guardians while also transporting Regulated Marijuana between Licensed Premises in the Delivery Motor Vehicle.

J. Opening of Sealed Packages or Containers and Re-Packaging Prohibited. A Medical Marijuana Transporter shall not open Containers of Medical Marijuana. Medical Marijuana Transporters are prohibited from re-packaging Medical Marijuana.

K. Temperature-Controlled Transport Vehicles. A Medical Marijuana Transporter shall utilize temperature-controlled transport vehicles when necessary to prevent spoilage of the transported Medical Marijuana.

L. Damaged, Refused, or Undeliverable Medical Marijuana. Any damaged Medical Marijuana that is undeliverable to the final destination Medical Marijuana Business, or any Medical Marijuana that is refused by the final destination Medical Marijuana Business shall be transported back to the originating Medical Marijuana Business. Any Medical Marijuana that cannot be delivered to the patient, parent, or guardian pursuant to a valid delivery permit shall be returned to the originating Medical Marijuana Store or the Medical Marijuana Store's off-premises storage facility within the same business day or pursuant to paragraph D of this Rule.

M. Transport of Medical Marijuana Vegetative Plants Authorized. Medical Marijuana Vegetative plants may only be transported between Licensed Premises and such transport shall only be permitted due to an approved change of location pursuant to Rule 2-255 or due to a one-time Transfer pursuant to Rule 3-805. Transportation of Vegetative plants to a permitted off-premises storage facility shall not be allowed. This restriction shall not apply to Immature plants.

5-600 Series – Medical Marijuana Business Operators

Basis and Purpose – 5-605

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(o), 44-10-401(2)(a)(VI), and 44-10-506, C.R.S. The purpose of this rule is to establish the license privileges of a Medical Marijuana Business Operator license. This Rule 5-605 was previously Rule M 1701, 1 CCR 212-1.

5-605 – Medical Marijuana Business Operator: License Privileges

A. Privileges Granted. A Medical Marijuana Business Operator shall only exercise those privileges granted to it by the Marijuana Code, the rules promulgated pursuant thereto and the State Licensing Authority. A Medical Marijuana Business Operator may exercise those privileges only on behalf of the Medical Marijuana Business(es) it operates. A Medical Marijuana Business shall not contract to have more than one Medical Marijuana Business Operator providing services to the Medical Marijuana Business at any given time. A Medical Marijuana Business Operator may not provide any operational services to a Marijuana Research and Development Facility.

B. Licensed Premises of the Medical Marijuana Business(es) Operated. A separate license is required for each specific Medical Marijuana Business Operator, and each licensed or registered Medical Marijuana Business Operator may operate one or more other Medical Marijuana Business(es). A Medical Marijuana Business Operator shall not have its own Licensed Premises, but shall maintain its own place of business, and may exercise the privileges of a Medical Marijuana Business Operator at the Licensed Premises of the Medical Marijuana Business(es) it operates.

C. Entities Eligible to Hold Medical Marijuana Business Operator License or Registration. A Medical Marijuana Business Operator license may be held only by a business entity, including, but not limited to, a corporation, limited liability company, partnership, or sole proprietorship.

D. Separate Place of Business. A Medical Marijuana Business Operator shall designate and maintain a place of business separate from the Licensed Premises of any Medical Marijuana Business(es) it operates. A Medical Marijuana Business Operator's separate place of business shall not be considered a Licensed Premises, and shall not be subject to the requirements applicable to the Licensed Premises of other Medical Marijuana Businesses, except as set forth in Rules 5-610 and 5-620. Possession, storage, use, cultivation, manufacture, sale, distribution, or testing of Medical Marijuana or Medical Marijuana Product is prohibited at a Medical Marijuana Business Operator's separate place of business.

E. Agency Relationship and Discipline for Violations. A Medical Marijuana Business Operator and each of its Controlling Beneficial Owners required to hold an Owner License, as well as the agents and employees of the Medical Marijuana Business Operator, shall be agents of the Medical Marijuana Business(es) the Medical Marijuana Business Operator is contracted to operate, when engaged in activities related, directly or indirectly, to the operation of such Medical Marijuana Business(es), including for purposes of taking administrative action against the Medical Marijuana Business being operated. *See* § 44-10-901(1), C.R.S. Similarly, a Medical Marijuana Business Operator and its Controlling Beneficial Owners required to hold an Owner License, as well as the officers, agents and employees of the Medical Marijuana Business Operator, may be

disciplined for violations committed by the Controlling Beneficial Owners, agents or employees of the Medical Marijuana Business acting under their direction or control. A Medical Marijuana Business Operator may also be disciplined for violations not directly related to a Medical Marijuana Business it is operating.

F. Compliance with Applicable State and Local Law, Ordinances, Rules, and Regulations. A Medical Marijuana Business Operator, and each of its Controlling Beneficial Owners, agents and employees engaged, directly or indirectly, in the operation of the Medical Marijuana Business(es) it operates, shall comply with all state and local laws, ordinances, rules, and regulations applicable to the Medical Marijuana Business(es) being operated.

Basis and Purpose – 5-610

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(o), 44-10-401(2)(a)(VI), and 44-10-506, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Medical Marijuana Business Operator. This Rule 5-610 was previously Rule M 1702, 1 CCR 212-1.

5-610 – Medical Marijuana Business Operators: General Limitations or Prohibited Acts

A. Financial Interest. A Person who holds an Owner's Interest in a Medical Marijuana Business Operator may also hold an Owner's Interest in another Medical Marijuana Business. A Medical Marijuana Business may be operated by a Medical Marijuana Business Operator where each has one or more Controlling Beneficial Owners or Passive Beneficial Owners in common. A Person may receive compensation for services provided by a Medical Marijuana Business Operator in accordance with these rules.

B. Sale of Marijuana Prohibited. A Medical Marijuana Business Operator is prohibited from selling, distributing, or Transferring Medical Marijuana to another Medical Marijuana Business, a patient, or a consumer, except when acting as an agent of a Medical Marijuana Business(es) operated by the Medical Marijuana Business Operator.

C. Consumption Prohibited. A Medical Marijuana Business Operator, and its Controlling Beneficial Owners, Passive Beneficial Owners, agents and employees, shall not permit the consumption of marijuana or marijuana products at its separate place of business.

D. Inventory Tracking System. A Medical Marijuana Business Operator, and any of its Controlling Beneficial Owners, agents, or employees engaged in the operation of the Medical Marijuana Business(es) it operates, must use the Inventory Tracking System account of the Medical Marijuana Business(es) it operates, in accordance with all requirements, limitations, and prohibitions applicable to the Medical Marijuana Business(es) it operates.

E. Compliance with Requirements and Limitations Applicable to the Medical Marijuana Business(es) Operated. In operating any other Medical Marijuana Business(es), a Medical Marijuana Business Operator, and its Controlling Beneficial Owners, agents and employees, shall comply with all requirements, limitations and prohibitions applicable to the type(s) of Medical Marijuana Business(es) being operated, under state and local laws, ordinances, rules, and regulations, and may be disciplined for violation of the same.

F. Inventory Tracking System Access. A Medical Marijuana Business may grant access to its Inventory Tracking System account to the Controlling Beneficial Owners who are required to hold Owner Licenses, as well as the licensed agents and employees of a Medical Marijuana Business Operator having duties related to Inventory Tracking System activities of the Medical Marijuana Business(s) being operated.

1. The Controlling Beneficial Owners, agents, and employees of a Medical Marijuana Business Operator granted access to a Medical Marijuana Business's Inventory Tracking System account, shall comply with all Inventory Tracking System rules.

2. At least one Controlling Beneficial Owner of a Medical Marijuana Business being operated by a Medical Marijuana Business Operator must be an Inventory Tracking System Trained Administrator for the Medical Marijuana Business's Inventory Tracking System account. That Inventory Tracking System Trained Administrator shall control access to its Inventory Tracking System account, and shall promptly terminate the access of the Medical Marijuana Business Operator's Controlling Beneficial Owners, agents, and employees:

    a. When its contract with the Medical Marijuana Business Operator expires by its terms;

    b. When its contract with the Medical Marijuana Business Operator is terminated by any party; or

    c. When it is notified that the license of the Medical Marijuana Business Operator, or a specific Controlling Beneficial Owner, agent or employee of the Medical Marijuana Business Operator, has expired, or has been suspended or revoked.

G. Limitations on Use of Documents and Information Obtained from Medical Marijuana Businesses. A Medical Marijuana Business Operator, and its agents and employees, shall maintain the confidentiality of documents and information obtained from the other Medical Marijuana Business(es) it operates, and shall not use or disseminate documents or information obtained from a Medical Marijuana Business it operates for any purpose not authorized by the Marijuana Code and the rules promulgated pursuant thereto, and shall not engage in data mining or other use of the information obtained from a Medical Marijuana Business to promote the interests of the Medical Marijuana Business Operator or its Controlling Beneficial Owners, Passive Beneficial Owners, Indirect Financial Interest Holders, agents or employees, or any Person other than the Medical Marijuana Business it operates.

H. Form and Structure of Allowable Agreement(s) Between Operators and Owners. Any agreement between a Medical Marijuana Business and a Medical Marijuana Business Operator:

1. Must acknowledge that the Medical Marijuana Business Operator, and its Controlling Beneficial Owners, agents and employees who are engaged, directly or indirectly, in operating the Medical Marijuana Business, are agents of the Medical Marijuana Business being operated, and must not disclaim an agency relationship;

2. May provide for the Medical Marijuana Business Operator to receive direct remuneration from the Medical Marijuana Business, including a portion of the profits of the Medical Marijuana Business being operated, subject to the following limitations:

    a. The portion of the profits to be paid to the Medical Marijuana Business Operator shall be commercially reasonable, and in any event shall not exceed the portion of the net profits to be retained by the Medical Marijuana Business being operated;

    b. The Medical Marijuana Business Operator shall not be granted, and may not accept:

        i. A security interest in the Medical Marijuana Business being operated, or in any assets of the Medical Marijuana Business;

ii. An ownership or membership interest, shares, or shares of stock, or any right to obtain any direct or indirect beneficial ownership interest in the Medical Marijuana Business being operated, or a future or contingent right to the same, including but not limited to options or warrants;

c. The Medical Marijuana Business Operator shall not guarantee the Medical Marijuana Business's debts or production levels.

3. Shall permit the Medical Marijuana Business being operated to terminate the contract with the Medical Marijuana Business Operator at any time, with or without cause.

I. A Medical Marijuana Business Operator may engage in dual operation of a Medical Marijuana Business and a Retail Marijuana Business at a single location, to the extent the Medical Marijuana Business being operated is permitted to do so pursuant to subsection 44-10-501(2)(a), C.R.S., and the Medical Marijuana Business Operator shall comply with the rules promulgated pursuant to the Marijuana Code, including the requirement of obtaining a valid license as a Retail Marijuana Business Operator.

J. Any Medical Marijuana Business Operators and the Medical Marijuana Business Operator's Owner Licensee(s) that are appointed by a court to serve as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person and take possession of, operate, manage, or control a Medical Marijuana Business must comply with Rule 2-275(F).

Basis and Purpose – 5-615

The statutory authority for this rule includes but is not limited to sections, 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(o), 44-10-401(2)(a)(VI), and 44-10-506, C.R.S. The purpose of this rule is to establish license requirements for the Medical Marijuana Business Operator's Controlling Beneficial Owners, agents and employees, including those directly or indirectly engaged in the operation of other Medical Marijuana Business(es). This Rule 5-615 was previously Rule M 1703, 1 CCR 212-1.

5-615 – Medical Marijuana Business Operators: Employee Licenses for Personnel

A. Required Licenses.

1. Owner Licenses. All natural persons who are Controlling Beneficial Owners in a Medical Marijuana Business Operator must have a valid Owner License, associated with the Medical Marijuana Business Operator license. Such an Owner License shall satisfy all licensing requirements for work related to the business of the Medical Marijuana Business Operator and for work performed on behalf of, or at the Licensed Premises of, the Medical Marijuana Business(es) operated by the Medical Marijuana Business Operator.

2. Employee Licenses. All natural persons who are agents or employees of a Medical Marijuana Business Operator that are actively engaged, directly or indirectly, in the management, supervision, or operation of one or more other Medical Marijuana Businesses, including but not limited to all agents or employees who will come into contact with Medical Marijuana, who will have access to Limited Access Areas, or who will have access to the Inventory Tracking System account of the Medical Marijuana Business(es) being operated, must hold a valid Employee License. The Employee License shall satisfy all licensing requirements for work related to the business of the Medical Marijuana Business Operator and for work at the Licensed Premises of, or on behalf of, the Medical Marijuana Business(es) operated by the Medical Marijuana Business Operator.

B. Employee Licenses Not Required. Employee Licenses are not required for Passive Beneficial Owners of a Medical Marijuana Business Operator or for natural persons who will not come into contact with Medical Marijuana, will not have access to Limited Access Area(s) of the Medical Marijuana Business(es) being operated, and will not have access to the Inventory Tracking System account of the Medical Marijuana Business(es) being operated.

C. Designation of Management Personnel of a Medical Marijuana Business Operated by a Medical Marijuana Business Operator. If a Medical Marijuana Business Operator is contracted to manage the overall operations of a Medical Marijuana Business's Licensed Premises, the Medical Marijuana Business shall designate separate and distinct management personnel on the Licensed Premises who is an officer, agent, or employee of the Medical Marijuana Business Operator, which shall be a natural person with a valid Owner License or Employee License, as set forth in paragraph A of this Rule, and the Medical Marijuana Business shall comply with the reporting provisions of subsection 44-10-313, C.R.S.

Basis and Purpose – 5-620

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(o), 44-10-401(2)(a)(VI), and 44-10-506, C.R.S. The purpose of this rule is to establish records retention standards for a Medical Marijuana Business Operators. This Rule 5-620 was previously Rule M 1704, 1 CCR 212-1.

5-620 – Medical Marijuana Business Operators: Business Records Required

A. General Requirement. A Medical Marijuana Business Operator must maintain all required business records as set forth in Rule 3-905 - Business Records Required, except that:

1. A Medical Marijuana Business Operator is not required to maintain secure facility information, diagrams of its designated place of business, or a visitor log for its separate place of business, because a Medical Marijuana Business Operator will not come into contact with Medical Marijuana at its separate place of business; and

2. A Medical Marijuana Business Operator is not required to maintain records related to inventory tracking, or transport, because a Medical Marijuana Business Operator is prohibited from engaging in activities on its own behalf that would require inventory tracking or transport. All records relating to inventory tracking activities and records related to transport pertaining to the Medical Marijuana Business(es) operated by the Medical Marijuana Business Operator shall be maintained at the Licensed Premises of such Medical Marijuana Business(es).

B. All records required to be maintained shall be maintained at the Licensed Premises of the Medical Marijuana Business(es) it operates.

5-700 Series – Marijuana Research and Development Facilities

Basis and Purpose – 5-705

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(j), 44-10-203(1)(k), 44-10-203(2)(s), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule is to establish and clarify the distinct license privilege granted to Marijuana Research and Development Facilities by the State Licensing Authority. This Rule 5-705 was previously Rule M 1901, 1 CCR 212-1.

5-705 – Marijuana Research and Development Facilities: License Privileges

A. License Privileges.

1. Licensed Premises. A Marijuana Research and Development Facility may share a Licensed Premises with a commonly owned Medical Marijuana Testing Facility. Additionally, a Marijuana Research and Development Facility with an R&D Co-Location Permit may share a Licensed Premises with a commonly owned Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Retail Marijuana Cultivation Facility.

    a. If a Marijuana Research and Development Facility shares its Licensed Premises with a commonly owned Medical Marijuana Testing Facility, the Licensees shall physically segregate all Medical Marijuana used for research purposes in order to prevent contamination or any other effect on Medical Marijuana submitted to the Medical Marijuana Testing Facility for testing.

    b. If a Marijuana Research and Development Facility shares its Licensed Premises with a commonly owned Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Retail Marijuana Cultivation Facility, the Marijuana Research and Development Facility must first obtain an R&D Co Location Permit for that Licensed Premises and must comply with all terms and conditions of the R&D Co-Location Permit.

2. Authorized Sources of Medical Marijuana. A Medical Marijuana Cultivation Facility and Medical Marijuana Products Manufacturer may Transfer Medical Marijuana to a Marijuana Research and Development Facility.

    a. A Marijuana Research and Development Facility may also accept and possess Regulated Marijuana obtained in accordance with an approved Research Project.

    b. Upon receipt of Regulated Marijuana pursuant to Rule 5-705(A)(2)(a), a Marijuana Research and Development Facility shall immediately enter the Regulated Marijuana as Medical Marijuana in its Inventory Tracking System and shall follow all requirements of the Marijuana Code and these Rules including but not limited to inventory tracking and packaging and labeling. As part of and in compliance with the conditions of an approved Research Project, a Marijuana Research and Development Facility may Transfer the Medical Marijuana to another Marijuana Research and Development Facility or to a Medical or Retail Marijuana Testing Facility. In no event shall any marijuana obtained or Transferred pursuant to this Rule be consumed by humans or utilized in human subject research.

3. Cultivation of Marijuana Authorized. A Marijuana Research and Development Facility may grow, cultivate, possess, and Transfer Medical Marijuana for use in research only.

4. Production of Marijuana Concentrate. A Marijuana Research and Development Facility and a Medical Marijuana Cultivation Facility are subject to the same restrictions concerning Medical Marijuana Concentrate production. Therefore, a Marijuana Research and Development Facility may produce Medical Marijuana Concentrate only as allowed by, and in conformance with, Rule 5-220(A)-(B).

5. Production of Marijuana Products. A Marijuana Research and Development Facility and a Medical Marijuana Products Manufacturer are subject to the same restrictions concerning Medical Marijuana Product manufacturing. Therefore, a Marijuana Research and Development Facility may manufacture Medical Marijuana Product only as allowed by, and in conformance with, Rule 5-305.

6. Authorized Marijuana Transport. A Marijuana Research and Development Facility is authorized to utilize a licensed Medical Marijuana Transporter for transportation of Medical Marijuana to other Marijuana Research and Development Facility Licensees so long as the place where transportation orders are taken and delivered is a Marijuana Research and Development Facility. Nothing in this Rule prevents a Marijuana Research and Development Facility from transporting its own Medical Marijuana to other Marijuana Research and Development Facilities.

B. R&D Co-Location Permit. A Marijuana Research and Development Facility may obtain an R&D Co-Location Permit to operate at the same Licensed Premises as a commonly owned Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Retail Marijuana Cultivation Facility under the following circumstances:

1. The Marijuana Research and Development Facility must apply on current Division forms and pay any applicable fees.

2. A Marijuana Research and Development Facility may only apply for and hold an R&D Co-Location Permit if the Local Licensing Authority or Local Jurisdiction allow for Marijuana Research and Development Facility to operate at the same location as the specified Regulated Marijuana Business. Any R&D Co-Location Permit issued by the Division is conditioned upon the Marijuana Research and Development Facility's receipt of all required Local Licensing Authority or Local Jurisdiction approvals or acknowledgements.

3. The Marijuana Research and Development Facility and the specified Regulated Marijuana Business shall be commonly owned.

4. Prior to operating in the same Licensed Premises pursuant to an R&D Co-Location Permit, the Marijuana Research and Development Facility shall submit a co-location plan and standard operating procedures to the Division. The co-location plan and standard operating procedures shall demonstrate protocols to prevent cross-contamination and protect public health and safety, including but not limited to:

   a. Standards and controls for maintaining physical separation between the Marijuana Research and Development Facility's research activities and the cultivating or manufacturing activities of the co-located Regulated Marijuana Business; and

   b. Standards and controls for maintaining physical separation between the Marijuana Research and Development Facility's Medical Marijuana and the co-located Regulated Marijuana Business's Regulated Marijuana.

5. The Division may request the assistance of the Colorado Department of Public Health and Environment or any other state or local agency in reviewing the co-location plan and standard operating procedures, and in determining whether the co-location plan and standard operating procedures demonstrate protocols to prevent cross-contamination and protect public health and safety.

6. Modifying the co-location plan and standard operating procedures shall be considered a significant change to the Licensed Premises. *See* Rule 2-260 – Changing, Altering, or Modifying the Licensed Premises.

7. Record keeping, inventory tracking, packaging and labeling for the Marijuana Research and Development Facility and co-located Regulated Marijuana Business must enable the Division, Local Licensing Authority, or Local Jurisdiction to clearly distinguish the inventory, transactions, and activities of the Marijuana Research and Development

Facility from the inventory, transactions, and activities of the co-located Regulated Marijuana Business.

Basis and Purpose - 5-710

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(1)(i), 44-10-203(2)(s), 44-10-313(7), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule is to clarify those acts that are prohibited, or limited in some fashion, by a Marijuana Research and Development Facility. This Rule 5-710 was previously Rule M 1902, 1 CCR 212-1.

5-710 – Marijuana Research and Development Facility: General Limitations or Prohibited Acts

A. Restrictions Applicable to Any Marijuana Research and Development Facility.

1. Packaging and Labeling Standards Required. A Marijuana Research and Development Facility is prohibited from Transferring to a Licensee or any other Person Medical Marijuana that is not packaged and labeled in accordance with these rules. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

    a. Unless the Medical Marijuana was subject to contaminant testing required by the Marijuana Code and these rules, a Marijuana Research and Development Facility shall disclose to any individual receiving Medical Marijuana as part of an approved Research Project that the Medical Marijuana has not been subject to mandatory contaminant testing.

2. Transfers to Individuals. A Marijuana Research and Development Facility is prohibited from Transferring Medical Marijuana to any individual, unless as part of an approved Research Project.

3. Consumption Prohibited. A Marijuana Research and Development Facility shall not permit the consumption of Medical Marijuana on its Licensed Premises, unless the consumption is part of an approved Research Project and the Marijuana Research and Development Facility does not share a Licensed Premises with a Regulated Marijuana Business.

4. Worker Health and Safety. A Marijuana Research and Development Facility shall comply with all applicable federal, state, and local laws regarding worker health and safety.

5. Performance Incentives. A Marijuana Research and Development Facility may not use performance-based incentives to compensate its employees, agents, or contractors who will conduct research, development, or testing.

6. Licensure and Research Projects. A Marijuana Research and Development Facility shall not engage in any research activities until the State Licensing Authority or its delegate approves both (1) its business license application, pursuant to Rule 2-215, and (2) one or more Research Project(s), pursuant to Rule 5-715.

    a. A Marijuana Research and Development Facility may submit its business license application prior to or in conjunction with its Research Project proposal. Except that the Marijuana Research and Development Facility may not engage in any research activities except in conjunction with an approved Research Project.

b. If a Marijuana Research and Development Facility's license expires or is suspended or revoked, the Licensee shall immediately cease all activities associated with the privileges of licensure, including but not limited to research.

B. Restrictions Applicable to Marijuana Research and Development Facilities.

1. Transfer Restriction. A Marijuana Research and Development Facility may only Transfer Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana Product to:

a. A Medical Marijuana Testing Facility for testing;

b. A natural person as part of and in compliance with the conditions of an approved Research Project;

c. In the case of Medical Marijuana cultivated at the Licensed Premises of the Marijuana Research and Development Facility, to another Marijuana Research and Development Facility; or

d. In the case of an Immature Plant that has not been exposed to a chemical prohibited by Rule 3-325, to another Medical Marijuana Business.

Basis and Purpose – 5-715

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(1)(i), 44-10-203(2)(s), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule is to ensure that any research or development conducted by a Marijuana Research and Development Facility shall be in furtherance of a Research Project approved by the Division. The purpose of this rule is also to establish the applicable requirements necessary for Marijuana Research and Development Facilities to seek and receive Division approval for all proposed Research Projects. This Rule 5-715 was previously Rule M 1904, 1 CCR 212-1.

5-715 – Marijuana Research and Development Facility: Project Approval

A. Project Approval. Prior to engaging in any research activities, a Marijuana Research and Development Facility shall obtain approval from the Division for a Research Project by submitting a Research Project proposal. Any research or development conducted by a Marijuana Research and Development Facility shall be in furtherance of an approved Research Project.

1. General. A Marijuana Research and Development Facility Applicant or Licensee shall seek approval of the Division by submitting its Research Project proposal.

a. A Research Project proposal shall include a description of the Research Project's defined protocol, clearly articulated goal(s), defined methods and outputs, and a defined start and end date.

i. The description of the proposed Research Project proposal shall include the quantity of Medical Marijuana, Medical Marijuana Concentrate, and/or Medical Marijuana Product reasonably required to conduct the proposed Research Project, the total quantity of which is subject to approval by the Division as part an approved Research Project.

b. A Marijuana Research and Development Facility may enter into contracts or agreements with a public higher education research institution or another Marijuana Research and Development Facility to conduct the proposed Research Project. A Marijuana Research and Development Facility Applicant or

Licensee shall disclose all contracts or agreements with a public higher education research institution or a Marijuana Research and Development Facility.

i. If a Marijuana Research and Development Facility enters into a contract or agreement to conduct a Research Project with a public higher education research institution, all research activities involving possession of Medical Marijuana shall occur at the Marijuana Research and Development Facility's Licensed Premises. Employees, agents, or contractors of the public higher education research institution may not work at or conduct research activities at the Marijuana Research and Development Facility's Licensed Premises unless they hold an Employee License issued by the State Licensing Authority.

c. A Marijuana Research and Development Facility may submit additional Research Project proposals at any time during which its license is current and valid.

2. Private Research. Unless the proposed Research Project is being conducted in whole or in part by a Public Institution or with Public Money, the Marijuana Research and Development Facility Applicant or Licensee shall obtain a review of its proposed Research Project by one or more independent reviewers. The Division, in its discretion, may require a Marijuana Research and Development Facility Applicant or Licensee to nominate multiple independent reviewers. The Division must approve each nominated independent reviewer.

a. Fees and Costs. The Applicant or Licensee shall be solely responsible for any fees or costs associated with all aspects and all stages of the independent reviewer's services.

b. Qualifications of an Independent Reviewer. Each independent reviewer nominated by a Marijuana Research and Development Facility Applicant or Licensee must be a qualified researcher within the field of study that relates to proposed Research Project.

i. The Division may consult with the Colorado Department of Public Health and Environment and/or the Colorado Department of Agriculture in reviewing whether a nominated independent reviewer is qualified to review the Marijuana Research and Development Facility's Research Project.

ii. The Division, in its discretion, may require a nominated independent reviewer or the Marijuana Research and Development Facility to provide additional information or analysis that the Division deems pertinent to its review of whether to approve the Licensee's nomination of the independent reviewer.

c. Conflicts of Interest. A Marijuana Research and Development Facility Applicant or Licensee must disclose all pre-existing financial, employment, business, or personal relationships between the Marijuana Research and Development Facility or any of its Owner Licensees and each independent reviewer. In determining whether to approve an independent reviewer, the Division may consider whether a pre-existing relationship exists that could affect the independent reviewer's independence or appearance of independence.

d. Independent Reviewer Approval Required. If a Marijuana Research and Development Facility Applicant or Licensee nominates an independent reviewer who is not approved by the Division, the State Licensing Authority may deny a Research Project on that ground unless the Marijuana Research and Development Facility Applicant or Licensee nominates another independent reviewer who is approved by the Division.

e. Independent Reviewer Report. After an independent reviewer has been approved by the Division, the Marijuana Research and Development Facility Applicant or Licensee shall submit a report by the independent reviewer to the Division as part of its Research Project proposal. The independent reviewer's report shall address the following criteria as described in the Research Project's description:

i. The identity of the independent reviewer and his/her employer;

ii. Any compensation paid by the Marijuana Research and Development Facility Applicant or Licensee for the review and report;

iii. A description of the review conducted by the independent reviewer, including but not limited to an identification of all documents that were reviewed;

iv. An analysis by the independent reviewer as to whether the proposed Research Project constitutes a type of approved research pursuant to Rule 5-720(A) and the reason(s) supporting the reviewer's analysis;

v. An assessment of the total quantity of Medical Marijuana reasonably required to conduct the proposed Research Project;

vi. An assessment of whether the proposed Research Project presents any type of danger to the public health and/or safety, and/or whether the proposed Research Project presents any health or safety risks;

vii. An assessment of whether the proposed Research Project has a strong scientific basis, appropriate study design, and technically sound scientific methodology;

viii. An assessment of whether the Marijuana Research and Development Facility Applicant or Licensee is qualified to perform the proposed Research Project, including whether Marijuana Research and Development Facility Applicant or Licensee's employees are qualified to perform the proposed Research Project;

ix. An assessment of whether the Marijuana Research and Development Facility Applicant or Licensee has the appropriate resources and protocols to conduct the proposed Research Project;

x. An assessment of whether the Marijuana Research and Development Facility Applicant or Licensee has the appropriate personnel, expertise, facilities, infrastructure, funding, and other human, animal, or other approvals in place to successfully conduct the Research Project, including but not limited to the requirements in Rule 5-720(C) and (D);

xi. The following certification by the independent reviewer: "I hereby certify and affirm that I do not have any financial, employment, business, or personal relationship with [INSERT MARIJUANA RESEARCH AND DEVELOPMENT FACILITY NAME] ("Licensee") that would influence or affect my review of the Licensee's proposed Research Project activity. Other than the fees disclosed herein, neither the Licensee nor any other person has given me anything of value or made any promises to me that would influence or affect my review of the Licensee's proposed research activity. I further certify and affirm that this report was drafted by me, and that the information, analysis, and conclusions herein represent solely my work and conclusions."; and

xii. The signature of the independent reviewer.

f. The Marijuana Research and Development Facility shall maintain copies of all documents and correspondence sent to or from the independent reviewer. *See* Rule 3-905 – Business Records Required.

g. The Division, in its discretion, may require the independent reviewer and/or the Marijuana Research and Development Facility Applicant or Licensee to provide additional information or analysis that the Division deems pertinent to its review of the Applicant or Licensee's Research Project proposal.

h. The State Licensing Authority may decline to approve a Research Project proposal if an independent reviewer or the Division through further investigation concludes that:

i. The description of the Research Project does not meet the requirements of section 44-10-507, C.R.S., and these rules;

ii. The proposed Research Project presents a danger to the public health and/or safety, and/or the research to be conducted pursuant to the Research Project presents any health or safety risks;

iii. The proposed Research Project lacks scientific value or validity;

iv. The Marijuana Research and Development Facility Applicant or Licensee is not qualified to perform the proposed research;

v. The Marijuana Research and Development Facility Applicant or Licensee does not have the appropriate resources and/or protocols to conduct the proposed research;

vi. The Marijuana Research and Development Facility Applicant or Licensee lacks the appropriate personnel, expertise, facilities, infrastructure, funding, or human, animal, or other approvals in place to successfully conduct the Research Project, including but not limited to the requirements in Rule 5-720(C) and (D);

vii. The independent reviewer(s) cannot meet the certification requirements in this Rule; or

viii The Marijuana Research and Development Facility Applicant or Licensee or the proposed Research Project is otherwise not in compliance with the Marijuana Code or these rules.

3. Projects with Public Institutions or Money. If a Marijuana Research and Development Facility Applicant or Licensee's proposed Research Project will be conducted in whole or in part with a Public Institution or Public Money, the Division shall refer the Licensee's Research Project proposal to the Scientific Advisory Council established by section 25-1.5-106.5(3), C.R.S., for review.

    a. The Marijuana Research and Development Facility Applicant or Licensee shall supply the Scientific Advisory Council with any information and/or documents requested by the Scientific Advisory Council within the deadline imposed by the Scientific Advisory Council. A Marijuana Research and Development Facility Applicant or Licensee's failure to supply information and/or documents requested by the Scientific Advisory Council within the deadline set by the Scientific Advisory Council shall be grounds for denial of the Research Project proposal.

    b. The Scientific Advisory Council shall review the proposed Research Project to ensure that the proposed Research Project meets the requirements of Rule 5-720(A).

    c. The Scientific Advisory Council shall also assess the adequacy of the following:

        i. The proposed Research Project's quality, study design, value, or impact;

        ii. Whether the Marijuana Research and Development Facility Applicant or Licensee has the appropriate personnel, expertise, facilities, infrastructure, funding, and human, animal, or other approvals in place to successfully conduct the Research Project, including but not limited to the requirements in Rule 5-720(C) and (D); and

        iii. Whether the amount of Medical Marijuana the Marijuana Research and Development Facility Applicant or Licensee proposes to grow or possess is consistent with the proposed Research Project's scope and goals.

    d. The Scientific Advisory Council shall communicate the results of its review of the proposed Research Project to the Division. If the Scientific Advisory Council determines that the requirements of either Paragraph (b) or (c) of this Rule are not satisfied, then the proposed Research Project shall be denied.

    e. The Marijuana Research and Development Facility shall maintain copies of all documents and correspondence sent to or from the Scientific Advisory Council. *See* Rule 3-905 – Business Records Required.

Basis and Purpose – 5-720

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(1)(i), 44-10-203(2)(s), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule to establish the limited research purposes authorized for Marijuana Research and Development Facilities. The purpose of this rule is also to establish additional requirements for Research Projects involving human subjects and animal subjects, as well as restrictions on the use of Pesticides. The rule also establishes reporting requirements and explains when the State Licensing Authority may require a Marijuana Research and Development Facility to undergo an audit of its research activities. This Rule 5-720 was previously Rule M 1905, 1 CCR 212-1.

5-720 – Marijuana Research and Development Facility: Authorized Research Activities

A. Authorized Research. A Marijuana Research and Development Facility is authorized to engage in the following research at its Licensed Premises:

1. Chemical Potency and Composition Levels.

2. Clinical Investigations of Marijuana-Derived Products.

3. Efficacy and Safety of Administering Marijuana as Part of Medical Treatment.

4. Genomic Research.

5. Horticultural Research.

6. Agricultural Research.

7. Marijuana-Affiliated Products or Systems. A marijuana-affiliated product or system includes products or systems such as marijuana delivery systems and cultivation or processing equipment.

B. Pesticide Research. A Marijuana Research and Development Facility shall not engage in any research activities involving Pesticides unless the Marijuana Research and Development Facility has applied for and received any necessary license, registration, certification, or permit from the Colorado Department of Agriculture pursuant to the Pesticide Act, sections 35-9-101 *et seq.,* C.R.S., and/or the Pesticide Applicators' Act, sections 35-10-101 *et seq.*, C.R.S.

1. A Marijuana Research and Development Facility engaged in research activities involving Pesticide shall at all times comply with the Pesticide Act, sections 35-9-101 *et seq.*, C.R.S., Pesticide Applicators' Act, sections 35-10-101 *et seq.*, C.R.S., and all rules promulgated pursuant thereto.

C. Research Involving Human Subjects. A Marijuana Research and Development Facility shall not conduct any research involving human subjects unless all aspects of its proposed Research Project have been reviewed and approved by an Institutional Review Board that is registered and in good standing with Office for Human Research Protections, U.S. Department of Health and Human Services.

1. A Marijuana Research and Development Facility shall include proof of approval and ongoing oversight and review by an Institutional Review Board as part of its Research Project proposal. A Research Project may be approved conditioned upon subsequent Institutional Review Board approval. A Licensee shall not engage in any Research Project involving human subjects until it receives approval by the Institutional Review Board and its Research Project is approved. A Marijuana Research and Development Facility conducting research involving human subjects shall also comply with any ongoing monitoring required by the Institutional Review Board.

2. A Marijuana Research and Development Facility conducting research involving human subjects shall at all times comply with the U.S. Department of Health and Human Services' requirements for protection of human research subjects, including additional safeguards necessary for vulnerable populations, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons, 45 C.F.R. part 46, and all other relevant federal and/or state laws and regulations regarding research on human subjects, as well as all prevailing ethical standards and requirements for research involving human subjects.

3. A Marijuana Research and Development Facility conducting research involving human subjects shall obtain informed consent from any individual participating in such research prior to the individual's participation in the research. A Marijuana Research and Development Facility shall comply with U.S. Food and Drug Administration requirements for informed consent and additional safeguards for children in clinical investigations, 21 C.F.R. part 50, as part of approval and ongoing oversight and review by an Institutional Review Board.

D. Research Involving Animal Subjects. A Marijuana Research and Development Facility shall not conduct any research involving animal subjects as defined in the Animal Welfare Act, 7 U.S.C. § 2132(g) unless the Marijuana Research and Development Facility is registered with the U.S. Department of Agricultural pursuant to the Animal Welfare Act, 7 U.S.C. §§ 2131 *et seq.*

1. A Marijuana Research and Development Facility shall include proof of its current registration with the U.S. Department of Agriculture as part of its Research Project proposal. Failure to be registered with the U.S. Department of Agriculture shall be grounds for denial of Research Project proposal involving animal subjects.

2. A Marijuana Research and Development Facility shall at all times treat animal subjects as defined in the Animal Welfare Act, 7 U.S.C. § 2132(g) involved in research humanely and consistent with all relevant federal and/or state laws and regulations, as well as all prevailing ethical standards and requirements for research on such animals.

E. Research Involving Testing of Marijuana. A Marijuana Research and Development Facility may only engage in research regarding the testing of Medical Marijuana if the following criteria are met:

1. Testing Qualifications. A Marijuana Research and Development Facility must meet at least one of the following standards:

a. The Marijuana Research and Development Facility also holds a Medical Marijuana Testing Facility license and has been certified pursuant to Rule 5-415;

b. The Marijuana Research and Development Facility is accredited to the International Organization for Standardization/International Electrotechnical Commission 17025:2005 Standard, or any subsequent superseding ISO 17025 standard; or

c. The Marijuana Research and Development Facility is part of an institution of higher education whose protocols have been approved by the Colorado Department of Public Health and Environment.

2. A Marijuana Research and Development Facility proposing to engage in research regarding the testing of Medical Marijuana shall include in its Research Project proposal documentation establishing its testing qualification pursuant to Paragraph (E)(1) of this Rule. *See* Rule 5-715 – Marijuana Research and Development Facilities: Project Approval.

F. Transfers of Marijuana Used in Research. A Marijuana Research and Development Facility shall not Transfer to any Person any Medical Marijuana unless such Transfer is authorized under Rule 5-710. Otherwise, a Marijuana Research and Development Facility shall at the conclusion of its research destroy all remaining Medical Marijuana subject to the Marijuana Research and Development Facility's approved Research Project. Unless otherwise provided, a Research Project will be deemed concluded on its defined end date as provided in the Marijuana Research and Development Facility's Research Project proposal that was submitted to and approved by the

Division. The Marijuana Research and Development Facility shall ensure destruction of such remaining Medical Marijuana is destroyed in conformance with Rule 3-230.

G. Periodic Reporting. A Marijuana Research and Development Facility shall submit to the Division a report regarding the status of approved Research Projects every six months following the Division's approval of its Research Project.

1. The periodic reports shall address the Marijuana Research and Development Facility's compliance and progress with its approved Research Project.

2. The periodic reports shall include any protocol changes or reported protocol deviations, as well as enrollment numbers and adverse events for studies involving human subjects.

3. If the Marijuana Research and Development Facility is conducting its Research Project in whole or in part with a Public Institution or Public Money, the Division shall submit the Marijuana Research and Development Facility's periodic reports to the Scientific Advisory Council for review.

4. If an adverse event occurs, the Marijuana Research and Development Facility shall immediately notify the Division of the adverse event on the form prepared by the Division.

H. Suspension or Revocation of Project Approval. Research Project approval is subject to revocation or suspension if the Marijuana Research and Development Facility's research has materially diverged from the Marijuana Research and Development Facility's approved Research Project, violates the Marijuana Code or the rules promulgated thereto, or presents a risk to public health and safety. *See* 8-200 Series Rules – Discipline.

I. Reporting of Research Results. A Marijuana Research and Development Facility shall supply the Division with copies of all final reports, findings, or documentation regarding the outcomes of approved Research Projects.

J. Independent Research Audit. The State Licensing Authority in its discretion may at any time require that a Marijuana Research and Development Facility undergo an audit of its research activities.

1. Circumstances Justifying Independent Research Audit. The following is a non-exhaustive list of examples that may justify an independent research audit:

a. The Division has reasonable grounds to believe that the Marijuana Research and Development Facility is in violation of one or more of the requirements set forth in these rules or other applicable statutes or regulations;

b. The Division has reasonable grounds to believe that the Marijuana Research and Development Facility's research activities present a danger to the public health and/or safety; or

c. The Division has reasonable grounds to believe that the Marijuana Research and Development Facility has been or is engaged in research activities that have not received prior Division approval.

2. Selection of An Independent Consultant. The Division and the Marijuana Research and Development Facility may attempt to mutually agree upon the selection of an independent consultant to perform a research audit. However, the Division always retains the authority to select the independent consultant regardless of whether mutual agreement can be reached.

3. Costs. The Marijuana Research and Development Facility subject to an independent research audit will be responsible for all costs associated with the independent research audit, including but not limited to the auditor's fees.

4. Compliance Required. A Marijuana Research and Development Facility must pay for and timely cooperate with the State Licensing Authority's requirement that it undergo an independent research audit in conformance with this Rule.

K. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-725

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(1)(i), 44-10-203(2)(s), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule is to permit laboratory testing of Medical Marijuana, Medical Marijuana Concentrate, and Medical Marijuana Products used by Marijuana Research and Development Facilities. The State Licensing Authority intends this rule to help maintain the integrity of Colorado's Marijuana Research and Development Facilities. This Rule 5-725 was previously Rule M 1907, 1 CCR 212-1.

5-725 – Marijuana Research and Development Facility: Testing

A. Samples on Demand. Upon request of the Division, a Marijuana Research and Development Facility shall submit a sufficient quantity of Medical Marijuana to a Medical Marijuana Testing Facility for testing. The Division will notify the Marijuana Research and Development Facility of the results of the analysis. *See* Rule 3-805 – Medical Marijuana Business: Inventory Tracking System; Rule 3-905 – Business Records Required.

B. Samples Provided for Testing. A Marijuana Research and Development Facility may provide Samples of its Medical Marijuana to a Medical Marijuana Testing Facility for testing purposes. The Marijuana Research and Development Facility shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

Basis and Purpose – 5-730

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(1)(i), 44-10-203(2)(s), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule is to establish a Marijuana Research and Development Facility may only possess an amount of Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana Product Medical Marijuana approved in conjunction with the Licensee's approved Research Projects. The purpose of this rule is also to establish additional Inventory Tracking and separation requirements for Medical Marijuana cultivated for Transfer by a Marijuana Research and Development Cultivation. This Rule 5-730 was previously Rule M 1908, 1 CCR 212-1.

5-730 – Marijuana Research and Development Facility: Production Management and Possession Limits

A. Marijuana Authorized for Transfer. A Marijuana Research and Development Facility that is authorized to cultivate Medical Marijuana for Transfer to other Marijuana Research and Development Facilities may not have more than 500 Medical Marijuana plants and 20 pounds of Medical Marijuana in its Limited Access Area at any given time, unless expressly approved by the Division as part of an approved Research Project.

1. A Marijuana Research and Development Facility shall indicate in the Inventory Tracking System whether Medical Marijuana is going to be used by the Licensee in an approved

Research Project or Transferred to another Marijuana Research and Development Facility. A Marijuana Research and Development Facility may cultivate Medical Marijuana prior to approval of a Research Project, except the Marijuana Research and Development Facility may only designate such Medical Marijuana as Medical Marijuana to be Transferred to other Marijuana Research and Development Facilities unless the Marijuana Research and Development Facility has an approved Research Project. Upon approval of a Research Project, a Marijuana Research and Development Facility shall indicate in the Inventory Tracking System whether any such Medical Marijuana authorized for Transfer will be subject to the Marijuana Research and Development Facility's research pursuant to the approved Research Project.

B. Marijuana for Research. A Marijuana Research and Development Facility shall only possess for research the amount of Medical Marijuana approved by the Division pursuant to each of the Licensee's approved Research Projects.

C. Separation of Marijuana Used in Research. A Marijuana Research and Development Facility shall physically separate all Medical Marijuana used in the Licensee's own approved Research Project(s) from Medical Marijuana to be Transferred to other Marijuana Research and Development Facilities for approved Research Projects.

Part 6 – Retail Marijuana Business License Types

6-100 Series – Retail Marijuana Stores

Basis and Purpose – 6-105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(dd), 44-10-313(14), 44-10-401(2)(b)(I), 44-10-601, and 44-10-605, C.R.S. The purpose of this rule is to the license privileges of a Retail Marijuana Store licensee. This Rule 6-105 was previously Rule R 401.

6-105 – Retail Marijuana Store: License Privileges

A. Licensed Premises. To the extent authorized by Rule 3-215 – Regulated Marijuana Business–Shared Licensed Premises and Operational Separation, a Retail Marijuana Store may share, and operate at, the same Licensed Premises with a commonly-owned Medical Marijuana Store. However, a separate license is required for each specific business or business entity, regardless of geographical location.

B. Authorized Sources of Retail Marijuana. A Retail Marijuana Store may only Transfer Retail Marijuana that was obtained from another Retail Marijuana Business.

C. Samples Provided for Testing. A Retail Marijuana Store may provide Samples of its products for testing and research purposes to a Retail Marijuana Testing Facility. The Retail Marijuana Store shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

D. Authorized On-Premises Storage. A Retail Marijuana Store is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.

E. Authorized Marijuana Transport. A Retail Marijuana Store is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where

transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents a Retail Marijuana Store from transporting its own Retail Marijuana.

F. Performance-Based Incentives. A Retail Marijuana Store may compensate its employees using performance-based incentives, including sales-based performance-based incentives.

G. Authorized Transfers of Industrial Hemp Products. This rule is effective July 1, 2020. A Retail Marijuana Store may Transfer Industrial Hemp Product to a consumer only after it has confirmed:

1. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Retail Marijuana Testing Facility; and

2. That the Person Transferring the Industrial Hemp Product to the Retail Marijuana Store is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

H. Retail Marijuana Store Delivery Permit.

1. Prior to January 2, 2021, all Retail Marijuana Stores are prohibited from delivering Regulated Marijuana to consumers.

2. After January 2, 2021, a Retail Marijuana Store with a valid delivery permit may accept delivery orders deliver Retail Marijuana to consumers pursuant to Rule 3-615.

3. A Retail Marijuana Store that does not possess a valid delivery permit cannot deliver Retail Marijuana.

I. Automated Dispensing Machines: A Retail Marijuana Store may use an automated machine in the Restricted Access Area of its Licensed Premises to dispense Regulated Marijuana to consumers without interaction with an Owner Licensee or Employee Licensee if the automated machine is reasonably monitored and complies with all requirements of these rules including but not limited to:

1. Health and safety standards,

2. Testing,

3. Packaging and labeling requirements,

4. Inventory tracking,

5. Identification requirements, and

6. Transfer limits to consumers.

J. Walk-up Window or Drive-up Window. A Retail Marijuana Store may serve customers through a walk-up window or drive-up window pursuant to the requirements of this rule.

1. Modification of Premises Required. Before accepting orders for sales of Retail Marijuana to a customer through either a walk-up window or drive-up window, a Retail Marijuana Store shall apply for, and obtain approval of, an application for a modification of its Licensed Premises for the addition of a walk-up window or drive-up window.

2. The area immediately outside the walk-up window or drive-up window must be under the Licensee's possession and control and cannot include any public property such as public streets, public sidewalks, or public parking lots.

3. Order and Identification Requirements.

   a. Prior to accepting an order or Transferring Retail Marijuana to a customer, the Employee Licensee or Owner Licensee must physically view and inspect the consumer's identification and ensure that the consumer is 21 years of age or older.

   b. The Retail Marijuana Store may accept telephone or internet orders or may accept orders from the customer at the walk-up window or drive-up window. Retail Marijuana Stores may not accept payment for Retail Marijuana over the internet.

   c. All orders received through a walk-up window or a drive-up window must be placed by the customer from a menu. The Retail Marijuana Store may not display Retail Marijuana at the walk-up or drive-up window.

4. Payment Requirements. Cash, credit, debit, cashless ATM, or other payment methods are permitted for payments for Retail Marijuana at the walk-up window or drive-up window.

5. Video Surveillance Requirements. For every Transfer of Regulated Marijuana through either a walk-up window or drive-up window, the Retail Marijuana Store's video surveillance must enable the recording of the consumer's identity (and consumer's vehicle in the event of drive-up window), and must enable the recording of the Licensee verifying the consumer's identification and completion of the transaction through the Transfer of Regulated Marijuana.

6. Packaging and Labeling Requirements. A Retail Marijuana Store utilizing a walk-up window or drive-up window must ensure that all Retail Marijuana is packaged and labeled in accordance with Rule 3-1010 and Rule 3-1015 prior to Transfer to the consumer.

7. Local Restrictions. Transfers of Regulated Marijuana using a walk-up window or drive-up window are subject to requirements and restrictions imposed by the relevant Local Jurisdiction.

Basis and Purpose – 6-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(4)(b), 44-10-203(1)(k), 44-10-401(2)(b)(I), 44-10-701(1)(a), 44-10-701(3)(d) and (f), and 44-10-601, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(3)(a), 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a licensed Retail Marijuana Store.

Regarding quantity limitations on sales, equivalencies for Retail Marijuana Concentrate and Retail Marijuana Product to Retail Marijuana flower have been included in this rule pursuant to the mandate of House Bill 14-1361. The establishment of equivalencies also provides information to stakeholders including Licensees, the general public, and law enforcement to aid in the enforcement of and compliance with the lawful personal possession limit of one ounce or less of marijuana. Setting these equivalencies provides Retail Marijuana Stores and their employees with necessary information to avoid being complicit in a patron acquiring more marijuana than is lawful to possess under the Colorado Constitution pursuant to Article XVIII, Subsection 16(3)(a).

This Rule 6-110 was previously Rule R 402, 1 CCR 212-2.

6-110 – Retail Marijuana Sales: General Limitations or Prohibited Acts

A. Sales to Persons Under 21 Years. Licensees are prohibited from Transferring, giving, or distributing Retail Marijuana to persons under 21 years of age. Licensees are prohibited from permitting a person under the age of 21 years of age from entering the Restricted Access Area.

B. Age Verification. Licensees must verify on two separate occasions that a Person is 21 years of age or older. First, prior to permitting a Person to enter the Restricted Access Area, a Licensee must verify that the Person has a valid government-issued photo identification showing that the Person is 21 years of age or older. Second, prior to initiating the Transfer of Retail Marijuana, a Licensee must verify that the purchaser has a valid government-issued photo identification showing that the purchaser is 21 years of age or older.

C. Quantity Limitations On Sales.

1. A Retail Marijuana Store and its employees are prohibited from Transferring more than one ounce of Retail Marijuana flower or its equivalent in Retail Marijuana Concentrate or Retail Marijuana Product to a consumer in a single transaction. A Retail Marijuana Store may also Transfer up to six (6) seeds in addition to the one ounce of Retail Marijuana flower or its equivalent in Retail Marijuana Concentrate or Retail Marijuana Product to a consumer in a single transaction. A single transaction includes multiple Transfers to the same consumer during the same business day where the Retail Marijuana Store employee knows or reasonably should know that such Transfer would result in that consumer possessing more than one ounce of marijuana. In determining the imposition of any penalty for violation of this Rule 6-110(C), the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235(C).

2. Equivalency. Non-edible, non-psychoactive Retail Marijuana Products including ointments, lotions, balms, and other non-transdermal topical products are exempt from the one-ounce quantity limit on Transfers. For all other Retail Marijuana Products or Retail Marijuana Concentrate, the following equivalency applies for the one ounce quantity Transfer limit:

a. One ounce of Retail Marijuana flower shall be equivalent to eight grams of Retail Marijuana Concentrate.

b. One ounce of Retail Marijuana flower shall be equivalent to 80 ten-milligram servings of THC in Retail Marijuana Product.

C.5. Educational Resource. When completing a sale of Retail Marijuana Concentrate, a Retail Marijuana Store shall provide the consumer with the tangible educational resource created by the State Licensing Authority regarding the use of Regulated Marijuana Concentrate.

D. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to Transfer Retail Marijuana to a consumer.

E. Sales over the Internet. Only a Retail Marijuana Store holding a valid delivery permit taking orders for delivery may make sales over the internet. Only a Retail Marijuana Store holding a valid delivery permit and/or a Retail Marijuana Transporter holding a valid delivery permit may deliver Retail Marijuana to a private residence. All other Retail Marijuana Store and Retail Marijuana Transporter Licensees are prohibited from selling Retail Marijuana over the internet.

F. Delivery Outside Colorado Prohibited. A Retail Marijuana Store holding a valid delivery permit shall not deliver Retail Marijuana to an address that is outside the state of Colorado.

G. Prohibited Items. A Retail Marijuana Store is prohibited from selling or giving away any consumable product that is not a Retail Marijuana Product or an Industrial Hemp Product including, but not limited to, cigarettes or tobacco products, alcohol beverages, and food products or non-alcohol beverages that are not Retail Marijuana Product.

H. Free Product Prohibited. A Retail Marijuana Store may not give away Retail Marijuana to a consumer for any reason.

I. Nicotine or Alcohol Prohibited. A Retail Marijuana Store is prohibited from Transferring Retail Marijuana that contain nicotine or alcohol, if the sale of the alcohol would require a license pursuant to Articles 3, 4, or 5 of Title 44, C.R.S.

J. Storage and Display Limitations.

1. A Retail Marijuana Store shall not display Retail Marijuana outside of a designated Restricted Access Area or in a manner in which Retail Marijuana can be seen from outside the Licensed Premises. Storage of Retail Marijuana shall otherwise be maintained in Limited Access Areas or Restricted Access Area.

2. Any Retail Marijuana Concentrate displayed in a Retail Marijuana Store must include the potency of the concentrate on a sign next to the name of the product.

    a. The font on the sign must be large enough for a consumer to reasonably see from the location where a consumer would usually view the concentrate.

    b. The potency displayed on the sign must be within plus or minus fifteen percent of the concentrate's actual potency.

K. Transfer of Expired Product Prohibited. A Retail Marijuana Store shall not Transfer any expired Retail Marijuana Product to a consumer.

L. Transfer Restriction.

1. Sampling Units. A Retail Marijuana Store may not possess or Transfer Sampling Units.

2. Research Transfers Prohibited. A Retail Marijuana Store shall not Transfer any Retail Marijuana to a Pesticide Manufacturer, or a Marijuana Research and Development Facility.

L.5. Standard Operating Procedures. A Retail Marijuana Store must establish written standard operating procedures for the management and storage of Retail Marijuana inventory and the sale of Retail Marijuana to consumers. A written copy of the standard operating procedures must be maintained on the Licensed Premises.

1. A Retail Marijuana Store must provide adequate training to every Owner Licensee and Employee Licensee who performs a task or set of tasks that are referenced in the standard operating procedures. Adequate training must include, but need not be limited to, providing a copy of the standard operating procedures for that Licensed Premises detailing at least all of the topics required to be included in the standard operating procedures.

M. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit.

1. The sale of Edible Retail Marijuana Products in the following shapes is prohibited:

    a. The distinct shape of a human, animal, or fruit; or

    b. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

2. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Retail Marijuana Business. Nothing in this subparagraph (M)(2) alters or eliminates a Licensee's obligation to comply with the requirements of the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

3. Edible Retail Marijuana Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and

4. Edible Retail Marijuana Products that are manufactured in the shape of a marijuana leaf are permissible.

N. Adverse Health Event Reporting. A Retail Marijuana Store must report Adverse Health Events pursuant to Rule 3-920.

O. Corrective and Preventive Action. This paragraph O shall be effective January 1, 2021. A Retail Marijuana Store shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

P. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(z), and 44-10-202(3)(h), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to establish that a Retail Marijuana Store must control and safeguard access to certain areas where Retail Marijuana and Retail Marijuana Product will be sold to the general public and prevent the diversion of Retail Marijuana and Retail Marijuana Product to people under 21 years of age. This Rule 6-115 was previously Rule R 403, 1 CCR 212-2.

6-115 – Point of Sale: Restricted Access Area

A. Identification of Restricted Access Area. All areas where Retail Marijuana are sold, possessed for sale, displayed, or dispensed for sale shall be identified as a Restricted Access Area and shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, “Restricted Access Area – No One Under 21 Years of Age Allowed.”

B. Consumers in Restricted Access Area. The Restricted Access Area must be supervised by a Licensee at all times when consumers are present to ensure that only persons who are 21 years of age or older are permitted to enter. When allowing a customer access to a Restricted Access Area, Owner Licensees and Employee Licensees shall make reasonable efforts to limit the number of consumers in relation to the number of Owners Licensees and Employee Licensees in the Restricted Access Area at any time.

C. Display of Retail Marijuana. The display of Retail Marijuana for sale is allowed only in Restricted Access Areas. Any product displays that are readily accessible to the consumer must be supervised by the Owner Licensee or Employee Licensees at all times when consumers are present.

D. Pregnancy Warning. Retail Marijuana Stores must post, at all times and in a prominent place inside the Restricted Access Area, a warning that is at minimum three inches high and six inches wide that reads:

> **WARNING:** Using marijuana, in any form, while you are pregnant or breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of marijuana use during pregnancy or breastfeeding.

6-200 Series – Retail Marijuana Cultivation Facilities

Basis and Purpose – 6-205

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(j), 44-10-203(2)(r), 44-10-203(3)(c), 44-10-313(14), 44-10-401(2)(b)(II), and 44-10-602, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to a Retail Marijuana Cultivation Facility. This Rule 6-205 was previously Rule R 501, 1 CCR 212-2.

6-205 – Retail Marijuana Cultivation Facility: License Privileges

A. Licensed Premises. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Cultivation Facility

may share, and operate at, the same Licensed Premises with a commonly owned Medical Marijuana Cultivation Facility. However, a separate license is required for each specific business or business entity, regardless of geographical location. In addition, a Retail Marijuana Cultivation Facility may share, and operate at, the same Licensed Premises as a Marijuana Research and Development Facility so long as:

1. Each business or business entity holds a separate license;

2. The Marijuana Research and Development Facility obtains an R&D Co-Location Permit;

3. Both the Marijuana Research and Development Facility and the Retail Marijuana Cultivation Facility comply with all terms and conditions of the R&D Co-Location Permit; and

4. Both the Marijuana Research and Development Facility and the Retail Marijuana Cultivation Facility comply with all applicable rules. *See* 5-700 Series Rules.

B. Cultivation of Retail Marijuana and Production of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Retail Marijuana Concentrate Authorized. A Retail Marijuana Cultivation Facility may propagate, cultivate, harvest, prepare, cure, package, store, and label Retail Marijuana and Physical Separation-Based Retail Marijuana Concentrate. A Retail Marijuana Cultivation Facility may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Retail Marijuana Concentrate.

C. Authorized Transfers. A Retail Marijuana Cultivation Facility may only Transfer Retail Marijuana and Physical Separation-Based Retail Marijuana Concentrate to another Retail Marijuana Business. A Retail Marijuana Cultivation Facility and an Accelerator Cultivator may also Transfer to a Medical Marijuana Cultivation Facility in compliance with Rules 6-230 and 6-730.

1. A Retail Marijuana Cultivation Facility shall not Transfer Flowering plants. A Retail Marijuana Cultivation Facility may only Transfer Vegetative plants as authorized pursuant to Rule 3-605.

2. A Retail Marijuana Cultivation Facility may Transfer Sampling Units of Retail Marijuana or Retail Marijuana Concentrate to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-602(6), C.R.S., and Rule 6-225.

3. A Retail Marijuana Cultivation Facility may Transfer Retail Marijuana or Retail Marijuana Concentrate to another Retail Marijuana Cultivation Facility prior to testing required by these rules only if such Transfer is in accordance with one of the two options below.

    a. The Retail Marijuana Cultivation Facility may Transfer Retail Marijuana or Retail Marijuana Concentrate to another Retail Marijuana Cultivation Facility prior to testing if such Transfer is for the purpose of Decontamination and only after all other steps outlined in the Retail Marijuana Cultivation Facility's standard operating procedures have been completed, including but not limited to drying, curing, and trimming; or

    b. The Retail Marijuana Cultivation Facility may Transfer Retail Marijuana or Retail Marijuana Concentrate to another Retail Marijuana Cultivation Facility prior to testing, drying, curing, trimming, or completion of any other steps in the Retail Marijuana Cultivation Facility's standard operating procedures, subject to the following additional requirements:

i. The Retail Marijuana Cultivation Facility receiving the Transfer is identified as a centralized processing hub in the Inventory Tracking System and must have identical Controlling Beneficial Owner(s) with the originating Retail Marijuana Cultivation Facility;

ii. An originating Retail Marijuana Cultivation Facility may only Transfer Retail Marijuana to one receiving Retail Marijuana Cultivation Facility that will be serving as a centralized processing hub;

iii. The Retail Marijuana or Retail Marijuana Concentrate is weighed prior to leaving the originating Retail Marijuana Cultivation Facility and immediately upon receipt at the receiving Retail Marijuana Cultivation Facility and in accordance with Rule 3-605;

iv. The Transfer, weighing and entry into the Inventory Tracking System are all completed within 24 hours from initiating the Transfer;

v. The receiving Retail Marijuana Cultivation Facility is responsible for compliance with all testing requirements regardless of any testing performed prior to Transfer. If the receiving Retail Marijuana Cultivation Facility is pursuing a Reduced Testing Allowance, a Reduced Testing Allowance must be achieved separately for marijuana received from each originating Retail Marijuana Cultivation Facility. A Retail Marijuana Cultivation Facility that has achieved a Reduced Testing Allowance must maintain and produce complete testing records that can verify that facility's compliance with testing and Reduced Testing Allowance requirements; and

vi. The standard operating procedures for the originating Retail Marijuana Cultivation Facility and receiving Retail Marijuana Cultivation Facility clearly reflect the steps taken by each facility to Transfer, transport, receive, process, and test Harvest Batches.

4. A Retail Marijuana Cultivation Facility may transfer Retail Marijuana to a Pesticide Manufacturer.

5. A Retail Marijuana Cultivation Facility may Transfer Retail Marijuana to a Medical Marijuana Cultivation Facility in accordance with Rules 5-235 and 6-230.

D. Authorized On-Premises Storage. A Retail Marijuana Cultivation Facility is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area and tracked consistently with the inventory tracking rules.

E. Samples Provided for Testing. A Retail Marijuana Cultivation Facility may provide Samples of its Retail Marijuana to a Retail Marijuana Testing Facility for testing and research purposes. The Retail Marijuana Cultivation Facility shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

F. Authorized Marijuana Transport. A Retail Marijuana Cultivation Facility is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents a Retail Marijuana Cultivation Facility from transporting its own Retail Marijuana.

G. Performance-Based Incentives. A Retail Marijuana Cultivation Facility may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, a Retail Marijuana Cultivation Facility may not compensate a Sampling Manager using Sampling Units. *See* Rule 6-225 – Sampling Unit Protocols.

H. Authorized Sources of Retail Marijuana, Seeds and Immature Plants. A Retail Marijuana Cultivation Facility shall only obtain Retail Marijuana seeds or Immature Plants from its own Retail Marijuana, properly Transferred Medical Marijuana cultivated at a Medical Marijuana Cultivation Facility with at least one identical Controlling Beneficial Owner, or properly Transferred from another Retail Marijuana Business pursuant to the inventory tracking requirements in the 3-800 Series Rules. A Retail Marijuana Cultivation facility may not bring seeds, Immature Plants, or other marijuana that is not Regulated Marijuana onto the Licensed Premises at any time.

I. Centralized Distribution Permit. A Retail Marijuana Cultivation Facility may apply to the State Licensing Authority for a Centralized Distribution Permit for authorization to temporarily store Retail Marijuana Concentrate and Retail Marijuana Product received from a Retail Marijuana Products Manufacturer for the sole purpose of Transfer to commonly owned Retail Marijuana Stores.

1. For purposes of a Centralized Distribution Permit only, the term “commonly owned” means at least one natural person has a minimum of five percent ownership in both the Retail Marijuana Cultivation Facility possessing a Centralized Distribution Permit and the Retail Marijuana Store to which the Retail Marijuana Concentrate and Retail Marijuana Product will be Transferred.

2. To apply for a Centralized Distribution Permit, a Retail Marijuana Cultivation Facility may submit an addendum to its new or renewal application or a separate addendum prior to a renewal application on forms prepared by the Division to request a Centralized Distribution Permit. The Retail Marijuana Cultivation Facility shall send a copy of its Centralized Distribution Permit addendum to the Local Licensing Authority in the jurisdiction in which the Centralized Distribution Permit is proposed at the same time it submits the addendum to the State Licensing Authority.

3. A Retail Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit and has obtained all required approvals from the local licensing jurisdiction where it is located, if any, may accept Transfers of Retail Marijuana Concentrate and Retail Marijuana Product from a Retail Marijuana Products Manufacturer for the sole purpose of temporary storage and Transfer to commonly owned Retail Marijuana Stores.

    a. A Retail Marijuana Cultivation Facility may only accept Retail Marijuana Concentrate and Retail Marijuana Product that is packaged and labeled for sale to a consumer pursuant to the 3-1000 Series Rules.

    b. A Retail Marijuana Cultivation Facility storing Retail Marijuana Concentrate and Retail Marijuana Product pursuant to a Centralized Distribution Permit shall not store such Retail Marijuana Concentrate or Retail Marijuana Product on the Retail Marijuana Cultivation Facility’s Licensed Premises for more than 90 days from the date of receipt.

    c. All Transfers of Retail Marijuana Concentrate and Retail Marijuana Product by a Retail Marijuana Cultivation Facility shall be without consideration.

4. All security and surveillance requirements that apply to a Retail Marijuana Cultivation Facility apply to activities conducted pursuant to the privileges of a Centralized Distribution Permit.

J. Transition Permit. A Retail Marijuana Cultivation Facility may only operate at two geographical locations pursuant to Rule 2-255(D).

Basis and Purpose – 6-210

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(f), 44-10-203(2)(h), 44-10-203(2)(j), 44-10-701(2)(a), 44-10-602, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V). The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Retail Marijuana Cultivation Facility. This Rule 6-210 was previously Rule R 502, 1 CCR 212-2.

6-210 – Retail Marijuana Cultivation Facility: General Limitations or Prohibited Acts

A. Packaging and Labeling Standards Required. A Retail Marijuana Cultivation Facility is prohibited from Transferring Retail Marijuana that is not packaged and labeled in accordance with these rules. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

B. Transfer to Consumer Prohibited. A Retail Marijuana Cultivation Facility is prohibited from Transferring Retail Marijuana to a consumer. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-602(6), C.R.S., and Rule 6-225.

C. Excise Tax Paid. A Retail Marijuana Cultivation Facility shall remit any applicable excise tax due pursuant to Article 28.8 of Title 39, C.R.S.

D. Corrective and Preventive Action. This paragraph D shall be effective January 1, 2021. A Retail Marijuana Cultivation Facility shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

E. Adverse Health Event Reporting. A Retail Marijuana Cultivation Facility must report Adverse Health Events pursuant to Rule 3-920.

Basis and Purpose – 6-215

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(r), 44-10-401(2)(b)(II), and 44-10-602, C.R.S. The purpose of this rule is to establish the categories of Retail Marijuana Concentrate that may be produced at a Retail Marijuana Cultivation Facility and standards for the production of Retail Marijuana Concentrate. This Rule 6-215 was previously Rule R 505, 1 CCR 212-2.

6-215 – Retail Marijuana Cultivation Facilities: Retail Marijuana Concentrate Production

A. Permitted Production of Certain Categories of Retail Marijuana Concentrate. A Retail Marijuana Cultivation Facility may only produce Physical Separation-Based Retail Marijuana Concentrate on its Licensed Premises and only in an area clearly designated as a Limited Access Area. *See* Rule 3-905- Business Records Required. No other method of production or extraction for Retail Marijuana Concentrate may be conducted within the Licensed Premises of a Retail Marijuana Cultivation Facility unless the Controlling Beneficial Owner(s) of the Retail Marijuana Cultivation Facility also has a valid Retail Marijuana Products Manufacturer license and the room in which Retail Marijuana Concentrate is to be produced is physically separated from all cultivation areas and has clear signage identifying the room.

B. Safety and Sanitary Requirements for Concentrate Production. If a Retail Marijuana Cultivation Facility produces Retail Marijuana Concentrate, then all areas in which the Retail Marijuana Concentrate are produced and all Controlling Beneficial Owners and Employee Licensees engaged in the production of the Retail Marijuana Concentrate shall be subject to all of the requirements imposed upon a Retail Marijuana Products Manufacturer that produces Retail Marijuana Concentrate, including all general requirements. *See* 3-300 Series Rules – Health and Safety Regulations and Rule 6-315 – Retail Marijuana Products Manufacturer: Retail Marijuana Concentrate Production.

C. Possession of Other Categories of Retail Marijuana Concentrate.

1. It shall be considered a violation of this Rule if a Retail Marijuana Cultivation Facility possesses a Retail Marijuana Concentrate other than a Physical Separation-Based Retail Marijuana Concentrate on its Licensed Premises unless: the Controlling Beneficial Owner(s) of the Retail Marijuana Cultivation Facility also has a valid Retail Marijuana Products Manufacturer license; or the Retail Marijuana Cultivation Facility has been issued a Centralized Distribution Permit and is in possession of the Retail Marijuana Concentrate in compliance with Rule 6-205(I).

2. Notwithstanding subparagraph (C)(1) of this Rule 6-215, a Retail Marijuana Cultivation Facility shall be permitted to possess Solvent-Based Retail Marijuana Concentrate only when the possession is due to the Transfer of Retail Marijuana flower or trim that failed microbial testing to a Retail Marijuana Products Manufacturing Facility for processing into a Solvent-Based Retail Marijuana Concentrate, and the Retail Marijuana Products Manufacturer Transfers the resultant Solvent-Based Retail Marijuana Concentrate back to the originating Retail Marijuana Cultivation Facility.

a. The Retail Marijuana Cultivation Facility shall comply with all requirements in Rule 4-135(C) when having Solvent-Based Retail Marijuana Concentrate manufactured out of Retail Marijuana flower or trim that failed microbial testing.

b. The Retail Marijuana Cultivation Facility is responsible for submitting the Solvent-Based Retail Marijuana Concentrate for all required testing for contaminants pursuant to Rule 4-120 – Regulated Marijuana Testing Program – Contaminant Testing, for potency pursuant to Rule 4-125 – Regulated Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Marijuana Rules or the Marijuana Code.

c. Nothing in this Rule removes or alters the responsibility of the Retail Marijuana Cultivation Facility that Transfers the Retail Marijuana that failed microbial testing from complying with the requirement to pay excise tax pursuant to Rule 6-210(C).

D. Production of Alternative Use Product or Audited Product Prohibited. A Retail Marijuana Cultivation Facility shall not produce an Alternative Use Product or Audited Product.

E. Possession of Alternative Use Product or Audited Product. A Retail Marijuana Cultivation Facility is authorized to possess or Transfer Alternative Use Product and/or Audited Product only if the Retail Marijuana Cultivation Facility received the Alternative Use Product and/or Audited Product pursuant to a Centralized Distribution Permit from a Retail Marijuana Products Manufacturer that is manufacturing and Transferring the Alternative Use Product or Audited Product in accordance with Rule 6-325.

Basis and Purpose – 6-220

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(6), 44-10-401(2)(b)(II), and 44-10-602, C.R.S. The rule establishes a means by which to manage the overall production of Retail Marijuana in the state of Colorado. The intent of this rule is to encourage responsible production to meet demand for retail marijuana consumers, while also avoiding overproduction or underproduction. The establishment of production management is necessary to ensure there is not significant under or over production, either of which will increase incentives to engage in diversion and facilitate the continuation of the sale of illegal marijuana.

Existing and prospective licensees should be on notice that the new or revised regulations may impact the production limits provided for in this rule. Additionally, throughout the rulemaking process stakeholders expressed concern over ensuring an adequate amount of licensed Retail Marijuana Stores exist to sell the amount of Retail Marijuana being produced at licensed Retail Marijuana Cultivation Facilities. Scaling the number of interests a Person may hold in Retail Marijuana Cultivation Facility licenses relative to the number of controlling interests the Person has in Retail Marijuana Store(s) has been incorporated in the production management rules as a means to address this production management concern.

The Rule 6-220 was previously Rule R 506, 1 CCR 212-2.

6-220 – Retail Marijuana Cultivation Facility: Production Management

A. One Retail Cultivation License per Licensed Premises.

1. One Retail Marijuana Cultivation License per Licensed Premises. Except as permitted by subparagraph (A)(2) only one Retail Marijuana Cultivation Facility License shall be permitted at each Licensed Premises and each Licensed Premises must be located at a distinct address recognized by the Local Jurisdiction.

2. Collapse after January 1, 2019. After January 1, 2019, collapse of more than one Retail Marijuana Cultivation Facility license at a single Licensed Premises through an approved change of location application shall be permitted if all Retail Marijuana Cultivation Facility licenses for which the collapse is sought meet the following requirements:

    a. All Retail Marijuana Cultivation Facility licenses sought to be collapsed have been continuously operating for at least 180 days prior to the proposed collapse;

    b. All Retail Marijuana Cultivation Facility licenses sought to be collapsed have identical Controlling Beneficial Owners holding identical ownership percentages;

    c. There is no pending administrative action regarding any of the Retail Marijuana Cultivation Facility licenses sought to be collapsed;

    d. The tier for the surviving Retail Marijuana Cultivation Facility license has not been decreased in the 180 days prior to the change of location application.

    e. All Retail Marijuana Cultivation Facility Licensees identify the desired surviving license and agree that all other Retail Marijuana Cultivation Facility licenses will be surrendered at the time of collapse; and

    f. Determining Tier for Surviving License.

        i. Surviving License Tier Will Not Decrease. The tier for the surviving license will not be decreased as a result of any approved change of location application.

        ii. Surrendered License is Tier 1 or Tier 2. For the surviving license to increase one tier or one increment of 3,600 plants if already tier 5 or higher, during the 180 days prior to the change of location application, the surrendered license must have cultivated at least 50% of the maximum authorized plant count and Transferred at least 85% of the inventory it produced during that time.

        iii. Surrendered License is Tier 3 or Higher. For the surviving license to increase by the maximum authorized plant count of the surrendered license, during the 180 days prior to the change of location application the surrendered license must have cultivated at least 50% of the maximum authorized plant count and Transferred at least 85% of the inventory it produced during that time. If during the 180 days prior to the change of location application, the surrendering license did not cultivate at least 50% of the maximum authorized plant count and Transfer at least 85% of the inventory it produced, the surviving license will only increase one tier or one increment of 3,600 plants if already a tier 5 or higher.

        iv. Division Determination of Tier. If a collapse results in a maximum authorized plant count in the middle of a tier, the surviving license's maximum authorized plant count will be rounded up to the top of that tier.

B. Production Management.

1. Production Management Tiers.

    a. Tier 1: 1 - 1,800 plants

b. Tier 2: 1,801 – 3,600 plants

c. Tier 3: 3,601 – 6,000 plants

d. Tier 4: 6,001 – 10,200 plants

e. Tier 5: 10,201 – 13,800+ plants

i. Tier 5 shall not have a cap on the maximum authorized plant count.

ii. The maximum authorized plant count above 10,200 plants shall increase in one or two increments of 3,600 plants. A Retail Marijuana Cultivation Facility Licensee shall be allowed to increase its maximum authorized plant count one or two increments of 3,600 plants at a time upon application and approval by the Division pursuant to the requirements of paragraph (E) of this Rule 6-220.

2. All Retail Marijuana Cultivation Facility licenses granted on or after November 30, 2015 will be issued as a Tier 1 License.

3. Immature Plants. For purposes of calculating the maximum number of authorized plants, Immature Plants are excluded, but must be fully accounted for in the Inventory Tracking System.

4. Ground for Denial. The Division may deny an application for additional plants pursuant to paragraph E of this Rule if the Licensee exceeded the authorized plant count during the relevant time period for production.

5. Violation Affecting Public Safety. It may be considered a license violation affecting public safety for a Licensee to exceed the authorized plant count pursuant to these Rules.

C. Inventory Management.

1. Inventory Management for Retail Cultivation Facilities that Have One or Two Harvest Seasons a Year. Beginning the 721st day from the commencement of its first cultivation activities, a Retail Marijuana Cultivation Facility that has one or two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Retail Marijuana flower and trim the Licensee reported as a package in the Inventory Tracking System that was Transferred to another Retail Marijuana Business in the previous 720 days.

2. Inventory Management for Retail Cultivation Facilities That Have More Than Two Harvest Seasons a Year. Beginning the 181st day from the commencement of its first cultivation activities, a Retail Marijuana Cultivation Facility that has more than two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Retail Marijuana flower and trim the Licensee reported as a package in the Inventory Tracking System that was Transferred to another Retail Marijuana Business in the previous 180 days.

D. Tier Decrease. For Retail Marijuana Cultivation Facilities that are authorized to cultivate more than 1,800 plants, the Division may review the purchases, Transfers, and cultivated plant count of the Retail Marijuana Cultivation Facility Licensee in connection with the license renewal process or after an investigation. Based on the Division's review, the Division may reduce the Licensee's maximum allowed plant count to a lower production management tier pursuant to subparagraph

(C)(1) of this Rule. When determining whether to reduce the maximum authorized plant count, the Division may consider the following non-exhaustive factors including but not limited to:

1. The Licensee sold less than 70% of what the inventory it reported as packaged in the Inventory Tracking System during any 180 day review period;

2. On average during the previous 180 days the Licensee actually cultivated less than 90% of the maximum number of plants authorized by the next lower production management tier;

3. Whether the plants/inventory suffered a catastrophic event during the review period;

4. Excise tax payment history;

5. Existing inventory and inventory history;

6. Sales contracts; and

7. Any other factors relevant to ensuring responsible cultivation, production, and inventory management.

E. Application for Additional Plants.

1. Retail Marijuana Cultivation Facilities That Have One or Two Harvest Seasons Per Year.

a. After accruing at least one harvest season of Transfers, a Retail Marijuana Cultivation Facility Licensee may apply to the Division for a production management tier increase to be authorized to cultivate the number of plants in the next highest production management tier. The Division may consider the following in determining whether to approve the production management tier increase:

i. That during the previous harvest season prior to the tier increase application, it consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count;

ii. That the Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System in the previous 360 days to another Retail Marijuana Business;

iii. The Division may also consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the previous 360 days, if the Licensee cultivated between 75% and 85% of its maximum authorized plant count; and

iv. Any other information requested to aid the Division in its evaluation of the production management tier increase application.

b. If the Division approves the production management tier increase application, the Licensee shall pay the applicable expanded production management tier fee prior to cultivating the additional authorized plants. *See* Rule 2-205 –Fees.

c. For a Licensee with an authorized plant count in tiers 2-5 to continue producing at its expanded authorized plant count, the Licensee shall pay the requisite Retail

Marijuana Cultivation Facility license fee and the applicable expanded production management tier fee at license renewal. *See* Rule 2-205 – Fees.

d. After accruing one harvest season during which the Retail Marijuana Cultivation Facility Transferred and consistently cultivated the Licensee may apply to increase its authorized plant count by: (a) two production management tiers or (b) if already authorized to cultivate at a production management tier 5, two increments of 3,600 plants (7,200 plants total), every 360 days. It is within the Division's discretion to determine whether or not to grant the requested two tiers or increments of 3,600 plants (7,200 plants total).

i. The Licensee must demonstrate:

A. That the Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count; and

B. That the Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business.

C. If the Retail Marijuana Cultivation Facility cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a package in the Inventory Tracking System during that time period and/or Transfers into the Retail Marijuana Cultivation Facility or related Retail Marijuana Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Retail Marijuana Cultivation currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two tiers or two 3,600 plant increments;

B. The Retail Marijuana Cultivation Facility cultivated at least 90% of its maximum authorized plant count and during the preceding 360 days the Retail Marijuana Cultivation Facility and/or any commonly owned Retail Marijuana Store Transferred in Retail Marijuana from one or more unrelated Retail Marijuana Cultivation Facility(ies);

C. The Retail Marijuana Cultivation has contracts for the sale of Retail Marijuana in the next 360 days supporting the requested two tiers or two increments of 3,600 plants;

D. An established history of responsible cultivation and Transfer by the Retail Marijuana Cultivation;

E. Any history of noncompliance with the Retail Code, Marijuana Code, and/or Rules by the Retail Marijuana Cultivation Facility, or any commonly owned Retail Marijuana Business, and/or any investigation of, or administrative action(s) against, the Retail

Marijuana Cultivation Facility, or any commonly owned Retail Marijuana Business; or

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

2. Retail Marijuana Cultivation Facilities that have more than two harvest seasons per year.

a. After a 180-day period during which the Retail Marijuana Cultivation Facility Transferred and consistently cultivated, the Licensee may apply to the Division for a production management tier increase to be authorized to cultivate the number of plants in the next highest production management tier. The Division may consider the following in determining whether to approve the production management tier increase:

i. That for 180 days prior to the tier increase application, the Licensee consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count, and

ii. That the Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business.

iii. The Division may also consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the 180-day time period if the Licensee cultivated between 75% and 85% of its maximum authorized plant count.

iv. Any other information requested to aid the Division in its evaluation of the tier increase application.

b. If the Division approves the production management tier increase application, the Licensee shall pay the applicable expanded production management tier fee prior to cultivating the additional authorized plants. *See* Rule 2-205 – Fees.

c. For a Licensee with an authorized plant count in tier 2-5 to continue producing at its expanded authorized plant count, the Licensee shall pay the requisite Retail Marijuana Cultivation Facility license fee and the applicable expanded production management tier fee at license renewal. *See* Rule 2-205 – Fees.

d. After accruing 180 days during which the Retail Marijuana Cultivation Facility Transferred and consistently cultivated the Licensee may apply to increase its authorized plant count by: (a) two production management tiers or (b) if already authorized to cultivate at a tier 5, two increments of 3,600 plants (7,200 plants total) every 180 days. It is within the Division's discretion to determine whether or not to grant the requested two tier or two increments of 3,600 plants (7,200 plants total).

i. The Licensee must demonstrate:

A. That the Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count; and

B. That the Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business;

C. If the Retail Marijuana Cultivation Facility cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a package in the Inventory Tracking system during that time period and/or Transfers into the Retail Marijuana Cultivation Facility or related Retail Marijuana Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Retail Marijuana Cultivation currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two tiers or two increments of 3,600 plants;

B. The Retail Marijuana Cultivation Facility cultivated at least 90% of its maximum authorized plant count and during the preceding 180 days the Retail Marijuana Cultivation Facility and/or any commonly owned Retail Marijuana Store Transferred in Retail Marijuana from one or more unrelated Retail Marijuana Cultivation Facility(ies);

C. The Retail Marijuana Cultivation has entered into a written agreement(s) or contract(s) for the sale of Retail Marijuana in the next 180 days supporting the requested two tiers or two increments of 3,600 plants;

D. An established history of responsible cultivation and Transfer by the Retail Marijuana Cultivation;

E. Any history of noncompliance with the Retail Code, Marijuana Code, and/or Rules by the Retail Marijuana Cultivation Facility or any commonly owned Retail Marijuana Business(es), and/or any investigation of, or administrative action(s) against, the Retail Marijuana Cultivation Facility or any commonly owned Retail Marijuana Business;

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

e. A Retail Marijuana Cultivation Facility that does not have 180 days of cultivating history may apply to increase its plant count to tier 2 or tier 3 pursuant only to this subparagraph (E)(2)(e). A Retail Marijuana Cultivation Facility applying for a tier increase request under this subparagraph (E)(2)(e) must demonstrate all of the following at the time of application:

i. The Retail Marijuana Cultivation Facility making the tier increase request also owns at least three Retail Marijuana Stores with identical Controlling Beneficial Owners;

ii. The Controlling Beneficial Owners of the Retail Marijuana Cultivation Facility and three Retail Marijuana Stores used to support the tier increase request have owned the aforementioned Retail Marijuana Store licenses for at least the preceding 180 days;

iii. The three Retail Marijuana Stores used to support the tier increase request have consistently Transferred Regulated Marijuana to consumers in the preceding 180 days and have a history of wholesale purchases that justify the need for a tier increase above a tier 1;

iv. In the 180 days preceding the Licensee's tier increase request pursuant to this subparagraph (e), the Retail Marijuana Cultivation Facility, three Retail Marijuana Stores, and identical Controlling Beneficial Owners have not been subject to an administrative action issued by the State Licensing Authority;

v. The Retail Marijuana Cultivation Facility making the tier increase request has an established history of responsible cultivation and Transfers of its Regulated Marijuana inventory; and

vi. The Retail Marijuana Cultivation Facility subject to the tier increase request has not previously requested a tier increase pursuant to this subparagraph (e).

3. Application for Tier Increase. Applications for a tier increase that include any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation will be denied. In addition to denial, any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation is a public safety violation that may result in administrative action.

F. Maximum Allowed Retail Marijuana Cultivation Facility Licenses.

1. A Person that is a Controlling Beneficial Owner in Three or More Retail Marijuana Cultivation Facility Licenses. For every multiple of three Retail Marijuana Cultivation Facility licenses in which a Person is a Controlling Beneficial Owner, the Person must also be a Controlling Beneficial Owner in at least one Retail Marijuana Store. For example: (1) a Person that is a Controlling Beneficial Owner in three, four, or five Retail Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least one Retail Marijuana Store; (2) a Person that is a Controlling Beneficial Owner in six, seven, or eight Retail Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least two Retail Marijuana Stores; (3) a Person that is a Controlling Beneficial Owner in nine, ten, or eleven Retail Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least three Retail Marijuana Stores; etc.

2. A Person that is a Controlling Beneficial Owner in Less than Three Retail Marijuana Cultivation Facility Licenses. A Person that is a Controlling Beneficial Owner in less than three Retail Marijuana Cultivation Facility licenses shall not be required to be a Controlling Beneficial Owner in a Retail Marijuana Store.

G. The State Licensing Authority, at its sole discretion, may adjust any of the plant limits described in this Rule on an industry-wide aggregate basis for all Retail Marijuana Cultivation Facility Licensees subject to that limitation.

Basis and Purpose – 6-225

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(II), and 44-10-602(6), C.R.S. The purpose of this rule is to establish the circumstances under which a Retail Marijuana Cultivation Facility may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's Regulated Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting and recordkeeping requirements on a Retail Marijuana Cultivation Facility that Transfer Sampling Units. This Rule 6-225 was previously Rule R 507, 1 CCR 212-2.

6-225 – Retail Marijuana Cultivation Facility: Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, a Retail Marijuana Cultivation Facility may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Retail Marijuana Cultivation Facility who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. A person may be designated as a Sampling Manager by more than one Medical Marijuana Business or Retail Marijuana Business.

3. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

4. A Retail Marijuana Cultivation Facility that wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-602(6), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 6-225. *See also* Rule 3-905 – Business Records Required. A Retail Marijuana Cultivation Facility shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Harvest Batch or Production Batch. A Sampling Unit shall not be designated until the Harvest Batch or Production Batch has satisfied the testing requirements in the 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Retail Marijuana flower or trim shall not exceed one gram.

2. A Sampling Unit of Retail Marijuana Concentrate shall not exceed one-quarter of one gram; except that a Sampling Unit of Retail Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Excise Tax Requirements. A Retail Marijuana Cultivation Facility must pay excise tax on Sampling Units of Retail Marijuana flower or trim, based on the average market rate of the unprocessed Retail Marijuana.

D. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Retail Marijuana Cultivation Facility as a Sampling Manager for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than one ounce of Retail Marijuana or eight grams of Retail Marijuana Concentrate.

4. The monthly limit established in subparagraph (D)(3) applies to each Sampling Manager, regardless of the number of Retail Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (D)(3). Before Transferring any Sampling Units, a Retail Marijuana Cultivation Facility shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limits established in subparagraph (D)(3).

6. A Sampling Manager shall not Transfer any Sampling Unit to any other Person, including but not limited to any other Person designated as a Sampling Manager.

E. Compensation Prohibited. A Retail Marijuana Cultivation Facility may not use Sampling Units to compensate a Sampling Manager.

F. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

G. Acceptable Purposes. Sampling Units shall only be designated and Transferred for the purposes of quality control and product development in accordance with section 44-10-602(6), C.R.S.

H. Record keeping requirements. A Retail Marijuana Cultivation Facility shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, a Retail Marijuana Cultivation Facility shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of quality control or product development. A Retail Marijuana Cultivation Facility shall also maintain copies of the Retail Marijuana Cultivation Facility's standard operating procedures provided to Sampling Managers

I. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-230

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(II), 44-10-602(13)(a)-(c), 44-10-602(13.5), and 39-28.8-299, C.R.S. The purpose of this rule is to allow a Medical Marijuana Cultivation Facility to receive Transfers of Retail Marijuana from a Retail Marijuana Cultivation Facility in order to change its designation from "Retail" to "Medical."

6-230 – Retail Marijuana Cultivation Facility: Ability to Change Designation of Regulated Marijuana

A. Changing Designation from Retail Marijuana to Medical Marijuana: Beginning July 1, 2022, a Retail Marijuana Cultivation Facility may Transfer Retail Marijuana to a Medical Marijuana Cultivation Facility in order to change its designation from Retail Marijuana to Medical Marijuana pursuant to the following requirements:

1. The Retail Marijuana Cultivation Facility may only Transfer Retail Marijuana that has passed all required testing;

2. The Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility share a Licensed Premises in accordance with Rule 3-215;

3. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility have at least one identical Controlling Beneficial Owner;

4. The Retail Marijuana Cultivation Facility must report the Transfer in the Inventory Tracking System the same day that the change in designation from Retail Marijuana to Medical Marijuana occurs;

5. After the designation change, the Medical Marijuana cannot be Transferred to the originating or any other Retail Marijuana Business or otherwise be treated as Retail Marijuana. The Inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules;

6. Both the Retail Marijuana Cultivation Facility and the Medical Marijuana Cultivation Facility must remain at, or under, its respective inventory limit before and after the Retail Marijuana changes its designation to Medical Marijuana; and

7. The Transfer and change of designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change of designation.

B. Changing Designation from Medical Marijuana to Retail Marijuana. Beginning January 1, 2023, a Retail Marijuana Cultivation Facility may accept Medical Marijuana from a Medical Marijuana Cultivation Facility in order to change its designation from Medical Marijuana to Retail Marijuana pursuant to the following requirements:

1. The Retail Marijuana Cultivation Facility may only accept Medical Marijuana that has passed all required testing in accordance with the 4-100 Series Rules – Regulated Marijuana Testing Program;

2. The Retail Marijuana Cultivation Facility and the Medical Marijuana Cultivation Facility share a Licensed Premises in accordance with Rule 3-215, unless:

   a. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility have at least one identical Controlling Beneficial Owner; and

   b. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility cannot share a Licensed Premises because the Local Licensing Authority or Local Jurisdiction prohibits the operation of either a Medical Marijuana Cultivation Facility or a Retail Marijuana Cultivation Facility.

3. The Retail Marijuana Cultivation Facility and the Medical Marijuana Cultivation Facility have at least one identical Controlling Beneficial Owner;

4. The Retail Marijuana Cultivation Facility must receive the Transfer and designate the inventory as Retail Marijuana in the Inventory Tracking System the same day. The Retail Marijuana Cultivation Facility must assign and attach an RFID tag reflecting its Retail Marijuana License number to the Retail Marijuana following completion of the Transfer in the Inventory Tracking System.

5. After the designation change, the Retail Marijuana cannot be Transferred to the originating or any other Medical Marijuana Business or otherwise be treated as Medical Marijuana. The inventory is Retail Marijuana and is subject to all permissions and limitations in these 6-200 Series Rules.

6. Both the Retail Marijuana Cultivation Facility and the Medical Marijuana Cultivation Facility must remain at, or under, its inventory limit before and after the Medical Marijuana changes its designation to Retail Marijuana;

7. The Retail Marijuana Cultivation Facility shall pay any Retail Marijuana excise tax that is imposed pursuant to section 39-28.8-302, C.R.S.;

8. The Retail Marijuana Cultivation Facility shall notify the Local Licensing Authority and Local Jurisdiction where the Retail Marijuana Cultivation Facility and Medical Marijuana Cultivation Facility operate and pay any applicable excise tax on the Retail Marijuana in the manner determine by the Local Licensing Authority or Local Jurisdiction; and

9. Pursuant to the requirements of this subparagraph (B), a Retail Marijuana Cultivation Facility may receive a virtual Transfer of Medical Marijuana that is reflected in the Inventory Tracking System even if the Medical Marijuana is not physically moved prior to the change of designation to Retail Marijuana.

Basis and Purpose – 6-235

The Statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(j.5), 44-10-203(1)(k), 44-10-401(2)(b)(II), and 44-10-502(10)(a)-(c) The purpose of this rule is to allow a Retail Marijuana Cultivation Facility licensees that plan to cultivate Retail Marijuana outdoors to submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event.

6-235 Retail Marijuana Cultivation Facility: Contingency Plan for Outdoor Cultivation

A. Submission of Contingency Plan.

1. Beginning January 1, 2022, Retail Marijuana Cultivation Facility licensees that plan to cultivate Retail Marijuana outdoors may submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event. The Retail Marijuana Cultivation Facility shall also submit a copy of the plan to the Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Retail Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

2. A Retail Marijuana Cultivation Facility may submit a contingency plan at any time, but it must be filed at least 7 days prior to taking action pursuant to the contingency plan and must be approved by the State Licensing Authority prior to taking action pursuant to the contingency plan.

3. After initial submission and approval of a contingency plan, a contingency plan must be submitted with the Retail Marijuana Cultivation Facility's license renewal application. Any significant change to a contingency plan prior to a renewal application must be submitted for review and approval pursuant to subsection (A)(2) above prior to taking action pursuant to the revised contingency plan.

4. The Division shall notify the appropriate Local Licensing Authorities of the approval of the contingency plan.

B. Requirements for Outdoor Contingency Plans.

1. Identification of the type of Adverse Weather Event that the plan applies to, including any deviations based on the type of Adverse Weather Event.

2. Primary contact. A primary contact for the Retail Marijuana Cultivation Facility must be identified on the contingency plan, including the: name, title, phone number, and email address of the primary contact. The Retail Marijuana Cultivation Facility shall notify the Division of any change to the primary contact or required contact information within 48 hours of the change.

3. Transport Manifest. If the contingency plan provides for the Transfer of Retail Marijuana, a Retail Marijuana Cultivation Facility shall submit a standing transport manifest that could be used by a Licensee upon approval during an Adverse Weather Event if creating a transport manifest through the Inventory Tracking System is impracticable. The standing transport manifest shall include: identification and address of the receiving Licensee.

4. Disclosure of Receiving Licensed Premises.

a. Retail Marijuana may only be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or an off-premises storage facility.

b. If Retail Marijuana will be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility pursuant to a contingency plan, that plan must include the name, ownership, and address of the receiving Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility, along with a diagram of the proposed receiving Licensed Premises.

c. The receiving Licensed Premises shall be an existing location that currently holds an approved state and local license or an off-premises storage facility permit. The receiving Licensee is not required to share any Controlling Beneficial Owners with the Transferring Retail Marijuana Cultivation Facility.

d. A Retail Marijuana Cultivation Facility that cultivates outdoors may identify and Transfer Retail Marijuana to no more than five receiving Licensed Premises' as part of a contingency plan.

5. Disclosure of Modifications to the Premises and Security and Surveillance. Proposed modifications to the Licenses Premises and any anticipated impacts to compliance with security and surveillance requirements pursuant to Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6).

C. License Requirements when Acting Pursuant to a Contingency Plan. To the extent that this subsection (C) conflicts with other rule sections, this subsection shall control during the time that a Licensee is acting pursuant to a contingency plan.

1. Notification.

a. Notification of action pursuant to an approved contingency plan shall be made to the Division within 24 hours after initiating action pursuant to a contingency plan. A Retail Marijuana Cultivation Facility that cultivates outdoors must also notify the Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Retail Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

b. Notification of ceasing action pursuant to the approved contingency plan shall be made to the Division within 24 hours of returning to normal business operations. If action will continue more than 7 days after initiating action pursuant to a contingency plan, the Licensee shall contact the Division and explain why it cannot return to normal business operations.

c. Any notification shall be made in writing and can be made by email to the Division.

2. Production Management. Retail Marijuana Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility pursuant to a contingency plan is not included in the receiving Licensed Premises' inventory limit until the Retail Marijuana Cultivation Facility acting pursuant to the contingency plan returns to normal business operations.

3. Modification of Premises. An application for a modification of a Licensed Premises is not required as part of a contingency plan unless the modification or change in premises becomes a permanent modification. If that change becomes a permanent change, a modification of premises application must be submitted within 14 days.

4. Security Requirements. All security and surveillance requirements that apply to a Retail Marijuana Cultivation Facility apply to activities conducted pursuant to the contingency plan. If the contingency plan does not require the Transfer of Regulated Marijuana to another Licensed Premises, but requires plants to be covered or video surveillance to be otherwise temporarily obstructed, exemptions to the video surveillance requirements in Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6) may be approved as part of the contingency plan.

5. Inventory Tracking Requirements. Licensees must use the Inventory Tracking System to ensure Retail Marijuana is identified and tracked during all times that action is being taken pursuant to a contingency plan. If a Retail Marijuana Cultivation Facility harvests, Transfers, or packages Retail Marijuana it must be fully reconciled in the Inventory Tracking System within 48 hours of initiating action pursuant to the contingency plan.

a. Harvest Requirements. If Retail Marijuana is harvested, the weight of Retail Marijuana can be captured on a per harvest level and equally applied to individual plants rather than requiring the initial wet weight of each plant. This initial harvest weight may be captured at a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility upon arrival at the Licensed Premises approved as part of the contingency plan. Harvest Batches and Inventory Tracking System packages must be reported by the Retail Marijuana Cultivation Facility acting pursuant to the contingency plan in the Inventory Tracking System.

b. Transport Manifest. The Retail Marijuana Cultivation Facility acting pursuant to the contingency plan must report all Retail Marijuana that is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility,

Retail Marijuana Cultivation Facility and/or off-premises storage facility on a transport manifest.

i. A Licensee may use the approved standing transport manifest during an Adverse Weather Event only when using the Inventory Tracking System is not possible.

ii. The Licensee shall manually fill out the dates, times, and individual transporting Retail Marijuana on a copy of the standing transport manifest.

iii. The Licensee shall ensure the standing transport manifest and copy of the approved Contingency plan remain in the Licensee's possession during any transport of Retail Marijuana when it is not possible to use an Inventory Tracking System generated transportation manifest at the time of the Adverse Weather Event.

6. Transfers. If Retail Marijuana is Transferred to another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility it is exempted from the packaging and labeling requirements in Rule 3-1005(B).

7. Virtual and Physical Separation. If Retail Marijuana is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility that inventory must be virtually separated by Harvest Batch and must also be virtually and physically separated from the receiving Licensee's inventory. Harvest Batches must also be clearly identified at the receiving Licensed Premises with the Harvest Batch name and date of harvest.

8. Finishing Product. After Transferring Retail Marijuana to another Licensed Premises, a Retail Marijuana Cultivation Facility may finish that harvest at the receiving Licensed Premises if all Retail Marijuana is accounted for in the Inventory Tracking System and the Licensed Premises is in compliance with all surveillance requirements.

9. Testing. The originating Licensee acting pursuant to a contingency plan is responsible for the submission of Test Batch(es).

a. Each Harvest Batch or Production Batch Transferred pursuant to a contingency plan must be submitted for all required tests and is not eligible for a Reduced Testing Allowance or otherwise exempt from required testing.

b. Any passing or failing tests of a Harvest Batch or Production Batch Transferred pursuant to a contingency plan will not count for or against a Licensee's Reduced Testing Allowance.

6-300 Series – Retail Marijuana Products Manufacturing Facilities

Basis and Purpose – 6-305

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-307(1)(j), 44-10-313(14), 44-10-401(2)(b)(III), and 44-10-603, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to a Retail Marijuana Products Manufacturer. This Rule 6-305 was previously Rule R 601, 1 CCR 212-2.

6-305 – Retail Marijuana Products Manufacturer: License Privileges

A. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Products Manufacturer may share, and operate at, the same Licensed Premises with a commonly owned Medical Marijuana Products Manufacturer. However, a separate license is required for each specific business or business entity, regardless of geographical location. In addition, a Retail Marijuana Products Manufacturer may share, and operate at, the same Licensed Premises as a Marijuana Research and Development Facility so long as:

1. Each business or business entity holds a separate license;

2. The Marijuana Research and Development Facility obtains an R&D Co-Location Permit;

3. Both the Marijuana Research and Development Facility and the Retail Marijuana Products Manufacturer comply with all terms and conditions of the R&D Co-Location Permit; and

4. Both the Marijuana Research and Development Facility and the Retail Marijuana Products Manufacturer comply with all applicable rules. *See* 5-700 Series Rules.

B. Authorized Transfers. A Retail Marijuana Products Manufacturer is authorized to Transfer Retail Marijuana as follows:

1. Retail Marijuana Concentrate and Retail Marijuana Product.

   a. A Retail Marijuana Products Manufacturer may Transfer Retail Marijuana Concentrate or Retail Marijuana Product to Retail Marijuana Stores, other Retail Marijuana Products Manufacturers, Retail Marijuana Testing Facilities, Retail Marijuana Hospitality and Sales Businesses, and Pesticide Manufacturers.

   b. A Retail Marijuana Products Manufacturer may Transfer Retail Marijuana Product and Retail Marijuana Concentrate to a Retail Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit.

      i. Prior to any Transfer pursuant to this Rule 6-305(B)(1)(b), a Retail Marijuana Products Manufacturer shall verify the Retail Marijuana Cultivation Facility possesses a valid Centralized Distribution Permit. *See* Rule 6-205 – Retail Marijuana Cultivation Facility: License Privileges.

      ii. For any Transfer pursuant to this Rule 6-305(B)(1)(b), a Retail Marijuana Products Manufacturer shall only Transfer Retail Marijuana Product and Retail Marijuana Concentrate that is packaged and labeled for Transfer to a consumer. *See* 3-1000 Series Rules.

   c. A Retail Marijuana Products Manufacturer and Accelerator Manufacturer may Transfer Retail Marijuana Concentrate to a Medical Marijuana Products Manufacturer in compliance with Rules 6-335 and 6-830.

2. Retail Marijuana. A Retail Marijuana Products Manufacturer may Transfer Retail Marijuana to other Retail Marijuana Products Manufacturer, Retail Marijuana Testing Facilities, and Retail Marijuana Stores.

3. Sampling Units. A Retail Marijuana Products Manufacturer may also Transfer Sampling Units of its own Retail Marijuana Concentrate or Retail Marijuana Product to a designated

Sampling Manager in accordance with the restrictions set forth in section 44-10-603(10), C.R.S., and Rule 6-320.

C. Manufacture of Retail Marijuana Concentrate, Retail Marijuana Product, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana Authorized. A Retail Marijuana Products Manufacturer may manufacture, prepare, package, store, and label Retail Marijuana Concentrate and Retail Marijuana Product comprised of Retail Marijuana and other Ingredients intended for use or consumption, such as Edible Retail Marijuana Products, ointments, or tinctures. A Retail Marijuana Products Manufacturer may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana.

1. Industrial Hemp Product Authorized. This subparagraph (C)(1) is effective July 1, 2020. A Retail Marijuana Products Manufacturer that uses Industrial Hemp Product as an Ingredient in the manufacture and preparation of Retail Marijuana Product must comply with this subparagraph (C)(1) of this Rule.

a. Prior to accepting and taking possession of any Industrial Hemp Product for use as an Ingredient in a Retail Marijuana Product the Retail Marijuana Products Manufacturer shall verify the following:

i. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Retail Marijuana Testing Facility; and

ii. That the Person Transferring the Industrial Hemp Product to the Retail Marijuana Products Manufacturer is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

D. Location Prohibited. A Retail Marijuana Products Manufacturer may not manufacture, prepare, package, store, or label Retail Marijuana Concentrate or Retail Marijuana Product in a location that is operating as a retail food establishment.

E. Samples Provided for Testing. A Retail Marijuana Products Manufacturer may provide samples of its Retail Marijuana Concentrate or Retail Marijuana Product to a Retail Marijuana Testing Facility for testing and research purposes. The Retail Marijuana Products Manufacturer shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

F. Authorized Marijuana Transport. A Retail Marijuana Products Manufacturer is authorized to utilize a Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken is a Retail Marijuana Business and the transportation order is delivered to a Retail Marijuana Business, or Pesticide Manufacturer. Nothing in this Rule prevents a Retail Marijuana Products Manufacturer from transporting its own Retail Marijuana.

G. Performance-Based Incentives. A Retail Marijuana Products Manufacturer may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, a Retail Marijuana Products Manufacturer may not compensate a Sampling Manager using Sampling Units. *See* Rule 6-320 – Sampling Unit Protocols.

Basis and Purpose – 6-310

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-203(3)(d), 44-10-401(2)(b)(III), 44-10-603, and 44-10-701(2)(a), C.R.S. Authority also

exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V). The purpose of this rule is to clarify those acts that are limited in some fashion or prohibited by a Retail Marijuana Products Manufacturer. This Rule 6-310 was previously Rule R 602, 1 CCR 212-2.

6-310 – Retail Marijuana Products Manufacturer: General Limitations or Prohibited Acts

A. Packaging and Labeling Standards Required. A Retail Marijuana Products Manufacturer is prohibited from Transferring Retail Marijuana Concentrate or Retail Marijuana Product that are not properly packaged and labeled. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

B. THC Content Container Restriction. Each individually packaged Edible Retail Marijuana Product, even if comprised of multiple servings, may include no more than a total of 100 milligrams of active THC. *See* Rule 3-1010 – Packaging and Labeling – General Requirements Prior to Transfer to a Consumer.

1. Exception for Bulk Transfers to Retail Marijuana Hospitality and Sales Businesses. An individually packaged Edible Retail Marijuana Product compromised of multiple servings that is Transferred in bulk to a Retail Marijuana Hospitality and Sales Establishment may include more than a total of 100 milligrams of active THC.

i. A Retail Marijuana Products Manufacturer shall develop and maintain standard operating procedures, and any additional equipment necessary, to ensure that a Retail Marijuana Hospitality and Sales Business receiving bulk Transfers of Edible Retail Marijuana Product can measure accurately the Edible Retail Marijuana Product in single serving sizes equal to or less than 10 milligrams of active THC per serving.

C. Transfer to Consumer Prohibited. A Retail Marijuana Products Manufacturer is prohibited from Transferring Retail Marijuana to a consumer. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-603(10), C.R.S., and Rule 6-320.

D. Adequate Care of Perishable Product. A Retail Marijuana Products Manufacturer must provide adequate refrigeration for perishable Retail Marijuana Product that will be consumed and shall utilize adequate storage facilities and transport methods.

E. Homogeneity of Edible Retail Marijuana Product. A Retail Marijuana Products Manufacturer must ensure that its manufacturing processes are designed so that the Cannabinoid content of any Edible Retail Marijuana Product is homogenous.

F. Use of Ingredients. A Retail Marijuana Products Manufacturer must obtain and maintain certificates of analysis or other records demonstrating the full composition of each Ingredient used in the manufacture of Vaporizer Delivery Devices or Pressurized Metered Dose Inhalers.

G. Corrective and Preventive Action. This paragraph G shall be effective January 1, 2021. A Retail Marijuana Products Manufacturer shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation.

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

H. Adverse Health Event Reporting. A Retail Marijuana Products Manufacturer must report Adverse Health Events pursuant to Rule 3-920.

Basis and Purpose – 6-315

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-401(2)(b)(III), and 44-10-603, C.R.S. The purpose of this rule is to establish the categories of Retail Marijuana Concentrate that may be produced at a Retail Marijuana Products Manufacturer and establish standards for the production of Retail Marijuana Concentrate. Nothing in this rule authorizes the unlicensed practice of engineering under Article 25 of Title 12, C.R.S. This Rule 6-315 was previously Rule R 605, 1 CR 212-2.

6-315 – Retail Marijuana Products Manufacturer: Retail Marijuana Concentrate Production.

A. Permitted Categories of Retail Marijuana Concentrate Production.

1. A Retail Marijuana Products Manufacturer may produce Physical Separation-Based Retail Marijuana Concentrate, Food-Based Retail Marijuana Concentrate and Heat/Pressure-Based Retail Marijuana Concentrate.

2. A Retail Marijuana Products Manufacturer may also produce Solvent-Based Retail Marijuana Concentrate using only the following solvents: butane, propane, CO_2, ethanol, isopropanol, acetone, heptane, ethyl acetate, and pentane. The use of any other solvent is expressly prohibited unless it is approved by the Division.

3. A Retail Marijuana Products Manufacturer may submit a request to the Division to consider the approval of solvents not permitted for use under this Rule during the next formal rulemaking.

B. General Applicability. A Retail Marijuana Products Manufacturer that engages in the production of Retail Marijuana Concentrate, regardless of the method of extraction or category of concentrate being produced, must:

1. Ensure that the space in which any Retail Marijuana Concentrate is to be produced is a fully enclosed room and clearly designated on the current diagram of the Licensed Premises. *See* Rule 3-905- Business Records Required.

2. Ensure that all applicable sanitary rules are followed. *See* 3-300 Series Rules.

3. Ensure that the standard operating procedure for each method used to produce a Retail Marijuana Concentrate includes, but need not be limited to, step-by-step instructions on how to safely and appropriately:

    a. Conduct all necessary safety checks prior to commencing production;

    b. Prepare Retail Marijuana for processing;

    c. Extract Cannabinoids and other essential components of Retail Marijuana;

    d. Purge any solvent or other unwanted components from a Retail Marijuana Concentrate,

    e. Clean all equipment, counters and surfaces thoroughly; and

    f. Dispose of any waste produced during the processing of Retail Marijuana in accordance with all applicable local, state and federal laws, rules and regulations. *See* Rule 3-230 – Waste Disposal.

4. Establish written and documentable quality control procedures designed to maximize safety for Owner Licensees and Employee Licensees and minimize potential product contamination.

5. Establish written emergency procedures to be followed by Owner Licensees or Employee Licensees in case of a fire, chemical spill or other emergency.

6. Have a comprehensive training manual that provides step-by-step instructions for each method used to produce a Retail Marijuana Concentrate. The training manual must include, but need not be limited to, the following topics:

    a. All standard operating procedures for each method of concentrate production used;

    b. The Retail Marijuana Products Manufacturer’s quality control procedures;

    c. The emergency procedures;

    d. The appropriate use of any necessary safety or sanitary equipment;

    e. The hazards presented by all solvents used as described in the safety data sheet for each solvent;

    f. Clear instructions on the safe use of all equipment involved in each process and in accordance with manufacturer’s instructions, where applicable; and

g. Any additional periodic cleaning required to comply with all applicable sanitary rules.

7. Provide adequate training to every Owner Licensee or Employee Licensee prior to that individual undertaking any step in the process of producing a Retail Marijuana Concentrate.

   a. Adequate training must include, but need not be limited to, providing a copy of the training manual for that Licensed Premises and live, in-person instruction detailing at least all of the topics required to be included in the training manual.

   b. The individual training an Owner Licensee or Employee Licensee must sign and date a document attesting that all required aspects of training were conducted and that he or she is confident that the Owner Licensee or Employee Licensee can safely produce a Retail Marijuana Concentrate. *See* Rule 3-905 – Business Records Required.

   c. The Owner Licensee or Employee Licensee that received the training must sign and date a document attesting that he or she can safely implement all standard operating procedures, quality control procedures, and emergency procedures, operate all closed-loop extraction systems, use all safety, sanitary and other equipment and understands all hazards presented by the solvents to be used within the Licensed Premises and any additional periodic cleaning required to maintain compliance with all applicable sanitary rules. *See* Rule 3-905 – Business Records Required.

8. Maintain clear and comprehensive records of the name, signature and Owner Licensee or Employee License number of every individual who engaged in any step related to the creation of a Production Batch of Retail Marijuana Concentrate and the step that individual performed. *See* Rule 3-905 – Business Records Required.

C. Physical Separation-Based Retail Marijuana Concentrate, Food-Based Retail Marijuana Concentrate and Heat/Pressure-Based Retail Marijuana Concentrate. A Retail Marijuana Products Manufacturer that engages in the production of a Retail Marijuana Concentrate must:

1. Ensure that all equipment, counters and surfaces used in the production of Retail Marijuana Concentrate is food-grade including ensuring that all counters and surface areas were constructed in such a manner that it reduces the potential for the development of microbials, molds and fungi and can be easily cleaned.

2. Ensure that all equipment, counters, and surfaces used in the production of a Retail Marijuana Concentrate are thoroughly cleaned after the completion of each Production Batch.

3. Ensure that any room in which dry ice is stored or used in processing Retail Marijuana into a Retail Marijuana Concentrate is well ventilated to prevent against the accumulation of dangerous levels of CO_2.

4. Ensure that the appropriate safety or sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Retail Marijuana Concentrate.

5. Ensure that only finished drinking water and ice made from finished drinking water is used in the production of a Physical Separation-Based Retail Marijuana Concentrate.

6. Ensure that if propylene glycol or glycerin is used in the production of a Food-Based Retail Marijuana Concentrate, then the propylene glycol or glycerin to be used is food-grade.

7. Follow all of the rules related to the production of a Solvent-Based Retail Marijuana Concentrate if a pressurized system is used in the production of a Retail Marijuana Concentrate.

D. Solvent-Based Retail Marijuana Concentrate. A Retail Marijuana Products Manufacturer that engages in the production of Solvent-Based Retail Marijuana Concentrate must:

1. Obtain a report from an Industrial Hygienist or a Professional Engineer that certifies that the equipment, Licensed Premises and standard operating procedures comply with these rules and all applicable local and state building codes, fire codes, electrical codes and other laws. If a Local Jurisdiction has not adopted a local building code or fire code or if local regulations do not address a specific issue, then the Industrial Hygienist or Professional Engineer shall certify compliance with the International Building Code of 2012 (http://www.iccsafe.org), the International Fire Code of 2012 (http://www.iccsafe.org) or the National Electric Code of 2014 (http://www.nfpa.org), as appropriate. Note that this Rule does not include any later amendments or editions to each Code. The Division has maintained a copy of each code, each of which is available to the public;

a. Flammable Solvent Determinations. If a Flammable Solvent is to be used in the processing of Retail Marijuana into a Retail Marijuana Concentrate, then the Industrial Hygienist or Professional Engineer must:

i. Establish a maximum amount of Flammable Solvents and other flammable materials that may be stored within that Licensed Premises in accordance with applicable laws, rules and regulations;

ii. Determine what type of electrical equipment, which may include but need not be limited to outlets, lights and junction boxes, must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored in accordance with applicable laws, rules and regulations;

iii. Determine whether a gas monitoring system must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations; and

iv. Determine whether fire suppression system must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

b. CO_2 Solvent Determination. If CO_2 is used as solvent at the Licensed Premises, then the Industrial Hygienist or Professional Engineer must determine whether a CO_2 gas monitoring system must be installed within the room in which Retail Marijuana Concentrate is to be produced or CO_2 is stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

c. Exhaust System Determination. The Industrial Hygienist or Professional Engineer must determine whether a fume vent hood or exhaust system must be installed within the room in which Retail Marijuana Concentrate is to be produced, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

d. Material Change. If a Retail Marijuana Products Manufacturer makes a Material Change to its equipment or a concentrate production procedure, in addition to all other requirements, it must obtain a report from an Industrial Hygienist or Professional Engineer re-certifying its standard operating procedures and, if changed, its equipment as well.

e. Manufacturer's Instructions. The Industrial Hygienist or Professional Engineer may review and consider any information provided to the Retail Marijuana Products Manufacturer by the designer or manufacturer of any equipment used in the processing of Retail Marijuana into a Retail Marijuana Concentrate.

f. Records Retention. A Retail Marijuana Products Manufacturer must maintain copy of all reports received from an Industrial Hygienist and Professional Engineer on its Licensed Premises. Notwithstanding any other law, rule, or regulation, compliance with this Rule is not satisfied by storing these reports outside of the Licensed Premises. Instead the reports must be maintained on the Licensed Premises until the Licensee ceases production of Retail Marijuana Concentrate on the Licensed Premises.

2. Ensure that all equipment, counters and surfaces used in the production of a Solvent-Based Retail Marijuana Concentrate are food-grade and do not react adversely with any of the solvents to be used in the Licensed Premises. Additionally, all counters and surface areas must be constructed in a manner that reduces the potential development of microbials, molds and fungi and can be easily cleaned;

3. Ensure that the room in which Solvent-Based Retail Marijuana Concentrate shall be produced must contain an emergency eye-wash station;

4. Ensure that only a professional grade, closed-loop extraction system capable of recovering the solvent is used to produce Solvent-Based Retail Marijuana Concentrate;

a. UL or ETL Listing.

i. If the system is UL or ETL listed, then a Retail Marijuana Products Manufacturer may use the system in accordance with the manufacturer's instructions.

ii. If the system is UL or ETL listed but the Retail Marijuana Products Manufacturer intends to use a solvent in the system that is not listed in the manufacturer's instructions for use in the system, then, prior to using the unlisted solvent within the system, the Retail Marijuana Products Manufacturer must obtain written approval for use of the non-listed solvent in the system from either the system's manufacturer or a Professional Engineer after the Professional Engineer has conducted a peer review of the system. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

iii. If the system is not UL or ETL listed, then there must a designer of record. If the designer of record is not a Professional Engineer, then the system must be peer reviewed by a Professional Engineer. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

b. Ethanol or Isopropanol. A Retail Marijuana Products Manufacturer need not use a professional grade, closed-loop system extraction system capable of recovering the solvent for the production of a Solvent-Based Retail Marijuana Concentrate if ethanol or isopropanol are the only solvents being used in the production process.

5. Ensure that all solvents used in the extraction process are food-grade or at least 99% pure;

a. A Retail Marijuana Products Manufacturer must obtain a safety data sheet for each solvent used or stored on the Licensed Premises. A Retail Marijuana Products Manufacturer must maintain a current copy of the safety data sheet and a receipt of purchase for all solvents used or to be used in an extraction process. *See* Rule 3-905 – Business Records Required.

b. A Retail Marijuana Products Manufacturer is prohibited from using denatured alcohol to produce a Retail Marijuana Concentrate, unless the denaturant is an approved solvent listed in Rule 6-315(A)(2) and the alcohol and the denaturant meet all other requirements set forth in this Rule.

6. Ensure that all Flammable Solvents or other flammable materials, chemicals and waste are stored in accordance with all applicable laws, rules and regulations. At no time may a Retail Marijuana Products Manufacturer store more Flammable Solvent on its Licensed Premises than the maximum amount established for that Licensed Premises by the Industrial Hygienist or Professional Engineer;

7. Ensure that the appropriate safety and sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Solvent-Based Retail Marijuana Concentrate; and

8. Ensure that a trained Owner Licensee or Employee Licensee is present at all times during the production of a Solvent-Based Retail Marijuana Concentrate whenever an extraction process requires the use of pressurized equipment.

9. Retail Marijuana Products Manufacturers Engaged in the Remediation of Retail Marijuana for elemental impurities. Retail Marijuana Products Manufacturers engaged in the Remediation of Retail Marijuana for elemental impurities shall:

a. Implement effective cleaning procedures, additional testing plans, and other measures that will be performed to prevent cross contamination.

i. If potentially contaminated equipment, ingredients, or solvents used in the Remediation process are used for processing other 'non remediated' material, the subsequent Production Batch made using the equipment, ingredients, or solvent must then be tested for elemental impurities, and the Production Batch made using that equipment, ingredients, or solvents is not eligible for a Reduced Testing Allowance or otherwise exempt from required testing.

ii. Manufacturers must document the equipment and lots of ingredients/solvents used in Remediation to ensure this requirement is met.

b. Register as a hazardous waste generator, obtain a U.S. Environmental Protection Agency ID number for manifesting hazardous waste, and must have a disposal contract in place with a hazardous waste management company prior to attempting Remediation.

c. Have a staff member who has received basic training in hazardous waste identification, storage, and disposal procedures, or hire a consultant who satisfies this criteria.

d. Regardless of which type of analyte, if the Retail Marijuana flower, wet whole plant, or trim has failed elemental impurities, the Licensee must implement Standard Operating Procedures to ensure:

i. That contaminated material is stored in a labelled container identifying the material as potentially hazardous, and that the container seals in such a way to prevent the risk of cross contamination or inhalation of dusts.

ii. That when material is removed from the sealed container and handled in any fashion (preparation, the extraction or other Remediation process, wasting, etc.), any workers exposed to dusts or particulates generated from the material must wear appropriate personal protective equipment (PPE), including at minimum: gloves, American National Standards Institute (ANSI) Z87.1 safety glasses, and a respirator rated to protect them from airborne dusts or particulates that may contain elemental impurities. Respirators should utilize National Institute for Occupational Safety and Health rated particulate filters of sufficient grade to prevent exposure to airborne dusts that could contain elemental impurities.

A. Workers utilizing a respirator must comply with applicable Occupational Safety and Health Administration regulations regarding respirator use before handling contaminated material. This includes receiving respirator clearance from a qualified professional and passing a respirator fit test before using a respirator.

e. Additional forms of environmental airborne particulate control, such as industrial air filtration systems, handling material inside of enclosures, etc. must be implemented by the Licensee to minimize the risk of exposure or cross contamination of contaminated dusts.

f. These steps must be documented in the Licensee's respiratory protection program that all employees exposed to plant material or waste products contaminated with the elemental impurities must be trained on.

g. The Licensee must establish and train employees on SOPs designed to safely handle this contaminated material and prevent cross contamination.

h. Mercury poses additional workplaces hazards since it is easily volatilized and since mercury vapor is highly toxic. Before attempting to remediate any

Regulated Marijuana flower, wet whole plant, or trim that has failed elemental impurities testing and contains mercury, Licensees must additionally:

i. Work with a certified industrial hygienist to develop and implement some form of monitoring program that is capable of detecting mercury vapor concentrations in the areas where material contaminated with mercury will be processed and can be used to generate time weighted average exposures to mercury vapor. The monitoring system must be sufficient to ensure airborne concentrations of mercury do not exceed Occupational Safety and Health Administration Permissible Exposure Limits for Airborne Contaminants.

ii. Have a certified industrial hygienist approve the Licensee's air handling system for managing mercury vapors in a fashion that is compliant with the Occupational Safety and Health Administration, and other applicable federal, state, and local regulations.

iii. Utilize a National Institute for Occupational Safety and Health rated half mask respirator with cartridges rated specifically for mercury vapor.

i. A Licensee must ensure their processes and safety practices comply with applicable federal, state, and local environmental health and safety regulations.

10. Retail Marijuana Products Manufacturer Engaged in the Remediation of Retail Marijuana for Microbial Contamination. Retail Marijuana Products Manufacturers engaged in the Remediation of Retail Marijuana for microbial contamination shall:

a. Implement effective cleaning procedures, additional testing plans, and other measures that will be performed to prevent cross contamination.

b. Ensure that contaminated material is stored in a labeled container identifying the material as potentially hazardous, and that the container seals in such a way to prevent the risk of cross contamination or inhalation of dusts.

c. Ensure that when material is removed from the sealed container and handled in any fashion (preparation, the extraction or other Remediation process, wasting, etc.), any workers exposed to dusts or particulates generated from the material must wear appropriate personal protective equipment (PPE), including at minimum: gloves, American National Standards (ANSI) Z87.1 safety glasses, and a respirator rated to protect them from airborne dusts or particulates that may contain elemental impurities. Respirators should utilize National Institute for Occupational Safety and Health rated particulate filters of sufficient grade to prevent exposure to airborne dusts that could contain elemental impurities.

i. Workers utilizing a respirator must comply with applicable Occupational Safety and Health Administration regulations regarding respirator use before handling contaminated material. This includes receiving respirator clearance from a qualified professional and passing a respirator fit test before using a respirator.

d. Implement additional forms of environmental airborne particulate control, such as industrial air filtration systems, handling material inside of enclosures, etc. must be implemented by the Licensee to minimize the risk of exposure or cross contamination of contaminated dusts.

e. These steps must be documented in the Licensee's respiratory protection program that all employees exposed to plant material or waste products contaminated with elemental impurities must be trained on.

f. The Licensee must establish and train employees on standard operating procedures designed to safely handle this contaminated material and prevent cross contamination.

g. The Licensee must ensure their processes and safety practices comply with applicable federal, state, and local environmental health and safety regulations.

E. Ethanol and Isopropanol. If a Retail Marijuana Products Manufacturer only produces Solvent-Based Retail Marijuana Concentrate using ethanol or isopropanol at its Licensed Premises and no other solvent, then it shall be considered exempt from paragraph D of this Rule and instead must follow the requirements in paragraph C of this Rule. Regardless of which rule is followed, the ethanol or isopropanol must be food grade or at least 99% pure and denatured alcohol cannot be used. The Retail Marijuana Products Manufacturer shall comply with contaminant testing required in Rule 4-120(C)(4).

F. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-320

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(2)(d), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-401(2)(b)(III), and 44-10-603(10), C.R.S. The purpose of this rule is to establish the circumstances under which a Retail Marijuana Products Manufacturer may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's regulated Retail Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting and recordkeeping requirements on a Retail Marijuana Products Manufacturer that Transfer Sampling Units. This Rule 6-320 was previously Rule R 606, 1 CCR 212-2.

6-320 – Retail Marijuana Products Manufacturer: Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, a Retail Marijuana Products Manufacturer may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Retail Marijuana Products Manufacturer who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. An individual may be designated as a Sampling Manager by more than one Retail Marijuana Business.

3. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

4. A Retail Marijuana Products Manufacturer who wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-603(10), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements

of this Rule 6-320. *See also* Rule 3-905 – Business Records Required. A Retail Marijuana Products Manufacturer shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Production Batch. A Sampling Unit shall not be designated until the Production Batch has satisfied the testing requirements in the 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Retail Marijuana Product shall not exceed one Standardized Serving of Marijuana.

2. A Sampling Unit of Retail Marijuana Concentrate shall not exceed one quarter of one gram; except that a Sampling Unit of Retail Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Retail Marijuana Products Manufacturer as a Sampling Manger for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than:

a. With respect to Retail Marijuana Product, fourteen Standardized Servings of Marijuana; and

b. Eight grams of Retail Marijuana Concentrate.

4. The monthly limit established in subparagraph (C)(3) applies to each Sampling Manager, regardless of the number of Retail Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (C)(3). Before Transferring any Sampling Units, a Retail Marijuana Products Manufacturer shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limit established in subparagraph (C)(3).

6. A Sampling Manager shall not Transfer any Sampling Unit to any other Person, including but not limited to any other Person designated as a Sampling Manager.

D. Compensation Prohibited. A Retail Marijuana Products Manufacturer may not use Sampling Units to compensate a Sampling Manager.

E. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

F. Acceptable Purposes. Sampling Units shall only be designated and Transferred for purposes of quality control and product development in accordance with section 44-10-603(10), C.R.S.

G. Record keeping requirements. A Retail Marijuana Products Manufacturer shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, a Retail Marijuana Products Manufacturer shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of either quality control or product development. A Retail Marijuana Products Manufacturer shall also maintain copies of the Retail Marijuana Products Manufacturer's standard operating procedures provided to Sampling Managers.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-325

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-203(3)(b), 44-10-203(3)(e), 44-10-401(2)(b)(III), 44-10-603, and 44-10-701(3)(c), C.R.S. The purpose of this rule is to define requirements for manufacture of Audited Product for administration by: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration which may raise public health concerns. This rule defines audit, insurance, minimum product requirements, minimum production process requirements, and pre-production testing requirements for Retail Marijuana Products Manufacturers that manufacture Audited Products. The purpose of this rule further recognizes that Alternative Use Product not within an intended use identified in Rule 3-1015 may raise public health concerns that outweigh its manufacture or Transfer entirely or that require additional safeguards to protect public health and safety prior to manufacturer or Transfer. This rule identifies general requirements for Retail Marijuana Products Manufacturer to seek an Alternative Use Designation from the State Licensing Authority to manufacture any type of Retail Marijuana Product that is not within an intended use identified in Rule 3-1015. This Rule 6-325 was previously Rule R 607, 1 CCR 212-2.

6-325 – Retail Marijuana Products Manufacturing Facility: Audited Product and Alternative Use Product

A. General Rule. A Retail Marijuana Products Manufacturer shall not Transfer Audited Product to a Retail Marijuana Store, another Retail Marijuana Products Manufacturer, or a Retail Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit except in accordance with all requirements of this Rule 6-325. The requirements of this Rule 6-325 are in addition to all other Rules that apply to Retail Marijuana Products Manufacturers; except where the context otherwise clearly requires this Rule 6-325 controls.

B. Audited Products – Mandatory Audit Prior to Transfer. Following submission of an independent third-party audit to the Division and, if applicable, to the Local Jurisdiction as required by this Rule, a Retail Marijuana Products Manufacturer may Transfer Audited Product with an intended use of: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration.

1. A written audit report from an independent third-party auditor that was completed within the last 24 months shall be submitted to the Division and, if applicable to the Local Licensing Authority: (i) before the first Transfer of Audited Product to any Retail Marijuana Store, (ii) prior to Transfer of any Audited Product following a Material Change to any standard operating procedure or master formulation record regarding the Audited Product, and (iii) with the Retail Marijuana Products Manufacturer's renewal application if the Retail Marijuana Products Manufacturer will Transfer Audited Product after renewal.

2. The independent third-party audit shall be performed by either a certified quality auditor or a certified GMP auditor. The Retail Marijuana Products Manufacturer shall be responsible for all costs associated with obtaining the independent third-party audit.

3. The independent third-party written audit report shall include the following minimum requirements:

    a. The independent third-party auditor's qualifications and an attestation that the certified quality auditor or certified GMP auditor has no conflict of interest;

    b. Establish that the Retail Marijuana Products Manufacturer and the Audited Product meet all requirements of this Rule 6-325, including but not limited to the specific requirements of this Rule 6-325(C), 6-325(D), 6-325(E), 6-325(G), and 6-325(H);

    c. Verify the written standard operating procedure(s) for Audited Product include sufficient and detailed step-by-step instructions on how to produce the Audited Product in a manner that prevents contamination and protects the public health and safety;

    d. Verify, based upon a physical inspection, the manufacture of Audited Product by the Retail Marijuana Products Manufacturer adheres to all applicable standard operating procedures;

    e. Verify, based upon a physical inspection, of any Licensed Premises that such Licensed Premises complies with the requirements of this Rule 6-325(E), including any Limited Access Area where the Audited Product is to be manufactured;

    f. Include the independent third-party auditor's findings;

    g. Include the plan of correction identifying any corrective actions and/or preventative actions implemented as a result of the findings of the independent third-party audit; and

    h. Include the independent third-party auditor's assessment that the Retail Marijuana Products Manufacturer demonstrated compliance with all requirements of Rule 6-325 and with the requirements of all standard operating procedures, master formulation records, and Batch manufacturing records that apply to the Audited Product.

C. Products Liability Insurance. Any Retail Marijuana Products Manufacturer that intends to Transfer Audited Product shall first obtain products liability insurance providing coverage for liability arising from manufacture or Transfer of Audited Product and shall provide an unredacted certificate of product liability insurance to the Division and the independent third-party auditor.

D. Audited Product Requirements. Audited Product shall meet the following minimum product requirements:

1. Inactive Ingredients. Audited Product must meet the requirements in Rule 3-335 – Production of Regulated Marijuana Products.

    a. If the Audited Product contains a fungicidal or bactericidal Ingredient listed in, and with a concentration that is at or below the maximum concentration permitted in, the Federal Food and Drug Administration Inactive Ingredients Database,

https://www.accessdata.fda.gov/scripts/cder/iig/index.cfm, the Audited Product is not required to undergo microbial contaminant testing required by Rules 4-115 and 4-120.

2. Required Product Development Testing. The Retail Marijuana Products Manufacturer must establish the Audited Product meets the following through independent third-party testing:

a. The Audited Product must deliver the amount of each cannabinoid identified on the label throughout the entire volume of the Audited Product using the intended delivery device and in accordance with the instructions provided by the Retail Marijuana Products Manufacturer, as demonstrated by testing at a Retail Marijuana Testing Facility.

i. For Audited Product with an intended use of metered dose nasal spray, compliance with this requirement shall be established by test results verifying the delivered dose of each cannabinoid identified on the label using the methods described in The United States Pharmacopeia Physical Test and Determination Chapter 601, *Aerosols, Nasal Sprays, Metered-Dose Inhalers, and Dry Powder Inhalers*.

ii. For Audited Product with an intended use of either vaginal administration or rectal administration, compliance with this testing requirement shall be established by test results demonstrating that each cannabinoid identified on the label is within +/- 15% of the amount identified on the label.

b. The expiration date identified on the label of the Audited Product is appropriate when the Audited Product is stored at room temperature, as demonstrated by testing from a Retail Marijuana Testing Facility.

c. Identification of all non-cannabis derived Ingredients and constituents in the Audited Product at concentrations of 1%, which verification is obtained from one or more of the following:

i. Testing by a Retail Marijuana Testing Facility;

ii. Testing by a laboratory that is ISO 17025 accredited but is not a Retail Marijuana Testing Facility, except that no Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product may be Transferred to such a laboratory; and/or

iii. One or more certificate(s) of analysis from the manufacturer of any Ingredient or constituent included in the Audited Product.

E. Additional Production Requirements for Audited Product. In addition to all other requirements applicable to Retail Marijuana Products Manufacturer, a Retail Marijuana Products Manufacturer that manufactures and Transfers Audited Product shall meet the following additional requirements:

1. Personnel Training. All personnel directly involved in the manufacture and handling of Audited Product must be trained, must demonstrate competency, and must undergo annual refresher training, which shall be documented and maintained at the Retail Marijuana Products Manufacturer's Licensed Premises. Personnel directly involved in the manufacture and handling of Audited Product must be trained and demonstrate

proficiency in hand hygiene, cleaning and sanitizing, performing necessary calculations, measuring and mixing, and documenting the manufacturing process including master formulation records and batch manufacturing records.

2. Facility Requirements. A Retail Marijuana Products Manufacturer must have a space that is specifically designated for the manufacture of Audited Products that is designed and operated to prevent cross contamination from other areas of the Licensed Premises. The surfaces, walls, floors, fixtures, shelving, work surfaces, and cabinets in this designated area must be non-porous and cleanable.

3. Cleaning and Sanitizing. A Retail Marijuana Products Manufacturer must clean and sanitize surfaces where Audited Product is manufactured and handled on a regular basis and at a minimum, work surfaces and floors must be cleaned and sanitized daily. All other surfaces must be cleaned and sanitized at least every three months. A Retail Marijuana Products Manufacturer must clean and sanitize all surfaces when a spill occurs and when surfaces, floors, and walls are visibly soiled.

4. Hand Hygiene. Hand hygiene is required when entering and re-entering any area where Audited Product is manufactured and handled. Hand hygiene includes washing hands and forearms up to the elbows with soap and water for at least 30 seconds followed by drying completely with disposable towels. Alcohol hand sanitizers alone are not sufficient.

    a. Gloves are required to be worn for all mixing activities. Other garb such as shoe covers, head and facial hair covers, face masks, and gowns must be worn as appropriate to protect Licensees and/or prevent contamination of the Audited Product.

5. Equipment. Mechanical, electronic, and other types of equipment used in mixing, measuring, or testing of Audited Product must be inspected prior to use and verified for accuracy at the frequency recommended by the manufacturer, and at least annually.

6. Ingredient Quality. All Ingredients used to manufacture Audited Product must be handled and stored in accordance with the manufacturer's instructions. Ingredients that lack a manufacturer's expiration date shall not be used if a reasonable manufacturer would not use the Ingredient or after 1 year from the date of receipt, whichever period is shorter.

7. Master Formulation Record. A master formulation record must be prepared and maintained for each unique Audited Product a Retail Marijuana Products Manufacturer manufactures. A master formulation record must include at least the following information:

    a. Name of the Audited Product;

    b. Ingredient identities and amounts;

    c. Specifications on the delivery device (if applicable);

    d. Complete instructions for preparing the Audited Product, including equipment, supplies, and description of the manufacturing steps;

    e. Quality control procedures; and

    f. Any other information needed to describe the Retail Marijuana Products Manufacturer's production and ensure its repeatability.

8. Batch Manufacturing Records. A batch manufacturing record shall be created for each Production Batch of Audited Product. This record shall include at the least the following information:

    a. Name of the Audited Product;

    b. Master formulation record reference for the Audited Product;

    c. Date and time of preparation of the Audited Product;

    d. Production Batch number;

    e. Signature or initials of individuals involved in each manufacturing step;

    f. Name, vendor, or manufacturer, Production Batch number, and expiration date of each Ingredient;

    g. Weight or measurement of each Ingredient;

    h. Documentation of quality control procedures;

    i. Any deviations from the master formulation record, and any problems or errors experienced during the manufacture; and

    j. Total quantity of the Audited Product manufactured.

F. Audited Product Testing. For each Production Batch, the Audited Product shall undergo all required testing in the 4-100 Series Rules for Retail Marijuana Product and/or Audited Product. *See also* Rule 4-115 – Regulated Marijuana Testing Program: Sampling and Testing Program.

G. Packaging and Labeling of Audited Product. Audited Product must be packaged and labeled in accordance with all requirements of the 3-1000 Series Rules regarding packaging and labeling for Transfer to a consumer prior to any Transfer.

H. Adverse Health Event Reporting. A Retail Marijuana Products Manufacturer must report Adverse Health Events pursuant to Rule 3-920.

I. Alternative Use Designation – Any Other Method of Consumption or Administration. A Retail Marijuana Products Manufacturer shall not Transfer to a Retail Marijuana Store, another Retail Marijuana Products Manufacturer, or Retail Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit any Retail Marijuana Concentrate or Retail Marijuana Product that is not within any intended use identified in Rule 3-1015(B) until it applies for and receives an Alternative Use Designation from the State Licensing Authority in consultation with the Colorado Department of Public Health and Environment. In the process of applying for an Alternative Use Designation, the Retail Marijuana Products Manufacturer shall work with the Division and the Colorado Department of Public Health and Environment to determine whether the proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when particular independent review factors, safeguards, and tests are in place. The following are minimum requirements for any application for an Alternative Use Designation:

1. The Retail Marijuana Products Manufacturer shall identify provisions of this Rule 6-325 that apply to its Alternative Use Product, any proposed additional or alternative requirements, and how any proposed alternatives protect public health and safety. The Retail Marijuana Products Manufacturer shall also provide any additional information as

may be requested by the Division, in consultation with the Colorado Department of Public Health and Environment.

2. The Retail Marijuana Products Manufacturer bears the burden of proving its proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when the identified independent review factors, safeguards, and tests are in place.

3. A Retail Marijuana Products Manufacturer seeking an Alternative Use Designation shall cooperate with the Division. Failure to cooperate with the Division is grounds for denial of an Alternative Use Designation.

4. The granting of an Alternative Use Designation shall rest in the discretion of the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment. The State Licensing Authority may in his or her discretion deny an Alternative Use Designation where the Retail Marijuana Products Manufacturer does not meet the burden established in this Rule 6-325.

J. Alternative Use Designation – Packaging and Labeling Requirements. If the Division recommends, and the State Licensing Authority grants, an Alternative Use Designation, the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment shall provide the Retail Marijuana Products Manufacturer the appropriate statement of intended use label to be affixed to the Alternative Use Product, and any additional or distinct packaging and labeling requirements applicable to the Alternative Use Product. *See* Rules 3-1010 and 3-1015.

K. Required Records. A Retail Marijuana Products Manufacturer manufacturing or Transferring Audited Product and/or Alternative Use Product shall maintain accurate and comprehensive records on the Licensed Premises regarding the manufacturing process, a list of all active and inactive Ingredients used in the Audited Product and/or Alternative Use Product, and such other documentation as required by this Rule 6-325. *See* Rule 3-905 – Business Records Required.

6-330 – Recall of Retail Marijuana Concentrate and Retail Marijuana Product – Repealed effective January 1, 2021.

Basis and Purpose – 6-335

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(III), and 44-10-603, 44-10-603(15)(a)-(b), and 39-28.8-300 C.R.S. The purpose of this rule is to allow a Medical Marijuana Products Manufacturer to receive Transfers of Retail Marijuana Concentrate from a Retail Marijuana Products Manufacturer in order to change its designation from “Retail” to “Medical.”

6-335 – Retail Marijuana Products Manufacturer: Ability to Change Designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate.

A. Changing Designation: Beginning July 1, 2022, a Retail Marijuana Products Manufacturer may Transfer Retail Marijuana Concentrate to a Medical Marijuana Products Manufacturer in order to change its designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate pursuant to the following requirements:

1. The Retail Marijuana Products Manufacturer may only Transfer Retail Marijuana Concentrate that has passed all required testing;

2. The Medical Marijuana Products Manufacturer and the Retail Marijuana Products Manufacturer share a Licensed Premises in accordance with Rule 3-215;

3. The Medical Marijuana Products Manufacturer and Retail Marijuana Products Manufacturer have at least one identical Controlling Beneficial Owner;

4. The Retail Marijuana Products Manufacturer must report the Transfer in the Inventory Tracking System the same day that the change in designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate occurs;

5. After the designation change, the Medical Marijuana Concentrate cannot be Transferred to the originating or any other Retail Marijuana Business or otherwise be treated as Retail Marijuana. The inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules; and

6. The Transfer and change in designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change in designation.

6-400 Series – Retail Marijuana Testing Facilities

Basis and Purpose – 6-405

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(4), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(c), 44-10-203(2)(d), 44-10-203(2)(h), 44-10-203(2)(y), 44-10-203(3)(c), 44-10-203(3)(d), 44-10-313(8)(a), 44-10-313(14), 44-10-401(2)(b)(IV), 44-10-604, 35-61-104, and 35-61-105.5, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to Retail Marijuana Testing Facilities. This Rule 6-405 was previously Rule R 701.

6-405 – Retail Marijuana Testing Facilities: License Privileges

A. Licensed Premises. A separate License is required for each specific Retail Marijuana Testing Facility and only those privileges granted by the Marijuana Code and any rules promulgated pursuant to it may be exercised on the Licensed Premises. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Testing Facility may share and operate at the same Licensed Premises with a Medical Marijuana Testing Facility with identical ownership.

B. Testing of Retail Marijuana Authorized. A Retail Marijuana Testing Facility may accept Samples of Retail Marijuana from Retail Marijuana Businesses for testing and research purposes only. The Division may require a Retail Marijuana Business to submit a Sample of Retail Marijuana to a Retail Marijuana Testing Facility upon demand.

C. Product Development Authorized. A Retail Marijuana Testing Facility may develop Retail Marijuana Product, but is not authorized to engage in the manufacturing privileges described in section 44-10-603, C.R.S., and Rule 6-305 – Retail Marijuana Manufacturing Facilities: License Privileges.

D. Transferring Samples to Another Licensed and Certified Retail Marijuana Testing Facility. A Retail Marijuana Testing Facility may Transfer Samples to another Retail Marijuana Testing Facility for testing. All laboratory reports provided to or by a Retail Marijuana Business must identify the Retail Marijuana Testing Facility that actually conducted the test.

E. Testing of Registered and Tracked Industrial Hemp Authorized.

1. A Retail Marijuana Testing Facility may accept and test Industrial Hemp as regulated by Article 61 of Title 35, C.R.S.

2. Before a Retail Marijuana Testing Facility accepts a sample of Industrial Hemp, the Retail Marijuana Testing Facility shall verify that the Person submitting the sample is registered with the Commissioner of the Colorado Department of Agriculture, pursuant to section 35-61-104, C.R.S.

3. A Retail Marijuana Testing Facility is responsible for entering tracking samples of Industrial Hemp in the Inventory Tracking System pursuant to the 3-800 Series Rules.

4. A Retail Marijuana Testing Facility shall be permitted to test Industrial Hemp only in the category(ies) that the Retail Marijuana Testing Facility is certified to perform testing in pursuant to Rule 6-415 – Retail Marijuana Testing Facilities: Certification Requirements.

5. In accordance with section 35-61-105.5, C.R.S., a Retail Marijuana Testing Facility shall provide the results of any testing performed on Industrial Hemp to the Person submitting the sample of Industrial Hemp and to the Colorado Department of Agriculture.

6. Nothing in these rules shall be construed to require a Retail Marijuana Testing Facility to accept and/or test Samples of Industrial Hemp.

F. Testing of Industrial Hemp Product Authorized.

1. A Retail Marijuana Testing Facility may accept and test samples of Industrial Hemp Products.

2. Before a Retail Marijuana Testing Facility accepts a sample of Industrial Hemp Product, the Retail Marijuana Testing Facility shall verify that the Person submitting the sample is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

3. A Retail Marijuana Testing Facility is responsible for entering and tracking samples of Industrial Hemp Product in the inventory tracking system pursuant to the 3-800 Series Rules.

4. A Retail Marijuana Testing Facility shall be permitted to test Industrial Hemp Product only in the category(ies) that the Retail Marijuana Testing Facility is certified to perform testing in pursuant to Rule 6-415 – Retail Marijuana Testing Facilities: Certification Requirements.

5. A Retail Marijuana Testing Facility may provide the results of any testing performed on Industrial Hemp Product to the Person submitting the sample of Industrial Hemp Product.

6. Nothing in these rules shall be construed to require a Retail Marijuana Testing Facility to accept and/or test samples of Industrial Hemp Product.

G. Authorized Retail Marijuana Transport. A Retail Marijuana Testing Facility is authorized to utilize a licensed Retail Marijuana Transporter to transport Samples of Retail Marijuana for testing, in accordance with the Marijuana Code and Marijuana Rules, between the originating Retail Marijuana Business requesting testing services and the destination Retail Marijuana Testing Facility performing testing services. Nothing in this Rule requires a Retail Marijuana Business to utilize a Retail Marijuana Transporter to transport Samples of Retail Marijuana for testing.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-410

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(c), 44-10-203(2)(d), 44-10-202(4), 44-10-203(2)(h), 44-10-203(2)(y), 44-10-203(3)(c), 44-10-203(2)(d), 44-10-401(2)(b)(IV), 44-10-604, 44-10-701, 35-61-104, and 35-61-105.5, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Retail Marijuana Testing Facility. This Rule 6-410 was previously Rule R 702, 1 CCR 212-2.

6-410 – Retail Marijuana Testing Facilities: General Limitations or Prohibited Acts

A. Prohibited Financial Interest. A Person who is Controlling Beneficial Owner or Passive Beneficial of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, Retail Marijuana Store, Medical Marijuana Store, Medical Marijuana Cultivation Facility, or a Medical Marijuana Products Manufacturer shall not be a Controlling Beneficial Owner or Passive Beneficial Owner of a Retail Marijuana Testing Facility.

B. Conflicts of Interest. The Retail Marijuana Testing Facility shall establish policies to prevent the existence of or appearance of undue commercial, financial, or other influences that may diminish the competency, impartiality, and integrity of the Retail Marijuana Testing Facility's testing processes or results, or that may diminish public confidence in the competency, impartiality and integrity of the Retail Marijuana Testing Facility's testing processes or results. At a minimum, employees, owners or agents of a Retail Marijuana Testing Facility who participate in any aspect of the analysis and results of a Sample or Test Batch are prohibited from improperly influencing the testing process, improperly manipulating data, or improperly benefiting from any on-going financial, employment, personal or business relationship with the Retail Marijuana Business that provided the Sample.

C. Transfer of Retail Marijuana Prohibited. A Retail Marijuana Testing Facility shall not Transfer Retail Marijuana to another Retail Marijuana Business or a consumer, except that a Retail Marijuana Testing Facility may Transfer a Sample to another Retail Marijuana Testing Facility.

D. Destruction of Received Samples. A Retail Marijuana Testing Facility shall properly dispose of all Samples it receives, that are not Transferred to another Retail Marijuana Testing Facility, after all necessary tests have been conducted and any required period of storage. *See* Rule 3-230 – Waste Disposal.

E. Sample Rejection. A Retail Marijuana Testing Facility shall reject any Sample where the condition of the Sample at receipt indicates that the Sample may have been tampered with.

F. Retail Marijuana Business Requirements Applicable. A Retail Marijuana Testing Facility shall be considered a Licensed Premises. A Retail Marijuana Testing Facility shall be subject to all requirements applicable to Retail Marijuana Businesses.

G. Retail Marijuana Testing Facility – Inventory Tracking System Required. A Retail Marijuana Testing Facility must use the Inventory Tracking System to ensure all Test Batches or Samples containing Retail Marijuana are identified and tracked from the point they are Transferred from a Retail Marijuana Business through the point of Transfer or destruction or disposal. A Retail Marijuana Testing Facility that performs testing on Industrial Hemp must use the Inventory Tracking System to ensure all samples of Industrial Hemp are identified and tracked from the point they are Transferred from a cultivator registered with the Commissioner of the Colorado Department of Agriculture, pursuant to section 35-61-104, C.R.S., to the point of Transfer or

destruction or disposal. The Inventory Tracking System reporting shall include the results of any tests that are conducted on Retail Marijuana or Industrial Hemp. *See also* Rule 3-805 – Regulated Marijuana Businesses: Inventory Tracking System and Rule 3-825 – Reporting and Inventory Tracking System. The Retail Marijuana Testing Facility must have the ability to reconcile its Sample records with the Inventory Tracking System and the associated transaction history. *See also* Rule 3-905 – Business Records Required and Rule 3-825.

H. Testing of Unregistered or Untracked Industrial Hemp or Industrial Hemp Products Prohibited.

1. A Retail Marijuana Testing Facility is authorized to accept or test Industrial Hemp only if (1) the entity providing the Samples of Industrial Hemp is regulated by Article 61 of Title 35, C.R.S., (2) the Industrial Hemp is submitted by a registered cultivator, and (3) the Industrial Hemp is tracked in the Inventory Tracking System.

2. A Retail Marijuana Testing Facility is authorized to accept or test Industrial Hemp Product only if (1) the entity providing the Samples of Industrial Hemp Product is registered and regulated pursuant to Article 4 or Title 25, C.R.S., and (2) the Industrial Hemp Product being submitted for testing is tracked in the Inventory Tracking System.

I. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-415

The statutory authority for this rule includes but is not limited to section 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(4), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(c), 44-10-203(2)(d), 44-10-203(2)(h), 44-10-203(2)(y), 44-10-203(3)(c), 44-10-203(3)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish a frame work for certification for Retail Marijuana Testing Facilities. This Rule 6-415 was previously Rule R 703, 1 CCR 212-2.

6-415 – Retail Marijuana Testing Facilities: Certification Requirements

A. Certification Types. If certification in a testing category is required by the Division, then the Retail Marijuana Testing Facility must be certified in the category in order to perform that type of testing.

1. Residual solvents;

2. Microbials;

3. Mycotoxins;

4. Pesticides;

5. THC and other Cannabinoid potency;

6. Elemental Impurities; and

7. Water Activity.

B. In order to obtain a certification for Pesticide testing, a Retail Marijuana Testing Facility must also obtain certification for mycotoxin testing.

C. Certification Procedures. The Retail Marijuana Testing Facility certification program is contingent upon successful on-site inspection, successful participation in proficiency testing, and ongoing compliance with the applicable requirements in this Rule.

1. Certification Inspection. A Retail Marijuana Testing Facility must be inspected prior to initial certification and annually thereafter by an inspector approved by the Division.

2. Standards for Certification. A Retail Marijuana Testing Facility must meet standards of performance, as established by these rules, in order to obtain and maintain certification. Standards of performance include but are not limited to: personnel qualifications, standard operating procedure manual, analytical processes, Proficiency Testing, quality control, quality assurance, security, chain of custody, Sample retention, space, records, and results reporting. In addition, a Retail Marijuana Testing Facility must be accredited under the International Organization for Standardization/International Electrotechnical Commission 17025:2005 Standard, or any subsequent superseding ISO/IEC 17025 standard. In order to obtain certification in a testing category from the Division, the Retail Marijuana Testing Facility's scope of accreditation must specify that particular testing category.

    a. Subsequent to initial approval of a Retail Marijuana Testing Facility License, the Division may grant provisional certification if the Applicant has not yet obtained ISO/IEC 17025:2005 accreditation, but meets all other requirements. Such provisional certification shall be for a period not to exceed twelve months.

3. Personnel Qualifications.

    a. Laboratory Director. A Retail Marijuana Testing Facility must employ, at a minimum, a laboratory director with sufficient education and experience in a regulated laboratory environment in order to obtain and maintain certification. *See* Rule 6-420 – Retail Marijuana Testing Facilities: Personnel.

    b. Employee Competency. A Retail Marijuana Testing Facility must have a written and documented system to evaluate and document the competency in performing authorized tests for employees. Prior to independently analyzing Samples, testing personnel must demonstrate acceptable performance on precision, accuracy, specificity, reportable ranges, blanks, and unknown challenge samples (proficiency samples or internally generated quality controls).

4. Standard Operating Procedure Manual. A Retail Marijuana Testing Facility must have a written standard operating procedure manual meeting the minimum standards set forth in these rules detailing the performance of all methods employed by the facility used to test the analytes it reports and made available for testing analysts to follow at all times.

    a. The current laboratory director must approve, sign and date each procedure. If any modifications are made to those procedures, the laboratory director must approve, sign, and date the revised version prior to use.

    b. A Retail Marijuana Testing Facility must maintain a copy of all standard operating procedures to include any revised copies for a minimum of three years. *See* Rule 6-450 – Retail Marijuana Testing Facilities: Records Retention, and Rule 3-905 – Business Records Required.

5. Analytical Processes. A Retail Marijuana Testing Facility must maintain a listing of all analytical methods used and all analytes tested and reported. The Retail Marijuana Testing Facility must provide this listing to the Division upon request.

6. Proficiency Testing. A Retail Marijuana Testing Facility must successfully participate in a Division approved Proficiency Testing program in order to obtain and maintain certification.

7. Quality Assurance and Quality Control. A Retail Marijuana Testing Facility must establish and follow a quality assurance and quality control program to ensure sufficient monitoring of laboratory processes and quality of results reported.

8. Security. A Retail Marijuana Testing Facility must be located in a secure setting as to prevent unauthorized persons from gaining access to the testing and storage areas of the laboratory.

9. Chain of Custody. A Retail Marijuana Testing Facility must establish a system to document the complete chain of custody for samples from receipt through disposal.

10. Space. A Retail Marijuana Testing Facility must be located in a fixed structure that provides adequate infrastructure to perform analysis in a safe and compliant manner consistent with federal, state, and local requirements.

11. Records. A Retail Marijuana Testing Facility must establish a system to retain and maintain records for a period not less than three years. *See* Rules 6-450 – Retail Marijuana Testing Facilities - Records Retention and Rule 3-905 – Business Records Required.

12. Results Reporting. A Retail Marijuana Testing Facility must establish processes to ensure results are reported in a timely and accurate manner. *See* Rule 3-825 – Reporting and Inventory Tracking System. A Retail Marijuana Testing Facility's process may require that the Regulated Marijuana Business remit payment for any test conducted by the Testing Facility prior to entry of the results of that test into the Inventory Tracking System. A Retail Marijuana Testing Facility's process established under this subparagraph (12) must be maintained on the Licensed Premises of the Retail Marijuana Testing Facility.

13. Conduct While Seeking Certification. A Retail Marijuana Testing Facility, and its agents and employees, shall provide all documents and information required or requested by the Colorado Department of Public Health and Environment and its employees, and the Division and its employees in a full, faithful, truthful, and fair manner.

D. Violation Affecting Public Safety. A violation of this Rule may be considered a license violation affecting public safety.

Basis and Purpose - 6-420

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(c), 44-10-203(2)(d), 44-10-203(3)(c), 44-10-203(3)(d), 44-10-401(2)(b)(IV), 44-10-604, C.R.S. The purpose of this rule is to establish personnel standards for the operation of a Retail Marijuana Testing Facility. This Rule 6-420 was previously Rule R 704, 1 CCR 212-2.

6-420 – Retail Marijuana Testing Facilities: Personnel

A. Laboratory Director. The laboratory director is responsible for the overall analytical operation and quality of the results reported by the Retail Marijuana Testing Facility, including the employment of personnel who are competent to perform test procedures, and record and report test results promptly, accurately, and proficiently and for assuring compliance with the standards set forth in this Rule.

1. The laboratory director may also serve as a supervisory analyst or testing analyst, or both, for a Retail Marijuana Testing Facility.

2. The laboratory director for a Retail Marijuana Testing Facility must meet one of the following qualification requirements:

    a. The laboratory director must be a Medical Doctor (M.D.) licensed to practice medicine in Colorado and have at least three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body; or

    b. The laboratory director must hold a doctoral degree in one of the natural sciences and have at least three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body;

    c. The laboratory director must hold a master's degree in one of the natural sciences and have at least five years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body; or

    d. The laboratory director must hold a bachelor's degree in one of the natural sciences and have at least seven years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body.

B. What the Laboratory Director May Delegate. The laboratory director may delegate the responsibilities assigned under this Rule to a qualified supervisory analyst, provided that such delegation is made in writing and a record of the delegation is maintained. *See* Rule 3-905 – Business Records Required. Despite the designation of a responsibility, the laboratory director remains responsible for ensuring that all duties are properly performed.

C. Responsibilities of the Laboratory Director. The laboratory director must:

1. Ensure that the Retail Marijuana Testing Facility has adequate space, equipment, materials, and controls available to perform the tests reported;

2. Establish and adhere to a written standard operating procedure used to perform the tests reported;

3. Ensure that testing systems developed and used for each of the tests performed in the laboratory provide quality laboratory services for all aspects of test performance, which includes the preanalytic, analytic, and postanalytic phases of testing;

4. Ensure that the physical location and environmental conditions of the laboratory are appropriate for the testing performed and provide a safe environment in which employees are protected from physical, chemical, and biological hazards;

5. Ensure that the test methodologies selected have the capability of providing the quality of results required for the level of testing the laboratory is certified to perform;

6. Ensure that validation and verification test methods used are adequate to determine the accuracy, precision, and other pertinent performance characteristics of the method;

7. Ensure that testing analysts perform the test methods as required for accurate and reliable results;

8. Ensure that the laboratory is enrolled in and successfully participates in a Division approved Proficiency Testing program;

9. Ensure that the quality control and quality assessment programs are established and maintained to assure the quality of laboratory services provided and to identify failures in quality as they occur;

10. Ensure the establishment and maintenance of acceptable levels of analytical performance for each test system;

11. Ensure that all necessary remedial actions are taken and documented whenever significant deviations from the laboratory's established performance specifications are identified, and that test results are reported only when the system is functioning properly;

12. Ensure that reports of test results include pertinent information required for interpretation;

13. Ensure that consultation is available to the laboratory's clients on matters relating to the quality of the test results reported and their interpretation of said results;

14. Employ a sufficient number of laboratory personnel who meet the qualification requirements and provide appropriate consultation, properly supervise, and ensure accurate performance of tests and reporting of test results;

15. Ensure that prior to testing any samples, all testing analysts receive the appropriate training for the type and complexity of tests performed, and have demonstrated and documented that they can perform all testing operations reliably to provide and report accurate results;

16. Ensure that policies and procedures are established for monitoring individuals who conduct preanalytical, analytical, and postanalytical phases of testing to assure that they are competent and maintain their competency to process Samples, perform test procedures and report test results promptly and proficiently, avoid actual and apparent conflicts of interests, and whenever necessary, identify needs for remedial training or continuing education to improve skills;

17. Ensure that an approved standard operating procedure manual is available to all personnel responsible for any aspect of the testing process; and

18. Specify, in writing, the responsibilities and duties of each person engaged in the performance of the preanalytic, analytic, and postanalytic phases of testing, that identifies which examinations and procedures each individual is authorized to perform, whether supervision is required for Sample processing, test performance or results reporting, and whether consultant or laboratory director review is required prior to reporting test results.

D. Change in Laboratory Director. In the event that the laboratory director leaves employment at the Retail Marijuana Testing Facility, the Retail Marijuana Testing Facility shall:

1. Provide written notice to the Colorado Department of Public Health and Environment and the Division within seven days of the laboratory director’s departure; and

2. Designate an interim laboratory director within seven days of the laboratory director’s departure. At a minimum, the interim laboratory director must meet the qualifications of a supervisory analyst.

3. The Retail Marijuana Testing Facility must hire a permanent laboratory director within 60 days from the date of the previous laboratory director's departure.

4. Notwithstanding the requirement of subparagraph (D)(3), the Retail Marijuana Testing Facility may submit a waiver request to the Division Director to receive an additional 60 days to hire a permanent laboratory director provided that the Retail Marijuana Testing Facility submits a detailed oversight plan along with the waiver request.

E. Supervisory Analyst. Supervisory analysts must meet one of the qualifications for a laboratory director or have at least a bachelor's degree in one of the natural sciences and two years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body. A combination of education and experience may substitute for the two years of full-time laboratory experience.

F. Laboratory Testing Analyst.

1. Educational Requirements. An individual designated as a testing analyst must meet one of the qualifications for a laboratory director or supervisory analyst or:

a. Have at least a bachelor's degree in one of the natural sciences and one year of full-time experience in laboratory testing;

b. Have a least a bachelor's degree in one of the natural sciences;

c. Have earned an associated degree in a laboratory science from an accredited institution; or

d. Have education and training equivalent to that specified in subparagraph (F)(1) of this Rule that includes at least 60 semester hours, or equivalent, from an accredited institution that, at a minimum, include:

i. 24 semester hours of science courses that include six semester hours of chemistry, six semester hours of biology, and twelve semester hours of chemistry, biology, or cannabis laboratory sciences in any combination; and

ii. Have a laboratory training that includes at least three months documented laboratory training each testing category in which the individual performs testing; or

e. Have at least five years of full time experience in laboratory testing and have laboratory training that includes at least three months documented laboratory training in each testing category in which the individual performs testing.

2. Responsibilities. In order to independently perform any test for a Retail Marijuana Testing Facility, an individual must at least meet the educational requirements for a testing analyst.

G. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-425

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-202(4), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to

establish standard operating procedure manual standards for the operation of a Retail Marijuana Testing Facility. This Rule 6-425 was previously Rule R 705, 1 CCR 212-2.

6-425 –Retail Marijuana Testing Facilities: Standard Operating Procedure Manual

A. A standard operating procedure manual must include, but need not be limited to, procedures for:

1. Test Batch receiving;

2. Test Batch accessioning;

3. Test Batch storage;

4. Identifying, rejecting, and reporting unacceptable Test Batches;

5. Recording and reporting discrepancies during Test Batch receiving an accessioning;

6. Security of Test Batches, aliquots and extracts and records;

7. Validating a new or revised method prior to testing of Test Batches to include: accuracy, precision, analytical sensitivity, analytical specificity (interferences), LOD, LOQ, and verification of the reportable range;

8. Test Batch preparation, including but not limited to, sub-sampling for testing, homogenization, and aliquoting Test Batches to avoid contamination and carry-over;

9. Test Batch archive retention to assure stability, as follows:

   a. For Test Batches submitted for testing other than Pesticide contaminant testing, Test Batch retention for 14 days;

   b. For Test Batch submitted for Pesticide contaminant testing, Test Batch retention for 90 days.

10. Disposal of Test Batches;

11. The theory and principles behind each assay;

12. Preparation and identification of reagents, standards, calibrators and controls and ensure all standards are traceable to National Institute of Standards of Technology (“NIST”);

13. Special requirements and safety precautions involved in performing assays;

14. Frequency and number of control and calibration materials;

15. Recording and reporting assay results;

16. Protocol and criteria for accepting or rejecting analytical Procedure to verify the accuracy of the final report;

17. Pertinent literature references for each method;

18. Current step-by-step instructions with sufficient detail to perform the assay to include equipment operation and any abbreviated versions used by a testing analyst;

19. Acceptability criteria for the results of calibration standards and controls as well as between two aliquots or columns;

20. A documented system for reviewing the results of testing calibrators, controls, standards, and Test Batch results, as well as reviewing for clerical errors, analytical errors and any unusual analytical results and are corrective actions implemented and documented, and does the laboratory contact the requesting entity

21. Policies and procedures to follow when Test Batch are requested for referral and testing by another certified Retail Marijuana Testing Facility or an approved local or state agency's laboratory;

22. Testing Industrial Hemp, if the Retail Marijuana Testing Facility tests Industrial Hemp;

23. Investigating and documenting existing or potential Nonconformances and implementing Corrective Actions and/or Preventive Actions;

24. Contacting the requesting entity about existing Nonconformances; and

25. Retesting or additional analyses of Test Batches, including but need not be limited to, when it is appropriate to retest or perform an additional analysis of the Test Batch, when it is appropriate to request a new Test Batch from the requesting entity, and when it is appropriate for the requesting entity to request retesting (e.g., after failing Pesticide testing or elemental impurity testing on Regulated Marijuana flower, trim, shake, or wet whole plant as permitted by Rule 4-135(d) and 4-135(D.1));

B. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-430

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-202(4), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish analytical processes standards for the operation of a Retail Marijuana Testing Facility. This Rule 6-430 was previously Rule R 706, 1 CCR 212-2.

6-430 –Retail Marijuana Testing Facilities: Analytical Processes

A. Gas Chromatography ("GC"). A Retail Marijuana Testing Facility using GC must:

1. Document the conditions of the gas chromatograph, including the detector response;

2. Perform and document preventive maintenance as required by the manufacturer;

3. Ensure that records are maintained and readily available to the staff operating the equipment;

4. Document the performance of new columns before use;

5. Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified;

6. Establish criteria of acceptability for variances between different aliquots and different columns; and

7. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.

B. Gas Chromatography Mass Spectrometry ("GC/MS"). A Retail Marijuana Testing Facility using GC/MS must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Document the changes of septa as specified in the standard operating procedure;

3. Document liners being cleaned or replaced as specified in the standard operating procedure;

4. Ensure that records are maintained and readily available to the staff operating the equipment;

5. Maintain records of mass spectrometric tuning;

6. Establish written criteria for an acceptable mass-spectrometric tune;

7. Document corrective actions if a mass-spectrometric tune is unacceptable;

8. Monitor analytic analyses to check for contamination and carry-over;

9. Use selected ion monitoring within each run to assure that the laboratory compares ion ratios and retention times between calibrators, controls and samples for identification of an analyte;

10. Use an internal standard for qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified and is isotopically labeled when available or appropriate for the assay;

11. Document the monitoring of the response (area or peak height) for the internal standard to ensure consistency overtime of the analytical system;

12. Define the criteria for designating qualitative results as positive;

13. When a library is used to qualitatively identify an analyte, the identity of the analyte must be confirmed before reporting results by comparing the relative retention time and mass spectrum to that of a known standard or control run on the same system; and

14. Evaluate the performance of the instrument after routine and preventive maintenance (*e.g.* clipping or replacing the column or cleaning the source) prior to analyzing subject samples.

C. Immunoassays. A Retail Marijuana Testing Facility using Immunoassays must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Validate any changes or modifications to a manufacturer's approved assays or testing methods when a sample is not included within the types of samples approved by the manufacturer; and

4. Define acceptable separation or measurement units (absorbance intensity or counts per minute) for each assay, which must be consistent with manufacturer's instructions.

D. Thin Layer Chromatography ("TLC"). A Retail Marijuana Testing Facility using TLC must:

1. Apply unextracted standards to each thin layer chromatographic plate;

2. Include in their written procedure the preparation of mixed solvent systems, spray reagents and designation of lifetime;

3. Include in their written procedure the storage of unused thin layer chromatographic plates;

4. Evaluate, establish, and document acceptable performance for new thin layer chromatographic plates before placing them into service;

5. Verify that the spotting technique used precludes the possibility of contamination and carry-over;

6. Measure all appropriate RF values for qualitative identification purposes;

7. Use and record sequential color reactions, when applicable;

8. Maintain records of thin layer chromatographic plates; and

9. Analyze an appropriate matrix blank with each batch of Samples analyzed.

E. High Performance Liquid Chromatography ("HPLC"). A Retail Marijuana Testing Facility using HPLC must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Monitor and document the performance of the HPLC instrument each day of testing;

4. Evaluate the performance of new columns before use;

5. Create written standards for acceptability when eluting solvents are recycled;

6. Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified when available or appropriate for the assay; and

7. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.

F. Liquid Chromatography Mass Spectroscopy ("LC/MS"). A Retail Marijuana Testing Facility using LC/MS must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Maintain records of mass spectrometric tuning;

4. Document corrective actions if a mass-spectrometric tune is unacceptable;

5. Use an internal standard with each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified and is isotopically labeled when available or appropriate for the assay;

6. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system;

7. Compare two transitions and retention times between calibrators, controls and samples within each run;

8. Document and maintain records when changes in source, source conditions, eluent, or column are made to the instrument; and

9. Evaluate the performance of the instrument when changes in: source, source conditions, eluent, or column are made prior to reporting test results.

G. Microbial Assays. A Retail Marijuana Testing Facility using microbial assays must:

1. Perform and document preventive maintenance as required by the manufacturer and standard operating procedures;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Validate any changes or modifications to a manufacturer's approved assays or testing methods when a test sample is not included within the types of Test Batches approved by the manufacturer;

4. Verify the method at the action levels for each analyte. Verification at the qualitative presence/absence limit shall include a fractional recovery study unless otherwise completed by the manufacturer and approved by an independent scientific body.

5. Include controls for each batch of test samples. Quantitative microbial methods shall use controls of a specific known value or set of values that lies within the quantifiable range of the method;

6. For molecular methods, the Retail Marijuana Testing Facility shall include controls for each individual analytical run. Quantitative molecular methods shall use controls of a specific known value or set of values that lies within the quantifiable range of the method;

7. PCR-based and qPCR-based methods must include validated internal amplification controls;

8. Microbial methods must include steps to confirm presumptive positive results; confirmation methods may be molecular or cultural or both. Confirmation methods must include quality controls that match the organism which is being confirmed.

H. Water Activity. A Retail Marijuana Testing Facility analyzing water activity must:

1. Perform and document preventive maintenance as required by the manufacturer and standard operating procedures;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Specify all unique method parameters, such as temperature, sample surface area, volatile compound interferences, including but not limited to temperature;

4. Evaluate the performance of the method after routine and preventive maintenance prior to analyzing the Test Batch;

5. Establish criteria for acceptable instrument performance.

I. Analytical Methodology. A Retail Marijuana Testing Facility must validate new methodology and revalidate any changes to approved methodology prior to testing Test Batches. A Retail Marijuana Testing Facility must:

1. Implement a performance based measurement system for the selected methodology and validate the method following good laboratory practices prior to reporting results. Validation of other or new methodology must include when applicable, but is not limited to:

a. Verification of Accuracy

b. Verification of Precision

c. Verification of Analytical Sensitivity

d. Verification of Analytical Specificity

e. Verification of the LOD

f. Verification of the LOQ

g. Verification of the Reportable Range

h. Identification of Interfering Substances

2. Validation of the other or new methodology must be documented.

3. Prior to use, other or new methodology must have a standard operating procedure approved and signed by the laboratory director.

4. Testing analysts must have documentation of competency assessment prior to testing Samples.

5. Any changes to the approved other or new methodology must be revalidated and documented prior to testing Samples.

J. Testing Validation of Complex Matrices. A Retail Marijuana Testing Facility must include a variety of matrices as part of the validation/verification process. During method validation/verification, a Retail Marijuana Testing Facility must:

1. Select matrices which best represent each category of products to be tested as listed in Rule 4-115(D). The laboratory shall independently determine the category of matrix a product falls within; properties to consider include fat content, cannabinoid content, pH,

salt content, sugar content, water activity, the presence of know chemical compounds, microbial flora and antimicrobial compounds.

2. Perform a new matrix validation, prior to reporting results, on matrices which are either A) a new category of matrix or B) considerably different from the original matrix validated within the category.

    a. For example, the Retail Marijuana Testing Facility intends to receive the topical product “bath bombs” for testing, but previous validation studies for topical product included lotion and massage oil. A new validation should be performed for the product prior to testing since salt content and other properties differ vastly from the original matrices validated.

3. Perform a matrix verification (a client matrix spike or similar consisting of the target analyte(s) at the time of analysis) on matrices submitted for testing which differ slightly from those initially validated but which fall within a category already validated.

    a. For example, the Retail Marijuana Testing Facility receives a new edible type matrix for testing (snickerdoodle cookies) but previous validation included gummies and hard candy. A spike of a portion of the submitted material must be analyzed prior to, or at the time of, sample analysis.

K. All Test Batches and Industrial Hemp Product must be tested as received, must not be manipulated, and tested in a manner that ensures results are representative of sample as received.

L. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose - 6-435

The statutory authority for this rule includes but is not limited to sections 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish a proficiency testing program for Retail Marijuana Testing Facilities. This Rule 6-435 was previously Rule R 707, 1 CCR 212-2.

6-435 – Retail Marijuana Testing Facilities: Proficiency Testing

A. Proficiency Testing Required. A Retail Marijuana Testing Facility must participate in a Proficiency Testing program for each approved category in which it seeks certification under Rule 6-415 – Retail Marijuana Testing Facilities: Certification Requirements.

B. Participation in Designated Proficiency Testing Event. If required by the Division as part of certification, the Retail Marijuana Testing Facility must have successfully participated in Proficiency Testing in the category for which it seeks certification, within the preceding 12 months.

C. Continued Certification. To maintain continued certification, a Retail Marijuana Testing Facility must participate in the designated Proficiency Testing program with continued satisfactory performance as determined by the Division as part of certification. The Division may designate a local agency, state agency, or independent third-party to provide Proficiency Testing.

D. Analyzing Proficiency Testing Samples. A Retail Marijuana Testing Facility must analyze Proficiency Test Samples using the same procedures with the same number of replicate

analyses, standards, testing analysts and equipment as used in its standard operating procedures.

E. Proficiency Testing Attestation. The laboratory director and all testing analysts who participated in Proficiency Testing must sign corresponding attestation statements.

F. Laboratory Director Must Review Results. The laboratory director must review and evaluate all Proficiency Testing results.

G. Remedial Action. A Retail Marijuana Testing Facility must take and document remedial action when a score of less than 100% is achieved on any test during Proficiency Testing. Remedial action documentation must include a review of Samples tested and results reported since the last successful Proficiency Testing event. A requirement to take remedial action does not necessarily indicate unsatisfactory participation in a Proficiency Testing event.

H. Unsatisfactory Participation in a Proficiency Testing Event. Unless the Retail Marijuana Testing Facility positively identifies at least 80% of the target analytes tested, participation in the Proficiency Testing event will be considered unsatisfactory. A positive identification must include accurate quantitative and qualitative results as applicable. Any false positive result reported will be considered unsatisfactory participation in the Proficiency Testing event.

I. Consequence of Unsatisfactory Participation in Proficiency Testing Event. Unsatisfactory participation in a Proficiency Testing event may result in limitation, suspension or revocation of Rule 6-415 certification.

J. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-440

The statutory authority for this rule includes but is not limited to sections 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish quality assurance and quality assurance standards for a Retail Marijuana Testing Facility. This Rule 6-440 was previously Rule R 708, 1 CCR 212-2.

6-440 – Retail Marijuana Testing Facilities: Quality Assurance and Quality Control

A. Quality Assurance Program Required. A Retail Marijuana Testing Facility must establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory preanalytic, analytic and postanalytic systems when they occur and must include, but is not limited to:

1. Review of instrument preventive maintenance, repair, troubleshooting and corrective actions documentation must be performed by the laboratory director or designated supervisory analyst on an ongoing basis to ensure the effectiveness of actions taken over time;

2. Review by the laboratory director or designated supervisory analyst of all ongoing quality assurance; and

3. Review of the performance of validated methods used by the Retail Marijuana Testing Facility to include calibration standards, controls and the standard operating procedures used for analysis on an ongoing basis to ensure quality improvements are made when problems are identified or as needed.

B. Quality Control Measures Required. A Retail Marijuana Testing Facility must establish, monitor and document on an ongoing basis the quality control measures taken by the laboratory to ensure the proper functioning of equipment, validity of standard operating procedures and accuracy of results reported. Such quality control measures must include, but shall not be limited to:

1. Documentation of instrument preventive maintenance, repair, troubleshooting and corrective actions taken when performance does not meet established levels of quality;

2. Review and documentation of the accuracy of automatic and adjustable pipettes and other measuring devices when placed into service and annually thereafter;

3. Cleaning, maintaining and calibrating as needed the analytical balances and in addition, verifying the performance of the balance annually using certified weights to include three or more weights bracketing the ranges of measurement used by the laboratory;

4. Annually verifying and documenting the accuracy of thermometers using a NIST traceable reference thermometer;

5. Recording temperatures on all equipment when in use where temperature control is specified in the standard operating procedures manual, such as water baths, heating blocks, incubators, ovens, refrigerators, and freezers;

6. Properly labeling reagents as to the identity, the concentration, date of preparation, storage conditions, lot number tracking, expiration date and the identity of the preparer;

7. Avoiding mixing different lots of reagents in the same analytical run;

8. Performing and documenting a calibration curve with each analysis using at minimum three calibrators throughout the reporting range;

9. For qualitative analyses, analyzing, at minimum, a negative and a positive control with each batch of Samples analyzed;

10. For quantitative analyses, analyzing, at minimum, a negative and two levels of controls that challenge the linearity of the entire curve;

11. Using a control material or materials that differ in either source or, lot number, or concentration from the calibration material used with each analytical run;

12. For multi-analyte assays, performing and documenting calibration curves and controls specific to each analyte, or at minimum, one with similar chemical properties as reported in the analytical run;

13. Analyzing an appropriate matrix blank and control with each analytical run, when available;

14. Analyzing calibrators and controls in the same manner as unknowns;

15. Documenting the performance of calibration standards and controls for each analytical run to ensure the acceptability criteria as defined in the standard operating procedure is met;

16. Documenting all corrective actions taken when unacceptable calibration, control, and standard or instrument performance does not meet acceptability criteria as defined in the standard operating procedure;

17. Maintaining records of validation data for any new or modified methods to include; accuracy, precision, analytical specificity (interferences), LOD, LOQ, and verification of the linear range; and

18. Performing testing analysts that follow the current Standard Operating Procedures Manual for the test or tests to be performed.

C. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-445

The statutory authority for this rule includes but is not limited to sections 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish chain of custody standards for a Retail Marijuana Testing Facility. In addition, it establishes the requirement that a Retail Marijuana Testing Facility follow an adequate chain of custody for Samples it maintains. This Rule 6-445 was previously Rule R 709, 1 CCR 212-2.

6-445 –Retail Marijuana Testing Facilities: Chain of Custody

A. General Requirements. A Retail Marijuana Testing Facility must establish an adequate chain of custody and Test Batch requirement instructions that must include, but not limited to:

1. Issue instructions for the minimum Test Batch requirements and storage requirements;

2. Document the condition of the external package and integrity seals utilized to prevent contamination of, or tampering with, the Test Batch;

3. Document the condition and amount of Test Batch provided at the time of receipt;

4. Document all persons handling the original Test Batches, aliquots, and extracts;

5. Document all Transfers of Test Batches, aliquots, and extracts referred to another certified Retail Marijuana Testing Facility Licensee for additional testing or whenever requested by a client;

6. Maintain a current list of authorized personnel and restrict entry to the laboratory to only those authorized;

7. Secure the Laboratory during non-working hours;

8. Secure short and long-term storage areas when not in use;

9. Utilize a secured area to log-in and aliquot Test Batches;

10. Ensure Test Batches are stored appropriately;

11. Document the disposal of Test Batches, aliquots, and extracts; and

12. Document the License number, Inventory Tracking System number, photograph(s), and the reason for rejection of Test Batches that were rejected to the Division within 7 days of Test Batch submission

B. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-450

The statutory authority for this rule includes but is not limited to sections 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish records retention standards for a Retail Marijuana Testing Facility. This Rule 6-450 was previously Rule R 710, 1 CCR 212-2.

6-450 –Retail Marijuana Testing Facilities: Records Retention

A. General Requirement. A Retail Marijuana Testing Facility must maintain all required business records. *See* Rule 3-905 - Business Records Required.

B. Specific Business Records Required: Record Retention. A Retail Marijuana Testing Facility must establish processes to preserve records in accordance with Rule 3-905 that includes, but is not limited to;

1. Test Results, including final and amended reports, and identification of analyst and date of analysis;

2. Quality Control and Quality Assurance Records, including accession numbers, Test Batch type, and acceptable reference range parameters;

3. Standard Operating Procedures;

4. Personnel Records;

5. Chain of Custody Records, including documentation of rejected Test Batches;

6. Proficiency Testing Records; and

7. Analytical Data to include data generated by the instrumentation, raw data of calibration standards and curves.

C. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-455

The statutory authority for this rule includes but is not limited to sections 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to clarify a Retail Marijuana Testing Facility's responsibility to notify the Retail Marijuana Business and accurately report in the inventory tracking system any failed contaminant test result. This Rule 6-455 was previously Rule R 712(D), 1 CCR 212-2.

6-455 – Notification of Retail Marijuana Business

If Retail Marijuana failed a contaminant test, then the Retail Marijuana Testing Facility must immediately (1) notify the Retail Marijuana Business that submitted the Test Batch or Sample for testing and any

Person as directed by an approved Research Project (2) report the failure in accordance with the Inventory Tracking System reporting requirements in Rule 3-825(B).

Basis and Purpose – 6-460

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(4), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(3)(c), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish a framework for suspending and reinstating a testing category certification for Retail Marijuana Testing Facilities. This rule also provides the ability for a Retail Marijuana Testing Facility to request a hearing following suspension of a testing category certification.

6-460 – Retail Marijuana Testing Facilities: Certification Suspension, Recertification, and Request for Hearing

A. Certification Suspension. When the Division has objective and reasonable grounds to believe and finds that a Retail Marijuana Testing Facility has been guilty of deliberate and willful violation(s) or that the public health, safety, or welfare imperatively requires emergency action, the Division may immediately suspend the Retail Marijuana Testing Facility's testing category certification in accordance with section 24-4-104, C.R.S., and the 8-200 Series Rules.

B. Re-certification. A Retail Marijuana Testing Facility must provide evidence of corrective actions taken to attempt to resolve the certification suspension and may request that the Division re-certify the Retail Marijuana Testing Facility for a particular testing category in accordance with the requirements in Rule 5-415, if the Retail Marijuana Testing Facility provides documentation requested by the Division and/or the CDPHE demonstrating such corrective actions.

6-500 Series – Retail Marijuana Transporters

Basis and Purpose – 6-505

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-313(14), 44-10-401(2)(b)(V), and 44-10-605, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to Retail Marijuana Transporters. This Rule 6-505 was previously Rule R 1601, 1 CCR 212-2.

6-505 – Retail Marijuana Transporter: License Privileges

A. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Transporter may share a location with an identically owned Medical Marijuana Transporter. However, a separate license is required for each specific business or business entity, regardless of geographical location.

B. Transportation of Retail Marijuana and Retail Marijuana Product Authorized. A Retail Marijuana Transporter may take transportation orders, receive, transport, temporarily store, and deliver Retail Marijuana to Retail Marijuana Businesses.

C. Authorized Sources of Retail Marijuana and Retail Marijuana Product. A Retail Marijuana Transporter may only transport and store Retail Marijuana that it receives directly from a Retail Marijuana Business in accordance with the 3-600 Series Rules.

D. Authorized On-Premises Storage. A Retail Marijuana Transporter is authorized to store transported Retail Marijuana on its Licensed Premises or permitted off-premises storage facility. All transported Retail Marijuana must be secured in a Limited Access Area, and tracked consistently with the inventory tracking rules.

E. Delivery to Consumers Pursuant to Delivery Permit.

1. Prior to January 2, 2021, all Retail Marijuana Transporters are prohibited from delivering Regulated Marijuana to consumers.

2. After January 2, 2021, only Retail Marijuana Transporters that possess a valid delivery permit may delivery Retail Marijuana pursuant to contracts with Retail Marijuana Stores that also possess valid delivery permits. All deliveries of Retail Marijuana consumers must also comply with all requirements of Rule 3-615.

3. Violation affecting Public Safety. Any violation of paragraph E of this Rule is a license violation affecting public safety.

Basis and Purpose – 6-510

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-401(2)(b)(V), and 44-10-605, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion or prohibited by a Retail Marijuana Transporter. This Rule 6-510 was previously Rule R 1602, 1 CCR 212-2.

6-510 – Retail Marijuana Transporter: General Limitations or Prohibited Acts

A. Sales, Liens, and Secured Interests Prohibited. A Retail Marijuana Transporter is prohibited from buying, selling, or giving away Retail Marijuana or from receiving complimentary Retail Marijuana. A Retail Marijuana Transporter shall not place or hold a lien or secured interest on Retail Marijuana.

B. Licensed Premises Permitted. A Retail Marijuana Transporter shall maintain a Licensed Premises if it: (1) temporarily stores any Retail Marijuana or (2) modifies any information in the Inventory Tracking System generated transport manifest. The Licensed Premises shall be in a Local Jurisdiction that authorizes the operation of Retail Marijuana Stores. If a Retail Marijuana Transporter Licensed Premises shares a Licensed Premises in accordance with Rule 3-215 with a Medical Marijuana Transporter Licensed Premises, then the combined Licensed Premises shall be in a Local Jurisdiction that authorizes the operation of both Retail Marijuana Stores and Medical Marijuana Stores.

C. Off-Premises Storage Permit. A Retail Marijuana Transporter may maintain one or more permitted off-premises storage facilities. *See* Rule 3-610 – Off-Premises Storage of Regulated Marijuana: All Regulated Marijuana Businesses.

D. Storage Duration. A Retail Marijuana Transporter shall not store Retail Marijuana for longer than seven days from receiving it at its Licensed Premises or off-premises storage facility. The total allowable seven day storage duration begins and applies regardless of which of the Retail Marijuana Transporter's premises receives the Retail Marijuana first, i.e. the Retail Marijuana Transporter's Licensed Premises, or any of its off-premises storage facilities. A Retail Marijuana Transporter with a valid delivery permit may store Retail Marijuana for delivery to consumers pursuant to the delivery permit for no longer than seven days from receipt at its Licensed Premises or off-premises storage facility.

E. Control of Retail Marijuana. A Retail Marijuana Transporter is responsible for the Retail Marijuana once it takes control of the Retail Marijuana and until the Retail Marijuana Transporter delivers it to another Retail Marijuana Business, Accelerator Cultivator, Medical Marijuana Cultivation Facility in accordance with Rules 5-235, 6-230, and 6-730, Pesticide Manufacturer, or to a consumer pursuant to a valid delivery permit. For purposes of this Rule, taking control of the Retail Marijuana means removing it from the Retail Marijuana Business's Licensed Premises and placing the Retail Marijuana in the transport vehicle or the Delivery Motor Vehicle.

F. Location of Orders Taken and Delivered. A Retail Marijuana Transporter is permitted to take orders on the Licensed Premises of any Retail Marijuana Business to transport Retail Marijuana between Retail Marijuana Businesses. The Retail Marijuana Transporter shall deliver the Retail Marijuana to the Licensed Premises of a licensed Retail Marijuana Business, or a Pesticide Manufacturer. A Retail Marijuana Transporter may also delivery Retail Marijuana to consumers pursuant to a contract with a Retail Marijuana Store if it possesses a valid delivery permit.

G. A Retail Marijuana Transporter shall receive Retail Marijuana from the originating Licensee packaged in the way that it is intended to be delivered to the final destination Licensee or Pesticide Manufacturer. The Retail Marijuana Transporter shall deliver the Retail Marijuana in the same, unaltered packaging to the final destination Licensee.

H. A Retail Marijuana Transporter with a valid delivery permit shall receive Retail Marijuana that has been weighed, packaged, prepared, and labeled for delivery on the Licensed Premises of a Retail Marijuana Store or at the Retail Marijuana Store's off-premises storage facility or at the Accelerator Store or the Accelerator Store's off-premises storage facility after receipt of a delivery order. Retail Marijuana cannot be placed into a Delivery Motor Vehicle until after an order has been received and the Retail Marijuana has been packaged and labeled for delivery to the consumer as required by the 3-1000 Series Rules.

I. A Retail Marijuana Transporter must not deliver Retail Marijuana to consumers while also transporting Regulated Marijuana between Licensed Premises in the Delivery Motor Vehicle.

J. Opening of Bulk Packages or Containers and Re-Packaging Prohibited. A Retail Marijuana Transporter shall not open Containers of Retail Marijuana. Retail Marijuana Transporters are prohibited from re-packaging Retail Marijuana.

K. Temperature-Controlled Transport Vehicles. A Retail Marijuana Transporter shall utilize temperature-controlled transport vehicles when necessary to prevent spoilage of the transported Retail Marijuana.

L. Damaged, Refused, or Undeliverable Retail Marijuana. Any damaged Retail Marijuana that is undeliverable to the final destination Retail Marijuana Business, or any Retail Marijuana that is refused by the final destination Retail Marijuana Business shall be transported back to the originating Retail Marijuana Business. Any Retail Marijuana that cannot be delivered to a consumer pursuant to a valid delivery permit shall be returned to the originating Retail Marijuana Store or the Retail Marijuana Store's off-premises storage facility within the same business day or pursuant to paragraph D of this Rule.

M. Transport of Retail Marijuana Vegetative Plants Authorized. Retail Marijuana Vegetative plants may only be transported between Licensed Premises and such transport shall only be permitted due to an approved change of location pursuant to Rule 2-255. Transportation of Vegetative plants to a permitted off-premises storage facility shall not be allowed.

6-600 Series – Retail Marijuana Business Operators

Basis and Purpose – 6-605

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(o), 44-10-401(2)(b)(VI), and 44-10-606, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to Retail Marijuana Business Operators. This Rule 6-605 was previously Rule R 1701, 1 CCR 212-2.

6-605 – Retail Marijuana Business Operator: License Privileges

A. Privileges Granted. A Retail Marijuana Business Operator shall only exercise those privileges granted to it by the Marijuana Code, the rules promulgated pursuant thereto and the State Licensing Authority. A Retail Marijuana Business Operator may exercise those privileges only on behalf of the Retail Marijuana Business(es) it operates. A Retail Marijuana Business shall not contract to have more than one Retail Marijuana Business Operator providing services to the Retail Marijuana Business at any given time.

B. Licensed Premises of the Retail Marijuana Business(es) Operated. A separate License is required for each specific Retail Marijuana Business Operator, and each such licensed Retail Marijuana Business Operator may operate one or more other Retail Marijuana Business(es). A Retail Marijuana Business Operator will not have its own Licensed Premises, but shall maintain its own place of business, and may exercise the privileges of a Retail Marijuana Business Operator at the Licensed Premises of the Retail Marijuana Business(es) it operates.

C. Entities Eligible to Hold Retail Marijuana Business Operator License. A Retail Marijuana Business Operator License may be held only by a business entity, including, but not limited to, a corporation, limited liability company, partnership, or sole proprietorship.

D. Separate Place of Business. A Retail Marijuana Business Operator shall designate and maintain a place of business separate from the Licensed Premises of any Retail Marijuana Business(es) it operates. A Retail Marijuana Business Operator's separate place of business shall not be considered a Licensed Premises, and shall not be subject to the requirements applicable to the Licensed Premises of other Retail Marijuana Businesses, except as set forth in Rules 6-610 and 6-620. Possession, storage, use, cultivation, manufacture, sale, distribution, or testing of Retail Marijuana is prohibited at a Retail Marijuana Business Operator's separate place of business.

E. Agency Relationship and Discipline for Violations. A Retail Marijuana Business Operator and each of its Controlling Beneficial Owners required to hold an Owner License, as well as the agents and employees of the Retail Marijuana Business Operator, shall be agents of the Retail Marijuana Business(es) the Retail Marijuana Business Operator is contracted to operate, when engaged in activities related, directly, or indirectly, to the operation of such Retail Marijuana Business(es), including for purposes of taking administrative action against the Retail Marijuana Business being operated. *See* § 44-10-901(1), C.R.S. Similarly, a Retail Marijuana Business Operator and its Controlling Beneficial Owners required to hold an Owner License, as well as the officers, agents and employees of the Retail Marijuana Business Operator, may be disciplined for violations committed by the Controlling Beneficial Owners, agents or employees of the Retail Marijuana Business acting under their direction or control. A Retail Marijuana Business Operator may also be disciplined for violations not directly related to a Retail Marijuana Business it is operating.

F. Compliance with Applicable State and Local Law, Ordinances, Rules, and Regulations. A Retail Marijuana Business Operator, and each of its Controlling Beneficial Owners, agents and employees engaged, directly or indirectly in the operation of the Retail Marijuana Business it operates, shall comply with all state and local laws, ordinances, rules and regulations applicable to the Retail Marijuana Business(es) being operated.

Basis and Purpose – 6-610

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(o), 44-10-401(2)(b)(VI), and 44-10-606, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Retail Marijuana Business Operator. This Rule 6-610 was previously Rule R 1702, 1 CCR 212-2.

6-610 – Retail Marijuana Business Operators: General Limitations or Prohibited Acts

A. Financial Interest. A Person who holds an Owner's Interest in a Retail Marijuana Business Operator may hold an Owner's Interest in another Retail Marijuana Business. A Retail Marijuana Business may be operated by a Retail Marijuana Business Operator where each has one or more Controlling Beneficial Owners or Passive Beneficial Owners in common. A Person may receive compensation for services provided by a Retail Marijuana Business Operator in accordance with these rules.

B. Sale of Marijuana Prohibited. A Retail Marijuana Business Operator is prohibited from selling, distributing, or Transferring Retail Marijuana to another Retail Marijuana Business or a consumer, except when acting as an agent of a Retail Marijuana Business (s) operated by the Retail Marijuana Business Operator.

C. Consumption Prohibited. A Retail Marijuana Business Operator, and its Controlling Beneficial Owners, Passive Beneficial Owners, agents and employees, shall not permit the consumption of marijuana or marijuana products at its separate place of business.

D. Inventory Tracking System. A Retail Marijuana Business Operator, and any of its Controlling Beneficial Owners, agents or employees engaged in the operation of the Retail Marijuana Business(es) it operates, must use the Inventory Tracking System account of the Retail Marijuana Business(es) it operates, in accordance with all requirements, limitations and prohibitions applicable to the Retail Marijuana Business(es) it operates.

E. Compliance with Requirements and Limitations Applicable to the Retail Marijuana Business(es) Operated. In operating any other Retail Marijuana Business, a Retail Marijuana Business Operator, and its Controlling Beneficial Owners who are required to hold Owner Licenses, as well as the agents and employees of the Retail Marijuana Business Operator, shall comply with all requirements, limitations and prohibitions applicable to the type(s) of Retail Marijuana Business(es) being operated, under state and local laws, ordinances, rules, and regulations, and may be disciplined for violation of the same.

F. Inventory Tracking System Access. A Retail Marijuana Business may grant access to its Inventory Tracking System account to the Controlling Beneficial Owners, agents and employees of a Retail Marijuana Business Operator having duties related to Inventory Tracking System activities of the Retail Marijuana Business(es) being operated.

1. The Controlling Beneficial Owners, agents and employees of a Retail Marijuana Business Operator granted access to a Retail Marijuana Business's Inventory Tracking System account, shall comply with all Inventory Tracking System rules.

2. At least one Controlling Beneficial Owner of a Retail Marijuana Business being operated by a Retail Marijuana Business Operator must be an Inventory Tracking System Trained Administrator for the Retail Marijuana Business's Inventory Tracking System account. That Inventory Tracking System Trained Administrator shall control access to its Inventory Tracking System account, and shall promptly terminate the access of the Retail Marijuana Business Operator's Controlling Beneficial Owners, agents and employees:

a. When its contract with the Retail Marijuana Business Operator expires by its terms;

b. When its contract with the Retail Marijuana Business Operator is terminated by any party; or

c. When it is notified that the License of the Retail Marijuana Business Operator, or a specific Controlling Beneficial Owner, agent or employee of the Retail Marijuana Business Operator, has expired, or has been suspended or revoked.

G. Limitations on Use of Documents and Information Obtained from Retail Marijuana Businesses. A Retail Marijuana Business Operator, and its agents and employees, shall maintain the confidentiality of documents and information obtained from the other Retail Marijuana Business(es) it operates, and shall not use or disseminate documents or information obtained from a Retail Marijuana Business it operates for any purpose not authorized by the Marijuana Code and the rules promulgated pursuant thereto, and shall not engage in data mining or other use of the information obtained from a Retail Marijuana Business to promote the interests of the Retail Marijuana Business Operator or its Controlling Beneficial Owners, Passive Beneficial Owners, agents or employees, or any Person other than the Retail Marijuana Business it operates.

H. Form and Structure of Allowable Agreement(s) Between Operators and Owners. Any agreement between a Retail Marijuana Business and a Retail Marijuana Business Operator:

1. Must acknowledge that the Retail Marijuana Business Operator, and its Controlling Beneficial Owners, agents and employees who are engaged, directly or indirectly, in operating the Retail Marijuana Business, are agents of the Retail Marijuana Business being operated, and must not disclaim an agency relationship;

2. May provide for the Retail Marijuana Business Operator to receive direct remuneration from the Retail Marijuana Business, including a portion of the profits of the Retail Marijuana Business being operated, subject to the following limitations:

a. The portion of the profits to be paid to the Retail Marijuana Business Operator shall be commercially reasonable, and in any event shall not exceed the portion of the net profits to be retained by the Retail Marijuana Business being operated;

b. The Retail Marijuana Business Operator shall not be granted, and may not accept:

i. A security interest in the Retail Marijuana Business being operated, or in any assets of the Retail Marijuana Business;

ii. An ownership or membership interest, shares, or shares of stock, or any right to obtain any direct or indirect beneficial ownership interest in the Retail Marijuana Business being operated, or a future or contingent right to the same, including but not limited to options or warrants;

c. The Retail Marijuana Business Operator shall not guarantee the Retail Marijuana Business's debts or production levels.

3. Shall permit the Retail Marijuana Business being operated to terminate the contract with the Retail Marijuana Business Operator at any time, with or without cause.

I. A Retail Marijuana Business Operator may engage in dual operation of a Retail Marijuana Business and a Medical Marijuana Business at a single location, to the extent the Retail Marijuana Business being operated is permitted to do so, the Retail Marijuana Business Operator

shall comply with the rules promulgated pursuant to the Marijuana Code, including the requirement of obtaining a valid registration as a Medical Marijuana Business Operator.

J. Any Retail Marijuana Business Operators and the Retail Marijuana Business Operator's Owner Licensee(s) that are appointed by a court to serve as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person and take possession of, operate, manage, or control a Retail Marijuana Business must comply with Rule 2-275(F).

Basis and Purpose – 6-615

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(o), 44-10-313(12), 44-10-401(2)(b)(VI), and 44-10-401(2)(c) C.R.S. The purpose of this rule is to establish employee license requirements for the Retail Marijuana Business Operator's Controlling Beneficial Owners, agents and employees, including those directly or indirectly engaged in the operation of other Retail Marijuana Business(es). This Rule 6-615 was previously Rule R 1703, 1 CCR 212-2.

6-615 – Retail Marijuana Business Operators: Employee Licenses for Personnel

A. Required Licenses.

1. Owner Licenses. All natural persons who are Controlling Beneficial Owners in a Retail Marijuana Business Operator must have a valid Owner License, associated with the Retail Marijuana Business Operator License. Such an Owner License shall satisfy all licensing requirements for work related to the business of the Retail Marijuana Business Operator and for work performed on behalf of, or at the Licensed Premises of, the Retail Marijuana Business(es) operated by the Retail Marijuana Business Operator.

2. Employee Licenses. All other natural persons who are agents or employees of a Retail Marijuana Business Operator that are actively engaged, directly or indirectly, in the management, supervision, or operation of one or more other Retail Marijuana Businesses, including but not limited to all agents or employees who will come into contact with Retail Marijuana, who will have access to Limited Access Areas, or who will have access to the Inventory Tracking System account of the Retail Marijuana Business(es) being operated, must hold a valid Employee License. The Employee License shall satisfy all licensing requirements for work related to the business of the Retail Marijuana Business Operator and for work at the Licensed Premises of, or on behalf of, the Retail Marijuana Business(es) operated by the Retail Marijuana Business Operator.

B. Employee Licenses Not Required. Employee Licenses are not required for Passive Beneficial Owners of a Retail Marijuana Business Operator, or for natural persons who will not come into contact with Retail Marijuana, will not have access Limited Access Area(s) of the Retail Marijuana Business(es) being operated, and will not have access to the Inventory Tracking System account of the Retail Marijuana Business(es) being operated.

C. Designation of Management Personnel of a Retail Marijuana Business Operated by a Retail Marijuana Business Operator. If a Retail Marijuana Business Operator is contracted to manage the overall operations of a Retail Marijuana Business's Licensed Premises, the Retail Marijuana Business shall designate a separate and distinct management personnel on the Licensed Premises who is an officer, agent or employee of the Retail Marijuana Business Operator, which shall be a natural person with a valid Owner License or Employee License, as set forth in paragraph A of this Rule, and the Retail Marijuana Business shall comply with the reporting provisions of subsection 44-10-313(12), C.R.S.

Basis and Purpose – 6-620

The statutory authority for this rule includes but is not limited to 44-10-202(1)(c), 44-10-203(1)(c), and 44-10-203(1)(k), C.R.S. The purpose of this rule is to establish records retention standards for a Retail Marijuana Business Operators. This Rule 6-620 was previously Rule R 1704, 1 CCR 212-2.

6-620 – Retail Marijuana Business Operators: Business Records Required

A. General Requirement. A Retail Marijuana Business Operator must maintain all required business records as set forth in Rule 3-905 - Business Records Required, except that:

1. A Retail Marijuana Business Operator is not required to maintain secure facility information, diagrams of its designated place of business, or a visitor log for its separate place of business, because a Retail Marijuana Business Operator will not come into contact with Retail Marijuana at its separate place of business; and

2. A Retail Marijuana Business Operator is not required to maintain records related to inventory tracking, or transport, because a Retail Marijuana Business Operator is prohibited from engaging in activities on its own behalf that would require inventory tracking or transport. All records relating to inventory tracking activities and records related to transport pertaining to the Retail Marijuana Business(es) operated by the Retail Marijuana Business Operator shall be maintained at the Licensed Premises of such Retail Marijuana Business(es).

B. All records required to be maintained shall be maintained at the Licensed Premises of the Retail Marijuana Business(es) it operates.

6-700 Series – Accelerator Cultivator Licenses

Basis and Purpose – 6-705

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(j), 44-10-203(2)(r), 44-10-203(2)(aa), 44-10-203(3)(c), 44-10-401(2)(b)(VII), 44-10-602, and 44-10-607 C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to an Accelerator Cultivator licensee.

6-705 – Accelerator Cultivator: License Privileges

A. Licensed Premises.

1. Shared Licensed Premises. An Accelerator Cultivator may operate on the same Licensed Premises as a Retail Marijuana Cultivation Facility that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

2. Separate Licensed Premises. An Accelerator Cultivator may operate on a separate premises in the possession of a Retail Marijuana Cultivation Facility that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

3. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Cultivation Facility may share, and operate at, the same Licensed Premises with a commonly owned Medical Marijuana Cultivation Facility. However, a separate license is required for each specific business or business entity, regardless of geographical location. A Regulated Marijuana Business that is operating at the same premises as a commonly owned Medical Marijuana Business may become an Accelerator-Endorsed Licensee. An

Accelerator Cultivator may operate at the premises where the Accelerator-Endorsed Licensee operates along with the commonly owned Medical Marijuana Cultivation Facility.

B. Cultivation of Retail Marijuana and Production of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Retail Marijuana Concentrate Authorized. An Accelerator Cultivator may propagate, cultivate, harvest, prepare, cure, package, store, and label Retail Marijuana and Physical Separation-Based Retail Marijuana Concentrate. An Accelerator Cultivator may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Retail Marijuana Concentrate.

C. Authorized Transfers. An Accelerator Cultivator may only Transfer Retail Marijuana and Physical Separation-Based Retail Marijuana Concentrate to another Retail Marijuana Business or to a Medical Marijuana Cultivation Facility in compliance with Rule 6-230.

1. An Accelerator Cultivator shall not Transfer Flowering plants. An Accelerator Cultivator may only Transfer Vegetative plants as authorized pursuant to Rule 3-605.

2. An Accelerator Cultivator may Transfer Sampling Units of Retail Marijuana or Retail Marijuana Concentrate to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-602(6), C.R.S., and Rule 6-725.

3. An Accelerator Cultivator may Transfer Retail Marijuana or Retail Marijuana Concentrate to another Accelerator Cultivator or Retail Marijuana Cultivation Facility prior to testing required by these rules for the purpose of Decontamination only after all other steps outlined in the Accelerator Cultivator's standard operating procedures have been completed, including but not limited to drying, curing, and trimming.

D. Authorized On-Premises Storage. An Accelerator Cultivator is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area and tracked consistently with the inventory tracking rules.

E. Samples Provided for Testing. An Accelerator Cultivator may provide Samples of its Retail Marijuana to a Retail Marijuana Testing Facility for testing and research purposes. The Accelerator Cultivator shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

F. Authorized Marijuana Transport. An Accelerator Cultivator is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents an Accelerator Cultivator from transporting its own Retail Marijuana.

G. Performance-Based Incentives. An Accelerator Cultivator may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, an Accelerator Cultivator may not compensate a Sampling Manager using Sampling Units. *See* Rule 6-725 – Sampling Unit Protocols.

H. Authorized Sources of Retail Marijuana, Seeds and Immature Plants. An Accelerator Cultivator shall only obtain Retail Marijuana seeds or Immature Plants from its own Retail Marijuana, properly Transferred Medical Marijuana cultivated at a Medical Marijuana Cultivation Facility with at least one identical Controlling Beneficial Owner, or properly Transferred from another Retail Marijuana Business pursuant to the inventory tracking requirements in the 3-800 Series Rules. An Accelerator Cultivator may not bring seeds, Immature Plants, or other marijuana that is not Regulated Marijuana onto the Licensed Premises at any time.

I. Centralized Distribution Permit. An Accelerator Cultivator may apply to the State Licensing Authority for a Centralized Distribution Permit for authorization to temporarily store Retail Marijuana Concentrate and Retail Marijuana Product received from a Retail Marijuana Products Manufacturer for the sole purpose of Transfer to commonly owned Accelerator Stores.

1. For purposes of a Centralized Distribution Permit only, the term "commonly owned" means at least one natural person has a minimum of five percent ownership in both the Accelerator Cultivator possessing a Centralized Distribution Permit and the Accelerator Store to which the Retail Marijuana Concentrate and Retail Marijuana Product will be Transferred.

2. To apply for a Centralized Distribution Permit, an Accelerator Cultivator may submit an addendum to its new or renewal application or a separate addendum prior to a renewal application on forms prepared by the Division to request a Centralized Distribution Permit. The Accelerator Cultivator shall send a copy of its Centralized Distribution Permit addendum to the Local Licensing Authority in the jurisdiction in which the Centralized Distribution Permit is proposed at the same time it submits the addendum to the State Licensing Authority.

3. An Accelerator Cultivator that has been issued a Centralized Distribution Permit and has obtained all required approvals from the local licensing jurisdiction where it is located, if any, may accept Transfers of Retail Marijuana Concentrate and Retail Marijuana Product from a Retail Marijuana Products Manufacturer for the sole purpose of temporary storage and Transfer to commonly owned Accelerator Stores.

    a. An Accelerator Cultivator may only accept Retail Marijuana Concentrate and Retail Marijuana Product that is packaged and labeled for sale to a consumer pursuant to the 3-1000 Series Rules.

    b. An Accelerator Cultivator storing Retail Marijuana Concentrate and Retail Marijuana Product pursuant to a Centralized Distribution Permit shall not store such Retail Marijuana Concentrate or Retail Marijuana Product on the Accelerator Cultivator's Licensed Premises for more than 90 days from the date of receipt.

    c. All Transfers of Retail Marijuana Concentrate and Retail Marijuana Product by an Accelerator Cultivator pursuant to a Centralized Distribution Permit shall be without consideration.

4. All security and surveillance requirements that apply to an Accelerator Cultivator apply to activities conducted pursuant to the privileges of a Centralized Distribution Permit.

J. Transition Permit. An Accelerator Cultivator may only operate at two geographical locations pursuant to Rule 2-255(D).

Basis and Purpose – 6-710

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(f), 44-10-203(2)(h), 44-10-203(2)(j), 44-10-602, 44-10-701(2)(a), C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by an Accelerator Cultivator.

6-710 - Accelerator Cultivator: General Limitations or Prohibited Acts

A. Packaging and Labeling Standards Required. An Accelerator Cultivator is prohibited from Transferring Retail Marijuana that is not packaged and labeled in accordance with these rules. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

B. Transfer to Consumer Prohibited. An Accelerator Cultivator is prohibited from Transferring Retail Marijuana to a consumer. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-602(6), C.R.S., and Rule 6-725.

C. Excise Tax Paid. An Accelerator Cultivator shall remit any applicable excise tax due pursuant to Article 28.8 of Title 39, C.R.S.

D. Corrective and Preventive Action. This paragraph D shall be effective January 1, 2021. An Accelerator Cultivator shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

E. Adverse Health Event Reporting. An Accelerator Cultivator must report Adverse Health Events pursuant to Rule 3-920.

Basis and Purpose – 6-715

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(r), 44-10-401(2)(b)(VII), and 44-10-602, C.R.S. The purpose of this rule is to establish the categories of Retail Marijuana Concentrate that may be produced at Accelerator Cultivator and standards for the production of Retail Marijuana Concentrate.

6-715 – Accelerator Cultivator: Retail Marijuana Concentrate Production

A. Permitted Production of Certain Categories of Retail Marijuana Concentrate. An Accelerator Cultivator may only produce Physical Separation-Based Retail Marijuana Concentrate on its Licensed Premises and only in an area clearly designated as a Limited Access Area. *See* Rule 3-905- Business Records Required. No other method of production or extraction for Retail Marijuana Concentrate may be conducted within the Licensed Premises of An Accelerator Cultivator unless the Controlling Beneficial Owner(s) of the Accelerator Cultivator also has a valid Accelerator Manufacturer license and the room in which Retail Marijuana Concentrate is to be produced is physically separated from all cultivation areas and has clear signage identifying the room.

B. Safety and Sanitary Requirements for Concentrate Production. If an Accelerator Cultivator produces Retail Marijuana Concentrate, then all areas in which the Retail Marijuana Concentrate are produced and all Controlling Beneficial Owners and Employee Licensees engaged in the production of the Retail Marijuana Concentrate shall be subject to all of the requirements imposed upon an Accelerator Manufacturer that produces Retail Marijuana Concentrate, including all general requirements. *See* 3-300 Series Rules – Health and Safety Regulations and Rule 6-815 – Accelerator Manufacturer: Retail Marijuana Concentrate Production.

C. Possession of Other Categories of Retail Marijuana Concentrate.

1. It shall be considered a violation of this Rule if an Accelerator Cultivator possesses a Retail Marijuana Concentrate other than a Physical Separation-Based Retail Marijuana Concentrate on its Licensed Premises unless: the Controlling Beneficial Owner(s) of the Accelerator Cultivator also has a valid Accelerator Manufacturer license; or the Accelerator Cultivator has been issued a Centralized Distribution Permit and is in possession of the Retail Marijuana Concentrate in compliance with Rule 6-705(I).

2. Notwithstanding subparagraph (C)(1) of this Rule 6-715, an Accelerator Cultivator shall be permitted to possess Solvent-Based Retail Marijuana Concentrate only when the possession is due to the Transfer of Retail Marijuana flower or trim that failed microbial testing to an Accelerator Manufacturer for processing into a Solvent-Based Retail Marijuana Concentrate, and the Accelerator Manufacturer Transfers the resultant Solvent-Based Retail Marijuana Concentrate back to the originating Accelerator Cultivator.

a. The Accelerator Cultivator shall comply with all requirements in Rule 4-135(C) when having Solvent-Based Retail Marijuana Concentrate manufactured out of Retail Marijuana flower or trim that failed microbial testing.

b. The Accelerator Cultivator is responsible for submitting the Solvent-Based Retail Marijuana Concentrate for all required testing for contaminants pursuant to Rule 4-120 – Regulated Marijuana Testing Program – Contaminant Testing, for potency pursuant to Rule 4-125 – Regulated Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Marijuana Rules or the Marijuana Code.

c. Nothing in this Rule removes or alters the responsibility of the Accelerator Cultivator that Transfers the Retail Marijuana that failed microbial testing from complying with the requirement to pay excise tax pursuant to Rule 6-210(C).

D. Production of Alternative Use Product or Audited Product Prohibited. An Accelerator Cultivator shall not produce an Alternative Use Product or Audited Product.

E. Possession of Alternative Use Product or Audited Product. An Accelerator Cultivator is authorized to possess or Transfer Alternative Use Product and/or Audited Product only if the Accelerator Cultivator received the Alternative Use Product and/or Audited Product pursuant to a Centralized Distribution Permit from an Accelerator Manufacturer that is manufacturing and Transferring the Alternative Use Product or Audited Product in accordance with Rule 6-325.

Basis and Purpose – 6-720

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(6), 44-10-401(2)(b)(VII), 44-10-602 and 44-10-607 C.R.S. The rule establishes a means by which to manage the overall production of Retail Marijuana in the state of Colorado. The intent of this rule is to encourage responsible production to meet demand for Retail Marijuana consumers, while also avoiding overproduction or underproduction. The establishment of production management is necessary to ensure there is not significant under or over production, either of which will increase incentives to engage in diversion and facilitate the continuation of the sale of illegal marijuana. Existing and prospective licensees should be on notice that the new or revised regulations may impact the production limits provided for in this rule.

6-720 - Accelerator Cultivator: Production Management

A. Number of Accelerator Cultivators per Licensed Premises

1. An Accelerator Cultivator may only own and operate a single Accelerator Cultivation per Licensed Premises.

2 A Retail Marijuana Cultivation Facility Licensee that is an Accelerator-Endorsed Licensee may host more than one Accelerator Cultivation owned by different Social Equity Licensees at a single Licensed Premises.

B. Production Management.

1. Production Management Tiers.

a. Tier 1: 1 - 1,800 plants

b. Tier 2: 1,801 – 3,600 plants

c. Tier 3: 3,601 – 6,000 plants

d. Tier 4: 6,001 – 10,200 plants

e. Tier 5: 10,201 – 13,800+ plants

i. Tier 5 shall not have a cap on the maximum authorized plant count.

ii. The maximum authorized plant count above 10,200 plants shall increase in one or two increments of 3,600 plants. An Accelerator Cultivator shall be allowed to increase its maximum authorized plant count one or two increments of 3,600 plants at a time upon application and approval by the Division pursuant to the requirements of paragraph (E) of this Rule 6-720.

2. All Accelerator Cultivator licenses granted on or after January 1, 2020, will be issued as a Tier 1 License.

3. Immature Plants. For purposes of calculating the maximum number of authorized plants, Immature Plants are excluded.

4. Ground for Denial. The Division may deny an application for additional plants pursuant to paragraph E of this Rule if the Licensee exceeded the authorized plant count during the relevant time period for production.

5. Violation Affecting Public Safety. It may be considered a license violation affecting public safety for a Licensee to exceed the authorized plant count pursuant to these Rules.

C. Inventory Management.

1. Inventory Management for Accelerator Cultivators that Have One or Two Harvest Seasons a Year. Beginning the 721st day from the commencement of its first cultivation activities, an Accelerator Cultivator that has one or two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Retail Marijuana flower and trim the Licensee reported as a package in the Inventory Tracking System that was Transferred to another Retail Marijuana Business in the previous 720 days.

2. Inventory Management for Accelerator Cultivators That Have More Than Two Harvest Seasons a Year. Beginning the 181st day from the commencement of its first cultivation activities, an Accelerator Cultivator that has more than two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Retail Marijuana flower and trim the Licensee reported as a package in the Inventory Tracking System that was Transferred to another Retail Marijuana Business in the previous 180 days.

D. Tier Decrease. For Accelerator Cultivators that are authorized to cultivate more than 1,800 plants, the Division may review the purchases, Transfers, and cultivated plant count of the Accelerator Cultivator in connection with the license renewal process or after an investigation. Based on the Division's review, the Division may reduce the Accelerator Cultivator's maximum allowed plant count to a lower production management tier pursuant to subparagraph (C)(1) of this Rule. When determining whether to reduce the maximum authorized plant count, the Division may consider the following non-exhaustive factors including but not limited to:

1. The Accelerator Licensee sold less than 70% of what the inventory it reported as packaged in the Inventory Tracking System during any 180 day review period;

2. On average during the previous 180 days the Accelerator Licensee actually cultivated less than 90% of the maximum number of plants authorized by the next lower production management tier;

3. Whether the plants/inventory suffered a catastrophic event during the review period;

4. Excise tax payment history;

5. Existing inventory and inventory history;

6. Sales contracts; and

7. Any other factors relevant to ensuring responsible cultivation, production, and inventory management.

E. Application for Additional Plants.

1. Accelerator Cultivators That Have One or Two Harvest Seasons Per Year.

a. After accruing at least one harvest season of Transfers, an Accelerator Cultivator may apply to the Division for a production management tier increase to be authorized to cultivate the number of plants in the next highest production management tier. The Division may consider the following in determining whether to approve the production management tier increase:

   i. That during the previous harvest season prior to the tier increase application, it consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count;

   ii. That the Accelerator Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System in the previous 360 days to another Retail Marijuana Business;

   iii. The Division may also consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the previous 360 days, if the Licensee cultivated between 75% and 85% of its maximum authorized plant count; and

   iv. Any other information requested to aid the Division in its evaluation of the production management tier increase application.

b. If the Division approves the production management tier increase application, the Accelerator Licensee shall pay the applicable expanded production management tier fee prior to cultivating the additional authorized plants.

c. For an Accelerator Licensee with an authorized plant count in tiers 2-5 to continue producing at its expanded authorized plant count, the Accelerator Licensee shall pay the requisite Accelerator Cultivator license fee and the expanded production management tier fee, if applicable, at license renewal.

d. After accruing one harvest season during which the Accelerator Cultivator Transferred and consistently cultivated the Accelerator Licensee may apply to increase its authorized plant count by: (a) two production management tiers or (b) if already authorized to cultivate at a production management Tier 5, two increments of 3,600 plants (7,200 plants total), every 360 days. It is within the Division's discretion to determine whether or not to grant the requested two tiers or increments of 3,600 plants (7,200 plants total).

   i. The Accelerator Licensee must demonstrate:

      A. That the Accelerator Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count; and

      B. That the Accelerator Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business.

      C. If the Accelerator Cultivator cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a package in the Inventory Tracking System during that time

period and/or Transfers into the Accelerator Cultivator or related Accelerator Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Accelerator Cultivator currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two tiers or two 3,600 plant increments;

B. The Accelerator Cultivator cultivated at least 90% of its maximum authorized plant count and during the preceding 360 days the Accelerator Cultivator and/or any commonly owned Accelerator Store Transferred in Retail Marijuana from one or more unrelated Accelerator Cultivator(s) or Retail Marijuana Cultivation Facility(ies);

C. The Accelerator Cultivator has contracts for the sale of Retail Marijuana in the next 360 days supporting the requested two tiers or two increments of 3,600 plants;

D. An established history of responsible cultivation and Transfer by the Accelerator Cultivator;

E. Any history of noncompliance with the Marijuana Code and/or Rules by the Accelerator Cultivator, or any commonly owned Retail Marijuana Business, and/or any investigation of, or administrative action(s) against, the Accelerator Cultivator, or any commonly owned Retail Marijuana Business; or

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

2. Accelerator Cultivators that have more than two harvest seasons per year.

a. After a 180-day period during which the Accelerator Cultivator Transferred and consistently cultivated, the Accelerator Licensee may apply to the Division for a production management tier increase to be authorized to cultivate the number of plants in the next highest production management tier. The Division may consider the following in determining whether to approve the production management tier increase:

i. That for 180 days prior to the tier increase application, the Accelerator Licensee consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count, and

ii. That the Accelerator Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business.

iii. The Division may also consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the 180-day time period if the Licensee cultivated between 75% and 85% of its maximum authorized plant count.

iv. Any other information requested to aid the Division in its evaluation of the tier increase application.

b. If the Division approves the production management tier increase application, the Accelerator Licensee shall pay the applicable expanded production management tier fee, if applicable, prior to cultivating the additional authorized plants.

c. For an Accelerator Licensee with an authorized plant count in tier 2-5 to continue producing at its expanded authorized plant count, the Accelerator Licensee shall pay the requisite Accelerator Cultivator license fee and the applicable expanded production management tier fee, if applicable, at license renewal.

d. After accruing 180 days during which the Accelerator Cultivator Transferred and consistently cultivated the Accelerator Licensee may apply to increase its authorized plant count by: (a) two production management tiers or (b) if already authorized to cultivate at a tier 5, two increments of 3,600 plants (7,200 plants total) every 180 days. It is within the Division's discretion to determine whether or not to grant the requested two tier or two increments of 3,600 plants (7,200 plants total).

i. The Accelerator Licensee must demonstrate:

A. That the Accelerator Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count; and

B. That the Accelerator Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business;

C. If the Accelerator Cultivator cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a package in the Inventory Tracking system during that time period and/or Transfers into the Accelerator Cultivator or related Accelerator Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Accelerator Cultivator currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two tiers or two increments of 3,600 plants;

B. The Accelerator Cultivator cultivated at least 90% of its maximum authorized plant count and during the preceding 180 days the Accelerator Cultivator and/or any commonly owned Accelerator Store Transferred in Retail Marijuana from one or more unrelated Accelerator Cultivator(s) or Retail Marijuana Cultivation Facility(ies);

C. The Accelerator Cultivator has entered into a written agreement(s) or contract(s) for the sale of Retail Marijuana in the

next 180 days supporting the requested two tiers or two increments of 3,600 plants;

D. An established history of responsible cultivation and Transfer by the Accelerator Cultivator;

E. Any history of noncompliance with the Marijuana Code and/or Rules by the Accelerator Cultivator or any commonly owned Retail Marijuana Business(es), and/or any investigation of, or administrative action(s) against, the Accelerator Cultivator or any commonly owned Retail Marijuana Business;

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

3. Application for Tier Increase. Applications for a tier increase that include any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation will be denied. In addition to denial, any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation is a public safety violation that may result in administrative action.

Basis and Purpose – 6-725

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(VII), 44-10-602(6) and 44-10-607, C.R.S. The purpose of this rule is to establish the circumstances under which an Accelerator Cultivator may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's Regulated Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting and recordkeeping requirements on an Accelerator Cultivator that Transfer Sampling Units.

6-725 – Accelerator Cultivator - Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, an Accelerator Cultivator may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Accelerator Cultivator who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. A person may be designated as a Sampling Manager by more than one Medical Marijuana Business or Retail Marijuana Business.

3. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

4. An Accelerator Cultivator that wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-602(6), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 6-225. *See also* Rule 3-905 – Business Records Required. An Accelerator Cultivator shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Harvest Batch or Production Batch. A Sampling Unit shall not be designated until the Harvest Batch or Production Batch has satisfied the testing requirements in the 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Retail Marijuana flower or trim shall not exceed one gram.

2. A Sampling Unit of Retail Marijuana Concentrate shall not exceed one-quarter of one gram; except that a Sampling Unit of Retail Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Excise Tax Requirements. An Accelerator Cultivator must pay excise tax on Sampling Units of Retail Marijuana flower or trim, based on the average market rate of the unprocessed Retail Marijuana.

D. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Accelerator Cultivator as a Sampling Manager for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than one ounce of Retail Marijuana or eight grams of Retail Marijuana Concentrate.

4. The monthly limit established in subparagraph (D)(3) applies to each Sampling Manager, regardless of the number of Retail Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (D)(3). Before Transferring any Sampling Units, an Accelerator Cultivator shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limits established in subparagraph (D)(3).

6. A Sampling Manager shall not Transfer any Sampling Unit to any other Person, including but not limited to any other Person designated as a Sampling Manager.

E. Compensation Prohibited. An Accelerator Cultivator may not use Sampling Units to compensate a Sampling Manager.

F. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

G. Acceptable Purposes. Sampling Units shall only be designated and Transferred for the purposes of quality control and product development in accordance with section 44-10-602(6), C.R.S.

H. Record keeping requirements. An Accelerator Cultivator shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, an Accelerator Cultivator shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of quality control

or product development. An Accelerator Cultivator shall also maintain copies of the Accelerator Cultivator standard operating procedures provided to Sampling Managers.

I. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-730

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(II), 44-10-602(13)(a)-(c), 44-10-602(13.5), 44-10-607, and 39-28.8-301, C.R.S. The purpose of this rule is to allow a Medical Marijuana Cultivation Facility to receive Transfers of Retail Marijuana from a Retail Marijuana Cultivation Facility in order to change its designation from "Retail" to "Medical."

6-730 – Accelerator Cultivator: Ability to Change Designation of Regulated Marijuana

A. Changing Designation from Retail Marijuana to Medical Marijuana. Beginning July 1, 2022, an Accelerator Cultivator may Transfer Retail Marijuana to a Medical Marijuana Cultivation Facility in order to change its designation from Retail Marijuana to Medical Marijuana pursuant to the following requirements:

1. The Accelerator Cultivator may only Transfer Retail Marijuana that has passed all required testing;

2. The Medical Marijuana Cultivation Facility and the Accelerator Cultivator share a Licensed Premises in accordance with Rule 3-215;

3. The Medical Marijuana Cultivation Facility and Accelerator Cultivator have at least one identical Controlling Beneficial Owner;

4. The Accelerator Cultivator must report the Transfer in the Inventory Tracking System the same day that the change in designation from Retail Marijuana to Medical Marijuana occurs;

5. After the designation change, the Medical Marijuana cannot be Transferred to the originating Accelerator Cultivator or any other Retail Marijuana Business or otherwise be treated as Retail Marijuana. The Inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules;

6. Both the Accelerator Cultivator and the Medical Marijuana Cultivation Facility must remain at, or under, its respective inventory limit before and after the Retail Marijuana changes its designation to Medical Marijuana; and

7. The Transfer and change of designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change of designation.

B. Changing Designation from Medical Marijuana to Retail Marijuana. Beginning January 1, 2023, an Accelerator Cultivator may accept Medical Marijuana from a Medical Marijuana Cultivation Facility in order to change its designation from Medical Marijuana to Retail Marijuana pursuant to the following requirements:

1. The Accelerator Cultivator may only accept Medical Marijuana that has passed all required testing in accordance with the 4-100 Series Rules – Regulated Marijuana Testing Program;

2. The Accelerator Cultivator and the Medical Marijuana Cultivation Facility share a Licensed Premises in accordance with Rule 3-215, unless:

   a. The Accelerator Cultivator and Medical Marijuana Cultivation Facility have at least one identical Controlling Beneficial Owner; and

   b. The Accelerator Cultivator and the Medical Marijuana Cultivation Facility cannot share a Licensed Premises because the Local Licensing Authority or Local Jurisdiction prohibits the operation of either a Retail Marijuana Cultivation Facility or a Medical Marijuana Cultivation Facility.

3. The Accelerator Cultivator and Medical Marijuana Cultivation Facility have at least one identical Controlling Beneficial Owner;

4. The Accelerator Cultivator must receive the Transfer and designate the inventory as Retail Marijuana in the Inventory Tracking System the same day. The Accelerator Cultivator must assign and attach an RFID tag reflecting its Accelerator Cultivator License number to the Retail Marijuana following completion of the Transfer in the Inventory Tracking System;

5. After the designation change, the Retail Marijuana cannot be Transferred to the originating or any other Medical Marijuana Business or otherwise be treated as Medical Marijuana. The inventory is Retail Marijuana and is subject to all permissions and limitations in the 6-200 Series Rules and these 6-700 Series Rules;

6. Both the Accelerator Cultivator and the Medical Marijuana Cultivation Facility must remain at, or under, its inventory limit before and after the Medical Marijuana changes its designation to Retail Marijuana;

7. The Accelerator Cultivator shall pay any Retail Marijuana excise tax that is imposed pursuant to section 39-28.8-302, C.R.S.;

8. The Accelerator Cultivator shall notify the Local Licensing Authority and Local Jurisdiction where the Accelerator Cultivator and the Medical Marijuana Cultivation Facility operate and pay any applicable excise tax on the Retail Marijuana in the manner determined by the Local Licensing Authority and Local Jurisdiction; and

9. Pursuant to the requirements of this subparagraph (B), an Accelerator Cultivator may receive a virtual Transfer of Medical Marijuana that is reflected in the Inventory Tracking System even if the Medical Marijuana is not physically moved prior to the change of designation to Retail Marijuana.

Basis and Purpose – 6-735

The Statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(j.5), 44-10-203(1)(k), 44-10-401(2)(b)(II), and 44-10-502(10)(a)-(c) The purpose of this rule is to allow an Accelerator Cultivator licensees that plan to cultivate Retail Marijuana outdoors to submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event.

6-735 Accelerator Cultivator: Contingency Plan for Outdoor Cultivation

A. Submission of Contingency Plan.

1. Beginning January 1, 2022, Accelerator Cultivator Licensees that plan to cultivate Retail Marijuana outdoors may submit a contingency plan to the Division for approval in

anticipation of an Adverse Weather Event. The Accelerator Cultivator shall also submit a copy of the plan to the Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Retail Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

2. An Accelerator Cultivator may submit a contingency plan at any time, but it must be filed at least 7 days prior to taking action pursuant to the contingency plan and must be approved by the State Licensing Authority prior to taking action pursuant to the contingency plan.

3. After initial submission and approval of a contingency plan, a contingency plan must be submitted with the Accelerator Cultivator's license renewal application. Any significant change to a contingency plan prior to a renewal application must be submitted for review and approval pursuant to subsection (A)(2) above prior to taking action pursuant to the revised contingency plan.

4. The Division shall notify the appropriate Local Licensing Authorities of the approval of the contingency plan.

B. Requirements for Outdoor Contingency Plans.

1. Identification of the type of Adverse Weather Event that the plan applies to, including any deviations based on the type of Adverse Weather Event.

2. Primary contact. A primary contact for the Accelerator Cultivator must be identified on the contingency plan, including the: name, title, phone number, and email address of the primary contact. The Accelerator Cultivator shall notify the Division of any change to the primary contact or required contact information within 48 hours of the change.

3. Transport Manifest. If the contingency plan provides for the Transfer of Retail Marijuana, an Accelerator Cultivator shall submit a standing transport manifest that could be used by a Licensee upon approval during an Adverse Weather Event if creating a transport manifest through the Inventory Tracking System is impracticable. The standing transport manifest shall include: identification and address of the receiving Licensee.

4. Disclosure of Receiving Licensed Premises.

a. Retail Marijuana may only be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or an off-premises storage facility.

b. If Retail Marijuana will be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility pursuant to a contingency plan, that plan must include the name, ownership, and address of the receiving Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility, along with a diagram of the proposed receiving Licensed Premises.

c. The receiving Licensed Premises shall be an existing location that currently holds an approved state and local license or an off-premises storage facility permit. The receiving Licensee is not required to share any Controlling Beneficial Owners with the Transferring Retail Marijuana Cultivation Facility.

d. An Accelerator Cultivator that cultivates outdoors may identify and Transfer Retail Marijuana to no more than five receiving Licensed Premises' as part of a contingency plan.

5. Disclosure of Modifications to the Premises and Security and Surveillance. Proposed modifications to the Licenses Premises and any anticipated impacts to compliance with security and surveillance requirements pursuant to Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6).

C. License Requirements when Acting Pursuant to a Contingency Plan. To the extent that this subsection (C) conflicts with other rule sections, this subsection shall control during the time that a Licensee is acting pursuant to a contingency plan.

1. Notification.

a. Notification of action pursuant to an approved contingency plan shall be made to the Division within 24 hours after initiating action pursuant to a contingency plan. An Accelerator Cultivator that cultivates outdoors must also notify the Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Retail Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

b. Notification of ceasing action pursuant to the approved contingency plan shall be made to the Division within 24 hours of returning to normal business operations. If action will continue more than 7 days after initiating action pursuant to a contingency plan, the Licensee shall contact the Division and explain why it cannot return to normal business operations.

c. Any notification shall be made in writing and can be made by email to the Division.

2. Production Management. Retail Marijuana Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility pursuant to a contingency plan is not included in the receiving Licensed Premises' inventory limit until the Accelerator Cultivator acting pursuant to the contingency plan returns to normal business operations.

3. Modification of Premises. An application for a modification of a Licensed Premises is not required as part of a contingency plan unless the modification or change in premises becomes a permanent modification. If that change becomes a permanent change, a modification of premises application must be submitted within 14 days.

4. Security Requirements. All security and surveillance requirements that apply to an Accelerator Cultivator apply to activities conducted pursuant to the contingency plan. If the contingency plan does not require the Transfer of Regulated Marijuana to another Licensed Premises, but requires plants to be covered or video surveillance to be otherwise temporarily obstructed, exemptions to the video surveillance requirements in Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6) may be approved as part of the contingency plan.

5. Inventory Tracking Requirements. Licensees must use the Inventory Tracking System to ensure Retail Marijuana is identified and tracked during all times that action is being taken pursuant to a contingency plan. If an Accelerator Cultivator harvests, Transfers, or

packages Retail Marijuana it must be fully reconciled in the Inventory Tracking System within 48 hours of initiating action pursuant to the contingency plan.

a. Harvest Requirements. If Retail Marijuana is harvested, the weight of Retail Marijuana can be captured on a per harvest level and equally applied to individual plants rather than requiring the initial wet weight of each plant. This initial harvest weight may be captured at a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility upon arrival at the Licensed Premises approved as part of the contingency plan. Harvest Batches and Inventory Tracking System packages must be reported by the Retail Marijuana Cultivation Facility acting pursuant to the contingency plan in the Inventory Tracking System.

b. Transport Manifest. The Accelerator Cultivator acting pursuant to the contingency plan must report all Retail Marijuana that is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility on a transport manifest.

i. A Licensee may use the approved standing transport manifest during an Adverse Weather Event only when using the Inventory Tracking System is not possible.

ii. The Licensee shall manually fill out the dates, times, and individual transporting Retail Marijuana on a copy of the standing transport manifest.

iii. The Licensee shall ensure the standing transport manifest and copy of the approved Contingency plan remain in the Licensee's possession during any transport of Retail Marijuana when it is not possible to use an Inventory Tracking System generated transportation manifest at the time of the Adverse Weather Event.

6. Transfers. If Retail Marijuana is Transferred to another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility it is exempted from the packaging and labeling requirements in Rule 3-1005(B).

7. Virtual and Physical Separation. If Retail Marijuana is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility that inventory must be virtually separated by Harvest Batch and must also be virtually and physically separated from the receiving Licensee's inventory. Harvest Batches must also be clearly identified at the receiving Licensed Premises with the Harvest Batch name and date of harvest.

8. Finishing Product. After Transferring Retail Marijuana to another Licensed Premises, an Accelerator Cultivator may finish that harvest at the receiving Licensed Premises if all Retail Marijuana is accounted for in the Inventory Tracking System and the Licensed Premises is in compliance with all surveillance requirements.

9. Testing. The originating Licensee acting pursuant to a contingency plan is responsible for the submission of Test Batch(es).

a. Each Harvest Batch or Production Batch Transferred pursuant to a contingency plan must be submitted for all required tests and is not eligible for a Reduced Testing Allowance or otherwise exempt from required testing.

b. Any passing or failing tests of a Harvest Batch or Production Batch Transferred pursuant to a contingency plan will not count for or against a Licensee's Reduced Testing Allowance.

6-800 Series – Accelerator Manufacturer Licenses

Basis and Purpose – 6-805

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-203(2)(aa), 44-10-307(1)(j), 44-10-401(2)(b)(VIII), 44-10-603 and 44-10-608, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to an Accelerator Manufacturer.

6-805 – Accelerator Manufacturer: License Privileges

A. Licensed Premises.

1. Shared Licensed Premises. An Accelerator Manufacturer may operate on the same Licensed Premises as a Retail Marijuana Products Manufacturer that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

2. Separate Licensed Premises. An Accelerator Manufacturer may operate on a separate premises in the possession of a Retail Marijuana Products Manufacturer that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

3. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Products Manufacturer may share, and operate at, the same Licensed Premises with a commonly owned Medical Marijuana Products Manufacturer Facility. However, a separate license is required for each specific business or business entity, regardless of geographical location. A Regulated Marijuana Business that is operating at the same premises as a commonly owned Medical Marijuana Business may become an Accelerator-Endorsed Licensee. An Accelerator Manufacturer may operate at the premises where the Accelerator-Endorsed Licensee operates along with the commonly owned Medical Marijuana Products Manufacturer.

B. Authorized Transfers. An Accelerator Manufacturer is authorized to Transfer Retail Marijuana as follows:

1. Retail Marijuana Concentrate and Retail Marijuana Product.

a. An Accelerator Manufacturer may Transfer Retail Marijuana Concentrate or Retail Marijuana Product to Retail Marijuana Stores, Accelerator Stores, other Accelerator Manufacturers, Retail Marijuana Products Manufacturers, Retail Marijuana Testing Facilities, Retail Marijuana Hospitality and Sales Businesses, and Pesticide Manufacturers.

b. An Accelerator Manufacturer may Transfer Retail Marijuana Product and Retail Marijuana Concentrate to a Retail Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit.

i. Prior to any Transfer pursuant to this Rule 6-805(B)(1)(b), an Accelerator Manufacturer shall verify the Retail Marijuana Cultivation Facility possesses a valid Centralized Distribution Permit. *See* Rule 6-205 – Retail Marijuana Cultivation Facility: License Privileges.

ii. For any Transfer pursuant to this Rule 6-805(B)(1)(b), an Accelerator Manufacturer shall only Transfer Retail Marijuana Product and Retail Marijuana Concentrate that is packaged and labeled for Transfer to a consumer. *See* 3-1000 Series Rules.

c. An Accelerator Manufacturer may Transfer Retail Marijuana Concentrate to a Medical Marijuana Products Manufacturer in compliance with Rule 6-335.

2. Retail Marijuana. An Accelerator Manufacturer may Transfer Retail Marijuana to other Accelerator Manufacturers, Retail Marijuana Products Manufacturer, Retail Marijuana Testing Facilities, Accelerator Stores, and Retail Marijuana Stores.

3. Sampling Units. An Accelerator Manufacturer may also Transfer Sampling Units of its own Retail Marijuana Concentrate or Retail Marijuana Product to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-603(10), C.R.S., and Rule 6-820.

C. Manufacture of Retail Marijuana Concentrate and Retail Marijuana Product and Production of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana Authorized. An Accelerator Manufacturer may manufacture, prepare, package, store, and label Retail Marijuana Concentrate and Retail Marijuana Product comprised of Retail Marijuana and other Ingredients intended for use or consumption, such as Edible Retail Marijuana Products, ointments, or tinctures. An Accelerator Manufacturer may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana.

1. Industrial Hemp Product Authorized. An Accelerator Manufacturer that uses Industrial Hemp Product as an Ingredient in the manufacture and preparation of Retail Marijuana Product must comply with this subparagraph (C)(1) of this Rule.

a. Prior to accepting and taking possession of any Industrial Hemp Product for use as an Ingredient in a Retail Marijuana Product the Accelerator Manufacturer shall verify the following:

i. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Retail Marijuana Testing Facility; and

ii. That the Person Transferring the Industrial Hemp Product to the Accelerator Manufacturer is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

D. Location Prohibited. An Accelerator Manufacturer may not manufacture, prepare, package, store, or label Retail Marijuana Concentrate or Retail Marijuana Product in a location that is operating as a retail food establishment.

E. Samples Provided for Testing. An Accelerator Manufacturer may provide samples of its Retail Marijuana Concentrate or Retail Marijuana Product to a Retail Marijuana Testing Facility for testing and research purposes. The Accelerator Manufacturer shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

F. Authorized Marijuana Transport. An Accelerator Manufacturer is authorized to utilize a Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken is a Retail Marijuana Business and the transportation order is delivered to a Retail Marijuana Business or Pesticide Manufacturer. Nothing in this Rule prevents an Accelerator Manufacturer from transporting its own Retail Marijuana.

G. Performance-Based Incentives. An Accelerator Manufacturer may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, an Accelerator Manufacturer may not compensate a Sampling Manager using Sampling Units. *See* Rule 6-820 – Sampling Unit Protocols.

Basis and Purpose – 6-810

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-203(2)(aa), 44-10-203(3)(d), 44-10-401(2)(b)(VIII), 44-10-603, 44-10-608 and 44-10-701(2)(a), C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion or prohibited by an Accelerator Manufacturer.

6-810 – Accelerator Manufacturer: General Limitations or Prohibited Acts

A. Packaging and Labeling Standards Required. An Accelerator Manufacturer is prohibited from Transferring Retail Marijuana Concentrate or Retail Marijuana Product that are not properly packaged and labeled. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

B. THC Content Container Restriction. Each individually packaged Edible Retail Marijuana Product, even if comprised of multiple servings, may include no more than a total of 100 milligrams of active THC. *See* Rule 3-1010 – Packaging and Labeling – General Requirements Prior to Transfer to a Consumer.

1. Exception for Bulk Transfers to Retail Marijuana Hospitality and Sales Businesses. An individually packaged Edible Retail Marijuana Product comprised of multiple servings that is Transferred in bulk to a Retail Marijuana Hospitality and Sales Establishment may include more than a total of 100 milligrams of active THC.

i. An Accelerator Manufacturer shall develop and maintain standard operating procedures, and any additional equipment necessary, to ensure that a Retail Marijuana Hospitality and Sales Business receiving bulk Transfers of Edible Retail Marijuana Product can measure accurately the Edible Retail Marijuana Product in single serving sizes equal to or less than 10 milligrams of active THC per serving.

C. Transfer to Consumer Prohibited. An Accelerator Manufacturer is prohibited from Transferring Retail Marijuana to a consumer. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-603(10), C.R.S., and Rule 6-820.

D. Adequate Care of Perishable Product. An Accelerator Manufacturer must provide adequate refrigeration for perishable Retail Marijuana Product that will be consumed and shall utilize adequate storage facilities and transport methods.

E. Homogeneity of Edible Retail Marijuana Product. An Accelerator Manufacturer must ensure that its manufacturing processes are designed so that the Cannabinoid content of any Edible Retail Marijuana Product is homogenous.

F. Use of Ingredients. An Accelerator Manufacturer must obtain and maintain certificates of analysis or other records demonstrating the full composition of each Ingredient used in the manufacture of Vaporizer Delivery Devices or Pressurized Metered Dose Inhalers.

G. Corrective and Preventive Action. This paragraph G shall be effective January 1, 2021. An Accelerator Manufacturer shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements

listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation.

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

H. Adverse Health Event Reporting. An Accelerator Manufacturer must report Adverse Health Events pursuant to Rule 3-920.

Basis and Purpose – 6-815

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-401(2)(b)(VIII), 44-10-203(2)(aa), 44-10-603, and 44-10-608, C.R.S. The purpose of this rule is to establish the categories of Retail Marijuana Concentrate that may be produced at an Accelerator Manufacturer and establish standards for the production of Retail Marijuana Concentrate. Nothing in this rule authorizes the unlicensed practice of engineering under Article 25 of Title 12, C.R.S.

6-815 – Accelerator Manufacturer: Retail Marijuana Concentrate Production

A. Permitted Categories of Retail Marijuana Concentrate Production.

1. An Accelerator Manufacturer may produce Physical Separation-Based Retail Marijuana Concentrate, Food-Based Retail Marijuana Concentrate and Heat/Pressure-Based Retail Marijuana Concentrate.

2. An Accelerator Manufacturer may also produce Solvent-Based Retail Marijuana Concentrate using only the following solvents: butane, propane, CO_2, ethanol, isopropanol, acetone, heptane, ethyl acetate, and pentane. The use of any other solvent is expressly prohibited unless it is approved by the Division.

3. An Accelerator Manufacturer may submit a request to the Division to consider the approval of solvents not permitted for use under this Rule during the next permanent rulemaking.

B. General Applicability. An Accelerator Manufacturer that engages in the production of Retail Marijuana Concentrate, regardless of the method of extraction or category of concentrate being produced, must:

1. Ensure that the space in which any Retail Marijuana Concentrate is to be produced is a fully enclosed room and clearly designated on the current diagram of the Licensed Premises. *See* Rule 3-905- Business Records Required.

2. Ensure that all applicable sanitary rules are followed. *See* 3-300 Series Rules.

3. Ensure that the standard operating procedure for each method used to produce a Retail Marijuana Concentrate includes, but need not be limited to, step-by-step instructions on how to safely and appropriately:

   a. Conduct all necessary safety checks prior to commencing production;

   b. Prepare Retail Marijuana for processing;

   c. Extract Cannabinoids and other essential components of Retail Marijuana;

   d. Purge any solvent or other unwanted components from a Retail Marijuana Concentrate,

   e. Clean all equipment, counters and surfaces thoroughly; and

   f. Dispose of any waste produced during the processing of Retail Marijuana in accordance with all applicable local, state and federal laws, rules and regulations. *See* Rule 3-230 – Waste Disposal.

4. Establish written and documentable quality control procedures designed to maximize safety for Owner Licensees and Employee Licensees and minimize potential product contamination.

5. Establish written emergency procedures to be followed by Owner Licensees or Employee Licensees in case of a fire, chemical spill or other emergency.

6. Have a comprehensive training manual that provides step-by-step instructions for each method used to produce a Retail Marijuana Concentrate. The training manual must include, but need not be limited to, the following topics:

   a. All standard operating procedures for each method of concentrate production used;

   b. The Accelerator Manufacturer’s quality control procedures;

   c. The emergency procedures;

   d. The appropriate use of any necessary safety or sanitary equipment;

   e. The hazards presented by all solvents used as described in the safety data sheet for each solvent;

f. Clear instructions on the safe use of all equipment involved in each process and in accordance with manufacturer's instructions, where applicable; and

g. Any additional periodic cleaning required to comply with all applicable sanitary rules.

7. Provide adequate training to every Owner Licensee or Employee Licensee prior to that individual undertaking any step in the process of producing a Retail Marijuana Concentrate.

a. Adequate training must include, but need not be limited to, providing a copy of the training manual for that Licensed Premises and live, in-person instruction detailing at least all of the topics required to be included in the training manual.

b. The individual training an Owner Licensee or Employee Licensee must sign and date a document attesting that all required aspects of training were conducted and that he or she is confident that the Owner Licensee or Employee Licensee can safely produce a Retail Marijuana Concentrate. *See* Rule 3-905 – Business Records Required.

c. The Owner Licensee or Employee Licensee that received the training must sign and date a document attesting that he or she can safely implement all standard operating procedures, quality control procedures, and emergency procedures, operate all closed-loop extraction systems, use all safety, sanitary and other equipment and understands all hazards presented by the solvents to be used within the Licensed Premises and any additional periodic cleaning required to maintain compliance with all applicable sanitary rules. *See* Rule 3-905 – Business Records Required.

8. Maintain clear and comprehensive records of the name, signature and Owner Licensee or Employee License number of every individual who engaged in any step related to the creation of a Production Batch of Retail Marijuana Concentrate and the step that individual performed. *See* Rule 3-905 – Business Records Required.

9. Accelerator Manufacturers Engaged in the Remediation of Retail Marijuana for elemental impurities. Retail Marijuana Products Manufacturers engaged in the Remediation of Retail Marijuana for elemental impurities shall:

a. Implement effective cleaning procedures, additional testing plans, and other measures that will be performed to prevent cross contamination.

i. If potentially contaminated equipment, ingredients, or solvents used in the Remediation process are used for processing other 'non remediated' material, the subsequent Production Batch made using the equipment, ingredients, or solvent must then be tested for elemental impurities, and the Production Batch made using that equipment, ingredients, or solvents is not eligible for a Reduced Testing Allowance or otherwise exempt from required testing.

ii. Manufacturers must document the equipment and lots of ingredients/solvents used in Remediation to ensure this requirement is met.

b. Register as a hazardous waste generator, obtain a U.S. Environmental Protection Agency ID number for manifesting hazardous waste, and must have a

disposal contract in place with a hazardous waste management company prior to attempting Remediation.

c. Have a staff member who has received basic training in hazardous waste identification, storage, and disposal procedures, or hire a consultant who satisfies this criteria.

d. Regardless of which type of analyte, if the Retail Marijuana flower, wet whole plant, or trim has failed testing for elemental impurities, the Licensee must implement Standard Operating Procedures to ensure:

i. That contaminated material is stored in a labelled container identifying the material as potentially hazardous, and that the container seals in such a way to prevent the risk of cross contamination or inhalation of dusts.

ii. That when material is removed from the sealed container and handled in any fashion (preparation, the extraction or other Remediation process, wasting, etc.), any workers exposed to dusts or particulates generated from the material must wear appropriate personal protective equipment (PPE), including at minimum: gloves, American National Standards Institute (ANSI) Z87.1 safety glasses, and a respirator rated to protect them from airborne dusts or particulates that may contain elemental impurities. Respirators should utilize National Institute for Occupational Safety and Health rated particulate filters of sufficient grade to prevent exposure to airborne dusts that could contain elemental impurities.

A. Workers utilizing a respirator must comply with applicable Occupational Safety and Health Administration regulations regarding respirator use before handling contaminated material. This includes receiving respirator clearance from a qualified professional and passing a respirator fit test before using a respirator.

e. Additional forms of environmental airborne particulate control, such as industrial air filtration systems, handling material inside of enclosures, etc. must be implemented by the licensee to minimize the risk of exposure or cross contamination of contaminated dusts.

f. These steps must be documented in the licensee's respiratory protection program that all employees exposed to elemental impurities contaminated plant material and waste products must be trained on.

g. The Licensee must establish and train employees on SOPs designed to safely handle this contaminated material and prevent cross contamination.

h. Mercury poses additional workplaces hazards since it is easily volatilized and since mercury vapor is highly toxic. Before attempting to remediate any Regulated Marijuana flower, wet whole plant, or trim that has failed elemental impurities testing and contains mercury, Licensees must additionally:

i. Work with a certified industrial hygienist to develop and implement some form of monitoring program that is capable of detecting mercury vapor concentrations in the areas where material contaminated with mercury will be processed and can be used to generate time weighted average

exposures to mercury vapor. The monitoring system must be sufficient to ensure airborne concentrations of mercury do not exceed Occupational Safety and Health Administration Permissible Exposure Limits for Airborne Contaminants.

ii. Have a certified industrial hygienist approve the licensee's air handling system for managing mercury vapors in a fashion that is compliant with the Occupational Safety and Health Administration, and other applicable federal, state, and local regulations.

iii. Utilize a National Institute for Occupational Safety and Health rated half mask respirator with cartridges rated specifically for mercury vapor.

i. A Licensee must ensure their processes and safety practices comply with applicable federal, state, and local environmental health and safety regulations.

C. Physical Separation-Based Retail Marijuana Concentrate, Food-Based Retail Marijuana Concentrate and Heat/Pressure-Based Retail Marijuana Concentrate. An Accelerator Manufacturer that engages in the production of a Retail Marijuana Concentrate must:

1. Ensure that all equipment, counters and surfaces used in the production of Retail Marijuana Concentrate is food-grade including ensuring that all counters and surface areas were constructed in such a manner that it reduces the potential for the development of microbials, molds and fungi and can be easily cleaned.

2. Ensure that all equipment, counters, and surfaces used in the production of a Retail Marijuana Concentrate are thoroughly cleaned after the completion of each Production Batch.

3. Ensure that any room in which dry ice is stored or used in processing Retail Marijuana into a Retail Marijuana Concentrate is well ventilated to prevent against the accumulation of dangerous levels of CO_2.

4. Ensure that the appropriate safety or sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Retail Marijuana Concentrate.

5. Ensure that only finished drinking water and ice made from finished drinking water is used in the production of a Physical Separation-Based Retail Marijuana Concentrate.

6. Ensure that if propylene glycol or glycerin is used in the production of a Food-Based Retail Marijuana Concentrate, then the propylene glycol or glycerin to be used is food-grade.

7. Follow all of the rules related to the production of a Solvent-Based Retail Marijuana Concentrate if a pressurized system is used in the production of a Retail Marijuana Concentrate.

D. Solvent-Based Retail Marijuana Concentrate. An Accelerator Manufacturer that engages in the production of Solvent-Based Retail Marijuana Concentrate must:

1. Obtain a report from an Industrial Hygienist or a Professional Engineer that certifies that the equipment, Licensed Premises and standard operating procedures comply with these rules and all applicable local and state building codes, fire codes, electrical codes and other laws. If a Local Jurisdiction has not adopted a local building code or fire code or if

local regulations do not address a specific issue, then the Industrial Hygienist or Professional Engineer shall certify compliance with the International Building Code of 2012 (http://www.iccsafe.org), the International Fire Code of 2012 (http://www.iccsafe.org) or the National Electric Code of 2014 (http://www.nfpa.org), as appropriate. Note that this Rule does not include any later amendments or editions to each Code. The Division has maintained a copy of each code, each of which is available to the public;

a. Flammable Solvent Determinations. If a Flammable Solvent is to be used in the processing of Retail Marijuana into a Retail Marijuana Concentrate, then the Industrial Hygienist or Professional Engineer must:

   i. Establish a maximum amount of Flammable Solvents and other flammable materials that may be stored within that Licensed Premises in accordance with applicable laws, rules and regulations;

   ii. Determine what type of electrical equipment, which may include but need not be limited to outlets, lights and junction boxes, must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored in accordance with applicable laws, rules and regulations;

   iii. Determine whether a gas monitoring system must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations; and

   iv. Determine whether fire suppression system must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

b. CO_2 Solvent Determination. If CO_2 is used as solvent at the Licensed Premises, then the Industrial Hygienist or Professional Engineer must determine whether a CO_2 gas monitoring system must be installed within the room in which Retail Marijuana Concentrate is to be produced or CO_2 is stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

c. Exhaust System Determination. The Industrial Hygienist or Professional Engineer must determine whether a fume vent hood or exhaust system must be installed within the room in which Retail Marijuana Concentrate is to be produced, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

d. Material Change. If an Accelerator Manufacturer makes a Material Change to its equipment or a concentrate production procedure, in addition to all other requirements, it must obtain a report from an Industrial Hygienist or Professional Engineer re-certifying its standard operating procedures and, if changed, its equipment as well.

e. Manufacturer's Instructions. The Industrial Hygienist or Professional Engineer may review and consider any information provided to the Accelerator

Manufacturer by the designer or manufacturer of any equipment used in the processing of Retail Marijuana into a Retail Marijuana Concentrate.

f. Records Retention. An Accelerator Manufacturer must maintain copy of all reports received from an Industrial Hygienist and Professional Engineer on its Licensed Premises. Notwithstanding any other law, rule, or regulation, compliance with this Rule is not satisfied by storing these reports outside of the Licensed Premises. Instead the reports must be maintained on the Licensed Premises until the Licensee ceases production of Retail Marijuana Concentrate on the Licensed Premises.

2. Ensure that all equipment, counters and surfaces used in the production of a Solvent-Based Retail Marijuana Concentrate are food-grade and do not react adversely with any of the solvents to be used in the Licensed Premises. Additionally, all counters and surface areas must be constructed in a manner that reduces the potential development of microbials, molds and fungi and can be easily cleaned;

3. Ensure that the room in which Solvent-Based Retail Marijuana Concentrate shall be produced must contain an emergency eye-wash station;

4. Ensure that only a professional grade, closed-loop extraction system capable of recovering the solvent is used to produce Solvent-Based Retail Marijuana Concentrate;

a. UL or ETL Listing.

i. If the system is UL or ETL listed, then an Accelerator Manufacturer may use the system in accordance with the manufacturer's instructions.

ii. If the system is UL or ETL listed but the Accelerator Manufacturer intends to use a solvent in the system that is not listed in the manufacturer's instructions for use in the system, then, prior to using the unlisted solvent within the system, the Accelerator Manufacturer must obtain written approval for use of the non-listed solvent in the system from either the system's manufacturer or a Professional Engineer after the Professional Engineer has conducted a peer review of the system. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

iii. If the system is not UL or ETL listed, then there must a designer of record. If the designer of record is not a Professional Engineer, then the system must be peer reviewed by a Professional Engineer. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

b. Ethanol or Isopropanol. An Accelerator Manufacturer need not use a professional grade, closed-loop system extraction system capable of recovering the solvent for the production of a Solvent-Based Retail Marijuana Concentrate if ethanol or isopropanol are the only solvents being used in the production process.

5. Ensure that all solvents used in the extraction process are food-grade or at least 99% pure;

a. An Accelerator Manufacturer must obtain a safety data sheet for each solvent used or stored on the Licensed Premises. An Accelerator Manufacturer must

maintain a current copy of the safety data sheet and a receipt of purchase for all solvents used or to be used in an extraction process. *See* Rule 3-905 – Business Records Required.

b. An Accelerator Manufacturer is prohibited from using denatured alcohol to produce a Retail Marijuana Concentrate, unless the denaturant is an approved solvent listed in Rule 6-815(A)(2) and the alcohol and the denaturant meet all other requirements set forth in this Rule.

6. Ensure that all Flammable Solvents or other flammable materials, chemicals and waste are stored in accordance with all applicable laws, rules and regulations. At no time may an Accelerator Manufacturer store more Flammable Solvent on its Licensed Premises than the maximum amount established for that Licensed Premises by the Industrial Hygienist or Professional Engineer;

7. Ensure that the appropriate safety and sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Solvent-Based Retail Marijuana Concentrate; and

8. Ensure that a trained Owner Licensee or Employee Licensee is present at all times during the production of a Solvent-Based Retail Marijuana Concentrate whenever an extraction process requires the use of pressurized equipment.

E. Ethanol and Isopropanol. If an Accelerator Manufacturer only produces Solvent-Based Retail Marijuana Concentrate using ethanol or isopropanol at its Licensed Premises and no other solvent, then it shall be considered exempt from paragraph D of this Rule and instead must follow the requirements in paragraph C of this Rule. Regardless of which rule is followed, the ethanol or isopropanol must be food grade or at least 99% pure and denatured alcohol cannot be used. The Accelerator Manufacturer shall comply with contaminant testing required in Rule 4-120(C)(4).

F. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-820

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(2)(d), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-401(2)(b)(VIII), 44-10-603(10), and 44-10-608 C.R.S. The purpose of this rule is to establish the circumstances under which an Accelerator Manufacturer may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's regulated Retail Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting and recordkeeping requirements on an Accelerator Manufacturer that Transfer Sampling Units.

6-820 – Accelerator Manufacturer: Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, an Accelerator Manufacturer may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Accelerator Manufacturer who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. An individual may be designated as a Sampling Manager by more than one Retail Marijuana Business.

3. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

4. An Accelerator Manufacturer who wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-603(10), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 6-820. *See also* Rule 3-905 – Business Records Required. An Accelerator Marijuana Products Manufacturer shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Production Batch. A Sampling Unit shall not be designated until the Production Batch has satisfied the testing requirements in the 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Retail Marijuana Product shall not exceed one Standardized Serving of Marijuana.

2. A Sampling Unit of Retail Marijuana Concentrate shall not exceed one quarter of one gram; except that a Sampling Unit of Retail Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Accelerator Manufacturer as a Sampling Manger for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than:

   a. With respect to Retail Marijuana Product, fourteen Standardized Servings of Marijuana; and

   b. Eight grams of Retail Marijuana Concentrate.

4. The monthly limit established in subparagraph (C)(3) applies to each Sampling Manager, regardless of the number of Retail Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (C)(3). Before Transferring any Sampling Units, an Accelerator Manufacturer shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limit established in subparagraph (C)(3).

6. A Sampling Manager shall not Transfer any Sampling Unit to any other Person, including but not limited to any other Person designated as a Sampling Manager.

D. Compensation Prohibited. An Accelerator Manufacturer may not use Sampling Units to compensate a Sampling Manager.

E. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

F. Acceptable Purposes. Sampling Units shall only be designated and Transferred for purposes of quality control and product development in accordance with section 44-10-603(10), C.R.S.

G. Record keeping requirements. An Accelerator Manufacturer shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, an Accelerator Manufacturer shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of either quality control or product development. An Accelerator Manufacturer shall also maintain copies of the Accelerator Manufacturer's standard operating procedures provided to Sampling Managers.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-825

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-203(3)(b), 44-10-203(3)(e), 44-10-401(2)(b)(VIII), 44-10-603, 44-10-701(3)(c) and 44-10-608, C.R.S. The purpose of this rule is to define requirements for manufacture of Audited Product for administration by: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration which may raise public health concerns. This rule defines audit, insurance, minimum product requirements, minimum production process requirements, and pre-production testing requirements for Accelerator Manufacturers that manufacture Audited Products. The purpose of this rule further recognizes that Alternative Use Product not within an intended use identified in Rule 3-1015 may raise public health concerns that outweigh its manufacture or Transfer entirely or that require additional safeguards to protect public health and safety prior to manufacturer or Transfer. This rule identifies general requirements for an Accelerator Manufacturer to seek an Alternative Use Designation from the State Licensing Authority to manufacture any type of Retail Marijuana Product that is not within an intended use identified in Rule 3-1015.

6-825 – Accelerator Manufacturer: Audited Product and Alternative Use Product

A. General Rule. An Accelerator Manufacturer shall not Transfer Audited Product to a Retail Marijuana Store, an Accelerator Store, a Retail Marijuana Products Manufacturer, another Accelerator Manufacturer, a Retail Marijuana Cultivation Facility, or an Accelerator Cultivator that has obtained a Centralized Distribution Permit except in accordance with all requirements of this Rule 6-825. The requirements of this Rule 6-825 are in addition to all other Rules that apply to Accelerator Manufacturers; except where the context otherwise clearly requires this Rule 6-825 controls.

B. Audited Products – Mandatory Audit Prior to Transfer. Following submission of an independent third-party audit to the Division and, if applicable, to the Local Jurisdiction as required by this Rule, an Accelerator Manufacturer may Transfer Audited Product with an intended use of: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration.

1. A written audit report from an independent third-party auditor that was completed within the last 24 months shall be submitted to the Division and, if applicable to the Local Licensing Authority: (i) before the first Transfer of Audited Product to any Retail Marijuana

Store, (ii) prior to Transfer of any Audited Product following a Material Change to any standard operating procedure or master formulation record regarding the Audited Product, and (iii) with the Accelerator Manufacturer's renewal application if the Accelerator Manufacturer will Transfer Audited Product after renewal.

2. The independent third-party audit shall be performed by either a certified quality auditor or a certified GMP auditor. The Accelerator Manufacturer shall be responsible for all costs associated with obtaining the independent third-party audit.

3. The independent third-party written audit report shall include the following minimum requirements:

   a. The independent third-party auditor's qualifications and an attestation that the certified quality auditor or certified GMP auditor has no conflict of interest;

   b. Establish that the Accelerator Manufacturer and the Audited Product meet all requirements of this Rule 6-825, including but not limited to the specific requirements of this Rule 6-825(C), 6-825(D), 6-825(E), 6-825(G), and 6-825(H);

   c. Verify the written standard operating procedure(s) for Audited Product include sufficient and detailed step-by-step instructions on how to produce the Audited Product in a manner that prevents contamination and protects the public health and safety;

   d. Verify, based upon a physical inspection, the manufacture of Audited Product by the Accelerator Manufacturer adheres to all applicable standard operating procedures;

   e. Verify, based upon a physical inspection, of any Licensed Premises that such Licensed Premises complies with the requirements of this Rule 6-825(E), including any Limited Access Area where the Audited Product is to be manufactured;

   f. Include the independent third-party auditor's findings;

   g. Include the plan of correction identifying any corrective actions and/or preventative actions implemented as a result of the findings of the independent third-party audit; and

   h. Include the independent third-party auditor's assessment that the Accelerator Manufacturer demonstrated compliance with all requirements of Rule 6-825 and with the requirements of all standard operating procedures, master formulation records, and Batch manufacturing records that apply to the Audited Product.

C. Products Liability Insurance. Any Accelerator Manufacturer that intends to Transfer Audited Product shall first obtain products liability insurance providing coverage for liability arising from manufacture or Transfer of Audited Product and shall provide an unredacted certificate of product liability insurance to the Division and the independent third-party auditor.

D. Audited Product Requirements. Audited Product shall meet the following minimum product requirements:

1. Inactive Ingredients. Audited Product must meet the requirements in Rule 3-335 – Production of Regulated Marijuana Products.

a. If the Audited Product contains a fungicidal or bactericidal Ingredient listed in, and with a concentration that is at or below the maximum concentration permitted in, the Federal Food and Drug Administration Inactive Ingredients Database, https://www.accessdata.fda.gov/scripts/cder/iig/index.cfm, the Audited Product is not required to undergo microbial contaminant testing required by Rules 4-115 and 4-120.

2. Required Product Development Testing. The Accelerator Manufacturer must establish the Audited Product meets the following through independent third-party testing:

a. The Audited Product must deliver the amount of each cannabinoid identified on the label throughout the entire volume of the Audited Product using the intended delivery device and in accordance with the instructions provided by the Accelerator Manufacturer, as demonstrated by testing at a Retail Marijuana Testing Facility.

i. For Audited Product with an intended use of metered dose nasal spray, compliance with this requirement shall be established by test results verifying the delivered dose of each cannabinoid identified on the label using the methods described in The United States Pharmacopeia Physical Test and Determination Chapter 601, *Aerosols, Nasal Sprays, Metered-Dose Inhalers, and Dry Powder Inhalers*.

ii. For Audited Product with an intended use of either vaginal administration or rectal administration, compliance with this testing requirement shall be established by test results demonstrating that each cannabinoid identified on the label is within +/- 15% of the amount identified on the label.

b. The expiration date identified on the label of the Audited Product is appropriate when the Audited Product is stored at room temperature, as demonstrated by testing from a Retail Marijuana Testing Facility.

c. Identification of all non-cannabis derived Ingredients and constituents in the Audited Product at concentrations of 1%, which verification is obtained from one or more of the following:

i. Testing by a Retail Marijuana Testing Facility;

ii. Testing by a laboratory that is ISO 17025 accredited but is not a Retail Marijuana Testing Facility, except that no Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product may be Transferred to such a laboratory; and/or

iii. One or more certificate(s) of analysis from the manufacturer of any Ingredient or constituent included in the Audited Product.

E. Additional Production Requirements for Audited Product. In addition to all other requirements applicable to Accelerator Manufacturer, an Accelerator Manufacturer that manufactures and Transfers Audited Product shall meet the following additional requirements:

1. Personnel Training. All personnel directly involved in the manufacture and handling of Audited Product must be trained, must demonstrate competency, and must undergo annual refresher training, which shall be documented and maintained at the Accelerator Marijuana Products Manufacturer's Licensed Premises. Personnel directly involved in the

manufacture and handling of Audited Product must be trained and demonstrate proficiency in hand hygiene, cleaning and sanitizing, performing necessary calculations, measuring and mixing, and documenting the manufacturing process including master formulation records and batch manufacturing records.

2. Facility Requirements. An Accelerator Manufacturer must have a space that is specifically designated for the manufacture of Audited Products that is designed and operated to prevent cross contamination from other areas of the Licensed Premises. The surfaces, walls, floors, fixtures, shelving, work surfaces, and cabinets in this designated area must be non-porous and cleanable.

3. Cleaning and Sanitizing. An Accelerator Manufacturer must clean and sanitize surfaces where Audited Product is manufactured and handled on a regular basis and at a minimum, work surfaces and floors must be cleaned and sanitized daily. All other surfaces must be cleaned and sanitized at least every three months. An Accelerator Manufacturer must clean and sanitize all surfaces when a spill occurs and when surfaces, floors, and walls are visibly soiled.

4. Hand Hygiene. Hand hygiene is required when entering and re-entering any area where Audited Product is manufactured and handled. Hand hygiene includes washing hands and forearms up to the elbows with soap and water for at least 30 seconds followed by drying completely with disposable towels. Alcohol hand sanitizers alone are not sufficient.

    a. Gloves are required to be worn for all mixing activities. Other garb such as shoe covers, head and facial hair covers, face masks, and gowns must be worn as appropriate to protect Licensees and/or prevent contamination of the Audited Product.

5. Equipment. Mechanical, electronic, and other types of equipment used in mixing, measuring, or testing of Audited Product must be inspected prior to use and verified for accuracy at the frequency recommended by the manufacturer, and at least annually.

6. Ingredient Quality. All Ingredients used to manufacture Audited Product must be handled and stored in accordance with the manufacturer's instructions. Ingredients that lack a manufacturer's expiration date shall not be used if a reasonable manufacturer would not use the Ingredient or after 1 year from the date of receipt, whichever period is shorter.

7. Master Formulation Record. A master formulation record must be prepared and maintained for each unique Audited Product an Accelerator Manufacturer manufactures. A master formulation record must include at least the following information:

    a. Name of the Audited Product;

    b. Ingredient identities and amounts;

    c. Specifications on the delivery device (if applicable);

    d. Complete instructions for preparing the Audited Product, including equipment, supplies, and description of the manufacturing steps;

    e. Quality control procedures; and

    f. Any other information needed to describe the Retail Marijuana Products Manufacturer's production and ensure its repeatability.

8. Batch Manufacturing Records. A batch manufacturing record shall be created for each Production Batch of Audited Product. This record shall include at the least the following information:

    a. Name of the Audited Product;

    b. Master formulation record reference for the Audited Product;

    c. Date and time of preparation of the Audited Product;

    d. Production Batch number;

    e. Signature or initials of individuals involved in each manufacturing step;

    f. Name, vendor, or manufacturer, Production Batch number, and expiration date of each Ingredient;

    g. Weight or measurement of each Ingredient;

    h. Documentation of quality control procedures;

    i. Any deviations from the master formulation record, and any problems or errors experienced during the manufacture; and

    j. Total quantity of the Audited Product manufactured.

F. Audited Product Testing. For each Production Batch, the Audited Product shall undergo all required testing in the 4-100 Series Rules for Retail Marijuana Product and/or Audited Product. *See also* Rule 4-115 – Regulated Marijuana Testing Program: Sampling and Testing Program.

G. Packaging and Labeling of Audited Product. Audited Product must be packaged and labeled in accordance with all requirements of the 3-1000 Series Rules regarding packaging and labeling for Transfer to a consumer prior to any Transfer.

H. Adverse Event Reporting. An Accelerator Manufacturer must report Adverse Health Events pursuant to Rule 3-920.

I. Alternative Use Designation – Any Other Method of Consumption or Administration. An Accelerator Manufacturer shall not Transfer to a Retail Marijuana Store, an Accelerator Store, a Retail Marijuana Products Manufacturer, another Accelerator Manufacturer, a Retail Marijuana Cultivation Facility, or an Accelerator Cultivator that has obtained a Centralized Distribution Permit any Retail Marijuana Concentrate or Retail Marijuana Product that is not within any intended use identified in Rule 3-1015(B) until it applies for and receives an Alternative Use Designation from the State Licensing Authority in consultation with the Colorado Department of Public Health and Environment. In the process of applying for an Alternative Use Designation, the Accelerator Manufacturer shall work with the Division and the Colorado Department of Public Health and Environment to determine whether the proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when particular independent review factors, safeguards, and tests are in place. The following are minimum requirements for any application for an Alternative Use Designation:

1. The Accelerator Manufacturer shall identify provisions of this Rule 6-825 that apply to its Alternative Use Product, any proposed additional or alternative requirements, and how any proposed alternatives protect public health and safety. The Accelerator Manufacturer

shall also provide any additional information as may be requested by the Division, in consultation with the Colorado Department of Public Health and Environment.

2. The Accelerator Manufacturer bears the burden of proving its proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when the identified independent review factors, safeguards, and tests are in place.

3. An Accelerator Manufacturer seeking an Alternative Use Designation shall cooperate with the Division. Failure to cooperate with the Division is grounds for denial of an Alternative Use Designation.

4. The granting of an Alternative Use Designation shall rest in the discretion of the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment. The State Licensing Authority may in his or her discretion deny an Alternative Use Designation where the Accelerator Manufacturer does not meet the burden established in this Rule 6-825.

J. Alternative Use Designation – Packaging and Labeling Requirements. If the Division recommends, and the State Licensing Authority grants, an Alternative Use Designation, the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment shall provide the Accelerator Manufacturer the appropriate statement of intended use label to be affixed to the Alternative Use Product, and any additional or distinct packaging and labeling requirements applicable to the Alternative Use Product. *See* Rules 3-1010 and 3-1015.

K. Required Records. An Accelerator Manufacturer manufacturing or Transferring Audited Product and/or Alternative Use Product shall maintain accurate and comprehensive records on the Licensed Premises regarding the manufacturing process, a list of all active and inactive Ingredients used in the Audited Product and/or Alternative Use Product, and such other documentation as required by this Rule 6-825. *See* Rule 3-905 – Business Records Required.

Basis and Purpose – 6-830

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(III), and 44-10-603, 44-10-603(15)(a)-(b), 44-10-608, and 39-28.8-302, C.R.S. The purpose of this rule is to allow a Medical Marijuana Products Manufacturer to receive Transfers of Retail Marijuana Concentrate from a Retail Marijuana Products Manufacturer in order to change its designation from “Retail” to “Medical.”

6-830 – Accelerator Manufacturer: Ability to Change Designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate.

A. Changing Designation: Beginning July 1, 2022, an Accelerator Manufacturer may Transfer Retail Marijuana Concentrate to a Medical Marijuana Products Manufacturer in order to change its designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate pursuant to the following requirements:

1. The Accelerator Manufacturer may only Transfer Retail Marijuana Concentrate that has passed all required testing;

2. The Medical Marijuana Products Manufacturer and the Accelerator Manufacturer share a Licensed Premises in accordance with Rule 3-215;

3. The Medical Marijuana Products Manufacturer and Accelerator Manufacturer have at least one identical Controlling Beneficial Owner;

4. The Accelerator Manufacturer must report the Transfer in the Inventory Tracking System the same day that the change in designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate occurs;

5. After the designation change, the Medical Marijuana Concentrate cannot be Transferred to the originating Accelerator Manufacturer or any other Retail Marijuana Business or otherwise be treated as Retail Marijuana. The inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules; and

6. The Transfer and change in designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change in designation.

6-900 Series – Licensed Hospitality Businesses

Basis and Purpose – 6-905

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish general provisions for Licensed Hospitality Businesses.

6-905 – Licensed Hospitality Businesses: General Provisions

A. Privileges Granted. A Licensed Hospitality Business shall only exercise those privileges granted pursuant to the Marijuana Code and these Rules.

B. Local Approval Required. No Licensed Hospitality Business may operate in a Local Jurisdiction that does not have an ordinance or resolution authorizing the operation of that type of Licensed Hospitality Business within the Local Jurisdiction. A Licensed Hospitality Business must comply with any requirements or restrictions on its operations imposed by the Local Jurisdiction's ordinance or resolution.

C. Liability Insurance Required. Licensed Hospitality Businesses are required to carry general liability insurance. If a Licensed Hospitality Business has not obtained general liability insurance at the time of its initial license application, it must obtain general liability insurance prior to submitting the Licensee's first renewal application.

D. Responsible Vendor Training Required. All Controlling Beneficial Owners and employees of a Licensed Hospitality Business shall have a valid responsible vendor designation as required in section 44-10-609, C.R.S., and described in the 3-500 Series Rules.

E. No Visible Consumption of Regulated Marijuana. A Licensed Hospitality Business shall ensure that the display and consumption of any marijuana is not visible from outside of its Licensed Premises. The requirement in this paragraph (E) also applies to Licensed Hospitality Businesses that operate in an isolated portion of a Retail Food Establishment. *See* Rule 6-915 – Licensed Hospitality Businesses: Operation Within A Retail Food Establishment.

1. Outdoor Consumption Areas Permitted. A Licensed Hospitality Business may have a Consumption Area outdoors under the following conditions:

a. The Licensed Hospitality Business shall ensure that all marijuana is kept out of plain sight and is not visible from a public place without the use of optical aids, such as telescopes or binoculars, or aircraft; and

b. The Licensed Hospitality Business shall ensure that the Consumption Area is surrounded by a sight-obscuring wall, fence, hedge, or other opaque or translucent barrier.

F. Required Signage.

1. Identification of Consumption Area. A Licensed Hospitality Business shall ensure all areas ingress and egress to the Consumption Area(s) be clearly identified by the posting of a sign which shall not be less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Consumption Area – No One Under 21 Years of Age Allowed."

2. Required Warning. Licensed Hospitality Businesses must post, at all times and in a prominent place inside the Consumption Area, a warning that is at minimum twelve inches high and twelve inches wide that reads as follows:

"Must be 21 or older to enter

Marijuana may only be consumed in designated areas out of public view

No consumption of alcohol or tobacco products on site

We reserve the right to refuse entry or service for reasons including visible intoxication

It is against the law to drive while impaired by marijuana"

G. Entry By A Person Under 21 Years Prohibited. A Licensed Hospitality Business shall not allow any individual under 21 years of age to enter its Licensed Premises. A Licensed Hospitality Business shall verify that every individual entering the Licensed Premises has a valid government-issued photo identification showing that the individual is 21 years of age or older. *See* Rule 3-405 – Acceptable Forms of Identification.

H. Customers in Consumption Area. The Consumption Area must be supervised by a Licensee at all times when consumers are present to ensure that only persons who are 21 years of age or older are permitted to enter. A Licensed Hospitality Business shall reasonably monitor consumers in the Consumption Area to ensure compliance with these 6-900 Series Rules.

I. Conduct on the Licensed Premises.

1. Consumption By Intoxicated Patrons Prohibited. A Licensed Hospitality Business shall not permit the use or consumption of marijuana by any person displaying any visible signs of intoxication.

2. Alcohol Consumption Prohibited. No consumption of alcohol is permitted in a Licensed Hospitality Business. A Licensed Hospitality Business is responsible for preventing the consumption of alcohol within its Licensed Premises.

3. Tobacco Consumption Prohibited. No smoking of tobacco or tobacco products is permitted in a Licensed Hospitality Business. A Licensed Hospitality Business is responsible for preventing the smoking of tobacco and tobacco products within its Licensed Premises.

4. Employee Consumption Prohibited. No employee of a Licensed Hospitality Business who is on duty may use or consume marijuana. A Licensed Hospitality Business is

responsible for preventing the use or consumption of marijuana by on-duty employees within its Licensed Premises.

5. Flammable Instrument Restrictions. A Licensed Hospitality Business shall not allow the use of the following devices in the Licensed Premises if prohibited by a local ordinance or resolution:

   a. Any device using liquid petroleum gas;

   b. A butane torch;

   c. A butane lighter; or

   d. Matches.

6. Orderliness. A Licensed Hospitality Business shall operate the business in a decent, orderly, and respectable manner. A Licensed Hospitality Business shall not knowingly permit any activity or acts of disorderly conduct as defined by and provided for in section 18-9-106, C.R.S., nor shall a Licensed Hospitality Business permit rowdiness, undue noise, or other disturbances or activity offensive to the senses of the average citizen, or to the residents of the neighborhood in which the Licensed Hospitality Business is located.

J. Free Marijuana Prohibited. A Licensed Hospitality Business may not give away marijuana to a consumer for any reason.

K. Food Products Permitted. A Licensed Hospitality Business is permitted to sell or give away consumable products that do not contain marijuana under the following circumstances:

1. The Licensed Hospitality Business operates in an isolated portion of a Retail Food Establishment;

2. A Licensed Hospitality Business that is not a Retail Food Establishment may prepare and serve hot coffee, hot tea, instant hot beverages, and nonpotentially hazardous doughnuts or pastries obtained from sources complying with all laws related to food and food labeling; or

3. A Licensed Hospitality Business that is not a Retail Food Establishment may sell or give away nonpotentially hazardous prepackaged food and commercially prepared, prepackaged foods requiring no preparation other than the heating of food within its original container or package.

L. Emergency Entry by Public Safety Personnel. If an emergency requires law enforcement, firefighters, emergency medical service providers, or other public safety personnel to enter the Licensed Premises of a Licensed Hospitality Business, the Licensed Hospitality Business is responsible for ensuring that all consumption and other activities, including sales, if applicable, cease until such personnel have completed their investigation or services and have left the Licensed Premises.

M. Criminal Activity Reporting Requirements. In addition to other reporting requirements set forth in these Rules, a Licensed Hospitality Business must report directly to the Division any criminal activity requiring an in-person response from law enforcement. Any report required under this Rule must be submitted within 48 hours after an Owner Licensee or Employee Licensee of the Licensed Hospitality Business learns of the event.

N. Removal of Persons from the Licensed Premises. A Licensed Hospitality Business may remove a person from the Licensed Premises for any reason, including but not limited to, any consumer showing any visible signs of intoxication.

O. Control and Disposal of Marijuana Left by a Consumer. A Licensed Hospitality Business is responsible for the collection and disposal of any marijuana left on the Licensed Premises by a consumer. When a consumer leaves any marijuana on the Licensed Premises, a Licensed Hospitality Business must promptly collect and remove the marijuana from the Restricted Access Area or Consumption Area and either immediately destroy or store and secure the marijuana in a Limited Access Area or an area inaccessible to consumers in accordance with Rule 6-920(A).

1. Marijuana Consumer Waste. In conjunction with the collecting and securing of any remaining marijuana, a Licensed Hospitality Business may segregate any Marijuana Consumer Waste in order to Transfer the Marijuana Consumer Waste for purposes of recycling in accordance with Rule 3-240 – Collection of Marijuana Consumer Waste.

2. Destruction Required. At, or before, the end of each business day, a Licensed Hospitality Business shall destroy any marijuana left on its Licensed Premises by a consumer in conformance with Rule 3-230 – Waste Disposal. The Licensed Hospitality Business shall document any destruction of Regulated Marijuana in a waste log. *See* Rule 3-905 – Business Records Required.

P. Consumer Education Materials. A Licensed Hospitality Business must provide Consumer Education Materials regarding the safe consumption of marijuana. Consumer Education Materials may be made available in print or digital form, may never make claims regarding health or physical benefits of marijuana, and must be prominently displayed. Consumer Education Materials shall at a minimum include the following statement:

> **"WARNING**: Using marijuana, in any form, while you are pregnant or breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of marijuana use during pregnancy or breastfeeding.
>
> Create a transportation plan ahead of time. Don't operate a vehicle impaired.
>
> Impairing effects of marijuana may be delayed."

Basis and Purpose – 6-910

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish additional health and safety regulations for Licensed Hospitality Businesses.

6-910 – Licensed Hospitality Businesses: Additional Health and Safety Regulations

A. Local Safety Requirements and Inspections. A Licensed Hospitality Business must comply with any safety requirements or required inspections imposed by the Local Jurisdiction's ordinance or resolution which authorizes the Licensed Hospitality Business's operation.

B. Sanitation of Consumption Equipment. If a Licensed Hospitality Business provides consumers with reusable equipment or devices to aid in the use or consumption of marijuana, the Licensed Hospitality Business shall ensure the equipment or device is sanitized properly. A Licensed Hospitality Business shall maintain standard operating procedures regarding reusable equipment and device sanitation practices. Failure to maintain records and/or sanitize reusable equipment may constitute a license violation affecting public safety.

Basis and Purpose – 6-915

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish requirements for Licensed Hospitality Businesses operating within a Retail Food Establishment or on the Licensed Premises of any establishment with a license issued pursuant to articles 3, 4, or 5 of Title 44.

6-915 – Licensed Hospitality Businesses: Operation Within a Retail Food Establishment

A. Alcohol Beverage License Prohibited. A Licensed Hospitality Business shall not operate within a Retail Food Establishment that holds a license or permit issued pursuant to article 3, 4, or 5 of title 44.

1. The Licensed Premises of a Licensed Hospitality Business must be completely separate from, and shall not overlap with, the licensed premises of any license issued pursuant to articles 3, 4, or 5 of Title 44. To be considered completely separate:

a. The Licensed Premises of a Licensed Hospitality Business shall not overlap with or share any physical space with, at any time, the licensed premises of a license issued pursuant to articles 3, 4, or 5 of Title 44. Alternating use of the same location at different times by a license issued pursuant to article 10 of Title 44 and a license or permit issued pursuant to article 3, 4, or 5 of Title 44 is prohibited.

b. The Licensed Premises of a Licensed Hospitality Business may be adjacent to the licensed premises of any license issued pursuant to article 3, 4, or 5 of Title 44, so long as all of the following conditions are met:

i. Each has a separate address, which may be separate units within a street address so long as each unit has separate entrances and exits from the other, and consumers may not pass through the licensed premises of one to reach the licensed premises of the other;

ii. There is no door, hallway, or passageway by or through which a consumer may pass between the Licensed Premises of a Licensed Hospitality Business and the adjacent licensed premises of any license issued pursuant to articles 3, 4, or 5 of Title 44; and

iii. Any window on a shared wall is covered, or rendered opaque or translucent, to ensure the display or consumption of marijuana within a Licensed Hospitality Business is not visible to any person outside the Licensed Premises, including by a person within the adjacent licensed premises of a license issued pursuant to articles 3, 4, or 5 of Title 44.

B. Isolation From Unlicensed Portions of the Retail Food Establishment. A Licensed Hospitality Business that operates within a Retail Food Establishment shall ensure that its Licensed Premises are isolated from the rest of the Retail Food Establishment.

1. Consumers may enter the Licensed Premises from the unlicensed portion of the Retail Food Establishment. However, in order to be isolated from the rest of the Retail Food Establishment, the Licensed Premises shall:

a. Not overlap with the operations of the Retail Food Establishment; and

b. Be separated by a sight-obscuring wall, or other opaque or translucent barrier, and a secure door to ensure only consumers 21 years of age or older are permitted into the Licensed Premises.

2. Segregation of Marijuana. A Licensed Hospitality Business shall not store marijuana—either for purposes of sale or destruction—in any location containing other inventory of the Retail Food Establishment.

C. Manufacturing of Regulated Marijuana Products Prohibited. A Licensed Hospitality Business shall ensure that the Retail Food Establishment is not used to manufacture Regulated Marijuana Products or to add marijuana to foods produced or provided at the Retail Food Establishment.

D. Food Service Permitted. Nothing in this Rule 6-915 prohibits employees of the Retail Food Establishment from taking orders for, or serving, foods, produced or provided at the Retail Food Establishment within the Licensed Premises of the Licensed Hospitality Business. Any employee of the Retail Food Establishment who has unescorted access to the Limited Access Area or Restricted Access Area of a Licensed Hospitality Business, or who may handle marijuana for destruction, or any other purpose, shall first obtain an Employee License and Identification Badge.

Basis and Purpose – 6-920

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), and 44-10-610, C.R.S. The purpose of this rule is to establish requirements for the display of Retail Marijuana on the Licensed Premises of a Retail Marijuana Hospitality and Sales Business, and to establish that a Retail Marijuana Hospitality and Sales Business must control and safeguard access to certain areas where Retail Marijuana will be sold.

6-920 – Retail Marijuana Hospitality and Sales Businesses Point of Sale: Restricted Access Area

A. Display of Retail Marijuana. The display of Retail Marijuana for sale is allowed only in Restricted Access Areas. Any product displays that are readily accessible to the consumer must be supervised by the Owner Licensee or Employee Licensees at all times when consumers are present.

Basis and Purpose – 6-925

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to clarify additional license privileges and restrictions for Retail Marijuana Hospitality and Sales Businesses that do not apply to Marijuana Hospitality Businesses.

6-925 – Retail Marijuana Hospitality and Sales Businesses: Additional License Privileges and Restrictions

A. Authorized Sources of Retail Marijuana. A Retail Marijuana Hospitality and Sales Business may only Transfer Retail Marijuana that it obtained from another Retail Marijuana Business.

B. Restriction on Transfers to Consumers. A Retail Marijuana Hospitality and Sales Business and its employees are prohibited from Transferring Retail Marijuana to a consumer if the Retail Marijuana Hospitality and Sales Business' employee knows or reasonably should know that the consumer does not intend to consume the Retail Marijuana on the Licensed Premises of the Retail Marijuana Hospitality and Sales Business or previously during the same business day the consumer already received the relevant quantity limitation in this Rule. In determining the

imposition of any penalty for violation of this Rule 6-925, the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235.

C. Inventory Tracking System Requirements. A Retail Marijuana Hospitality and Sales Business must use the Inventory Tracking System in accordance with the requirements of the 3-800 Series Rules.

D. Samples Provided for Testing. A Retail Marijuana Hospitality and Sales Business may provide Samples of Retail Marijuana for testing purposes to a Retail Marijuana Testing Facility. The Retail Marijuana Hospitality and Sales Business shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

E. Authorized On-Premises Storage. A Retail Marijuana Hospitality and Sales Business may store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules. *See* Rule 3-800 Series Rules – Regulated Marijuana Business: Inventory Tracking System.

F. Authorized Marijuana Transport. A Retail Marijuana Hospitality and Sales Business is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where the transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents a Retail Marijuana Hospitality and Sales Business from transporting its own Retail Marijuana to the Licensed Premises of its Retail Marijuana Hospitality and Sales Business.

G. Quantity Limitations on Sales. All Transfers of Retail Marijuana by a Retail Marijuana Hospitality and Sales Business to a consumer shall not exceed the following sales limits:

1. More than two grams of Retail Marijuana flower;

2. More than one-half of one gram of Retail Marijuana Concentrate; or

3. A Retail Marijuana Product containing more than 20 milligrams of active THC. For any Transfer of Retail Marijuana Product containing more than 10 milligrams of active THC, the Retail Marijuana Product must be Transferred to a consumer in separate serving sizes containing no more than 10 milligrams of active THC per serving.

H. Measurement Procedures and Equipment.

1. A Retail Marijuana Hospitality and Sales Business shall develop and maintain standard operating procedures, and any additional equipment necessary, to ensure any Retail Marijuana Product Transferred to a consumer does not exceed the quantity limitation set forth in subparagraph G(3).

2. A Retail Marijuana Hospitality and Sales Business Transferring Multiple-Serving Edible Retail Marijuana Product or Multiple-Serving Liquid Edible Retail Marijuana Product to a consumer shall provide a measurement device necessary for the consumer to achieve accurate measurements of each serving in increments equal to or less than 10 milligrams of active THC per serving.

I. Packaging and Labeling.

1. Packaging and Labeling Not Required at Time of Transfer. A Retail Marijuana Hospitality and Sales Business may Transfer Retail Marijuana to a consumer without packaging and labeling so long as the Retail Marijuana Hospitality and Sales Business complies with the

requirements of Rule 3-1020. *See* Rule 3-1020 – Packaging and Labeling: Requirements Prior to Transfer to a Consumer at a Retail Marijuana Hospitality and Sales Business.

2. Packaging and Labeling Required Before Retail Marijuana Removed from Licensed Premises. A Retail Marijuana Hospitality and Sales Business shall not permit a consumer to leave the Licensed Premises with any unconsumed marijuana unless the Retail Marijuana Hospitality and Sales Business has ensured unconsumed marijuana is packaged and labeled in accordance with the requirements of Rule 3-1020. *See* Rule 3-1020 – Packaging and Labeling: Requirements Prior to Transfer to a Consumer at a Retail Marijuana Hospitality and Sales Business.

J. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to Transfer Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product to a consumer.

Basis and Purpose – 6-930

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish general limitations and prohibited acts for Retail Marijuana Hospitality and Sales Businesses.

6-930 – Retail Marijuana Hospitality and Sales Businesses: General Limitations and Prohibited Acts

A. Age Verification. Prior to Initiating the Transfer of Retail Marijuana a Licensee must verify that the purchaser has a valid government-issued photo identification showing that the purchaser is 21 years of age or older. *See* Rule 3-405 – Acceptable Forms of Identification.

B. Purchases Only Within Restricted Access Area. A consumer must be physically present within the Restricted Access Area of the Retail Marijuana Hospitality and Sales Business's Licensed Premises to purchase Retail Marijuana. The consumer must consume or use the Retail Marijuana purchased in the Retail Marijuana Hospitality and Sales Business in that Businesses' Restricted Access Area.

1. Application to Retail Marijuana Hospitality and Sales Businesses Operating in a Retail Food Establishment. The requirement of paragraph (B) also applies to all Retail Marijuana Hospitality and Sales Businesses operating in an isolated portion of the Retail Food Establishment. All Transfers of Retail Marijuana may occur only in the Retail Marijuana Hospitality and Sales Business' Restricted Access Area, and not in any other area of the Retail Food Establishment.

C. Prohibited Sales and Activity.

1. Sales to Persons Under 21 Years. A Retail Marijuana Hospitality and Sales Business is prohibited from Transferring, giving, or distributing Regulated Marijuana to persons under 21 years of age.

2. Alternative Use Products. A Retail Marijuana Hospitality and Sales Business shall not Transfer, or permit the use or consumption of, any Alternative Use Product.

3. Marijuana Not Transferred by the Retail Marijuana Hospitality and Sales Business. A Retail Marijuana Hospitality and Sales Business shall not permit the purchase, use or consumption of any marijuana other than the Retail Marijuana it Transfers pursuant to these rules.

4. Nicotine or Alcohol. A Retail Marijuana Hospitality and Sales Business is prohibited from Transferring Retail Marijuana that contain nicotine or alcohol, if the sale of alcohol would require a license pursuant to articles 3, 4, or 5 of Title 44, C.R.S.

5. Transfer of Expired Product. A Retail Marijuana Hospitality and Sales Business shall not Transfer any expired Retail Marijuana Product to a consumer.

6. Transporter Transfer Restrictions. A Retail Marijuana Hospitality and Sales Business shall not Transfer Retail Marijuana to a Retail Marijuana Transporter, and shall not buy or receive complimentary Retail Marijuana from a Retail Marijuana Transporter.

7. Possession and Transfer of Sampling Units. A Retail Marijuana Hospitality and Sales Business may not possess or Transfer Sampling Units.

8. Research Transfers. A Retail Marijuana Hospitality and Sales Business shall not Transfer any Retail Marijuana to a Pesticide Manufacturer or a Marijuana Research and Development Facility.

D. Storage and Display Limitations.

1. A Retail Marijuana Hospitality and Sales Business shall not display Retail Marijuana outside of a designated Restricted Access Area or in a manner in which Retail Marijuana can be seen from outside the Licensed Premises. Storage of Retail Marijuana shall otherwise be maintained in Limited Access Area or Restricted Access Area.

2. Any product displays that are readily accessible to the customer must be supervised by the Owner Licensee or Employee Licensee at all times when consumers are present.

E. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

F. Adverse Health Event Reporting. A Retail Hospitality and Sales Business must report Adverse Health Events pursuant to Rule 3-920.

Basis and Purpose – 6-935

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish Limited Access Area and security exemptions and requirements for Marijuana Hospitality Businesses.

6-935 – Marijuana Hospitality Business: Limited Access Areas and Security Standards

A. Limited Access Area Permitted But Not Required. A Marijuana Hospitality Business is not required to maintain a Limited Access Area as part of the Licensed Premises so long as the Marijuana Hospitality Business demonstrates the following:

1. It has established policies, procedures, and methods to ensure marijuana collected pursuant to Rule 6-905(O) will be secured in an area inaccessible to patrons of the Marijuana Hospitality Business prior to destruction; and

2. Its surveillance recording equipment is housed in a designated, locked, and secured room or other enclosure with access limited to authorized employees, agents of the Division, and the relevant Local Licensing Authority or Local Jurisdiction, state or local law enforcement agencies for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose, and service personnel or contractors.

B. Security Standards. A Marijuana Hospitality Business shall comply with Rule 3-220 Security Alarm Systems and Lock Standards and Rule 3-225 Video Surveillance, except that its Licensed Premises need only be monitored when consumers are on the Licensed Premises or during periods when marijuana collected pursuant to Rule 6-905(O) remains on the Licensed Premises prior to destruction.

Basis and Purpose – 6-940

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), and 44-10-609, C.R.S. The purpose of this rule is to establish requirements for Marijuana Hospitality Businesses with a Mobile Premises.

6-940 – Marijuana Hospitality Business: Requirements for Mobile Premises

A. Separate License Required for Each Mobile Premises. Each Mobile Premises requires a separate Marijuana Hospitality Business License.

B. Consumption Area of the Mobile Premises. The Consumption Area of the Mobile Premises shall exclude the area designed to seat the driver and front seat passenger.

C. Requirements for Motor Vehicles Designated as Mobile Premises. A Marijuana Hospitality Business must ensure that the motor vehicle serving as the Mobile Premises of a Marijuana Hospitality Business complies with all state and local registration and permitting requirements. At each initial and renewal application, a Marijuana Hospitality Business must provide the Division with the following information regarding its Mobile Premises:

a. Documentation that the Mobile Premises is owned or leased by the Marijuana Hospitality Business;

b. The vehicle manufacturer/make, model, and model year associated with the Mobile Premises;

c. The vehicle identification number (VIN) associated with the Mobile Premises;

d. The Colorado license plate number and copy of the registration associated with the Mobile Premises;

e. If applicable, the automatic vehicle identification tag associated with the Mobile Premises; and

f. A copy of a valid permit issued by the Public Utilities Commission to the Marijuana Hospitality Business.

D. Local Approval Required. A Marijuana Hospitality Business with a Mobile Premises may only operate in Local Jurisdictions that have an ordinance or resolution authorizing the operation of Mobile Premises and for which it holds any required valid local license(s). A Mobile Premises' operation includes, but is not limited to, allowing passengers to consume marijuana and boarding or disembarking the Mobile Premises.

E. Additional Requirements for Mobile Premises. Before receiving a License for a Mobile Premises, a Marijuana Hospitality Business must establish that the Mobile Premises will be able to meet the following requirements:

1. Global position system tracking of the Mobile Premises;

2. Written standard operating procedures that address the logging of the route(s) of each Mobile Premises;

3. Video surveillance inside of the Mobile Premises, including the entry and exit points to the Mobile Premises and driver's area of the vehicle;

4. Proper ventilation within the vehicle, which includes, if marijuana is smoked or vaped in the Licensed Premises, that air is not circulated into the driver's area of the Licensed Premises;

5. Policies and procedures to ensure that no marijuana is possessed or consumed in the area designed to seat the driver and front seat passenger in a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation;

6. Methods to ensure consumption activity is not visible outside the vehicle;

7. Policies, procedures or other measures to ensure that consumers are prohibited from entering the driver's area of the Mobile Premises; and

8. Display of the Marijuana Hospitality Business license on the dashboard of the Mobile Premises.

F. Separate Place of Business. A Marijuana Hospitality Business with a Mobile Premises shall designate and maintain a fixed place of business in Colorado that is separate from the Mobile Premises. The fixed place of business does not need to be a Licensed Premises. However, if the Marijuana Hospitality Business will transport any marijuana to the separate place of business for purposes of destruction, the separate place of business shall also be a Licensed Premises and is subject to any applicable state and local licensing requirements or restrictions.

1. Shared Places of Business. Multiple Marijuana Hospitality Business Licensees with Mobile Premises may share a single separate place of business so long as the Marijuana Hospitality Businesses are identically owned.

2. Shared Premises with Another Licensed Hospitality Business. A Marijuana Hospitality Business with a Mobile Premises may designate the location of another Marijuana Hospitality Business's Licensed Premises as its separate place of business subject to the following conditions:

   a. The relevant Local Licensing Authority or Local Jurisdiction permit a Marijuana Hospitality Business with a Mobile Premises to designate the location of another Marijuana Hospitality Business's Licensed Premises as its separate place of business;

   b. The Marijuana Hospitality Businesses are identically owned; and

   c. Record-keeping shall enable the Division and the Local Licensing Authority or Local Jurisdiction to distinguish clearly the business transactions and operations of each Marijuana Hospitality Business.

G. Business Records. All records required to be maintained by these rules must be maintained at the Marijuana Hospitality Business's separate place of business, and not at the Mobile Premises, except that when the Mobile Premises is in operation it must maintain its current route log on the Mobile Premises.

1. A Marijuana Hospitality Business is not required to maintain records related to inventory tracking because a Marijuana Hospitality Business is prohibited from engaging in Transfers of marijuana.

H. Health and Safety Requirements. A Marijuana Hospitality Business' Mobile Premises shall comply with all relevant requirements in the 3-300 Series Rules. Hand-washing facilities, however, need not be in the Mobile Premises, but may be located in the Marijuana Hospitality Business's separate place of business.

I. Operating Restrictions. A Marijuana Hospitality Business shall ensure that its Mobile Premises does not operate outside of the state of Colorado.

J. Change of Mobile Premises. A Marijuana Hospitality Business may change its Mobile Premises in accordance with the change of Mobile Premises application requirements in Rule 2-260(D).

6-1100 Series – Accelerator Store Licenses

Basis and Purpose – 6-1105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(aa), 44-10-203(2)(dd), 44-10-401(2)(b)(I), 44-10-601, 44-10-605, and 44-10-611, C.R.S. The purpose of this rule is to establish the license privileges of an Accelerator Store.

6-1105 – Accelerator Store: License Privileges

A. Licensed Premises.

1. Shared Licensed Premises. An Accelerator Store may operate on the same Licensed Premises as a Retail Marijuana Store that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

2. Separate Licensed Premises. An Accelerator Store may operate on a separate premises in the possession of a Retail Marijuana Store that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

3. To the extent authorized by Rule 3-215 – Regulated Marijuana Business– Shared Licensed Premises and Operational Separation, an Accelerator Store may share, and operate at, the same Licensed Premises as an Accelerator-Endorsed Licensee's Retail Marijuana Store that shares a Licensed Premises with a Medical Marijuana Store.

B. Authorized Sources of Retail Marijuana. An Accelerator Store may only Transfer Retail Marijuana that was obtained from another Retail Marijuana Business.

C. Samples Provided for Testing. An Accelerator Store may provide Samples of its products for testing and research purposes to a Retail Marijuana Testing Facility. The Accelerator Store shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

D. Authorized On-Premises Storage. An Accelerator Store is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.

E. Authorized Marijuana Transport. An Accelerator Store is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where

transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents an Accelerator Store from transporting its own Retail Marijuana.

F. Performance-Based Incentives. An Accelerator Store may compensate its employees using performance-based incentives, including sales-based performance-based incentives.

G. Authorized Transfers of Industrial Hemp Products. An Accelerator Store may Transfer Industrial Hemp Product to a consumer only after it has confirmed:

1. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Retail Marijuana Testing Facility; and

2. That the Person Transferring the Industrial Hemp Product to the Retail Marijuana Store is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

H. Automated Vending Machine. An Accelerator Store may use an automated machine in the Restricted Access Area of its Licensed Premises to dispense Regulated Marijuana to consumers without interaction with an Owner Licensee or Employee Licensee if the automated machine is reasonably monitored and complies with all requirements of these rules including but not limited to:

1. Health and safety standards,

2. Testing,

3. Packaging and labeling requirements,

4. Inventory tracking,

5. Identification requirements, and

6. Transfer limits to consumers.

I. Walk-up Window or Drive-up Window. An Accelerator Store may serve customers through a walk-up window or drive-up window pursuant to the requirements of this rule.

1. Modification of Premises Required. Before accepting orders for sales of Retail Marijuana to a customer through either a walk-up window or drive-up window, an Accelerator Store shall apply for, and obtain approval of, an application for a modification of its Licensed Premises for the addition of a walk-up window or drive-up window.

2. The area immediately outside the walk-up window or drive-up window must be under the Licensee's possession and control and cannot include any public property such as public streets, public sidewalks, or public parking lots.

3. Order and Identification Requirements.

a. Prior to accepting an order or Transferring Retail Marijuana to a customer, the Employee Licensee or Owner Licensee must physically view and inspect the consumer's identification and ensure that the consumer is 21 years of age or older.

b. The Accelerator Store may accept telephone orders or may accept orders from the customer at the walk-up window or drive-up window. Accelerator Stores may not accept orders or payment for Retail Marijuana over the internet.

c. All orders received through a walk-up window or a drive-up window must be placed by the customer from a menu. The Accelerator Store may not display Retail Marijuana at the walk-up or drive-up window.

4. Payment Requirements. Cash, credit, debit, cashless ATM, or other payment methods are permitted for payments for Retail Marijuana at the walk-up window or drive-up window.

5. Video Surveillance Requirements. For every Transfer of Regulated Marijuana through either a walk-up window or drive-up window, the Accelerator Store's video surveillance must enable the recording of the consumer's identity (and consumer's vehicle in the event of drive-up window), and must enable the recording of the Licensee verifying the consumer's identification and completion of the transaction through the Transfer of Regulated Marijuana.

6. Packaging and Labeling Requirements. An Accelerator Store utilizing a walk-up window or drive-up window must ensure that all Retail Marijuana is packaged and labeled in accordance with Rule 3-1010 and Rule 3-1015 prior to Transfer to the consumer.

7. Local Restrictions. Transfers of Regulated Marijuana using a walk-up window or drive-up window are subject to requirements and restrictions imposed by the relevant Local Jurisdiction.

Basis and Purpose – 6-1110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(4)(b), 44-10-203(1)(k), 44-10-203(2)(aa), 44-10-401(2)(b)(I), 44-10-601, 44-10-611, 44-10-701(1)(a), and 44-10-701(3)(d) and (f), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(3)(a), 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by an Accelerator Store. Such limitations include, but are not limited to, quantity limitations on sales and equivalencies for Retail Marijuana Concentrate and Retail Marijuana Product to Retail Marijuana flower. The establishment of equivalencies also provides information to stakeholders including Licensees, the general public, and law enforcement to aid in the enforcement of and compliance with the lawful personal possession limit of one ounce or less of marijuana. Setting these equivalencies provides Accelerator Stores and their employees with necessary information to avoid being complicit in a patron acquiring more marijuana than is lawful to possess under the Colorado Constitution pursuant to Article XVIII, Subsection 16(3)(a).

6-1110 – Accelerator Store: General Limitations or Prohibited Acts

A. Sales to Persons Under 21 Years. Licensees are prohibited from Transferring, giving, or distributing Retail Marijuana to persons under 21 years of age. Licensees are prohibited from permitting a person under the age of 21 years of age from entering the Restricted Access Area.

B. Age Verification. Prior to initiating the Transfer of Retail Marijuana, a Licensee must verify that the purchaser has a valid government-issued photo identification showing that the purchaser is 21 years of age or older.

C. Quantity Limitations On Sales.

1. An Accelerator Store and its employees are prohibited from Transferring more than one ounce of Retail Marijuana flower or its equivalent in Retail Marijuana Concentrate or Retail Marijuana Product or more than six Retail Marijuana seeds in a single transaction to a consumer. A single transaction includes multiple Transfers to the same consumer during the same business day where the Accelerator Store employee knows or reasonably should know that such Transfer would result in that consumer possessing more than one ounce of marijuana. In determining the imposition of any penalty for violation of this Rule 6-1110(C), the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235(C).

2. Equivalency. Non-edible, non-psychoactive Retail Marijuana Products including ointments, lotions, balms, and other non-transdermal topical products are exempt from the one-ounce quantity limit on Transfers. For all other Retail Marijuana Products or Retail Marijuana Concentrate, the following equivalency applies for the one ounce quantity Transfer limit:

    a. One ounce of Retail Marijuana flower shall be equivalent to eight grams of Retail Marijuana Concentrate.

    b. One ounce of Retail Marijuana flower shall be equivalent to 80 ten-milligram servings of THC in Retail Marijuana Product.

C.5. Educational Resource. When completing a sale of Retail Marijuana Concentrate, an Accelerator Store shall provide the consumer with the tangible educational resource created by the State Licensing Authority regarding the use of Regulated Marijuana Concentrate.

D. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to Transfer Retail Marijuana to a consumer.

E. Sales over the Internet. Only an Accelerator Store holding a valid delivery permit taking orders for delivery may make sales over the internet. Only a Retail Marijuana Store holding a valid delivery permit and/or a Retail Marijuana Transporter holding a valid delivery permit may deliver Retail Marijuana to a private residence. All other Retail Marijuana Store and Retail Marijuana Transporter Licensees are prohibited from selling Retail Marijuana over the internet.

F. Delivery Outside Colorado Prohibited. An Accelerator Store holding a valid delivery permit shall not deliver Retail Marijuana to an address that is outside the state of Colorado.

G. Prohibited Items. An Accelerator Store is prohibited from selling or giving away any consumable product that is not a Retail Marijuana Product or an Industrial Hemp Product including, but not limited to, cigarettes or tobacco products, alcohol beverages, and food products or non-alcohol beverages that are not Retail Marijuana Product.

H. Free Product Prohibited. An Accelerator Store may not give away Retail Marijuana to a consumer for any reason.

I. Nicotine or Alcohol Prohibited. An Accelerator Store is prohibited from Transferring Retail Marijuana that contain nicotine or alcohol, if the sale of the alcohol would require a license pursuant to Articles 3, 4, or 5 of Title 44, C.R.S.

J. Storage and Display Limitations.

1. An Accelerator Store shall not display Retail Marijuana outside of a designated Restricted Access Area or in a manner in which Retail Marijuana can be seen from outside the

Licensed Premises. Storage of Retail Marijuana shall otherwise be maintained in Limited Access Areas or Restricted Access Area.

2. Any Retail Marijuana Concentrate displayed in an Accelerator Store must include the potency of the concentrate on a sign next to the name of the product.

    a. The font on the sign must be large enough for a consumer to reasonably see from the location where a consumer would usually view the concentrate.

    b. The potency displayed on the sign must be within plus or minus fifteen percent of the concentrate's actual potency.

K. Transfer of Expired Product Prohibited. An Accelerator Store shall not Transfer any expired Retail Marijuana Product to a consumer.

L. Transfer Restriction.

1. Sampling Units. An Accelerator Store may not possess or Transfer Sampling Units.

2. Research Transfers Prohibited. An Accelerator Store shall not Transfer any Retail Marijuana to a Pesticide Manufacturer or a Marijuana Research and Development Facility.

L.5. Standard Operating Procedures. An Accelerator Store must establish written standard operating procedures for the management and storage of Retail Marijuana inventory and the sale of Retail Marijuana to consumers. A written copy of the standard operating procedures must be maintained on the Licensed Premises.

1. An Accelerator Store must provide adequate training to every Owner Licensee and Employee Licensee who performs a task or set of tasks that are referenced in the standard operating procedures. Adequate training must include, but need not be limited to, providing a copy of the standard operating procedures for that Licensed Premises detailing at least all of the topics required to be included in the standard operating procedures.

M. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit.

1. The sale of Edible Retail Marijuana Products in the following shapes is prohibited:

    a. The distinct shape of a human, animal, or fruit; or

    b. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

2. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Retail Marijuana Business. Nothing in this subparagraph (M)(2) alters or eliminates a Licensee's obligation to comply with the requirements of the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

3. Edible Retail Marijuana Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and

4. Edible Retail Marijuana Products that are manufactured in the shape of a marijuana leaf are permissible.

N. Adverse Health Event Reporting. An Accelerator Store must report Adverse Health Events pursuant to Rule 3-920.

O. Corrective and Preventive Action. An Accelerator Store shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

P. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-1115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(z), 44-10-203(2)(aa), 44-10-202(3)(h), 44-10-401(2)(b)(I), and 44-10-611, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to establish that an Accelerator Store must control and safeguard access to certain areas where Retail Marijuana and Retail Marijuana Product will be sold to the general public and prevent the diversion of Retail Marijuana and Retail Marijuana Product to people under 21 years of age.

6-1115 – Point of Sale: Restricted Access Area

A. Identification of Restricted Access Area. All areas where Retail Marijuana are sold, possessed for sale, displayed, or dispensed for sale shall be identified as a Restricted Access Area and shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Restricted Access Area – No One Under 21 Years of Age Allowed."

B. Consumers in Restricted Access Area. The Restricted Access Area must be supervised by a Licensee at all times when consumers are present to ensure that only persons who are 21 years of age or older are permitted to enter. When allowing a customer access to a Restricted Access Area, Owner Licensees and Employee Licensees shall make reasonable efforts to limit the number of consumers in relation to the number of Owners Licensees and Employee Licensees in the Restricted Access Area at any time.

C. Display of Retail Marijuana. The display of Retail Marijuana for sale is allowed only in Restricted Access Areas. Any product displays that are readily accessible to the consumer must be supervised by the Owner Licensee or Employee Licensees at all times when consumers are present.

D. Pregnancy Warning. Accelerator Stores must post, at all times and in a prominent place inside the Restricted Access Area, a warning that is at minimum three inches high and six inches wide that reads:

> **WARNING:** Using marijuana, in any form, while you are pregnant or breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of marijuana use during pregnancy or breastfeeding.

Part 7 – Regulated Marijuana Transfers to Unlicensed Pesticide Manufacturers

7-105 – Medical Marijuana Transfers to Medical Research Facilities – **Repealed effective January 1, 2021.**

7-110 – Retail Marijuana Transfers to Medical Research Facilities – **Repealed effective January 1, 2021.**

Basis and Purpose – 7-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a)(II), 44-10-202(1)(c), 44-10-203(1)(c), and 44-10-203(1)(k), C.R.S. The purpose of this rule is to establish requirements associated with the Transfer of Regulated Marijuana and Regulated Marijuana Product to Pesticide Manufacturers, including requirements for the possession and disposition of Regulated Marijuana and Regulated Marijuana Products by Pesticide Manufacturers. This Rule 7-115 was previously Rules M and R 1802, 1 CCR 212-1 and 1 CCR 212-2.

7-115 – Pesticide Manufacturers

A. Transfers to Pesticide Manufacturers. A Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, Retail Marijuana Cultivation Facility, and Retail Marijuana Products Manufacturer may Transfer Regulated Marijuana to a Pesticide Manufacturer solely for the purpose of conducting research to establish safe and effective protocols, including but not limited to establishing efficacy and toxicity, for the use of Pesticides on Regulated Marijuana. *See* Rules 5-205, 5-305, 6-205, 6-305.

B. Written Documentation Required. A Licensee shall require, and shall not Transfer Regulated Marijuana prior to receiving, written proof under oath, as evidenced by an affidavit entered into by an authorized person on behalf of the Pesticide Manufacturer, affirming that the Pesticide Manufacturer meets the requirements set forth in subparagraph (C)(4) of this Rule. This documentation shall constitute a business record under Rule 3-905 – Business Records Required.

C. Agreement with Pesticide Manufacturer. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products

Manufacturer that Transfers Regulated Marijuana to a Pesticide Manufacturer shall enter into a written agreement with the Pesticide Manufacturer prior to Transferring any Regulated Marijuana to the Pesticide Manufacturer. The written agreement, which shall constitute a business record under Rule 3-905, shall include:

1. The identity of the Pesticide Manufacturer;

2. The quantity of Regulated Marijuana that will be Transferred to the Pesticide Manufacturer;

3. The date(s) upon which Transfer of the Regulated Marijuana will occur;

4. An affirmation by the Pesticide Manufacturer that it:

   i. Has an establishment number with the U.S. Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 *et seq.*;

   ii. Is authorized to do business in Colorado;

   iii. Is in possession of a physical location in the State of Colorado where its research activities will occur;

   iv. Has applied for and received any necessary license, registration, certification, or permit from the Colorado Department of Agriculture pursuant to the Pesticide Act, sections 35-9-101 *et seq.*, C.R.S. and/or the Pesticide Applicators' Act, sections 35-10-101 *et seq.*, C.R.S.;

   v. Remains authorized to receive the quantity of Regulated Marijuana that will be Transferred to the Pesticide Manufacturer; and

   vi. Will only use the Transferred Regulated Marijuana for the purpose of research to establish safe and effective protocols for the use of Pesticides on Regulated Marijuana, which protocols may include but not be limited to establishing efficacy and toxicity; and

5. An affirmation by the Licensee that it has received written proof the Pesticide Manufacturer meets the requirements set forth in subparagraph (C)(4) of this Rule.

D. Inventory Tracking Requirements. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, and Retail Marijuana Products Manufacturer shall track all Regulated Marijuana in the Inventory Tracking System until it is delivered to a Pesticide Manufacturer.

1. Transport Manifest. A Licensee shall not deliver or permit the delivery of Regulated Marijuana unless a manifest is generated from the Inventory Tracking System.

2. Complete Manifest. A Licensee shall not relinquish possession or control of Regulated Marijuana to a Pesticide Manufacturer until a natural person authorized by the Pesticide Manufacturer acknowledges receipt of the Regulated Marijuana by signing the transport manifest.

3. No Inventory Tracking Following Delivery. Once Regulated Marijuana has been Transferred by a Licensee to a Pesticide Manufacturer, no further inventory tracking is required.

4. Licensee Delivery Responsibility. The originating Licensee is responsible for confirming delivery of all Regulated Marijuana in the Inventory Tracking System.

E. Packaging, Labeling, and Testing. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer that Transfers Regulated Marijuana to a Pesticide Manufacturer shall package, label, and test all Regulated Marijuana in conformance with these rules prior to Transferring the Regulated Marijuana. *See* – Labeling, Packaging, and Product Safety; – Regulated Marijuana Testing Program.

F. Business Records. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer that Transfers Regulated Marijuana to a Pesticide Manufacturer shall keep all documents concerning the relationship and Transfer of any Regulated Marijuana in accordance with Rules 3-605 and 3-905.

G. Pesticide Manufacturer Authorized Activities. A Pesticide Manufacturer is only authorized to possess Transferred Regulated Marijuana in order to conduct research to establish safe and effective protocols, including but not limited to establishing efficacy and toxicity, for the use of Pesticides on Regulated Marijuana.

H. Quantity Limitations for Pesticide Manufacturer. In no event shall a Pesticide Manufacturer possess at any given time more than (i) 12 Medical Marijuana plants and (ii) four pounds of Medical Marijuana or its equivalency in Medical Marijuana Concentrate (512 grams) or Medical Marijuana Product (5,120 Medical Marijuana Products), and (i) 12 Retail Marijuana plants and (ii) four pounds of Retail Marijuana or its equivalency in Retail Marijuana Concentrate (512 grams) or Retail Marijuana Products (5,120 ten-milligram servings of Retail Marijuana Product).

I. Disposition of Transferred Regulated Marijuana. A Pesticide Manufacturer shall destroy all Transferred Regulated Marijuana received from a Licensee following completion of research activities.

1. A Pesticide Manufacturer shall destroy Transferred Regulated Marijuana in conformance with Rule 3-230 – Waste Disposal.

2. A Pesticide Manufacturer shall document the destruction of Transferred Regulated Marijuana, which documentation shall include:

   i. Whether the destroyed material was Transferred Regulated Marijuana;

   ii. The date of destruction;

   iii. The location of the destruction;

   iv. The manner in which the Transferred Regulated Marijuana was rendered unusable and Unrecognizable;

   v. The method of final disposition pursuant to Rule 3-230; and

   vi. The identity(ies) and contact information of all Person(s) involved in the destruction.

3. A Pesticide Manufacturer shall keep all documentation regarding destruction of Transferred Regulated Marijuana for the current year and three preceding calendar years.

J. No Pesticide on Licensed Premises. Under no circumstance may a Pesticide Manufacturer apply Pesticide(s) for research purposes on the Licensed Premises of a Regulated Marijuana Business.

1. Licensees Shall Not Permit Pesticide on Licensed Premises. Under no circumstance may a Licensee allow or permit the application of Pesticide(s) by a Pesticide Manufacturer for research purposes on the Licensed Premises of a Regulated Marijuana Business.

2. Violation Affecting Public Safety. A violation of this prohibition shall be considered a violation affecting public safety.

K. No Human or Animal Subjects. Under no circumstance shall a Pesticide Manufacturer receiving Regulated Marijuana from a Licensee engage in research involving human subjects. Additionally, under no circumstance shall a Pesticide Manufacturer receiving Regulated Marijuana from a Licensee engage in research involving animal subjects, as defined in the Animal Welfare Act, 7 U.S.C. § 2132(g).

1. Licensees Shall Not Permit Human or Animal Subject Research. If a Licensee knows or reasonably should know that a Pesticide Manufacturer intends to engage in or has engaged in marijuana-related research involving human and/or animal subjects, the Licensee shall not Transfer any Regulated Marijuana to the Pesticide Manufacturer.

2. Violation Affecting Public Safety. A violation of this Rule shall be considered a violation affecting public safety.

L. No Transfer to Licensees. Under no circumstance may a Licensee receive or obtain for any purposes any Transferred Regulated Marijuana from a Pesticide Manufacturer.

Part 8 – Enforcement and Discipline

8-100 Series - Enforcement

Basis and Purpose – 8-105

The statutory authority for this rule includes but is not limited to sections 44-10-201(4), 44-10-202(1)(c), 44-10-203(1)(e), 44-10-203(1)(f), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-204, and 44-10-902, C.R.S. This rule explains that Licensees must cooperate with Division employees when they are acting within the normal scope of their duties and that failure to do so may result in sanctions. It also explains the administrative hold process, the handling of inventory subject to administrative hold and under investigation and the process for voluntary surrender of Regulated Marijuana. This Rule 8-105 was previously Rules M and R 1201, 1 CCR 212-1 and 1 CCR 212-2.

8-105 – Duties of Employees of the State Licensing Authority

A. Duties of Director.

1. The State Licensing Authority may delegate an act required to be performed by the State Licensing Authority related to the day-to-day operation of the Division to the Director.

2. The Director may authorize Division employees to perform tasks delegated from the State Licensing Authority.

3. The Director or his or her authorized Division employees may consult with any state or local agency for the purpose of the proper administration of these rules or the Marijuana Code.

B. Duties of Division Investigators. The State Licensing Authority, the Department's Senior Director of Enforcement, the Director, and Division investigators shall have all the powers of any peace officer to:

1. Investigate violations or suspected violations of the Marijuana Code and any rules promulgated pursuant to it. Make arrests, with or without warrant, for any violation of the Marijuana Code, any rules promulgated pursuant to it, Article 18 of Title 18, C.R.S., any other laws or regulations pertaining to Regulated Marijuana in this state, or any criminal law of this state, if, during an officer's exercise of powers or performance of duties pursuant to the Marijuana Code, probable cause exists that a crime related to such laws has been or is being committed;

2. Serve all warrants, summonses, subpoenas, administrative citations, notices or other processes relating to the enforcement of laws regulating Regulated Marijuana;

3. Assist or aid any law enforcement officer in the performance of his or her duties upon such law enforcement officer's request or the request of other local officials having jurisdiction;

4. Inspect, examine, or investigate any premises where the Licensee's Regulated Marijuana is grown, stored, cultivated, manufactured, tested, distributed, or sold, and any books and records in any way connected with any licensed or unlicensed activity;

5. Require any Licensee, upon demand, to permit an inspection of Licensed Premises during business hours or at any time of apparent operation, marijuana equipment, and marijuana accessories, or books and records; and, to permit the testing of or examination of Regulated Marijuana;

6. Require Applicants to submit complete and current applications and fees and other information the Division deems necessary to make licensing decisions and approve significant changes made by the Applicant or Licensee;

7. Conduct investigations into the character, criminal history, and all other relevant factors related to suitability of all Applicants and Licensees for Regulated Marijuana licenses and such other Persons with a direct or indirect interest in an Applicant or Licensee, as the State Licensing Authority may require; and

8. Exercise any other power or duty authorized by law.

C. Duties of State Licensing Authority and Division Employees.

1. Employees shall maintain the confidentiality of State Licensing Authority and Division records and information. For confidentiality requirements of State Licensing Authority and Division employees who leave the employment of the State Licensing Authority, *see* Rule 8-240 - Confidential Information and Former State Licensing Authority Employees.

2. Pursuant to subsection 44-10-201(3), C.R.S., State Licensing Authority employees with regulatory oversight responsibilities for marijuana businesses licensed by the State Licensing Authority shall not work for, represent, or provide consulting services to or otherwise derive pecuniary gain from a marijuana business licensed by the State Licensing Authority or other business entity established for the primary purpose of providing services to the marijuana industry for a period of six months following his or her last day of employment with the State Licensing Authority.

3. Pursuant to subsection 44-10-201(4), C.R.S., disclosure of confidential records or information in violation of the provisions of the Marijuana Code constitutes a class 1 misdemeanor.

Basis and Purpose – 8-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(f), 44-10-202(1)(g), 44-10-203(1)(k), and 44-10-902, C.R.S. This rule explains that Licensees must cooperate with Division employees when they are acting within the normal scope of their duties and that failure to do so may result in sanctions. It also explains the administrative hold process, the handling of inventory subject to administrative hold and under investigation and the process for voluntary surrender of Regulated Marijuana. This Rule 8-110 was previously Rules M and R 1202, 1 CCR 212-1 and 1 CCR 212-2.

8-110 – Requirement for Inspections and Investigations, Searches, Administrative Holds, Voluntary Surrenders and Such Additional Activities as May Become Necessary from Time to Time

A. Applicants and Licensees Shall Cooperate with Division Employees.

1. Applicants and Licensees must cooperate with employees of the Division who are conducting inspections or investigations relevant to the enforcement of laws and regulations related to the Marijuana Code.

2. No Applicant or Licensee shall by any means interfere with, obstruct, or impede the State Licensing Authority or any employee of the Division from exercising their duties pursuant to the provisions of the Marijuana Code and all rules promulgated pursuant to it. This would include, but is not limited to:

a. Threatening force or violence against an employee or investigator of the Division, or otherwise endeavoring to intimidate, obstruct, or impede employees or investigator of the Division, their supervisors, or any peace officers from exercising their duties. The term “threatening force” includes the threat of bodily harm to such individual or to a member of his or her family;

b. Denying investigators of the Division access to premises where the Licensee’s Regulated Marijuana are grown, stored, cultivated, manufactured, tested, distributed, or Transferred during business hours or times of apparent activity;

c. Providing false or misleading statements;

d. Providing false or misleading documents and records;

e. Failing to timely produce requested books and records required to be maintained by the Licensee; or

f. Failing to timely respond to any other request for information made by a Division employee or investigator in connection with an investigation of the qualifications, conduct or compliance of an Applicant or Licensee.

3. License Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

B. Administrative Hold.

1. To prevent destruction of evidence, diversion, or other threats to public safety, while permitting a Licensee to retain its inventory pending further investigation, a Division investigator may order an administrative hold of Regulated Marijuana pursuant to the following procedure:

    a. If during an investigation or inspection of a Licensee, a Division investigator develops reasonable grounds to believe certain Regulated Marijuana constitute evidence of acts in violation of the Marijuana Code or rules promulgated pursuant to it, or constitute a threat to the public safety, the Division investigator may issue a notice of administrative hold of any such Regulated Marijuana. The notice of administrative hold shall provide a documented description of the Regulated Marijuana to be subject to the administrative hold and a concise statement that is promptly issued and approved by the Director, or his or her designee, regarding the reasons for issuing the administrative hold.

    b. Following the issuance of a notice of administrative hold, the Division will identify the Regulated Marijuana subject to the administrative hold in the Inventory Tracking System. The Licensee shall continue to comply with all tracking requirements. *See* Rule 3-805 Regulated Marijuana Businesses: Inventory Tracking System.

    c. The Licensee shall completely and physically segregate the Regulated Marijuana subject to the administrative hold in a Limited Access Area of the Licensed Premises under investigation, where it shall be safeguarded by the Licensee.

    d. While the administrative hold is in effect, the Licensee is prohibited from, giving away, Transferring, transporting, or destroying the Regulated Marijuana subject to the administrative hold, except as otherwise authorized by these rules.

    e. While the administrative hold is in effect, the Licensee must safeguard the Regulated Marijuana subject to the administrative hold, must maintain the Licensed Premises in reasonable condition according to health, safety, and sanitary standards, and must fully comply with all security requirements including but not limited to surveillance, lock and alarm requirements as set forth in the Marijuana Code and the rules of the State Licensing Authority.

    f. Nothing herein shall prevent a Licensee from voluntarily surrendering Regulated Marijuana that is subject to an administrative hold, except that the Licensee must follow the procedures set forth in paragraph (C) for voluntary surrender of Regulated Marijuana.

    g. Nothing herein shall prevent a Licensee from the continued possession, cultivation or harvesting of the Regulated Marijuana subject to the administrative hold. All Regulated Marijuana subject to an administrative hold must be put into separate Harvest Batches.

    h. At any time after the initiation of the administrative hold, the Division may lift the administrative hold, order the continuation of the administrative hold pending the administrative process, or seek other appropriate relief.

C. Voluntary Surrender of Regulated Marijuana.

1. A Licensee, prior to a Final Agency Order and upon mutual agreement with the Division, may elect to voluntarily surrender any Regulated Marijuana to the Division.

a. Such voluntary surrender may require destruction of any Regulated Marijuana in the presence of a Division investigator and at the Licensee's expense.

b. The individual signing the Division's voluntary surrender form on behalf of the Licensee must certify that the individual has authority to represent and bind the Licensee.

2. The voluntary surrender form may be utilized in connection with a stipulated agency order through which the Licensee waives the right to hearing and any associated rights.

3. The voluntary surrender form may be utilized even if the Licensee does not waive the right to hearing and any associated rights, with the understanding that the outcome of the hearing does not impact the validity of the voluntary surrender.

4. A Licensee, after a Final Agency Order and upon mutual agreement with the Division, may elect to voluntarily surrender any Regulated Marijuana to the Division.

a. The Licensee must complete and return the Division's voluntary surrender form within 15 calendar days of the date of the Final Agency Order.

b. Such voluntary surrender may require destruction of any Regulated Marijuana in the presence of a Division investigator and at the Licensee's expense.

c. The individual signing the Division's voluntary surrender form on behalf of the Licensee must certify that the individual has authority to represent and bind the Licensee.

Basis and Purpose – 8-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(f), 44-10-203(1)(g), 44-10-203(1)(k), and 44-10-902. The purpose of this rule is to provide guidance following either an agency decision or under any circumstances where the Licensee is ordered to surrender and/or destroy unauthorized Regulated Marijuana. This rule also provides guidance as to the need to preserve evidence during agency investigations or subject to agency order. This Rule 8-115 was previously Rules M and R 1203, 1 CCR 212-1 and 1 CCR 212-2.

8-115 – Disposition of Unauthorized Regulated Marijuana

A. After a Final Agency Order Mandates the Destruction of Regulated Marijuana. If the State Licensing Authority issues a Final Agency Order pursuant to section 44-10-902, C.R.S., that orders the destruction of some or all of the Licensee's unauthorized Regulated, the Licensee may:

1. Voluntarily Surrender. The Licensee may voluntarily surrender to the Division all of its unauthorized Regulated Marijuana that are described in the Final Agency Order in accordance with the provisions of Rule 8-110(C).

2. Seek A Stay. The Licensee may file a petition for a stay of the Final Agency Order with the Denver district court within 15 days of the date of the Final Agency Order.

3. Take No Action. If the Licensee does not either (1) voluntarily surrender its unauthorized Regulated Marijuana as set forth in subparagraph (A)(1) of this Rule; or (2) properly seek a stay of the Final Agency Order as set forth in subparagraph (A)(2) of this Rule, the Division will enter upon the Licensed Premises and seize and destroy the unauthorized Regulated Marijuana that are the subject of the Final Agency Order.

B. General Requirements Applicable To All Licensees Following Final Agency Order To Destroy Unauthorized Regulated Marijuana. The following requirements apply regardless of whether the Licensee voluntarily surrenders its unauthorized Regulated Marijuana, seeks a stay of agency action, or takes no action:

1. The 15 day period set forth in section 44-10-902(5), C.R.S., and this Rule shall include holidays and weekends.

2. During the period of time between the issuance of the Final Agency Order and the destruction of the unauthorized Regulated Marijuana the Licensee shall not sell, destroy, or otherwise let any unauthorized Regulated Marijuana that are subject to the Final Agency Order leave the Licensed Premises, unless specifically authorized by the State Licensing Authority or Court order.

3. During the period of time between the issuance of the Final Agency Order and the destruction of unauthorized Regulated Marijuana, the Licensee must safeguard any unauthorized Regulated Marijuana in its possession or control and must fully comply with all security requirements including but not limited to surveillance, lock and alarm requirements set forth in the Marijuana Code and the rules of the State Licensing Authority.

4. Unless the State Licensing Authority otherwise orders, the Licensee may cultivate, water, or otherwise care for any unauthorized Regulated Marijuana that are subject to the Final Agency Order during the period of time between the issuance of the Final Agency order and the destruction of the unauthorized Regulated Marijuana.

5. If a district attorney notifies the Division that some or all of the unauthorized Regulated Marijuana is involved in an investigation, the Division shall not destroy the unauthorized Regulated Marijuana until approved by the district attorney.

Basis and Purpose – 8-120

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(f), 44-10-203(1)(g), 44-10-203(1)(k), and 44-10-203(2)(w), C.R.S. This rule explains that Division investigators may exercise discretion in issuing written warning when, during the course of a compliance check or investigation, the Division investigator identifies a violation(s) of the Marijuana Code or the rules promulgated thereunder. This rule also explains that the Director of the Division may exercise discretion to accept an assurance of voluntary compliance. It also explains the evidentiary value of a written warning or an assurance of voluntary compliance. This Rule 8-120 was previously Rules M and R 1204, 1 CCR 212-1 and 1 CCR 212-2.

8-120 – Written Warnings and Assurances of Voluntary Compliance

A. Written Warnings. During an investigation, if a Division investigator identifies a violation(s) of the Marijuana Code or the rules promulgated thereunder, the Division investigator may issue a written warning in lieu of recommending immediate administrative action.

1. The written warning shall identify the alleged violation(s).

2. The written warning shall not constitute an admission of a violation(s) for any purpose or finding of a violation(s) by the State Licensing Authority, and shall not be evidence that Licensee violated the Marijuana Code, or the rules promulgated thereunder.

3. A written warning shall constitute evidence in any subsequent administrative proceeding, if relevant, that the Licensee was previously warned of the violation(s).

4. The Division may in its discretion initiate a subsequent administrative action and prove the violation(s) that was the subject of the written warning

B. Assurances of Voluntary Compliance. The Director of the Division may accept an assurance of voluntary compliance regarding any act or practice alleged to violate the Marijuana Code, or the rules thereunder.

1. The assurance must be in writing and may include a stipulation for the voluntary payment of the cost commensurate with the acts or practices and an amount necessary to restore money or property which may have been acquired by the alleged violator because of the acts or practices.

2. An assurance of voluntary compliance may not be considered an admission of a violation(s) for any purpose or a finding of a violation(s) by the State Licensing Authority; however, the assurance of voluntary compliance shall constitute evidence in any subsequent administrative proceeding that Licensee entered into an agreement to comply with the Marijuana Code, and/or the rules promulgated thereunder.

3. The State Licensing Authority may approve or review an assurance of voluntary compliance.

C. Not a Disciplinary Action. Neither a written warning nor an assurance of voluntary compliance constitutes a disciplinary action.

Basis and Purpose – 8-125

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(5), 44-10-203(1)(e), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(l), C.R.S. The purpose of this rule is to establish the circumstances under which the State Licensing Authority may seek from a district court an investigative subpoena and what reasonable efforts the Division may take prior to seeking an investigative subpoena. The Division has encountered circumstances that would have justified such an investigative subpoena. Establishing the criteria under which the Division may seek an investigative subpoena will provide district courts guidelines under which to evaluate a petition for an investigative subpoena.

8-125 – Investigative Subpoenas

A. Criteria. The State Licensing Authority may petition a district court for an investigative subpoena applicable to a Person who is not licensed pursuant to the Marijuana Code to obtain documents or information necessary to enforce the Marijuana Code and these Rules after the Division has taken reasonable efforts to obtain requested documents or information.

B. Reasonable Efforts. For purposes of this Rule 8-125, “reasonable efforts” may include but shall not be limited to obtaining the documents or information through a request to the unlicensed Person and such unlicensed Person has either declined to provide the documents or information, or failed to respond to the Division within the applicable time frame.

C. Affidavit. When seeking an investigative subpoena, the Division will supply the district court with a sworn affidavit explaining the bases for seeking the subpoena.

Basis and Purpose – 8-130

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(e), 44-10-203(2)(l), 44-10-203(1)(e), 44-10-203(1)(g), and 44-10-203(2)(w), C.R.S. The purpose of this rule is to establish the circumstances under which the Division may seek from a district court an administrative

warrant to search and/or seize marijuana and marijuana products, or other evidence indicating a violation of the Marijuana Code or rules. The Division has encountered circumstances that would have justified such a warrant. Establishing the criteria under which the Division may seek an administrative warrant will give fair notice to the regulated community regarding the types of violations that would lead to a request for an administrative warrant. This Rule 8-130 was previously Rules M and R 1309, 1 CCR 212-1 and 1 CCR 212-2.

8-130 – Administrative Warrants

A. Criteria. The Division may seek from a district court an administrative search warrant authorizing search and seizure in circumstances in which the Division makes a proper showing that:

1. A Licensee has refused entry of Division investigators during business hours or times of apparent activity;

2. A Licensee subject to an administrative hold or summary suspension has failed to comply with applicable rules; or

3. A Licensee otherwise has acted in a manner demonstrating disregard for the Marijuana Code and the State Licensing Authority's rules or that threatens the public health, safety, and welfare.

B. Affidavit. When seeking an administrative search warrant, the Division will supply the district court with a sworn affidavit explaining the bases for seeking the warrant.

C. Seized Property. If the Division seizes marijuana, neither the Division nor the State Licensing Authority shall cultivate or care for any seized marijuana or marijuana products. The Division may seek from the district court an order to destroy any such marijuana or marijuana products.

8-200 Series – Discipline and Administrative Hearings

Basis and Purpose – 8-205

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(l), 44-10-701, 44-10-901, and 24-4-105 C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to clarify how the disciplinary process for non-summary license suspensions and license revocations is initiated. This Rule 8-205 was previously Rules M and R 1301, 1 CCR 212-1 and 1 CCR 212-2.

8-205 –Non-Summary Suspensions

A. How a Disciplinary Action is Initiated.

1. If the State Licensing Authority, on its own initiative or based on a complaint, has reasonable cause to believe that a Licensee has violated the Marijuana Code, any rule promulgated pursuant to it, or any of its orders, the State Licensing Authority shall issue and serve upon the Licensee an Order to Show Cause (administrative citation) as to why its license should not be suspended, revoked, restricted, fined, or subject to other disciplinary sanction.

2. The Order to Show Cause shall identify the statute, rule, regulation, or order allegedly violated, and the facts alleged to constitute the violation. The order shall also provide an advisement that the license could be suspended, revoked, restricted, fined, or subject to other disciplinary sanction should the charges contained in the notice be sustained upon final hearing.

B. Disciplinary Hearings. Disciplinary hearings will be conducted in accordance with Rule 8-220 – Administrative Hearings.

C. Renewal. The issuance of an Order to Show Cause does not relieve the Licensee of the obligation to timely comply with all license renewal requirements.

Basis and Purpose – 8-210

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(l), 24-4-104(4)(a), 44-10-701, 44-10-901, and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to set forth the process for summary suspensions when the State Licensing Authority has cause to immediately suspend a license prior to and pending a hearing and final agency order. Summary suspensions will be imposed when the State Licensing Authority has reason to believe and finds that a Licensee has been guilty of a deliberate and willful violation of any applicable law or regulation, or that the public health, safety, and welfare imperatively require emergency action. The rule ensures proper due process for Licensees when their licenses are temporarily or summarily suspended by requiring prompt initiation of disciplinary proceedings after such suspensions. The purpose of the modifications to this rule is to clarify that the hearing following the Order of Summary Suspension concerns the allegations set forth in the Order to Show Cause. This Rule 8-210 was previously Rules M and R 1302, 1 CCR 212-1 and 1 CCR 212-2.

8-210 – Summary Suspensions

A. How a Summary Suspension Action is Initiated.

1. When the State Licensing Authority has reasonable grounds to believe and finds that a Licensee has been guilty of a deliberate and willful violation of any applicable law or regulation or that the public health, safety, or welfare imperatively requires emergency action it shall serve upon the Licensee a Summary Suspension Order that temporarily or summarily suspends the license.

2. The Summary Suspension Order shall identify the nature of the State Licensing Authority's basis for the summary suspension. The Summary Suspension Order shall also provide an advisement that the License may be subject to further discipline or revocation following a hearing on an Order to Show Cause.

3. Proceedings for suspension or revocation shall be promptly instituted and determined after the Summary Suspension Order is issued in accordance with the following procedure:

a. After the Summary Suspension Order is issued, the State Licensing Authority shall promptly issue and serve upon the Licensee an Order to Show Cause (administrative citation) as to why the Licensee's license should not be suspended, revoked, restricted, fined, or subject to other disciplinary sanction.

b. The Order to Show Cause shall identify the statute, rule, regulation, or order allegedly violated, and the facts alleged to constitute the violation. The Order to Show Cause shall also provide an advisement that the license could be suspended, revoked, restricted, fined or subject to disciplinary sanction should the charges contained in the Order to Show Cause be sustained upon final hearing.

c. The Order to Show Cause shall be filed with the Department's Hearings Division. The hearing on the allegations set forth in the Order to Show Cause shall be

expedited to the extent practicable and will be conducted in accordance with Rule 8-220 – Administrative Hearings.

B. Duration of Summary Suspension. Unless lifted by the State Licensing Authority, the Summary Suspension Order shall remain in effect until issuance of a Final Agency Order.

Basis and Purpose – 8-215

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(l), 44-10-701, 44-10-901, 24-4-104(4)(a), and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The State Licensing Authority recognizes that if Licensees are not able to care for their products during a period of active suspension, then their plants could die, their edible products could deteriorate, and their on-hand inventory may not be properly maintained. Accordingly, this rule was written to clarify that Licensees whose licenses are summarily suspended may care for on-hand inventory, manufactured products, and plants during the suspension (unless the State Licensing Authority does not allow such activity), provided the Licensed Premises and all Regulated Marijuana is adequately secured. In addition, the rule clarifies what activity is always prohibited during such suspension. This Rule 8-215 was previously Rules M and R 1303, 1 CCR 212-1 and 1 CCR 212-2.

8-215 – Suspension Process: Regular and Summary Suspensions

A. Signs Required During Suspension. Every Licensee whose license has been suspended, whether summarily or after an administrative hearing, shall post two notices in conspicuous places, one on the exterior and one on the interior of its premises, for the duration of the suspension. The notices shall be at least 17 inches in length and 11 inches in width containing lettering not less than 1/2'' in height.

1. For suspension following issuance of a Final Agency Order, the sign shall be in the following form:

   NOTICE OF SUSPENSION

   REGULATED MARIJUANA LICENSES ISSUED

   FOR THESE PREMISES HAVE BEEN

   SUSPENDED BY ORDER OF THE STATE LICENSING AUTHORITY

   FOR VIOLATION OF THE COLORADO MARIJUANA CODE

2. For a summary suspension pending issuance of a Final Agency Order, the sign shall be in the following form:

   NOTICE OF SUSPENSION

   REGULATED MARIJUANA LICENSES ISSUED

   FOR THESE PREMISES HAVE BEEN

   SUSPENDED BY ORDER OF THE STATE LICENSING AUTHORITY

   FOR ALLEGED VIOLATION OF THE COLORADO MARIJUANA CODE

Any advertisement or posted signs that indicate that the premises have been closed or business suspended for any reason other than by the manner described in this Rule shall be deemed a violation of these rules.

B. Prohibited Activity During Active Suspension.

1. Unless otherwise ordered by the State Licensing Authority, during any period of active license suspension the Licensee shall not permit the serving, giving away, distribution, manufacture, sampling, acquisition, purchase, testing, Transfer, or transport of Regulated Marijuana on or from the Licensed Premises, nor allow patients or consumers to enter the Licensed Premises.

2. Unless otherwise ordered by the State Licensing Authority, during any period of suspension the Licensee may continue to possess, maintain, cultivate, or harvest Regulated Marijuana on the Licensed Premises. The Licensee must fully account for all such Regulated Marijuana in the Inventory Tracking System. The Licensee must safeguard any Regulated Marijuana in its possession or control. The Licensee must possess and maintain the Licensed Premises in reasonable condition according to health, safety, and sanitary standards, and must fully comply with all security requirements including but not limited to surveillance, lock and alarm requirements set forth in the Marijuana Code and the rules of the State Licensing Authority.

C. Removal and Destruction of Regulated Marijuana. Regulated Marijuana shall not be removed from the Licensed Premises or destroyed unless:

1. The provisions described in section 44-10-902, C.R.S., related to the proper destruction of unauthorized marijuana are met, and the State Licensing Authority orders forfeiture and destruction. *See also* Rule 8-115 – Disposition of Unauthorized Regulated Marijuana;

2. The Licensee has voluntarily surrendered the Regulated Marijuana in accordance with Rule 8-110(C) – Voluntary Surrender; or

3. The State Licensing Authority has seized the Regulated Marijuana pursuant to an Administrative Warrant. *See* Rule 8-130 – Administrative Warrant.

D. Renewal. The issuance of an Order to Show Cause or an Order of Summary Suspension does not relieve the Licensee of the obligation to timely comply with all license renewal requirements. The Division's approval of any renewal application filed by a Licensee while subject to an Order to Show Cause or an Order of Summary Suspension shall not constitute a Final Agency Order or an agreement to a settlement of the administrative action. The Licensee shall continue to comply with the requirements of this Rule pending a Final Agency Order resolving the Order of Summary Suspension and any related Order to Show Cause.

Basis and Purpose – 8-220

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(l), 44-10-204(1)(a), 44-10-701, 44-10-901, 24-4-104, and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish what entity conducts the administrative hearings, the procedures governing administrative hearings, and other general hearings issues. The purpose of the modifications to this rule is to clarify that the hearing following the Order of Summary Suspension concerns the allegations set forth in the Order to Show Cause, and to clarify that an answer is required only for two types of administrative notices: an Order to Show Cause and a Notice of Grounds for Denial. This Rule 8-220 was previously Rules M and R 1304, 1 CCR 212-1 and 1 CCR 212-2.

8-220 – Administrative Hearings

A. General Procedures.

1. Hearing Location. Hearings will generally be conducted by the Department's Hearings Division. Hearings will be held virtually unless otherwise ordered by the hearing officer for good cause. "Good cause" for an in-person hearing means that there are unusual circumstances where justice, judicial economy, and convenience of the parties would be served by holding a hearing in person. The Division, Respondent or Denied Applicant may request a hearing officer order an in-person hearing upon a showing of good cause. If the hearing officer orders an in-person hearing, the hearing will be conducted at a location in the greater Denver metropolitan area to be determined by the hearing officer.

2. Scope of Hearing Rules. This Rule shall be construed to promote the just and efficient determination of all matters presented.

3. Right to Legal Counsel. Any Denied Applicant or Respondent has a right to legal counsel throughout all processes described in rules associated with the denial of an application and disciplinary action. Such counsel shall be provided solely at the Denied Applicant's or Respondent's expense. Unless a Denied Applicant or Respondent that is an entity satisfies the exception in section 13-1-127(2), C.R.S., the Denied Applicant or Respondent must be represented by an attorney admitted to practice law in the state of Colorado.

4. Service. An Order to Show Cause or a Notice of Denial must be served on a Respondent or Denied Applicant personally or by first-class mail. Service of pleadings or other papers on a Denied Applicant, Respondent, or any attorney representing a party, may be made by hand delivery, by mail to the party's last known address, or by electronic mail. Service of pleadings or other papers on the Division in an administrative hearing may be made to the attorney(s) of record, as identified on the Certificate of Service to the Order to Show Cause, Order of Summary Suspension, or Notice of Denial, by electronic mail or first-class mail.

B. Requesting a Hearing.

1. A Denied Applicant that has been served with a Notice of Denial may request a hearing within 60 days of the service of the Notice of Denial by making a written request for a hearing to the Division. The request must be submitted by United States mail or by hand delivery. Email or fax requests will not be considered. The request must be sent to the mailing address of the Division's headquarters, as listed on the Division's website. Include "Attn: Hearing Request" in the mailing address. The written request for a hearing must be received by the Division within the time stated in the Notice of Denial. An untimely request for hearing will not be considered.

2. A Denied Applicant that timely requests a hearing following issuance of a Notice of Denial shall be served with a Notice of Grounds for Denial, and shall be entitled to a hearing regarding the matters addressed therein.

3. A Respondent that has been served with an Order to Show Cause shall be entitled to a hearing regarding the matters addressed therein.

C. When a Responsive Pleading is Required.

1. A Respondent shall file a written answer with the Hearings Division and the Division within 30 days after the date of mailing of any Order to Show Cause. The written answer

shall comply with the requirements of Rule 8 of the Colorado Rules of Civil Procedure. If a Respondent fails to file a required answer, the hearing officer, upon motion, may enter a default against that Person pursuant to section 24-4-105(2)(b), C.R.S. For good cause, as described in this Rule, shown, the hearing officer may set aside the entry of default within ten days after the date of such entry.

2. A Denied Applicant shall file a written answer with the Hearings Division and the Division within 30 days after the date of mailing of any Notice of Grounds for Denial. The written answer shall comply with the requirements of Rule 8 of the Colorado Rules of Civil Procedure. If a Denied Applicant fails to file a required answer, the hearing officer, upon motion, may enter a default against that Person pursuant to section 24-4-105(2)(b), C.R.S. For good cause, as described in this Rule, shown, the hearing officer may set aside the entry of default within ten days after the date of such entry.

D. Hearing Notices.

1. Notice to Set. The Division shall send a notice to set a hearing to the Denied Applicant or Respondent in writing by electronic mail or by first-class mail to the last mailing address of record if an electronic mail address is unknown.

2. Notice of Hearing. The Hearings Division shall notify the Division and Denied Applicant or Respondent of the date, place, time, and nature of the hearing regarding denial of the license application or whether discipline should be imposed against the Respondent's license at least 30 days prior to the date of such hearing, unless otherwise agreed to by both parties. This notice shall be sent to the Denied Applicant or Respondent in writing by first-class mail to the last mailing address of record. Hearings shall be scheduled and held as soon as is practicable.

   a. If an Order of Summary Suspension has issued, the hearing on the Order to Show Cause will be scheduled and held promptly.

   b. Continuances may be granted for good cause, as described in this Rule, shown. A motion for a continuance must be timely.

   c. "Good cause" for a continuance may include but is not limited to: death or incapacitation of a party or an attorney for a party; a court order staying proceedings or otherwise necessitating a continuance; entry or substitution of an attorney for a party a reasonable time prior to the hearing, if the entry or substitution reasonably requires a postponement of the hearing; a change in the parties or pleadings sufficiently significant to require a postponement; a showing that more time is clearly necessary to complete authorized discovery or other mandatory preparation for the hearing; or agreement of the parties to a settlement of the case which has been or will likely be approved by the final decision maker. Good cause normally will not include the following: unavailability of counsel because of engagement in another judicial or administrative proceeding, unless the other proceeding was involuntarily set subsequent to the setting in the present case; unavailability of a necessary witness, if the witness' testimony can be taken by telephone or by deposition; or failure of an attorney or a party timely to prepare for the hearing.

E. Prehearing Matters Generally.

1. Prehearing Conferences Once a Hearing is Set. Prehearing conferences may be held at the discretion of the hearing officer upon request of any party, or upon the hearing

officer's own motion. If a prehearing conference is held and a prehearing order is issued by the hearing officer, the prehearing order will control the course of the proceedings.

2. Depositions. Depositions are generally not allowed; however, a hearing officer has discretion to allow a deposition if a party files a written motion and can show why such deposition is necessary to prove its case. When a hearing officer grants a motion for a deposition, C.R.C.P. 30 controls. Hearings will not be continued because a deposition is allowed unless (a) both parties stipulate to a continuance and the hearing officer grants the continuance, or (b) the hearing officer grants a continuance over the objection of any party in accordance with subsections (D)(2)(b) and (c) of this Rule.

3. Prehearing Statements Once a Hearing is Set. Prehearing Statements are required and unless otherwise ordered by the hearing officer, each party shall file with the hearing officer and serve on each party a prehearing statement no later than seven calendar days prior to the hearing. Parties shall also exchange exhibits at that time. Parties shall not file exhibits with the hearing officer. Parties shall exchange exhibits by the date on which prehearing statements are to be filed. Prehearing statements shall include the following information:

   a. Witnesses. The name, mailing address, and telephone number of any witness whom the party may call at hearing, together with a detailed statement of the expected testimony.

   b. Experts. The name, mailing address, and brief summary of the qualifications of any expert witness a party may call at hearing, together with a statement that details the opinions to which each expert is expected to testify. These requirements may be satisfied by the incorporation of an expert's resume or report containing the required information.

   c. Exhibits. A description of any physical or documentary evidence to be offered into evidence at the hearing. Exhibits should be identified as follows: Division using numbers and Denied Applicant or Respondent using letters.

   d. Stipulations. A list of all stipulations of fact or law reached, as well as a list of any additional stipulations requested or offered to facilitate disposition of the case.

4. Prehearing Statements Binding. The information provided in a party's prehearing statement shall be binding on that party throughout the course of the hearing unless modified to prevent manifest injustice. New witnesses or exhibits may be added only if: (1) the need to do so was not reasonably foreseeable at the time of filing of the prehearing statement; (2) it would not prejudice other parties; and (3) it would not necessitate a delay of the hearing.

5. Consequence of Not Filing a Prehearing Statement Once a Hearing is Set. If a party does not timely file a prehearing statement, the hearing officer may impose appropriate sanctions including, but not limited to, striking proposed witnesses and exhibits.

F. Conduct of Hearings.

1. The hearing officer shall cause all hearings to be electronically recorded.

2. The hearing officer may allow a hearing, or any portion of the hearing, to be conducted in real time by telephone or other electronic means. If a party is appearing by telephone, the party must provide actual copies of the exhibits to be offered into evidence at the hearing

to the hearing officer when the prehearing statement is filed. Electronic filings will be accepted at: dor_regulatoryhearings@state.co.us.

3. The hearing officer shall administer oaths or affirmations to all witnesses at hearing. The hearing officer may question any witness.

4. The hearing, including testimony and exhibits, shall be open to the public unless otherwise ordered by the hearing officer in accordance with a specific provision of law.

   a. Reports and other information that would otherwise be confidential pursuant to subsection 44-10-204(1)(a), C.R.S., may be introduced as exhibits at hearing.

   b. Any party may move the hearing officer to seal an exhibit or order other appropriate relief if necessary to safeguard the confidentiality of evidence.

5. Court Rules.

   a. To the extent practicable, the Colorado Rules of Evidence apply. Unless the context requires otherwise, whenever the word “court,” “judge,” or “jury” appears in the Colorado Rules of Evidence, such word shall be construed to mean a hearing officer. A hearing officer has discretion to consider evidence not admissible under such rules, including but not limited to hearsay evidence, pursuant to section 24-4-105(7), C.R.S.

   b. To the extent practicable, the Colorado Rules of Civil Procedure apply. However, Colorado Rules of Civil Procedure 16 and 26-37 do not apply, although parties are encouraged to voluntarily work together to resolve the case, simplify issues, and exchange information relevant to the case prior to a hearing. Unless the context otherwise requires, whenever the word “court” appears in a rule of civil procedure, that word shall be construed to mean a hearing officer.

6. Exhibits.

   a. All documentary exhibits must be paginated by the party offering the exhibit into evidence.

   b. The Division shall use numbers to mark its exhibits.

   c. The Denied Applicant or Respondent shall use letters to mark its exhibits.

7. The hearing officer may proceed with the hearing or enter default judgment if any party fails to appear at hearing after proper notice.

G. Post Hearing. After considering all the evidence, the hearing officer shall determine whether the proponent of the order has proven its case by a preponderance of the evidence, and shall make written findings of evidentiary fact, ultimate conclusions of fact, conclusions of law, and a recommendation. These written findings shall constitute an Initial Decision subject to review by the State Licensing Authority pursuant to the Colorado Administrative Procedure Act and as set forth in Rule 8-230 – Administrative Hearing Appeals/Exceptions to Initial Decision.

H. No Ex Parte Communication. Ex parte communication shall not be allowed at any point following the formal initiation of the hearing process. A party or counsel for a party shall not initiate any communication with a hearing officer or the State Licensing Authority, or with conflicts counsel representing the hearing officer or State Licensing Authority, pertaining to any pending matter unless all other parties participate in the communication or unless prior consent of all other

parties (and any pro se parties) has been obtained. Parties shall provide all other parties with copies of any pleading or other paper submitted to the hearing officer or the State Licensing Authority in connection with a hearing or with the exceptions process.

I. Marijuana Enforcement Division representation. The Division shall be represented by the Colorado Department of Law.

Basis and Purpose – 8-225

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(k), 44-10-203(2)(a), 24-4-105, and 44-10-901, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish how all parties, including pro se parties, can obtain subpoenas during the administrative hearing process. This Rule 8-225 was previously Rules M and R 1305, 1 CCR 212-1 and 1 CCR 212-2.

8-225 – Administrative Subpoenas

A. Informal Exchange of Documents Encouraged. Parties are encouraged to exchange documents relevant to the Notice of Denial or Order to Show Cause prior to requesting subpoenas. In addition, to the extent practicable, parties are encouraged to secure the voluntary presence of witnesses necessary for the hearing prior to requesting subpoenas.

B. Hearing Officer May Issue Subpoenas.

1. A party or its counsel may request the hearing officer to issue subpoenas to secure the presence of witnesses or documents necessary for the hearing or a deposition, if one is allowed.

2. Requests for subpoenas to be issued by the hearing officer must be emailed to the Hearings Division at the Department of Revenue at dor_regulatoryhearings@state.co.us. Subpoena requests must include the return mailing address, and phone and facsimile numbers of the requesting party or its attorney.

3. Requests for subpoenas to be issued by the hearing officer may be made on a “Request for Subpoena” form authorized and provided by the Hearings Division, or on a “Request for Subpoena” request that includes the information below. A hearing officer shall not issue a subpoena unless the request contains the following information:

a. Name of Denied Applicant or Respondent;

b. License or application number;

c. Case number;

d. Date of hearing;

e. Location of hearing, or telephone number for telephone check-in;

f. Time of hearing;

g. Name of witness to be subpoenaed; and

h. Mailing address of witness (home or business).

4. A request for a subpoena *duces tecum* must identify each document or category of documents to be produced.

5. Requests for subpoenas shall be signed by the requesting party or its counsel.

6. The hearing officer shall issue subpoenas without discrimination, as set forth in section 24-4-105(5), C.R.S. If the reviewing hearing officer denies the issuance of a subpoena, or alters a subpoena in any material way, specific findings and reasons for such denial or alteration must be made on the record, or by written order incorporated into the record.

C. Service of Subpoenas.

1. Service of any subpoena is the duty of the party requesting the subpoena.

2. All subpoenas must be served at least two business days prior to the hearing.

D. Subpoena Enforcement.

1. Any subpoenaed witness, entity, or custodian of documents may move to quash the subpoena with the hearing officer.

2. A hearing officer may quash a subpoena if he or she finds on the record that compliance would be unduly burdensome or impracticable, unreasonably expensive, or is unnecessary.

Basis and Purpose – 8-230

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-701, 44-10-901, and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish how parties may appeal a hearing officer's Initial Decision pursuant to the Administrative Procedure Act. This Rule 8-230 was previously Rules M and R 1306, 1 CCR 212-1 and 1 CCR 212-2.

8-230 – Administrative Hearing Appeals/Exceptions to Initial Decision

A. Exception(s) Process. Any party may appeal an Initial Decision to the State Licensing Authority pursuant to the Colorado Administrative Procedure Act by filing written exception(s) within 30 days after the date of mailing of the Initial Decision to the Denied Applicant or Respondent and the Division. The written exception(s) shall include a statement giving the basis and grounds for the exception(s). Any party who fails to properly file written exception(s) within the time provided in these rules shall be deemed to have waived the right to an appeal. A copy of the exception(s) shall be served on all parties. The address of the State Licensing Authority is: State Licensing Authority, 1707 Cole Boulevard, Suite 350, Lakewood, CO 80401.

B. Designation of Record. Any party that seeks to reverse or modify the Initial Decision of the hearing officer shall file with the State Licensing Authority, within 20 days from the mailing of the Initial Decision, a designation of the relevant parts of the record and of the parts of the hearing transcript which shall be prepared, and advance the costs therefore. A copy of this designation shall be served on all parties. Within ten days thereafter, any other party may also file a designation of additional parts of the transcript of the proceedings which is to be included and advance the cost therefore. No transcript is required if the review is limited to a pure question of law. A copy of this designation of record shall be served on all parties.

C. Deadline Modifications. The State Licensing Authority may modify deadlines and procedures related to the filing of exceptions to the Initial Decision upon motion by either party for good cause shown.

D. No Oral Argument Allowed. Requests for oral argument will not be considered.

Basis and Purpose – 8-235

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(l), 44-10-701, and 44-10-901(3)(b), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(IX). The purpose of this rule is to establish guidelines for enforcement and penalties that will be imposed by the State Licensing Authority for non-compliance with Marijuana Code, section 18-18-406.3(7), or any other applicable rule. The State Licensing Authority may pursue a violation in any of the categories described in this Rule and is not required to prove harm from any of the alleged violation types. This Rule 8-235 was previously Rules M and R 1307, 1 CCR 212-1 and 1 CCR 212-2.

8-235 – Penalties

A. Penalty Schedule. The State Licensing Authority will make determinations regarding the type of penalty to impose based on the severity of the violation in the following categories:

1. License Violations Affecting Public Safety. This category of violation is the most severe and may include, but is not limited to, Retail Marijuana sales to persons under the age of 21 years, Medical Marijuana sales to non-patients, consuming marijuana on the Licensed Premises, Regulated Marijuana sales in excess of the relevant sales limitations, permitting the diversion of Regulated Marijuana outside the regulated distribution system, possessing marijuana obtained from outside the regulated distribution system or from an unauthorized source, making misstatements or omissions in the Inventory Tracking System, failure to report any transfer required by section 44-10-313(11), knowingly adulterating or altering or attempting to adulterate or alter any Samples of Regulated Marijuana, violations related to sharing Licensed Premises between Medical Marijuana Businesses and Retail Marijuana Businesses, violations related to R&D Co-Location Permits, failure to maintain books and records to fully account for all transactions of the business, failure to cooperate with Division investigators during the course of a Division investigation, failure to comply with any requirement related to the Transfer of Sampling Units, utilizing advertising material that is misleading, deceptive, or false, advertising violations directly targeting minors, packaging or labeling violations that directly impact patient or consumer safety, or violations related to the mandatory testing program. Violations of this nature generally have an immediate or potential negative impact on the health, safety, and welfare of the public at large. The range of penalties for this category of violation may include license suspension, a fine per individual violation, a fine in lieu of suspension of up to $100,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

2. License Violations. This category of violation is more severe than a license infraction but generally does not have an immediate or potential negative impact on the health, safety, and welfare of the public at large. License violations may include but are not limited to, advertising and/or marketing violations, packaging or labeling violations that do not directly impact patient or consumer safety, failing to continuously escort a visitor in a Limited Access Area, failure to maintain minimum security requirements, failure to keep and maintain adequate business books and records, or minor or clerical errors in the Inventory Tracking System. The range of penalties for this category of violation may include license suspension, a fine per individual violation, a fine in lieu of suspension of up to $50,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

3. License Infractions. This category of violation is the least severe and may include, but is not limited to, failure to display required Identification Badges, visitor badges, unauthorized modifications of the Licensed Premises of a minor nature, or failure to notify the State Licensing Authority of a minor change in ownership. The range of penalties for this category of violation may include license suspension, a fine per individual violation, and/or a fine in lieu of suspension of up to $10,000 depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

B. Other Factors

1. The State Licensing Authority may take into consideration any aggravating and mitigating factors surrounding the violation which could impact the type or severity of penalty imposed.

2. The penalty structure is a framework providing guidance as to the range of violations, suspension description, fines, and mitigating and aggravating factors. The circumstances surrounding any penalty imposed will be determined on a case-by-case basis.

3. For all administrative offenses involving a proposed suspension, a Licensee may petition the State Licensing Authority for permission to pay a monetary fine, within the provisions of section 44-10-901, C.R.S., in lieu of having its license suspended for all or part of the suspension.

C. Mitigating and Aggravating Factors. The State Licensing Authority may consider mitigating and aggravating factors when considering the imposition of a penalty. These factors may include, but are not limited to:

1. Any prior violations that the Licensee has admitted to or was found to have engaged in.

2. Good faith measures by the Licensee to prevent the violation, including the following:

   a. Proper supervision;

   b. Regularly-provided and documented employee training, provided the Licensee demonstrates all reasonable training measures were delivered prior to the Division's investigation; and

   c. Standard operating procedures established prior to the Division's investigation, and which include procedures directly addressing the conduct for which imposition of a penalty is being considered.

3. Licensee's past history of success or failure with compliance checks.

4. Corrective action(s) taken by the Licensee related to the current violation or prior violations.

5. Willfulness and deliberateness of the violation.

6. Likelihood of reoccurrence of the violation.

7. Circumstances surrounding the violation, which may include, but are not limited to:

   a. Prior notification letter to the Licensee that an underage compliance check would be forthcoming.

b. The dress or appearance of an underage operative used during an underage compliance check (*e.g.*, the operative was wearing a high school letter jacket).

c. Licensee self-reported violation(s) of the Marijuana Code or rules promulgated pursuant to the Marijuana Code.

8. Owner or management personnel is the violator or has directed an employee or other individual to violate the law.

D. Responsible Vendor Designation. The State Licensing Authority shall consider responsible vendor designation pursuant to the 3-500 Series Rules as a mitigating factor when considering the imposition of sanctions or penalties.

Basis and Purpose – 8-240

The statutory authority for this rule includes but is not limited to sections 44-10-201(3), 44-10-201(4), 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(l), 44-10-203(2)(m), 44-10-203(1)(e), and 44-10-204(1)(a), C.R.S. The purpose of this rule is to assure Licensees do not use unauthorized confidential information at any time and do not engage the services of former State Licensing Authority or Division employees with regulatory oversight responsibilities for licensed marijuana businesses for the first 6 months following State Licensing Authority or Division employment. This Rule 8-240 was previously Rules M and R 1308, 1 CCR 212-1 and 1 CCR 212-2.

8-240 – Confidential Information and Former State Licensing Authority Employees

A. Misdemeanor if Disclosed. Disclosure of confidential records or information in violation of the Marijuana Code constitutes a class 1 misdemeanor pursuant to subsection 44-10-201(4), C.R.S.

1. Licensees, and employees or agents of Licensees, shall not obtain or utilize confidential information the Licensee, employee or agent is not lawfully entitled to possess and acquire through use or misuse of Division processes or Division-approved systems. For confidentiality requirements of State Licensing Authority and Division employees, *see* Rule 8-105 – Duties of Employees of the State Licensing Authority.

2. Any Licensee, and any employee or agent of a Licensee, who is authorized to access the Division's Inventory Tracking System and/or have access to confidential information derived from Division sources, shall utilize the confidential information only for a purpose authorized by the Division or these Rules.

3. All Licensees, and all employees and agents of Licensees, shall not use the Inventory Tracking System for any purpose other than tracking the Licensee's Regulated Marijuana and Regulated Marijuana Product.

B. Six-Month Prohibition from Working with Former State Licensing Authority Employees. State Licensing Authority or Division employees with regulatory oversight responsibilities for Regulated Marijuana Businesses are prohibited from working for, representing, or providing consulting services to or otherwise deriving pecuniary gain from a Licensee for a period of six months following his or her last day of employment with the State Licensing Authority or Division.

1. Any Licensee who utilizes, employs, consults, seeks advice from, or contracts with a former employee of the State Licensing Authority or the Division prior to the conclusion of the six-month period shall be in violation of the Marijuana Code.

2. Any Licensee who possesses, utilizes, or re-discloses confidential information obtained from a former State Licensing Authority or Division employee at any time shall be in violation of the Marijuana Code.

COLORADO
Department of Revenue
Marijuana Enforcement Division

FINAL ADOPTED RULE REVISIONS

Colorado Marijuana Rules
1 CCR 212-3

Part 1 – General Applicability

Basis and Purpose – 1-105

The statutory authority for this rule includes but is not limited to sections 44-10-102(3), 44-10-202(1)(c), and 44-10-701(2)(a), C.R.S. Unless such activity is authorized by the Colorado Constitution, article XVIII, Section 14 or Section 16, the Colorado Marijuana Code, section 25-1.5-106.5, C.R.S., or these rules, any Person who buys, Transfers, or acquires Regulated Marijuana outside the requirements of the Colorado Marijuana Code is engaging in illegal activity pursuant to Colorado law. This rule clarifies that those engaged in the business of possessing, cultivating, dispensing, Transferring, transporting, or testing Medical Marijuana or Retail Marijuana must be properly licensed to be in compliance with Colorado law. This Rule 1-105 was previously Rules M and R 101, 1 CCR 212-1 and 1 CCR 212-2.

1-105 – Engaging in Business

A. Except as authorized by the Colorado Constitution, article XVIII, sections 14 or 16, the Colorado Marijuana Code, or section 25-1.5-106.5, C.R.S., no person shall possess, cultivate, dispense, Transfer, transport, offer to sell, manufacture, or test Regulated Marijuana unless said person is duly licensed by the State Licensing Authority and approved by the relevant Local Jurisdiction(s) and/or licensed by the relevant Local Licensing Authority(-ies).

B. Public Health Orders and Executive Orders.

1. All Licensees, their agents, and their employees shall comply with any applicable public health orders issued by any agency of the State of Colorado including, but not limited to the Colorado Department of Public Health and Environment.

2. All Licensees, their agents, and their employees, shall comply with any and all executive orders issued by the Governor pursuant to the Governor's disaster emergency powers under section 24-33.5-704, C.R.S.

3. A violation of this Rule by a Licensee, or by any of the agents or employees of a Licensee, is a license violation affecting public safety, which may result in disciplinary action up to and including license revocation and summary suspension pursuant to sections 44-10-901(1), C.R.S. and 44-10-901(2), C.R.S., and these Rules.

Basis and Purpose – 1-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), C.R.S. The purpose of this rule is to clarify that each rule is independent of the others, so if one is found to be invalid, the remainder will stay in effect. This will give the regulated community confidence in the rules even if one is challenged. This Rule 1-110 was previously Rules M and R 102, 1 CCR 212-1 and 1 CCR 212-2.

1-110 – Severability

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

Basis and Purpose – 1-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(j), and 44-10-103, C.R.S., and all of the Marijuana Code. The purpose of this rule is to provide necessary definitions of terms used throughout the rules. Defined terms are capitalized where they appear in the rules, to let the reader know to refer back to these definitions. When a term is used in a conventional sense, and is not intended to be a defined term, it is not capitalized. This Rule 1-115 was previously Rules M and R 103, 1 CCR 212-1 and 1 CCR 212-2.

1-115 – Definitions

Definitions. The following definitions of terms, in addition to those set forth in section 44-10-103, C.R.S., apply to all rules promulgated pursuant to the Marijuana Code, unless the context requires otherwise:

"Accelerator Cultivator" means a Social Equity Licensee qualified to participate in the accelerator program established pursuant to the Marijuana Code and authorized to exercise the privileges of a Retail Marijuana Cultivation Facility on the premises of an Accelerator-Endorsed Retail Marijuana Cultivation Facility Licensee. The premises can be either the same premises or a separate Licensed Premises possessed by an Accelerator-Endorsed Licensee.

"Accelerator-Endorsed Licensee" means a Retail Marijuana Cultivation Facility Licensee, Retail Marijuana Products Manufacturer Licensee, or a Retail Marijuana Store Licensee who has, pursuant to these rules, been endorsed to host and offer technical and capital support to a Social Equity Licensee pursuant to the requirements of the accelerator program established pursuant to the Code.

"Accelerator Licensee" means an Accelerator Cultivator, Accelerator Manufacturer, or Accelerator Store.

"Accelerator Manufacturer" means a Social Equity Licensee qualified to participate in the accelerator program established pursuant to the Marijuana Code and authorized to exercise the privileges of a Retail Marijuana Products Manufacturer on the premises of an Accelerator-Endorsed Retail Marijuana Products Manufacturer Licensee. The premises can be either the same premises or a separate Licensed Premises possessed by an Accelerator-Endorsed Licensee.

"Accelerator Store" means a Social Equity Licensee qualified to participate in the accelerator program established pursuant to the Marijuana Code and authorized to exercise the privileges of a Retail Marijuana Store on the premises of an Accelerator-Endorsed Retail Marijuana Store Licensee. The premises can be either the same premises or a separate Licensed Premises possessed by an Accelerator-Endorsed Licensee.

"Acquire," when used in connection with the acquisition of an Owner's Interest of a Regulated Marijuana Business, means obtaining ownership, Control, power to vote, or sole power of disposition of the Owner's Interest, directly or indirectly through one or more transactions or subsidiaries, through purchase, assignment, transfer, exchange, succession or other means.

"Acting in Concert" means knowing participation in a joint activity or interdependent conscious parallel action toward a common goal, whether or not pursuant to an express agreement.

"Additive" means any non-marijuana derived substance added to Regulated Marijuana to achieve a specific technical and/or functional purpose during processing, storage, or packaging. Additives

may be direct or indirect. Direct additives are used to impart specific technological or functional qualities. Indirect additives are not intentionally added but may be present in trace amounts as a result of processing, packaging, shipping, or storage. Botanically Derived Compounds which have been isolated or enriched and subsequently added back into cannabis products are additives.

“Adverse Health Event” means any untoward health condition or occurrence associated with the use of marijuana—this could include any unfavorable and unintended sign (including a hospitalization, emergency department visit, medical visit, abnormal laboratory finding, outbreak, death [non-motor vehicle]), symptom, or disease temporally associated with the use of a marijuana product, and may include concerns or reports on the quality, labeling, or possible adverse reactions to a specific marijuana (or hemp) product Transferred or manufactured at a Regulated Marijuana Business.

“Adverse Weather Event” means:

a. Damaging weather, which involves a drought, a freeze, hail, excessive moisture, excessive wind, or a tornado; or

b. An adverse natural occurrence, which involves an earthquake, wildfire, or flood.

“Advertising” means the act of providing consideration for the publication, dissemination, solicitation, or circulation, of visual, oral, or written communication, to directly induce any Person to patronize a particular Medical Marijuana Business or Retail Marijuana Business, or to purchase particular Regulated Marijuana. “Advertising” does not include packaging and labeling, Consumer Education Materials, or Branding.

“Affiliate” of, or Person affiliated with, a specified Person, means a Person that directly or indirectly through one or more intermediaries, Controls or is Controlled by, or is under common Control with, the Person specified.

“Alarm Installation Company” means a Person engaged in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing a Security Alarm System in a Licensed Premises.

“Alternative Use Designation” means a designation approved by the State Licensing Authority, permitting a Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer to manufacture and Transfer Alternative Use Product.

“Alternative Use Product” means Regulated Marijuana that has at least one intended use that is not included in the list of intended uses in Rule 3-1015(B). Alternative Use Product may raise public health concerns that outweigh approval of the Alternative Use Product, or that require additional safeguards and oversight. Alternative Use Product cannot be Transferred except as permitted by Rule 5-325 or Rule 6-325 after obtaining an Alternative Use Designation. Rule 5-325 permits a Medical Marijuana Products Manufacturer to Transfer Alternative Use Product to a Medical Marijuana Testing Facility prior to receiving an Alternative Use Designation. Rule 6-325 permits a Retail Marijuana Products Manufacturer to Transfer Alternative Use Product to a Retail Marijuana Testing Facility prior to receiving an Alternative Use Designation. Except where the context otherwise clearly requires, rules applying to Regulated Marijuana Concentrate or Regulated Marijuana Product apply to Alternative Use Product.

“Applicant” means a Person that has submitted an application for licensure, permit, or registration, or for renewal of licensure, permit, or registration, pursuant to these rules that was accepted by the Division for review but has not been approved or denied by the State Licensing Authority.

"Approved Training Program" means a responsible vendor program that received approval from the Division prior to being offered to a Licensee.

"Audited Product" means a Regulated Marijuana Product with an intended use of: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration. Audited Product types may raise public health concerns requiring additional safeguards and oversight. These product types may only be manufactured and Transferred by a Medical Marijuana Products Manufacturer in strict compliance with Rule 5-325 or Retail Marijuana Products Manufacturer in strict compliance with Rule 6-325. Prior to the first Transfer of an Audited Product to a Medical Marijuana Store, Medical Marijuana Cultivation Facility that has a Centralized Distribution Permit, Retail Marijuana Store or Retail Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit, the Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer shall submit to the Division and, if applicable, to the Local Licensing Authority or Local Jurisdiction an independent third-party audit verifying compliance with Rule 5-325 or Rule 6-325. All rules regarding Regulated Marijuana Product apply to Audited Product except where Rules 5-325, 6-325, 4-115, 3-1010, and 3-1015 apply different requirements.

"Bad Actor" means a Person who:

a. Has been convicted, within the previous ten years (or five years, in the case of issuers, their predecessors and affiliated issuers), of any felony or misdemeanor:

   i. In connection with the purchase or sale of any Security;

   ii. Involving the making of any false filing with the Federal Securities Exchange Commission; or

   iii. Arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser, or paid solicitor of purchasers of Securities;

b. Is subject to any order, judgment or decree of any court of competent jurisdiction, entered within the previous five years, that restrains or enjoins such Person from engaging or continuing to engage in any conduct or practice:

   i. In connection with the purchase or sale of any Security;

   ii. Involving the making of any false filings with the Federal Securities Exchange Commission; or

   iii. Arising out of conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser, or paid solicitor of purchasers of Securities:

c. Is subject to a final order of a state securities commission (or an agency or officer of a state performing like functions); a state authority that supervises or examines banks, savings associations, or credit unions; a state insurance commission (or an agency or officer of a state performing like functions); an appropriate federal banking agency; the U.S. Commodity Futures Trading Commission; or the National Credit Union Administration that:

   i. Bars the Person from:

      A. Association with an Entity regulated by such commission, authority, agency, or officer;

B. Engaging in the business of Securities, insurance, or banking; or

C. Engaging in savings association or credit union activities; or

ii. Constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct entered within the previous ten years;

d. Is subject to an order of the Federal Securities Exchange Commission entered pursuant to section 15(b) or 15B(c) of the Securities Exchange Act of 1934, or section 203(e) or (f) of the Investment Advisers Act of 1940 that:

i. Suspends or revokes such Person's registration as a broker, dealer, municipal securities dealer, or investment adviser;

ii. Places limitations on the activities, functions or operations of such Person; or

iii. Bars such Person from being associated with any Entity, or from participating in the offering of any Penny Stock;

e. Is subject to any order of the Federal Securities Exchange Commission entered within the previous five years that orders the Person to cease and desist from committing or causing a violation or future violation of:

i. Any scienter-based anti-fraud provision of the federal securities laws, including without limitations section 17(a)(1) of the Securities Act of 1933, section 10(b) of the Securities Exchange Act of 1934 and 17 C.F.R. 240.10b-5, section 15(c)(1) of the Securities Exchange Act of 1934 and section 206(1) of the Investment Advisers Act of 1940, or any other rule or regulation thereunder; or

ii. Section 5 of the Securities Act of 1933.

f. Is suspended or expelled from membership in, or suspended or barred from association with a member of, a registered national securities exchange or a registered national or affiliated securities association for any act or omission to act constituting conduct inconsistent with just and equitable principles of trade;

g. Has filed (as a registrant or issuer), or was named as an underwriter in, any registration statement or Regulation A offering statement filed with the federal Securities Exchange Commission that, within the previous five years, was the subject of a refusal order, stop order, or order suspending the Regulation A exemption, or is the subject of an investigation or proceeding to determine whether a stop order or suspension order should be issued; or

h. Is subject to a United States Postal Service false representation order entered with the previous five years, or is subject to a temporary restraining order or preliminary injunction with respect to conduct alleged by the United States Postal Service to constitute a scheme or device for obtaining money or property through the mail by means of false representations.

"Batch Number" means any distinct group of numbers, letters, or symbols, or any combination thereof, assigned by a Medical Marijuana Cultivation Facility or Medical Marijuana Products Manufacturer to a specific Harvest Batch or Production Batch of Medical Marijuana, or by a Retail

Marijuana Cultivation Facility or Retail Marijuana Products Manufacturer to a specific Harvest Batch or Production Batch of Retail Marijuana.

"Beneficial Owner" includes the terms "beneficial ownership", or "beneficially owns" and means:

a. Any Person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

i. Voting power which includes the power to vote, or to direct the voting of, an Owner's Interest; and/or,

ii. Investment power which includes the power to dispose, or to direct the disposition of, an Owner's Interest.

b. Any Person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement or any other contract, arrangement, or device with the purpose of effect of divesting such Person of beneficial ownership of an Owner's Interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of section 13(d) or (g) of the Securities Act of 1933 shall be deemed for purposes of such sections to be the beneficial owner of such Owner's Interest.

c. All Owner's Interests of the same class beneficially owned by a Person, regardless of the form which such beneficial ownership takes, shall be aggregated in calculating the number of shares beneficially owned by such Person.

d. Notwithstanding the provisions of paragraphs (a) and (c) of this rule:

i.

A. A Person shall be deemed to be the beneficial owner of an Owner's Interest, subject to the provisions of paragraph (b) of this rule, if that Person has the right to acquire beneficial ownership of such Owner's Interest, as defined in Rule 13d-3(a) (§ 240.13d-3(a)) within sixty days, including but not limited to any right to acquire: (1) Through the exercise of any option, warrant or right; (2) through the conversion of an Owner's Interest; (3) pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or (4) pursuant to the automatic termination of a trust, discretionary account or similar arrangement; provided, however, any person who acquires an Owner's Interest or power specified in paragraphs (d)(i)(A)(1), (2) or (3), of this section, with the purpose or effect of changing or influencing the control of the issuer, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the Owner's Interests which may be acquired through the exercise or conversion of such Owner's Interests or power. Any Owner's Interests not outstanding which are subject to such options, warrants, rights or conversion privileges shall be deemed to be outstanding for the purpose of computing the percentage of outstanding Owner's Interests of the class owned by such Person but shall not be deemed to be outstanding for

the purpose of computing the percentage of the class by any other Person.

B. Paragraph (d)(i)(A) of this section remains applicable for the purpose of determining the obligation to file with respect to the underlying Owner's Interests even though the option, warrant, right or convertible Owner's Interests is of a class of equity Owner's Interest, as defined in § 240.13d-1(i), and may therefore give rise to a separate obligation to file.

ii. A member of a national securities exchange shall not be deemed to be a beneficial owner of an Owner's Interest held directly or indirectly by it on behalf of another Person solely because such member is the record holder of such Owner's Interests and, pursuant to the rules of such exchange, may direct the vote of such Owner's Interests, without instruction, on other than contested matters or matters that may affect substantially the rights or privileges of the holders of the Owner's Interests to be voted, but is otherwise precluded by the rules of such exchange from voting without instruction.

iii. A person who in the ordinary course of his business is a pledgee of Owner's Interests under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged Owner's Interests until the pledgee has taken all formal steps necessary which are required to declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged Owner's Interests will be exercised, provided, that:

A. The pledgee agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the issuer, nor in connection with any transaction having such purpose or effect, including any transaction subject to Rule 13d-3(b);

B The pledgee is a Person specified in Rule 13d-1(b)(ii), including Persons meeting the conditions set forth in paragraph (G) thereof; and

C The pledgee agreement, prior to default, does not grant to the pledgee;

1. The power to vote or to direct the vote of the pledged Owner's Interests; or

2. The power to dispose or direct the disposition of the pledged Owner's Interests, other than the grant of such power(s) pursuant to a pledge agreement under which credit is extended subject to regulation T (12 CFR 220.1 to 220.8) and in which the pledgee is a broker or dealer registered under section 15 of the Securities Act of 1933.

iv. A Person engaged in business as an underwriter of Owner's Interests who acquires Owner's Interests through his participation in good faith in a firm commitment underwriting registered under the Securities Act of 1933 shall not be deemed to be the beneficial owner of such Owner's

Interests until the expiration of forty days after the date of such acquisition.

"Blank Check Company" means an Entity that:

a. Is a development stage company that has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other Entity or Person; and

b. Is issuing Penny Stock.

"Botanically Derived Compounds" are organic chemicals that typically have a high vapor pressure at room temperature and are likely to be dispersed into the air. Botanically Derived Compounds include, but are not limited to terpenes, terpenoids, ketones, esters, and other molecules which are naturally occurring in plants and are used to affect the flavor and aroma of Regulated Marijuana.

"Branding" means promotion of a Regulated Marijuana Business's brand through publicizing the Regulated Marijuana Business's name, logo, or distinct design feature of the brand.

"Cannabinoid" means any of the chemical compounds that are the active principles of marijuana.

"Centralized Distribution Permit" means a permit issued to a Medical Marijuana Cultivation Facility pursuant to section 44-10-502, C.R.S., or a Retail Marijuana Cultivation Facility pursuant to section 44-10-602, C.R.S., authorizing temporary storage of Medical Marijuana Concentrate and Medical Marijuana Product received from a Medical Marijuana Products Manufacturer or Retail Marijuana Concentrate and Retail Marijuana Product received from a Retail Marijuana Products Manufacturer for the sole purpose of Transfer to commonly owned Medical Marijuana Stores or Retail Marijuana Stores. For purposes of a Centralized Distribution Permit only, the term "commonly owned" means at least one natural person has a minimum of five percent ownership in both the Medical Marijuana Cultivation Facility possessing the Centralized Distribution Permit and the Medical Marijuana Store, or in both the Retail Marijuana Cultivation Facility possessing the Centralized Distribution Permit and the Retail Marijuana Store.

"Child-Resistant" means special packaging that is:

a. Designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995). Note that this Rule does not include any later amendments or editions to the Code of Federal Regulations. The Division has maintained a copy of the applicable federal regulations, which is available to the public;

b. Opaque so that the packaging does not allow the product to be seen without opening the packaging material; and

c. Resealable for any product intended for more than a single use or containing multiple servings.

"Commercially Reasonable Royalty" means a right to compensation in the form of a royalty payment for the use of intellectual property with a direct nexus to the cultivation, manufacture, Transfer or testing of Regulated Marijuana. A Commercially Reasonable Royalty must be limited to specific intellectual property the Commercially Reasonable Royalty interest owns or is otherwise authorized to license or to a product or line of products. A Commercially Reasonable Royalty must not cause reasonable consumer confusion or violate any federal copyright,

trademark or patent law or regulation will not be approved. To determine whether the Commercially Reasonable Royalty is reasonable, the Division will consider the totality of the circumstances, including but not limited to the following factors:

a. The percentage of royalties received by the recipient for the licensing of the intellectual property.

b. The rates paid by the Licensee for the use of other intellectual property.

c. The nature and scope of the license, as exclusive or non-exclusive; or as restricted or non-restricted in terms of territory or with respect to whom the product may be sold.

d. The licensor's established policy and marketing program to maintain an intellectual property monopoly by not licensing others or by granting licenses under special conditions designed to preserve that monopoly.

e. The commercial relationship between the recipient and Licensee, such as, whether they are competitors in the same territory in the same line of business.

f. The effect of selling the intellectual property in promoting sales of other products of the Licensee; the existing value of the intellectual property to the recipient as a generator of sales of his non-intellectual property items; and the extent of such derivative sales.

g. The duration of the term of the license for use of the intellectual property.

h. The established or projected profitability of the product made using the intellectual property; its commercial success; and its current popularity.

i. The utility and advantages of the intellectual property over products or businesses without the intellectual property.

j. The nature of the intellectual property; the character of the commercial embodiment of it as owned and produced by the licensor; and the benefits to those who have used the intellectual property.

k. The portion of the profit or of the selling price that may be customary in the particular business or in comparable businesses to allow for the use of the intellectual property.

l. The portion of the realizable profit that should be credited to the intellectual property as distinguished from non-intellectual property elements, the manufacturing process, business risks, or significant features or improvements added by the Licensee.

"Consumer Education Materials" means any informational materials that seek to educate consumers about Regulated Marijuana generally, including but not limited to education regarding the safe consumption of marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Products, provided it is not distributed or made available to individuals under twenty-one years of age.

"Consumption Area" means a designated and secured area within the Licensed Premises of a Licensed Hospitality Business where consumers can use and consume marijuana and where no

one under the age of 21 is permitted. A Consumption Area may, but is not required to, be part of a Restricted Access Area.

"Container" means the receptacle directly containing Regulated Marijuana that is labeled according to the requirements in the 3-1000 Series Rules.

"Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting Owner's Interests, by contract, or otherwise. This definition of Control includes Controls, Controlled, Controlling, Controlled by, and under common Control with.

"Controlling Beneficial Owner" or "CBO" means a Person that satisfies one or more of the following criteria:

a. A natural person, an Entity that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia, a trust, the trustee of a trust, a Publicly Traded Corporation, or a Qualified Private Fund that is not a Qualified Institutional Investor:

   i. Acting alone or Acting In Concert, that owns or Acquires Beneficial Ownership of ten percent or more of the Owner's Interest of a Regulated Marijuana Business;

   ii. That is an Affiliate that Controls a Regulated Marijuana Business and includes, without limitation, any Manager; or

   iii. That is otherwise in a position to Control the Regulated Marijuana Business except as authorized in section 44-10-506 or 44-10-606, C.R.S.; or

b. A Qualified Institutional Investor acting alone or Acting In Concert that owns or Acquires Beneficial Ownership of more than thirty percent of the Owner's Interest of a Regulated Marijuana Business.

c. Unless the context otherwise requires, the defined term Controlling Beneficial Owner includes Direct Beneficial Interest Owner.

"Corrective Action" means a reactive action implemented to eliminate the root cause of a Nonconformance and to prevent recurrence.

"Court Appointee" means a Person appointed by a court as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person; acting in accordance with section 44-10-401(3), C.R.S., and these rules; and authorized by court order to take possession of, operate, manage, or control a licensed Regulated Marijuana Business.

"Covered Securities" means:

a. A Security designated as qualified for trading in the national market system pursuant to section 78k-1(a)(2) of the Securities Act of 1933 that is listed, or authorized for listing, on a national securities exchange (or tier or segment thereof); or a Security of the same issuer that is equal in seniority or that is a senior Security to a Security designated as qualified for trading in the national market system.

b. A Security issued by an investment company that is registered, or that has filed a registration statement under the federal Investment Company Act of 1940.

c. A Security as defined by the Federal Securities Exchange Commission by rule pursuant to 15 U.S.C. §77r(b)(3).

d. A Security pursuant to 15 U.S.C. §77r(b)(4).

"Decontamination" means the process of neutralization or removal of dangerous substances or other contaminants from regulated marijuana without changing the product type of the Regulated Marijuana.

"Delivery Motor Vehicle" means any self-propelled vehicle that is designed primarily for travel on the public highways, that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle that is used for delivery of Regulated Marijuana to patients or consumers; except that the term does not include electric assisted bicycles, wheelchairs, or vehicles moved solely by human power.

"Denied Applicant" means any Person whose application for licensure, permit, or registration pursuant to the Marijuana Code has been denied, any Person whose application for a responsible vendor program has been denied, or any Licensee whose application for any of the following non-exhaustive list has been denied: An initial license application pursuant to Rule 2-220, a renewal application pursuant to Rule 2-225, the request for a finding of suitability pursuant to Rule 2-235, a change of owner pursuant to Rule 2-245; a change of location of the Licensed Premises pursuant to Rule 2-255; a change, alteration, or modification of the Licensed Premises pursuant to Rule 2-260; or a production management tier increase request pursuant to Rule 5-225 or 6-220.

"Department" means the Colorado Department of Revenue.

"Designated Test Batch Collection Area" means an area that has been designated within the Limited Access Area of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Medical Marijuana Products Manufacturer that is under surveillance and used for purposes of organizing and combining Sample Increments to create Test Batches, and which has been cleaned and sanitized prior to preparing Test Batches.

"Designated Test Batch Collector" means an Owner Licensee or an Employee Licensee who has been designated by a Regulated Marijuana Business and completed training required by Rule 4-110 to engage in Sample Increment Collection for the purpose of creating Test Batches.

"Director" means the Senior Director of the Marijuana Enforcement Division.

"Disproportionate Impacted Area" means a census tract in the top 15th percentile for that state in at least two of the following categories as measured by the United States Census Bureau:

a. the percent of residents in the census tract receiving public assistance;

b. the percent of residents in the census tract falling below the federal poverty level;

c. the percent of residents in the census tract failing to graduate from High School; and

d. the percent of residents in the census tract who are unemployed.

"Division" means the Marijuana Enforcement Division.

"Edible Medical Marijuana Product" means any Medical Marijuana Product for which the intended use is oral consumption, including but not limited to, any type of food, drink, or pill.

"Edible Retail Marijuana Product" means any Retail Marijuana Product for which the intended use is oral consumption, including but not limited to, any type of food, drink, or pill.

"Employee License" means a license granted by the State Licensing Authority pursuant to section 44-10-401, C.R.S., to a natural person who is not a Controlling Beneficial Owner. Any person who possesses, cultivates, manufactures, tests, dispenses, sells, serves, transports, or delivers Regulated Marijuana, who is authorized to input data into a Regulated Marijuana Business's Inventory Tracking System or point-of-sale system, or who has unescorted access in the Restricted Access Area or Limited Access Area must hold an Employee License. Employee License includes both Key Licenses and Support Licenses.

"Entity" means a domestic or foreign corporation, cooperative, general partnership, limited liability partnership, limited liability company, limited partnership, limited liability limited partnership, limited partnership association, nonprofit association, nonprofit corporation, or any other organization or association that is formed under a statute or common law of the state of Colorado or any other jurisdiction as to which the laws of this state of Colorado or the laws of any other jurisdiction governs relations among owners and between the owners and the organization or association and that is recognized under the laws of the state of Colorado or the other jurisdiction as a separate legal entity.

"Executive Officer" means the president, any vice president in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy making function, or any other person who performs similar policy-making functions for the Regulated Marijuana Business.

"Exit Package" means an Opaque bag or other similar Opaque covering provided at the point of sale, in which Regulated Marijuana already in a Container is placed. If Regulated Marijuana flower, trim, or seeds are placed into a Container that is not Child-Resistant, then the Exit Package must be Child-Resistant. The Exit Package is not required to be labeled in accordance with the 3-100 Series Rules.

"Fibrous Waste" means any roots, stalks, and stems from a Regulated Marijuana plant.

"Final Agency Order" means an Order of the State Licensing Authority issued in accordance with the Marijuana Code and the State Administrative Procedure Act. The State Licensing Authority will issue a Final Agency Order following review of the Initial Decision and any exceptions filed thereto or at the conclusion of the declaratory order process. A Final Agency Order is subject to judicial review.

"Flammable Solvent" means a liquid that has a flash point below 100 degrees Fahrenheit.

"Flowering" means the reproductive state of the cannabis plant in which there are physical signs of flower budding out of the nodes of the stem.

"Food-Based Medical Marijuana Concentrate" means a Medical Marijuana Concentrate that was produced by extracting Cannabinoids from Medical Marijuana through the use of propylene glycol, glycerin, butter, olive oil, or other typical cooking fats.

"Food-Based Retail Marijuana Concentrate" means a Retail Marijuana Concentrate that was produced by extracting Cannabinoids from Retail Marijuana through the use of propylene glycol, glycerin, butter, olive oil or other typical cooking fats.

"Foreign Private Issuer" means any foreign issuer other than a foreign government except an issuer meeting the following conditions as of the last business day of its most recently completed second fiscal quarter:

a. More than 50 percent of the outstanding voting Securities of such issuer are directly or indirectly owned of record by residents of the United States; and

b. Any of the following:

i. The majority of the executive officers or directors are United States citizens or residents;

ii. More than 50 percent of the assets of the issuer are located in the United States; or

iii. The business of the issuer is administered principally in the United States.

"Good Cause" for purposes of denial of an initial, renewal, or reinstatement of a license, registration, or permit application, means:

a. The Licensee or Applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Marijuana Code, any rules promulgated pursuant to the Marijuana Code, or any supplemental relevant state or local law, rule, or regulation;

b. The Licensee or Applicant has failed to comply with any special terms or conditions that were placed upon the license pursuant to an order of the State Licensing Authority or the relevant local jurisdiction; or

c. The Licensee's Licensed Premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

"Good Moral Character" means having a criminal history that demonstrates honesty, fairness, and respect for the rights of others and for the law.

"Greenhouse" means a hoop house or other structure with non-rigid walls that utilizes natural light, in whole or in part, for the cultivation of Regulated Marijuana.

"Harvest Batch" means a specifically identified quantity of processed Regulated Marijuana that is uniform in strain, cultivated utilizing the same Pesticide and other agricultural chemicals and harvested at the same time. A Harvest Batch may also include a Manicure Batch that was harvested prior to the creation of the Harvest Batch.

"Harvested Marijuana" means Regulated Marijuana flower reported as a package in the Inventory Tracking System or post-harvest Regulated Marijuana not including wet whole plant, trim, concentrate, waste, or Fibrous Waste that remains on the premises of the Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility or its off-premises storage location beyond 90 days from harvest.

"Heat/Pressure-Based Medical Marijuana Concentrate" means a Medical Marijuana Concentrate that was produced by extracting Cannabinoids from Medical Marijuana through the use of heat and/or pressure. The method of extraction may be used by only a Medical Marijuana Products Manufacturer and can be used alone or on a Production Batch that also includes Physical Separation-Based Medical Marijuana Concentrate or Solvent-Based Medical Marijuana Concentrate.

"Heat/Pressure-Based Retail Marijuana Concentrate" means Retail Marijuana Concentrate that was produced by extracting Cannabinoids from Retail Marijuana through the use of heat and/or pressure. This method of extraction may be used by only a Retail Marijuana Products Manufacturer and can be used alone or on a Production Batch that also includes Physical Separation-Based Retail Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate.

"Identification Badge" means a physical badge issued by the Division to any natural person possessing an Owner License or Employee License, used to verify the identity and license status of the natural persons on the Licensed Premises of a Regulated Marijuana Business.

"Identity Statement" means the name of the business as it is commonly known and used in any Advertising.

"Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no wider than eight inches produced from a cutting, clipping or seedling and is in a cultivating container.

"Indirect Financial Interest Holder" means a Person that is not an Affiliate, a Controlling Beneficial Owner, or a Passive Beneficial Owner of a Regulated Marijuana Business and that:

a. Holds a Commercially Reasonable Royalty in exchange for a Regulated Marijuana Business's use of the Person's intellectual property;

b. Holds a Permitted Economic Interest that was issued prior to January 1, 2020, and that has not been converted into an Owner's Interest or holds any unsecured convertible debt option, option agreement or warrant that establishes a right for a Person to obtain an interest that might convert to an ownership interest in a Regulated Marijuana Business obtained after January 1, 2020;

c. Is a contract counterparty with a Regulated Marijuana Business, other than a customary employment agreement, that has a direct nexus to the cultivation, manufacture, sale, or testing of Regulated Marijuana, including, but not limited to, a lease of real property on which the Regulated Marijuana Business operates, a lease of equipment used in the cultivation, manufacture, or testing of Regulated Marijuana, a secured or unsecured financing agreement with the Regulated Marijuana Business, a security contract with the Regulated Marijuana Business, or a management agreement with the Regulated Marijuana Business, provided that no such contract compensates the contract counterparty with a percentage of revenue for profits of the Regulated Marijuana Business.

    i. Any secured interest in Regulated Marijuana must expressly provide that it is subject to all required suitability and application requirements.

d. Unless the context otherwise requires, the defined term Indirect Financial Interest Holder includes Indirect Beneficial Interest Owner.

"Industrial Fiber Products" means intermediate or finished products made from Fibrous Waste that are not intended for human or animal consumption and are not usable or recognizable as

Regulated Marijuana. Industrial Fiber Products include, but are not limited to, cordage, paper, fuel, textiles, bedding, insulation, construction materials, compost materials, and industrial materials.

"Industrial Fiber Products Producer" means a Person who produces Industrial Fiber Products using Fibrous Waste.

"Industrial Hemp" means a plant of the genus Cannabis and any part of the plant, whether growing or not, containing a delta-9 tetrahydrocannabinol (THC) concentration of no more than three-tenths of one percent (0.3%) on a dry weight basis.

"Industrial Hemp Product" means a finished product containing Industrial Hemp that:

a. Is a cosmetic, food, food additive, or herb;

b. Is for human use or consumption;

c. Contains any part of the hemp plant, including naturally occurring Cannabinoids, compounds, concentrates, extracts, isolates, resins, or derivatives; and

d. Contains a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent.

"Industrial Hygienist" means a natural person who has obtained a baccalaureate or graduate degree in industrial hygiene, biology, chemistry, engineering, physics, or a closely related physical or biological science from an accredited college or university.

a. The special studies and training of such persons must be sufficient in the cognate sciences to provide the ability and competency to:

   i. Anticipate and recognize the environmental factors and stresses associated with work and work operations and to understand their effects on individuals and their well-being;

   ii. Evaluate on the basis of training and experience and with the aid of quantitative measurement techniques the magnitude of such environmental factors and stresses in terms of their ability to impair human health and well-being;

   iii. Prescribe methods to prevent, eliminate, control, or reduce such factors and stresses and their effects.

b. Any person who has practiced within the scope of the meaning of industrial hygiene for a period of not less than five years immediately prior to July 1, 1997, is exempt from the degree requirements set forth in the definition above.

c. Any person who has a two-year associate of applied science degree in environmental science from an accredited college or university and in addition not less than four years practice immediately prior to July 1, 1997, within the scope of the meaning of industrial hygiene is exempt from the degree requirements set forth in the definition above.

"Ineligible Issuer" means:

a. Any issuer that is required to file reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 that has not filed all reports and other materials required to be filed during the preceding 12 months, other than reports on Form 8-K required solely pursuant to an item specified in General Instruction I.A.3(b) of Form S-3;

b. The issuer is, or during the past three years the issuer or any of its predecessors was:

i. A Blank Check Company;

ii. A Shell Company;

iii. An issuer of an offering of Penny Stock;

c. The issuer is a limited partnership that is offering and selling its Securities other than through a firm commitment underwriting;

d. Within the past three years, a petition under the federal bankruptcy laws or any state insolvency law was filed by or against the issuer, or a court-appointed a receiver, fiscal agent, or similar officer with respect to the business or property of the issuer subject to the following:

i. In the case of an involuntary bankruptcy in which a petition was filed against the issuer, ineligibility will occur upon the earlier to occur of:

A. 90 days following the date of the filing of the involuntary petition (if the case has not been earlier dismissed); or

B. The conversion of the case to a voluntary proceeding under federal bankruptcy or state insolvency laws; and

ii. Ineligibility will terminate if an issuer has filed an annual report with audited financial statements subsequent to its emergence from that bankruptcy, insolvency, or receivership process;

e. Within the past three years, the issuer or any Entity that at the time was a subsidiary of the issuer was convicted of any felony or misdemeanor described in paragraphs (i) through (iv) of section 15(b)(4)(B) of the Securities Exchange Act of 1934;

f. Within the past three years, the issuer or any Entity that at the time was a subsidiary of the issuer was made the subject of any judicial or administrative decree or order arising out of a governmental action that:

i. Prohibits certain conduct or activities regarding, including future violations of, the anti-fraud provisions of the federal securities laws;

ii. Requires that the Person cease and desist from violating the anti-fraud provisions of the federal securities laws; or

iii. Determines that the Person violated the anti-fraud provisions of the federal securities laws;

g. The issuer has filed a registration statement that is the subject of any pending proceeding or examination under section 8 of the Securities Act of 1933 or has been the subject of any refusal order or stop order under section 8 of the Securities Act of 1933 within the past three years; or

h. The issuer is the subject of any pending proceeding under section 8A of the Securities Act of 1933 in connection with an offering.

"Infused Pre-Rolled Marijuana" means Regulated Marijuana that was produced by rolling, filling, or stuffing Harvested Marijuana flower, shake, and/or trim with Regulated Marijuana Concentrate(s) into paper, leaves, or an equivalent wrapper and is intended for consumption by inhalation.

"Ingredient" means any non-marijuana derived substance that is added to Regulated Marijuana to achieve a desired effect. The term Ingredient includes all Additives.

"Initial Decision" means a decision of a hearing officer in the Department following a licensing, disciplinary, or other administrative hearing. Either party may file exceptions to the Initial Decision. The State Licensing Authority will review the Initial Decision and any exceptions filed thereto, and will issue a Final Agency Order.

"Inventory Tracking System" means the required seed-to-sale tracking system that tracks Regulated Marijuana from either the seed or immature plant stage until the Regulated Marijuana is sold to a patient at a Medical Marijuana Store or to a consumer at a Retail Marijuana Store, Transferred to a Medical Marijuana Testing Facility or Retail Marijuana Testing Facility, Transferred to a Sampling Manager, Transferred to an Industrial Fiber Products Producer, Transferred to a Pesticide Manufacturer, or destroyed by a Regulated Marijuana Business, or used in a Research Project by a Marijuana Research and Development Facility.

"Inventory Tracking System Trained Administrator" means an Owner Licensee of a Regulated Marijuana Business or an Employee Licensee employed by a Regulated Marijuana Business, each of whom has attended and successfully completed Inventory Tracking System training and has completed any additional training required by the Division.

"Inventory Tracking System User" means an Owner Licensee of a Regulated Marijuana Business or an Employee Licensee employed by a Regulated Marijuana Business, who is granted Inventory Tracking System User account access for the purposes of performing inventory tracking functions in the Inventory Tracking System. Each Inventory Tracking System User must have been successfully trained by an Inventory Tracking System Trained Administrator in the proper and lawful use of Inventory Tracking System.

"Kief" means a subset of Physical Separation-Based Marijuana Concentrate that consists of the resinous crystal-like trichomes that have been physically separated from Regulated Marijuana flower, shake, or trim that results in a higher concentration of cannabinoids.

"License" means a license, permit, or registration pursuant to the Marijuana Code.

"Licensed Hospitality Business" means a Marijuana Hospitality Business or Retail Marijuana Hospitality and Sales Business.

"Licensed Premises" means the premises specified in an application for a license pursuant to the Marijuana Code that are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell, store, transport, or test Medical Marijuana, or to cultivate, manufacture, distribute, sell, store, transport, test, or allow the use or consumption of

Retail Marijuana, in accordance with the provisions of the Marijuana Code, and these rules. Not all areas of the Licensed Premises are Limited Access Areas or Restricted Access Areas.

“Licensee” means any Person licensed, registered, or permitted pursuant to the Marijuana Code including an Owner Licensee and an Employee Licensee.

“Limited Access Area” means a building, room, or other contiguous area upon the Licensed Premises where Regulated Marijuana and Regulated Marijuana Products are grown, cultivated, manufactured, stored, weighed, packaged, sold, possessed for sale, Transferred, or processed for Transfer, under control of the Licensee, with access limited to only those persons licensed by the State Licensing Authority and those visitors Escorted by a person licensed by the State Licensing Authority. All areas of ingress or egress to limited access areas must be clearly identified as such by a sign as designated by the State Licensing Authority.

“Limit of Detection” or “LOD” means the lowest quantity of a substance that can be distinguished from the absence of that substance (a blank value) within a stated confidence limit (generally 1%).

“Limit of Quantitation” or “LOQ” means the lowest concentration at which the analyte can not only be reliably detected but at which some predefined goals for bias and imprecision are met.

“Liquid Edible Medical Marijuana Product” means an Edible Medical Marijuana Product that is a liquid beverage or liquid food-based product for which the intended use is oral consumption, such as a soft drink or cooking sauce.

“Liquid Edible Retail Marijuana Product” means an Edible Retail Marijuana Product that is a liquid beverage or liquid food-based product for which the intended use is oral consumption, such as a soft drink or cooking sauce.

“Local Jurisdiction” means a locality as defined in section 16 (2)(e) of Article XVIII of the state constitution.

“Local Licensing Authority” means an authority designated by municipal, county, or city and county charter, ordinance, or resolution, or the governing body of a municipality or city and county, or the board of county commissioners of a county if no such authority is designated.

“Manager” means:

a. A member of a limited liability company in which management is not vested in managers rather than members;

b. A manager of a limited liability company in which management is vested in managers rather than members;

c. A member of a limited partnership association in which management is not vested in managers rather than members;

d. A manager of a limited partnership association in which management is vested in managers rather than members;

e. A general partner;

f. An officer or director of a corporation, a nonprofit corporation, a cooperative, or a limited partnership association; or

g. Any Person whose position with respect to an Entity, as determined under the constituent documents and organic statutes of the Entity, without regard to the Person's title, is the functional equivalent of any of the positions described in this definition.

"Manicure Batch" means a Harvest Batch or a part of a Harvest Batch of a specifically identified quantity of processed Regulated Marijuana that is uniform in strain, cultivated utilizing the same Pesticide and other agricultural chemicals and harvested at the same time. A Manicure Batch consists of Regulated Marijuana that has been harvested from plants that have not yet been cut down and/or used in a Harvest Batch. A Manicure Batch may be considered a Harvest Batch by itself, or it may be combined with a Harvest Batch containing the same plant from which the Manicure Batch was created.

"Marijuana Code" means the Colorado Marijuana Code found at sections 44-10-101 *et seq.*, C.R.S.

"Marijuana Consumer Waste" means any component left after the consumption of a Regulated Marijuana Product, including but not limited to Containers, packages, cartridges, pods, cups, batteries, all-in-one disposable devices, and any other waste component left after the Regulated Marijuana is consumed.

"Marijuana Hospitality Business" means a facility, which may be mobile, licensed to permit the consumption of marijuana pursuant to article 10; rules promulgated pursuant to article 10; and the provisions of an enacted, initiated, or referred ordinance or resolution of the local jurisdiction in which the licensee operates.

~~"Marketing Layer" means packaging in addition to the Container that is the outermost layer visible to the consumer at the point of sale. The Marketing Layer is optional, but if used by a Licensee in addition to the required Container, it must be labeled according to the requirements in the 3-1000 Series Rules.~~

"Marijuana Research and Development Facility" means a Person that is licensed pursuant to the Marijuana Code to grow, cultivate, manufacture, and possess Medical Marijuana, and to Transfer Medical Marijuana to another Marijuana Research and Development Facility all for limited research purposes authorized pursuant to section 44-10-507, C.R.S.

"Marketing Layer" means packaging in addition to the Container that is the outermost layer visible to the consumer at the point of sale. The Marketing Layer is optional, but if used by a Licensee in addition to the required Container, it must be labeled according to the requirements in the 3-1000 Series Rules.

"Material Change" means ~~any change that would require a substantive revision to a Regulated Marijuana Business's standard operating procedures for the cultivation of Regulated Marijuana or the production of Regulated Marijuana Product~~a change that the Licensee makes to their product's design, cultivation process, or manufacturing process that a Licensee knows, or should reasonably know, could affect the product's quality or ability to comply with the requirements set forth in these Rules including, but not limited to, intended use, testing, and product safety. This includes any change that would require a substantive revision to a Regulated Marijuana Business's standard operating procedures. *See* Rule 4-120(F)(1) for additional examples of Material Change.

"Medical Marijuana" means marijuana that is grown and sold pursuant to the provisions of article 10 and for a purpose authorized by section 14 of article XVIII of the state constitution but shall not be considered a nonprescription drug for purposes of section 12-42.5-102(21) or 39-26-717, or an

over-the-counter medication for purposes of section 25.5-5-322. If the context requires, Medical Marijuana includes Medical Marijuana Concentrate and Medical Marijuana Products.

“Medical Marijuana Business” means any of the following entities licensed pursuant to article 10: A Medical Marijuana Store, a Medical Marijuana Cultivation Facility, a Medical Marijuana Product Manufacturer, a Medical Marijuana Testing Facility, a Marijuana Research and Development Licensee, a Medical Marijuana Business Operator, or a Medical Marijuana Transporter.

“Medical Marijuana Business Operator” means an entity or person that is not an owner and that is licensed to provide professional operational services to a medical marijuana business for direct remuneration from the Medical Marijuana Business(es). A Medical Marijuana Business Operator is not, by virtue of its status as a medical marijuana business operator, a controlling beneficial owner or a passive beneficial owner of any medical marijuana business it operates.

“Medical Marijuana Concentrate” means a subset of Medical Marijuana that is separated from the medical marijuana plant and results in matter with a higher concentration of cannabinoids than naturally occur in the plant. Medical Marijuana Concentrate contains cannabinoids and may contain terpenes and other chemicals that are naturally occurring in medical marijuana plants that have been separated from medical marijuana. Medical Marijuana Concentrate may also include residual amounts of the types of solvents, as permitted by the marijuana rules. The State Licensing Authority may further define by rule subcategories of Medical Marijuana Concentrate and authorize limited ingredients based on the method of production of Medical Marijuana Concentrate. Unless the context otherwise requires, Medical Marijuana Concentrate is included when article 10 of the Colorado Revised Statutes refers to Medical Marijuana Product.

“Medical Marijuana Cultivation Facility” means a Person licensed pursuant to the Marijuana Code to operate a business as described in section 44-10-502, C.R.S.

“Medical Marijuana Product” means a product infused with Medical Marijuana and other Ingredients that is intended for use or consumption other than by smoking, including but not limited to edible product, ointments, and tinctures.

“Medical Marijuana Products Manufacturer” means a Person licensed pursuant to the Marijuana Code to operate a business as described in section 44-10-503, C.R.S.

“Medical Marijuana Store” means a Person licensed pursuant to the Marijuana Code to operate a business as described in section 44-10-501, C.R.S., and sells Medical Marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

“Medical Marijuana Testing Facility” means a public or private laboratory licensed and certified, or approved by the Division, to perform testing and research on Medical Marijuana.

“Medical Marijuana Transporter” means an entity or Person licensed to transport Medical Marijuana and Medical Marijuana Products from one Medical Marijuana Business to another Medical Marijuana Business and to temporarily store the transported Medical Marijuana and Medical Marijuana Products at its Licensed Premises, but is not authorized to sell Medical Marijuana or Medical Marijuana Products under any circumstances.

“Mobile Premises” means a Licensed Premises operated by a Marijuana Hospitality Business in a motor vehicle, which includes any self-propelled vehicle that is designed primarily for travel on the public highways and that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle; but does not include electrical assisted bicycles, electric scooters, low-power scooters, wheelchairs, or vehicles moved solely by human

power. A Marijuana Hospitality Business operating a Mobile Premises must comply with all requirements in Rule 6-940.

"Monitoring" means the continuous and uninterrupted attention to potential alarm signals that could be transmitted from a Security Alarm System located at a Regulated Marijuana Business Licensed Premises, for the purpose of summoning a law enforcement officer to the premises during alarm conditions.

"Monitoring Company" means a person in the business of providing security system Monitoring services for the Licensed Premises of a Regulated Marijuana Business.

"Multiple-Serving Edible Retail Marijuana Product" means an Edible Retail Marijuana Product unit for sale to consumers containing ~~no~~ more than 10 milligrams of active THC and no more than 100 milligrams of active THC. If the overall Edible Retail Marijuana Product unit for sale to the consumer consists of multiple pieces where each individual piece may contain less than 10 milligrams of active THC, yet in total all pieces combined within the unit for sale contain more than 10 milligrams of active THC, then the Edible Retail Marijuana Product shall be considered a Multiple-Serving Edible Retail Marijuana Product.

"Nonconformance" means a non-fulfillment of a requirement or departure from written procedures, work instructions, or quality system, as defined by the Licensee's written Corrective Action and Preventive Action procedures.

"Non-objecting Beneficial Owner" means a Beneficial Owner who gives permission to a financial intermediary to release their name and address to the company(ies) or issuer(s) in which they have bought Securities.

"Notice of Denial" means a written statement from the State Licensing Authority, articulating the reasons or basis for denial of a license application.

"Opaque" means that the packaging does not allow the product to be seen without opening the packaging material.

"Order to Show Cause" means a document from the State Licensing Authority alleging the grounds for imposing discipline against a Licensee's license.

"Owner Entity License" means a License issued to an Entity that is a Controlling Beneficial Owner of a Regulated Marijuana Business.

"Owner's Interest" means the shares of stock in a corporation, a membership in a nonprofit corporation, a membership interest in a limited liability company, the interest of a member in a cooperative or in a limited cooperative association, a partnership interest in a limited partnership, a partnership interest in a partnership, and the interest of a member in a limited partnership association.

"Owner License" means a ~~l~~License issued to a natural person who is a Controlling Beneficial Owner of a Regulated Marijuana Business or who is a Passive Beneficial Owner electing to be subject to licensure.

"Passive Beneficial Owner" means any Person Acquiring any Owner's Interest in a Regulated Marijuana Business that is not otherwise a Controlling Beneficial Owner or in Control.

"Penny Stock" means any equity security other than a Security:

a. That is a National Market System stock, provided that:

i. The Security is registered, or approved for registration upon notice of issuance, on a national securities exchange that has been continuously registered as a national securities exchange since April 20, 1992; and the national securities exchange has maintained quantitative listing standards that are substantially similar to or stricter than those listing standards that were in place on that exchange on January 8, 2004; or

ii. The Security is registered, or approved for registration upon notice of issuance, on a national securities exchange, or is listed, or approved for listing upon notice of issuance on, an automated quotation system sponsored by a registered national securities association, that:

A. Has established initial listing standards that meet or exceed the following criteria:

1. The issuer shall have: (a) stockholders' equity of $5,000,000; (b) market value of listed Securities of $50 million for 90 consecutive days prior to applying for a listing (market value means the closing bid price multiplied by the number of Securities listed); or (c) net income of $750,000 (excluding non-recurring items) in the most recently completed fiscal year or in two of the last three most recently completed fiscal years;

2. The issuer shall have an operating history of at least one year or a market value of listed Securities of $50 million (market value means the closing bid price multiplied by the number of Securities listed);

3. The issuer's stock, common or preferred, shall have a minimum bid price of $4 per share;

4. In the case of common stock, there shall be at least 300 round lot holders of the Security (a round lot holder means a holder of a normal unit of trading);

5. In the case of common stock, there shall be at least 1,000,000 publicly held shares and such shares shall have a market value of at least $5 million (market value means the closing bid price multiplied by the number of publicly held shares, and shares held directly or indirectly by an officer or director of the issuer and by any Person who is the Beneficial Owner of more than 10 percent of the total shares outstanding are not considered to be publicly held);

6. In the case of a convertible debt security, there shall be a principal amount outstanding of at least $10 million;

7. In the case of rights and warrants, there shall be at least 100,000 issued and the underlying security shall be registered on a national securities exchange or listed on an automated quotation system sponsored by a registered national securities association and shall

satisfy the requirements of paragraphs (a) or (e) of this definition;

8. In the case of put warrants (that is, instruments that grant the holder the right to sell to the issuing company a specified number of shares of the company's common stock, at a specified price until a specified period of time), there shall be at least 100,000 issued and the underlying Security shall be registered on a national securities exchange or listed on an automated quotation system sponsored by a registered national securities association and shall satisfy the requirements of paragraphs (a) or (e) of this definition;

9. In the case of units (that is, two or more Securities traded together), all component parts shall be registered on a national securities exchange or listed on an automated quotation system sponsored by a registered national securities association and shall satisfy the requirements of paragraphs (a) or (e) of this definition; and

10. In the case of equity Securities (other than common and preferred stock, convertible debt securities, rights and warrants, put warrants, or units), including hybrid products and derivative products, the national securities exchange or registered national securities association shall establish quantitative listing standards that are substantially similar to those found in paragraph (a)(ii) of this definition; and

B. Has established quantitative continued listing standards that are reasonably related to the initial listing standards set forth in paragraph (a)(ii) of this definition, and that are consistent with the maintenance of fair and orderly markets;

b. That is issued by an investment company registered under the Federal Investment Company Act of 1940;

c. That is a put or call option issued by the Options Clearing Corporation;

d. That has a price of five dollars or more;

i. For purposes of this paragraph (d):

A. A Security has a price of five dollars or more for a particular transaction if the Security is purchased or sold in that transaction at a price of five dollars or more, excluding any broker or dealer commission, commission equivalent, mark-up, or mark-down; and

B. Other than in connection with a particular transaction, a Security has a price of five dollars or more at a given time if the inside bid quotation is five dollars or more; provided, however, that if there is no such inside bid quotation, a Security has a price of five

dollars or more at a given time if the average of three or more interdealer bid quotations at specified prices displayed at that time in an interdealer quotation system, by three or more market makers in the Security, is five dollars or more.

C. The term "inside bid quotation" shall mean the highest bid quotation for the Security displayed by a market maker in the Security on an automated interdealer quotation system that has the characteristics set forth in section 17B(b)(2) of the Federal Securities Exchange Act of 1934, or such other automated interdealer quotation system designated by the Federal Securities Exchange Commission for purposes of this definition, at any time in which at least two market makers are contemporaneously displaying on such system bid and offer quotation for the Security at specified prices.

ii. If a Security is a unit composed of one or more Securities, the unit price divided by the number of shares of the unit that are not warrants, options, rights, or similar Securities must be five dollars or more as determined in accordance with paragraph (d)(i), and any share of the unit that is a warrant, option, right, or similar security, or a convertible security, must have an exercise price or conversion price of five dollars or more;

e. That is registered, or approved for registration upon notice of issuance, on a national securities exchange that makes transaction reports available provided that:

i. Price and volume of information with respect to transactions in that security is required to be reported on a current and continuing basis and is made available to vendors of market information pursuant to the rules of the national securities exchange;

ii. The Security is purchased or sold in a transaction that is effected on or through the facilities of the national securities exchange, or that is part of the distribution of the Security; and

iii. The Security satisfies the requirements of paragraphs (a)(i) or (a)(ii);

f. That is a security futures product listed on a national securities exchange or an automated quotation system sponsored by a registered national securities association; or

g. Whose issuer has:

i. Net tangible assets in excess of $2,000,000, if the issuer has been in continuous operation for at least three years, or $5,000,000 if the issuer has been in continuous operation for less than three years; or

ii. Average revenue of at least $6,000,000 for the last three years.

~~"Permitted Economic Interest" means any unsecured convertible debt option, option agreement or warrant that establishes a right for a Person to obtain an interest that might convert to an ownership interest in a Regulated Marijuana Business issued prior to January 1, 2020 where the holder is a natural person who is a lawful United States resident and whose right to convert into an ownership interest is contingent on the holder qualifying as a Controlling Beneficial Owner or~~

~~Passive Beneficial Owner under the Retail Code or Medical Code. This definition is repealed effective January 1, 2020.~~

"Person" means a natural person, an estate, a trust, an Entity, or a state or other jurisdiction.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; except that the term "pesticide" does not include any article that is a "new animal drug" as designated by the United States Food and Drug Administration.

"Pesticide Manufacturer" means a Person who (1) manufactures, prepares, compounds, propagates, or processes any Pesticide or device or active ingredient used in producing a Pesticide; (2) who possesses an establishment registration number with the U.S. Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 *et seq.*; (3) who conducts research to establish safe and effective protocols, including but not limited to establishing efficacy and toxicity, for the use of Pesticides on Regulated Marijuana; (4) who has applied for and received any necessary license, registration, certifications, or permits from the Colorado Department of Agriculture, pursuant to the Pesticide Act, sections 35-9-101 *et seq.*, C.R.S. and/or the Pesticide Applicators' Act, sections 35-10-101 *et seq.*, C.R.S.; (5) who is authorized to conduct business in the State of Colorado; and (6) who has physical possession of the location in the State of Colorado where its research activities occur. A Pesticide Manufacturer is neither a Regulated Marijuana Business, nor a Licensee.

"Physical Separation-Based Medical Marijuana Concentrate" means a Medical Marijuana Concentrate that was produced by separating Cannabinoids from Medical Marijuana through the use of physical separation by grinding, sifting, or a similar process and may use water, ice, or dry ice. Physical Separation-Based Medical Marijuana Concentrate does not include Solvent-Based Medical Marijuana Concentrate or Heat/Pressure-Based Medical Marijuana Concentrate.

"Physical Separation-Based Retail Marijuana Concentrate" means a Retail Marijuana Concentrate that was produced by separating Cannabinoids from Retail Marijuana through the use of physical separation by grinding, sifting, or a similar process and may use water, ice, or dry ice. Physical Separation-Based Retail Marijuana Concentrate does not include Solvent-Based Retail Marijuana Concentrate or Heat/Pressure-Based Retail Marijuana Concentrate.

"Pre-Rolled Marijuana" means Regulated Marijuana that was produced by rolling, filling, or stuffing Harvested Marijuana flower, shake, and/or trim into paper, leaves or an equivalent wrapper and is intended for consumption by inhalation.

"Pressurized Metered Dose Inhaler" means inhalable Regulated Marijuana Concentrate, which may be comprised of other Ingredients, and a pressurized propellant inside a device that administers a dose of an aerosolized composition.

"Preventive Action" means a proactive action implemented to eliminate the cause of a potential Nonconformance or other quality problem before it occurs.

"Processing Aid" means any non-marijuana derived substance used in the production of Regulated Marijuana to assist in extraction or manufacturing processes.

"Production Batch" means (a) any amount of Regulated Marijuana Concentrate of the same category and produced using the same extraction methods, standard operating procedures and an identical group of Harvest Batch(es) of Medical Marijuana or Retail Marijuana; or (b) any amount of Regulated Marijuana Product of the same exact type, produced using the same Ingredients, standard operating procedures, and the same Harvest Batch(es) of Harvested Marijuana (single strain or multiple strain) and/or Production Batch(es) of Regulated Marijuana

Concentrate; or (c) any amount of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana of the same exact type, produced using the same ingredients, standard operating procedures, and the same Harvest Batch(es) of Regulated Marijuana Concentrate.

"Professional Engineer" means a natural person who is licensed by the State of Colorado as a professional engineer pursuant to sections 12-25-101 *et seq.*, C.R.S.

"Proficiency Testing" means an assessment of the performance of a Medical Marijuana Testing Facility's or Retail Marijuana Testing Facility's methodology and processes. Proficiency Testing is also known as inter-laboratory comparison. The goal of Proficiency Testing is to ensure results are accurate, reproducible, and consistent.

"Propagation" means the reproduction of Regulated Marijuana plants by seeds, cuttings, or grafting.

"Public Institution," for purposes of the 5-700 Series Rules, means any entity established or controlled by the federal government, a state government, or a local government or municipality, including but not limited to an institution of higher education or a public higher education research institution.

"Public Money," for purposes of the 5-700 Serie Rules, means any funds or money obtained by the holder from any governmental entity, including but not limited to research grants.

"Publicly Traded Corporation" means any Person other than an individual that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia or another country that authorizes the sale of marijuana that:

a. Has a class of Securities registered pursuant to 15 U.S.C. sec. 77a et seq., that:

   i. Constitutes Covered Securities; or

   ii. Is qualified and quoted on the OTCQX or OTCQB tier of the OTC markets if:

      A. The Person is then required to file reports and is filing reports on a current basis with the Federal Securities Exchange Commission pursuant to 15 U.S.C. sec. 78a et seq., as if the Securities constituted Covered Securities; and

      B. The Person has established and is in compliance with corporate governance measures pursuant to corporate governance obligations imposed on Securities qualified and quoted on the OTCQX tier of the OTC markets.

b. Is an Entity that has a class of Securities listed on the Canadian Securities Exchange, Toronto Stock Exchange, TSX Venture Exchange, or NEO Exchange, if:

   i. The Entity constitutes a Foreign Private Issuer whose Securities are exempt from registration pursuant to 15 U.S.C. sec. 78a et seq., pursuant to 17 CFR 240.12g3-2; and

   ii. The Entity has been, for the preceding three hundred sixty-five days or since the formation of the Entity, in compliance with all governance and

reporting obligations imposed by the relevant exchange on such Entity; or

c. Publicly Traded Corporation does not include:

i. An Ineligible Issuer, unless such Publicly Traded Corporation satisfies the definition of Ineligible Issuer solely because it is one or more of the following, and the Person is filing reports on a current basis with the Federal Securities and Exchange Commission pursuant to 15 U.S.C. sec. 78a et seq., as if the Securities constituted Covered Securities, and prior to becoming a Publicly Traded Corporation, the Person for at least two years was licensed by the State Licensing Authority as a Regulated Marijuana Business with a demonstrated history of operations in the state of Colorado, and during such time was not subject to suspension or revocation of the business license:

A. a Blank Check Company;

B. an issuer in an offering of Penny Stock; or

C. a Shell Company.

ii. A Person disqualified as a Bad Actor.

"Qualified Institutional Investor" means:

a. A bank as defined in 15 U.S.C. sec. 78c (a)(6), if the bank is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

b. A bank holding company as defined in 12 U.S.C. sec. 1841 (a)(1), if the bank holding company is registered and current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

c. An insurance company as defined in 15 U.S.C. sec. 80a-2 (a)(17), if the insurance company is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

d. An investment company registered and subject to 15 U.S.C. sec. 80a-1, et seq., if the investment company is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

e. An employee benefit plan or pension fund subject to 29 U.S.C. sec. 1001 et seq., excluding an employee benefit plan or pension fund sponsored by a licensee or an intermediary or holding company licensee which directly or indirectly owns ten percent or more of a licensee;

f. A state or federal government pension plan; or

g. A group comprised entirely of persons specified in (a) through (g) of this definition; or

h. Any other entity identified by rule by the state licensing authority.

"Qualified Private Fund" means an issuer that would be an investment company, as defined in section 3 of the Federal Investment Company Act of 1940, but for the exclusions provided under sections 3(c)(1) or 3(c)(7) of that Act, and that:

a. Is advised or managed by an investment adviser as defined and registered pursuant to 15 U.S.C. sec. 80b-1 et seq., and for which the registered investment adviser is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder; and

b. Satisfies one or more of the following:

i. Is organized under the law of a state or the United States;

ii. Is organized, operated, or sponsored by a U.S. person, as defined under subsection 17 CFR 230.902(k), as amended; or

iii. Sells Securities to a U.S. person, as defined under subsection 17 CFR 230.902(k), as amended.

"Reduced Testing Allowance" means the allowance for a Regulated Marijuana Business to conduct less testing than otherwise required by Rules 4-120 and 4-125 upon demonstrating that standard operating procedures and production practices result in consistent passing test results over a time frame established in Rules 4-120 and 4-125.

"R&D Co-Location Permit" means a permit issued to a Marijuana Research and Development Facility authorizing it to co-locate with a commonly owned Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Retail Marijuana Cultivation Facility pursuant to Rule 5-705. A separate R&D Co-Location Permit is required for each location at which a Marijuana Research and Development Facility seeks to share a single Licensed Premises.

"Reasonable Cause" means just or legitimate grounds based in law and in fact to believe that the particular requested action furthers the purposes of the Marijuana Code or protects the public safety.

"Regulated Marijuana" means Medical Marijuana and Retail Marijuana. If the context requires, Regulated Marijuana includes Medical Marijuana Concentrate, Medical Marijuana Product, Retail Marijuana Concentrate, and Retail Marijuana Product.

"Regulated Marijuana Business" means Medical Marijuana Businesses and Retail Marijuana Businesses.

"Regulated Marijuana Concentrate" means Medical Marijuana Concentrate and Retail Marijuana Concentrate.

"Regulated Marijuana Cultivation Facility" means a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and Accelerator Cultivator.

"Regulated Marijuana Products Manufacturer" means a Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, and Accelerator Manufacturer.

"Regulated Marijuana Product" means Medical Marijuana Product and Retail Marijuana Product.

"Regulated Marijuana Store" means a Medical Marijuana Store, Retail Marijuana Store, and Accelerator Store.

"Regulated Marijuana Testing Facility" means a Medical Marijuana Testing Facility and Retail Marijuana Testing Facility.

"Remediation" means the process of neutralization or removal of dangerous substances or other contaminants from regulated marijuana while changing the product type of the regulated marijuana.

"Resealable" means that the Container maintains its Child-Resistant effectiveness for multiple openings.

"Research Project" means a discrete scientific endeavor to answer a research question or a set of research questions. A Research Project must include a description of a defined protocol, clearly articulated goal(s), defined methods and outputs, and a defined start and end date. The description must demonstrate that the Research Project will comply with all requirements in the 5-700 Series Rules – Marijuana Research and Development Facility. All research and development conducted by a Marijuana Research and Development Facility must be conducted in furtherance of an approved Research Project.

"Respondent" means a Person who has filed a petition for declaratory order that the State Licensing Authority has determined needs a hearing or legal argument, or a Licensee who is subject to an Order to Show Cause.

"Responsible Vendor Program Provider" means a Person offering an Approved Training Program, in accordance with section 44-10-1201, C.R.S., to Licensees seeking to be designated a responsible vendor.

"Restricted Access Area" means a designated and secure area within a Licensed Premises in a Medical Marijuana Store where Medical Marijuana is sold to patients or their caregiver, possessed for sale, and displayed for sale, and where no one without a valid patient registry card or that patient's caregiver is permitted, and 2) in a Retail Marijuana Store or a Retail Marijuana Hospitality and Sales Business where Retail Marijuana is sold to consumers, possessed for sale, and displayed for sale, and where no one under the age of 21 is permitted.

"Retail Food Establishment" means a retail operation that stores, prepares, or packages food for human consumption or serves or otherwise provides food for human consumption to consumers directly or indirectly through a delivery service, whether such food is consumed on or off the premises or whether there is a charge for such food. "Retail food establishment" does not mean:

a. Any private home;

b. Private boarding house;

c. Hospital and health facility patient feeding operations licensed by the department;

d. Child care centers and other child care facilities licensed by the department of human services;

e. Hunting camps and other outdoor recreation locations where food is prepared in the field rather than at a fixed based of operation;

f. Food or beverage wholesale manufacturing, processing, or packaging plants, or portions thereof, that are subject to regulatory controls under state or federal laws or regulations;

g. Motor vehicles used only for the transport of food;

h. Establishments preparing and serving only hot coffee, hot tea, instant hot beverages, and non-potentially hazardous doughnuts or pastries obtained from sources complying with all laws related to food and food labeling;

i. Establishments that handle only non-potentially hazardous prepackaged food and operations serving only commercially prepared, prepackaged foods requiring no preparation other than the heating of the food within its original container or package;

j. Farmers markets and roadside markets that offer only uncut fresh fruit and vegetables for sale;

k. Automated food merchandising enterprises that supply only prepackaged non-potentially hazardous food or drink in bottles, cans, or cartons only, and operations that dispense only chewing gum or salted nuts in their natural protective covering;

l. The donation, preparation, sale, or service of food by a nonprofit or charitable organization in conjunction with an event or celebration if such donation, preparation, sale, or service of food:

i. Does not exceed the duration of the event or celebration or a maximum of fifty-two days within a calendar year; and

ii. Takes place in the county in which such nonprofit or charitable organization resides or is principally located.

m. A home, commercial, private, or public kitchen in which a person produces food products sold directly to consumers pursuant to the "Colorado Cottage Foods Act," section 25-4-1614, C.R.S.

"Retail Marijuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including but not limited to Retail Marijuana Concentrate, that is cultivated, manufactured, distributed, or sold by a licensed Retail Marijuana Business. "Retail Marijuana" does not include industrial hemp, nor does it include fiber produced from stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other Ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product. If the context requires, Retail Marijuana includes Retail Marijuana Concentrate and Retail Marijuana Product.

"Retail Marijuana Business" means a Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturer, a Marijuana Hospitality Business, a Retail Marijuana Hospitality and Sales Business, a Retail Marijuana Testing Facility, a Retail Marijuana Business Operator, and a Retail Marijuana Transporter.

"Retail Marijuana Business Operator" means an entity or person that is not an owner and that is licensed to provide professional operational services to a Retail Marijuana Businesses for direct remuneration from the Retail Marijuana Business.

"Retail Marijuana Concentrate" means a subset of Retail Marijuana that is separated from the retail marijuana plant and results in matter with a higher concentration of cannabinoids than naturally occur in the plant. Retail Marijuana Concentrate contains cannabinoids and may contain terpenes and other chemicals that are naturally occurring in Retail Marijuana plants that have been separated from Retail Marijuana. Retail Marijuana Concentrate may also include residual

amounts of the types of solvents, as permitted by the marijuana rules. The State Licensing Authority may further define by rule subcategories of Retail Marijuana Concentrate and authorize limited ingredients based on the method of production of Retail Marijuana Concentrate. Unless the context otherwise requires, Retail Marijuana Concentrate is included when article 10 of the Colorado Revised Statutes refers to Retail Marijuana Product.

“Retail Marijuana Cultivation Facility” means an entity licensed to cultivate, prepare, and package Retail Marijuana and sell Retail Marijuana to Retail Marijuana Stores, to Retail Marijuana Products Manufacturers, and to other Retail Marijuana Cultivation Facilities, but not to consumers.

“Retail Marijuana Hospitality and Sales Business” means a facility, which cannot be mobile, licensed to permit the consumption of only the retail marijuana or retail marijuana products it has sold pursuant to the provisions of an enacted, initiated, or referred ordinance or resolution of the local jurisdiction in which the licensee operates.

“Retail Marijuana Product” means a product that is comprised of Retail Marijuana and other Ingredients and is intended for use or consumption, such as, but not limited to, edible product, ointments and tinctures.

“Retail Marijuana Products Manufacturer” means an entity licensed to purchase Retail Marijuana; manufacture, prepare, and package Retail Marijuana Product; and Transfer Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Product only to other Retail Marijuana Products Manufacturers, Retail Marijuana Stores, Retail Marijuana Hospitality and Sales Businesses and Pesticide Manufacturers.

“Retail Marijuana Store” means an entity licensed to purchase Retail Marijuana and Retail Marijuana Concentrate from a Retail Marijuana Cultivation Facility and to purchase Retail Marijuana Product and Retail Marijuana Concentrate from a Retail Marijuana Products Manufacturer, and to Transfer Retail Marijuana to Retail Marijuana Hospitality and Sales Businesses and to consumers.

“Retail Marijuana Testing Facility” means an entity licensed to analyze and certify the safety and potency of marijuana.

“Retail Marijuana Transporter” means a Person licensed to transport Retail Marijuana from one Retail Marijuana Business to another Retail Marijuana Business or to a Pesticide Manufacturer, and to temporarily store the transported Retail Marijuana at its Licensed Premises, but is not authorized to sell, give away, buy, or receive complimentary Retail Marijuana under any circumstances. A Retail Marijuana Transporter does not include a Licensee that transports and distributes its own Retail Marijuana.

“RFID” means Radio Frequency Identification.

“Sample Increment” means a single portion or unit that is removed from a Harvest Batch or Production Batch by a Designated Test Batch Collector for the creation of a Test Batch. For Harvest Batches, a Sample Increment shall be 500 milligrams of flower or trim. For Regulated Marijuana Products, Audited Products, and Alternative Use Products, a Sample Increment shall be a single serving of the product as defined by the Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer, but shall contain no more than 10 milligrams of active THC per serving for Edible Retail Marijuana Products. For Regulated Marijuana Concentrate, a Sample Increment shall be 250 milligrams of concentrate.

“Sample Increment Collection” means the gathering of Sample Increments to combine into a larger, composite Test Batch.

"Sampling Manager" means an Owner Licensee or management personnel holding an Employee Licensee designated by a Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, Retail Marijuana Cultivation Facility, or Retail Marijuana Products Manufacturer to receive Transfers of Sampling Units pursuant to Rules 5-230, 5-320, 6-225, and 6-320.

"Sample Plan" means a written, documented plan generated by Designated Test Batch Collector(s) in line with the Regulated Marijuana Business' Standard Operating Procedure for Sample Increment Collection.

"Sampling Unit" means a unit of Regulated Marijuana Transferred to a Sampling Manager for purposes of quality control and product development pursuant to Rules 5-230 and 5-320, sections 44-10-502(4) and 44-10-503(10), C.R.S., and Rules 6-225 and 6-320, and sections 44-10-602(6) and 44-10-603(10), C.R.S.

"Security(ies)" means any note, stock, treasury stock, security future, security-based swap, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

"Security Alarm System" means a device or series of devices, intended to summon law enforcement personnel during, or as a result of, an alarm condition. Devices may include hard-wired systems and systems interconnected with a radio frequency method such as cellular or private radio signals that emit or transmit a remote or local audible, visual, or electronic signal; motion detectors, pressure switches, duress alarms (a silent system signal generated by the entry of a designated code into the arming station to indicate that the user is disarming under duress); panic alarms (an audible system signal to indicate an emergency situation); and hold-up alarms (a silent system signal to indicate that a robbery is in progress).

"Shell Company" means a registrant, other than an asset-backed issuer as defined in Item 1101(b) of Regulation AB, that has:

a. No or nominal operations; and

b. Either:

   i. No or nominal operations;

   ii. Assets consisting solely of cash and cash equivalents; or

   iii. Assets consisting of any amount of cash and cash equivalents and nominal other assets.

"Shipping Container" means a hard-sided container with a lid or other enclosure that can be secured in place. A Shipping Container is used solely for the transport of Regulated Marijuana between Regulated Marijuana Businesses or a Pesticide Manufacturer.

"Single-Serving Edible Retail Marijuana Product" means an Edible Retail Marijuana Product unit for sale to consumers containing no more than 10mg of active THC.

"Social Equity Licensee" means a natural person who meets the criteria established pursuant to section 44-10-308(4), C.R.S. A person qualified as a Social Equity Licensee may participate in the accelerator program established pursuant to the Marijuana Code or may hold a Regulated Marijuana Business License or permit issued pursuant to the Marijuana Code.

"Solvent-Based Medical Marijuana Concentrate" means a Medical Marijuana Concentrate that was produced by extracting Cannabinoids from Medical Marijuana through the use of a solvent approved by the Division pursuant to Rule 5-315.

"Solvent-Based Retail Marijuana Concentrate" means a Retail Marijuana Concentrate that was produced by extracting Cannabinoids from Retail Marijuana through the use of a solvent approved by the Division pursuant to Rule 6-315.

"Standardized Graphic Symbol" means a graphic image or small design adopted by a Licensee to identify its business.

"Standardized Serving of Marijuana" means a standardized single serving of active THC in Retail Marijuana. The size of a Standardized Serving of Marijuana shall be no more than 10mg of active THC.

"State Licensing Authority" means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale, and testing of Regulated Marijuana in Colorado, pursuant to section 44-10-201, C.R.S.

"Target Potency" means the potency that a Medical Marijuana Products Manufacturer intends for an individual Medical Marijuana Product, or a Retail Marijuana Products Manufacturer intends for an individual Retail Marijuana Product, prior to testing, which is also outlined in the Licensee's standard operating procedures.

"Temporary Appointee Registration" means a registration issued to a Court Appointee pursuant to section 44-10-401(3)(a), C.R.S.

"THCA" means tetrahydrocannabinolic acid.

"THC" means tetrahydrocannabinol.

~~"THCA" means tetrahydrocannabinolic acid.~~

"Test Batch" means a group of Sample Increments that are derived from a single Harvest Batch, Production Batch, or Inventory Tracking System package, and that are collectively submitted to a Regulated Marijuana Testing Facility for testing purposes.

"Total THC" means the following:

The sum of the percentage by weight of Delta-9-tetrahydrocannabinolic acid (D9-THCA) multiplied by 0.877,

Plus the percentage by weight of Delta-8-tetrahydrocannabinol (D8-THC),

Plus the percentage by weight of Delta-9-tetrahydrocannabinol (D9-THC),

Plus the percentage by weight of Exo-tetrahydrocannabinol (Exo-THC),

Plus the percentage by weight of Delta-10-tetrahydrocannabinol (D10-THC).

i.e. Total THC = (% D9-THCA * 0.877) + % D8-THC + % D9-THC + % Exo-THC + % D10-THC.

"Transfer(s)(ed)(ing)" means to grant, convey, hand over, assign, sell, exchange, donate, or barter, in any manner or by any means, with or without consideration, any Regulated Marijuana from one Licensee to another Licensee, to a patient, or to a consumer. A Transfer includes the movement of Regulated Marijuana from one Licensed Premises to another, even if both premises are contiguous, and even if both premises are owned by a single entity or individual or group of individuals and also includes a virtual Transfer that is reflected in the Inventory Tracking System, even if no physical movement of the Regulated Marijuana occurs.

"Universal Symbol" means the image established by the Division and made available to Licensees through the Division's website indicating the Regulated Marijuana contains marijuana.

"Unrecognizable" means Regulated Marijuana that has been rendered indistinguishable from any other plant material.

"U.S. Person" means:

a. Any natural person resident in the United States;

b. Any partnership or corporation organized or incorporated under the laws of the United States;

c. Any estate of which any executor or administrator is a U.S. natural person;

d. Any trust of which any trustee is a U.S. natural person;

e. Any agency or branch of a foreign entity located in the United States;

f. Any non-discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary for the benefit or account of a U.S. natural person;

g. Any discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary organized, incorporated, or (if a natural person) resident in the United States; and

h. Any partnership or corporation if:

i. Organized or incorporated under the laws of any foreign jurisdiction; and

ii. Formed by a U.S. natural person principally for the purpose of investing in Owner's Interests not registered under the Securities Act of 1933, unless it is organized or incorporated, and owned, by accredited investors (as defined in § 230.501(a)) who are not natural persons, estates or trusts.

"Vaporizer Delivery Device" means inhalable Regulated Marijuana Concentrate, which may be comprised of other Ingredients inside a device that uses a heating element to create a vapor including, but not limited to, vaporizer cartridges and vaporizer pens.

"Vegetative" means the state of the *Cannabis* plant during which plants do not produce resin or flowers and are bulking up to a desired production size for Flowering.

Basis and Purpose – 1-120

The statutory authority for this rule includes but is not limited to sections 24-4-105(11) and 44-10-201, C.R.S. The purpose of this rule is to establish a system by which a Licensee may request the Division to issue a formal statement of position and, subsequently, petition the State Licensing Authority for a declaratory order. Typically, a position statement or declaratory order would address matters that are likely to be applicable to other Licensees. The approach is similar to that utilized by other divisions within the Department of Revenue. This Rule 1-120 was previously Rules M and R 104, 1 CCR 212-1 and 1 CCR 212-2.

1-120 – Declaratory Orders Concerning the Marijuana Code

A. Who May Request a Statement of Position. Any person as defined in section 24-4-102(12), C.R.S., may request the Division to issue a statement of position concerning the applicability to the petitioner of any provision of the Marijuana Code, or any regulation of the State Licensing Authority.

B. Division Response. The Division will determine, in its sound discretion, whether to respond with a written statement of position. Following receipt of a proper request, the Division will respond by issuing a written statement of position or by declining to issue such a statement.

C. Petition for Declaratory Order. Any person who has properly requested a statement of position, and who is dissatisfied with the Division's response, may petition the State Licensing Authority for a declaratory order pursuant to section 24-4-105(11), C.R.S. The petition shall be filed within 30 days of the Division's response, or may be filed at any time before the Division's response if the Division has not responded within 60 days of receiving a proper request for a statement of position, and shall set forth the following:

1. The name and address of the petitioner.

2. Whether the petitioner is licensed pursuant to the Marijuana Code, and if so, the type of license and address of the Licensed Premises.

3. Whether the petitioner is involved in any pending administrative hearings with the State Licensing Authority or relevant Local Jurisdiction.

4. The statute, rule, or order to which the petition relates.

5. A concise statement of all of the facts necessary to show the nature of the controversy or the uncertainty as to the applicability to the petitioner of the statute, rule, or order to which the petition relates.

6. A concise statement of the legal authorities, if any, and such other reasons upon which petitioner relies.

7. A concise statement of the declaratory order sought by the petitioner.

D. State Licensing Authority Retains Discretion Whether to Entertain Petition. The State Licensing Authority will determine, in its discretion without prior notice to the petitioner, whether to entertain any petition. If the State Licensing Authority decides it will not entertain a petition, it shall notify the petitioner in writing of its decision and the reasons for that decision. Any of the following grounds may be sufficient reason to refuse to entertain a petition:

1. The petitioner failed to properly request a statement of position from the Division, or the petition for declaratory order was filed with the State Licensing Authority more than 30 days after the Division's response to the request for a statement of position.

2. A ruling on the petition will not terminate the controversy nor remove uncertainties concerning the applicability to petitioner of the statute, rule, or order in question.

3. The petition involves a subject, question or issue that is relevant to a pending hearing before the state or any Local Licensing Authority, an on-going investigation conducted by the Division, or a written complaint previously filed with the State Licensing Authority.

4. The petition seeks a ruling on a moot or hypothetical question.

5. Petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Colo. R. Civ. Pro. 57, which will terminate the controversy or remove any uncertainty concerning applicability of the statute, rule, or order.

E. State Licensing Authority May Adopt Division Position Statement. The State Licensing Authority may adopt the Division Position Statement as a Final Agency ~~Action~~ Order subject to judicial review pursuant to section 24-4-106, C.R.S.

F. If State Licensing Authority Entertains Petition. If the State Licensing Authority determines that it will entertain the petition for declaratory order, it shall so notify the petitioner within 30 days, and any of the following procedures may apply:

1. The State Licensing Authority may expedite the matter by ruling on the basis of the facts and legal authority presented in the petition, or by requesting the petitioner or the Division to submit additional evidence and legal argument in writing.

2. In the event the State Licensing Authority determines that an evidentiary hearing is necessary to a ruling on the petition, a hearing shall be conducted in accordance with Rules 8-220 – Administrative Hearings, 8-225 – Administrative Subpoenas, and 8-230 – Administrative Hearing Appeals. The petitioner will be identified as Respondent.

3. The parties to any proceeding pursuant to this Rule shall be the petitioner/Respondent and the Division. Any other interested person may seek leave of the State Licensing Authority to intervene in the proceeding and such leave may be granted if the State Licensing Authority determines that such intervention will make unnecessary a separate petition for declaratory order by the interested person.

4. The declaratory order shall constitute a Final Agency Order subject to judicial review pursuant to section 24-4-106, C.R.S.

G. Public Inspection. Files of all requests, petitions, statements of position, and declaratory orders will be maintained by the Division. Except with respect to any material required by law to be kept confidential, such files shall be available for public inspection.

H. Posted on Website. The Division shall post a copy of all statements of position and all declaratory orders on the Division's website.

Basis and Purpose – 1-125

The statutory authority for this rule includes but is not limited to section 44-10-202(1)(c), C.R.S. The purpose of this rule is to clarify that any reference to days means calendar days. This Rule 1-125 was previously Rules M and R 105, 1 CCR 212-1 and 1 CCR 212-2.

1-125 – Computation of Time

The word "days" as used in these rules means calendar days.

Basis and Purpose – 1-130

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c) and 44-10-801(4), C.R.S. The purpose of this rule is to establish the basic fees that must be paid at the time of service of any subpoena (including a subpoena for testimony and/or a subpoena duces tecum) upon the State Licensing Authority, and for production of documents pursuant to any such subpoena. This rule also establishes additional fees for meals, mileage, and each day's testimony. The service fee is not applicable when a subpoena is served by a governmental agency. This Rule 1-130 was previously Rules M and R 106, 1 CCR 212-1 and 1 CCR 212-2.

1-130 – Subpoena Fees

A. Required Fees for Subpoenas. The following fees must be paid at the time of service of any subpoena on the Division or State Licensing Authority:

1. Subpoenas for records only (*subpoenas duces tecum*):

a. Responsive records - $0.25/page. The Division and State Licensing Authority may use discretion when electronic copies are requested.

b. The Division or State Licensing Authority may charge $30/hour to retrieve and review voluminous records.

2. Subpoenas requiring any Division or State Licensing Authority employee to attend any proceeding:

a. $200/day attendance;

b. Current state mileage reimbursement fee; and

c. Current state meal reimbursement fee.

B. When Subpoena-Related Fees Are Due.

1. Subpoenas duces tecum fees must be paid before the Division or State Licensing Authority will release the records.

2. All other subpoena-related fees are due at the time of service of the subpoena.

C. Service Complete Only When Fees Are Paid. The Division or State Licensing Authority will not consider service to be complete unless all applicable fees are paid.

D. State Employees and Private Litigation. Division and State Licensing Authority employees will not serve as expert witnesses in private litigation. In addition, the Division and State Licensing Authority may move to quash any subpoena that seeks fact testimony from Division or State Licensing Authority employees in private litigation.

E. Not Applicable to Government-Issued Subpoenas. This Rule does not apply to subpoenas issued by any governmental agency.

Basis and Purpose – 1-135

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(f), 44-10-203(1)(g), and 44-10-301, C.R.S. This rule gives general instructions regarding Regulated Marijuana Business administrative matters to local jurisdictions and clarifies for such entities what the Division and State Licensing Authority will do in certain instances. The rule also reaffirms that local law enforcement's authority to investigate and take any necessary action with regard to Regulated Marijuana Businesses remains unaffected by the Marijuana Code or any rules promulgated pursuant to it. This Rule 1-135 was previously Rules M and R 1401(A) through (D), 1 CCR 212-1 and 1 CCR 212-2.

1-135 – Instructions for Local Licensing Authorities and Local Jurisdictions

A. Division Protocol for Regulated Marijuana Businesses.

1. The Division shall forward a copy of all new Regulated Marijuana Business applications to the relevant Local Licensing Authority or Local Jurisdiction.

2. The Division shall forward half of the total application fee with the copy of the Retail Marijuana Business application to the relevant Local Jurisdiction.

3. The Division shall notify the relevant Local Licensing Authority or Local Jurisdiction when an application for a Regulated Marijuana Business is either approved or denied. This includes new business applications, renewal business applications, change of location applications, change of owner applications, premises modification applications, and off-premises storage permit applications.

4. Conditioned on Local Approval. Any License issued or renewed by the Division for a Regulated Marijuana Business shall be conditioned upon relevant Local Licensing Authority or Local Jurisdiction approval of the application.

B. Local Licensing Authority/Local Jurisdiction Protocol for Regulated Marijuana Businesses.

1. As soon as practicable, a Local Licensing Authority or Local Jurisdiction that has prohibited the operation of a Regulated Marijuana Business License authorized by the Marijuana Code shall inform the Division, in writing, of such prohibition and shall include a copy of the applicable ordinance or resolution.

2. If a Local Licensing Authority or Local Jurisdiction will authorize the operation of a Regulated Marijuana Business License authorized by the Marijuana Code, it shall inform the Division of the local point-of-contact on Regulated Marijuana regulatory matters. The Local Jurisdiction shall include, at minimum, the name of the division or branch of local government, the mailing address of that entity, and telephone number.

3. Local Licensing Authorities or Local Jurisdictions may impose separate local licensing requirements related to the time, place, and manner of Regulated Marijuana Businesses, and shall otherwise determine if an application meets all those local requirements.

4. The relevant Local Licensing Authority or Local Jurisdiction shall notify the Division, in writing, of whether an application for a Regulated Marijuana Business complies with local restrictions and requirements, and whether the application is approved or denied based on that review. If a Local Licensing Authority or Local Jurisdiction makes any written findings of fact, a copy of those written findings shall be included with the notification.

C. Local Licensing Authority Inspections. The relevant Local Licensing Authorities or Local Jurisdiction and their investigators may inspect Regulated Marijuana Businesses during all business hours and other times of apparent activity, for the purpose of inspection or investigation.

D. Local Licensing Authority Powers. Nothing in these rules shall be construed to limit the authority of Local Licensing Authorities or Local Jurisdictions as established by the Marijuana Code or otherwise by law.

Basis and Purpose – 1-140

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(f) 44-10-203(1)(g), and 44-10-301(1), C.R.S. This rule gives general instructions regarding Regulated Marijuana Business administrative matters to local jurisdictions and clarifies for such entities what the Division and State Licensing Authority will do in certain instances. The rule also reaffirms that local law enforcement's authority to investigate and take any necessary action with regard to Regulated Marijuana Businesses remains unaffected by the Marijuana Code or any rules promulgated pursuant to it. This Rule 1-140 was previously Rules M and R 1401(E), 1 CCR 212-1 and 1 CCR 212-2.

1-140 – Local Law Enforcement's Authority Not Impaired by Marijuana Code

Nothing in the Marijuana Code or any rules promulgated pursuant to it shall be construed to limit the ability of local police departments, sheriffs, or other state or local law enforcement agencies to investigate unlawful activity in relation to a Regulated Marijuana Business and such agencies shall have the ability to run a Colorado Crime Information Center criminal history check of an Applicant or Licensee during an investigation of unlawful activity related to Regulated Marijuana or a Regulated Marijuana Business to ensure they are in compliance with all Local Licensing Authority regulations related to time, place, and manner.

Part 2 – Applications and Licenses

2-200 Series – Applications and Licenses Rules

Basis and Purpose – 2-205

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

2-205 – Fees

A. Regulated Marijuana Business Initial Application and License Fees.

1. Medical Marijuana Businesses.

License Type	**Application Fee**	**License Fee**	**Total Due at Application**
Medical Marijuana Store	$5,000.00	$2,440.00	$7,440.00
Medical Marijuana Products Manufacturer	$1,000.00	$1,830.00	$2,830.00

Medical Marijuana Cultivation Facility Class 1 (1-500 plants)	$1,000.00	$1,830.00	$2,830.00
Medical Marijuana Testing Facility	$1,000.00	$1,830.00	$2,830.00
Medical Marijuana Transporter	$1,000.00	$5,368.00	$6,368.00
Medical Marijuana Business Operator	$1,000.00	$2,684.00	$3,684.00
Marijuana Research and Development Facility	$1,000.00	$1,830.00	$2,830.00

2. Retail Marijuana Businesses.

License Type	**Application Fee**	**License Fee**	**Total Due at Application**
Retail Marijuana Store	$5,000.00	$2,440.00	**Separate Checks** $4,940.00 State $2,500.00 Local
Retail Marijuana Products Manufacturer	$5,000.00	$1,830.00	**Separate Checks** $4,330.00 State $2,500.00 Local
Retail Marijuana Cultivation Facility Tier 1 (1-1,800 plants)	$5,000.00	$1,830.00	**Separate Checks** $4,330.00 State $2,500.00 Local
Retail Marijuana Testing Facility	$1,000.00	$1,830.00	**Separate Checks** $2,330.00 State $500.00 Local
Retail Marijuana Transporter	$1,000.00	$5,368.00	**Separate Checks** $5,868.00 State $500.00 Local
Retail Marijuana Business Operator	$1,000.00	$2,684.00	**Separate Checks** $3,184.00 State $500.00 Local
Marijuana Hospitality Business (Eff. Jan. 1, 2020)	$1,000.00	$1,220.00	**Separate Checks** $1,720.00 State $500.00 Local

Retail Marijuana Hospitality and Sales Business (Eff. Jan. 1, 2020)	$5,000.00	$2,440.00	**Separate Checks** $4,940.00 State $2,500.00 Local

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

1. Medical Marijuana Businesses.

License Type	**Application Fee**	**License Fee**	**Total Due at Application**
Medical Marijuana Store	$300.00	$1,830.00	$2,130.00
Medical Marijuana Products Manufacturer	$300.00	$1,830.00	$2,130.00
Medical Marijuana Cultivation Facility Class 1 (1-500 plants)	$300.00	$1,830.00	$2,130.00
Class 2 (501-1,500 plants)		$2,806.00	$3,106.00
Class 3 (1,501-3,000 plants)		$4,270.00	$4,570.00
Expanded Production Management (for each class of 3,000 plants over Class 3)		$4,270.00 [Plus $976.00 for each additional class of 3,000 plants over Class 3]	$4,570.00 [Plus $976.00 for each additional class of 3,000 plants over Class 3]
Medical Marijuana Testing Facility	$300.00	$1,830.00	$2,130.00
Medical Marijuana Transporter	$300.00	$5,368.00	$5,668.00
Medical Marijuana Business Operator	$300.00	$2,684.00	$2,984.00
Marijuana Research and Development Facility	$300.00	$1,830.00	$2,130.00

2. Retail Marijuana Businesses.

License Type	**Application Fee**	**License Fee**	**Total Due at Application**
Retail Marijuana Store	$300.00	$1,830.00	$2,130.00
Retail Marijuana Products Manufacturer	$300.00	$1,830.00	$2,130.00

Retail Marijuana Cultivation Facility Tier 1 (1-1,800 plants)	$300.00	$1,830.00	$2,130.00
Tier 2 (1,801-3,600 plants)		$2,806.00	$3,106.00
Tier 3 (3,601-6,000 plants)		$3,660.00	$3,960.00
Tier 4 (6,001-10,200 plants)		$5,490.00	$5,790.00
Tier 5 (10,201-13,800 plants)		$7,930.00	$8,230.00
Expanded Production Management (for each additional tier of 3,600 plants over Tier 5)		$7,930.00 [Plus $976.00 for each additional tier of 3,600 plants over Tier 5]	$8,230.00 [Plus $976.00 for each additional tier of 3,600 plants over Tier 5]
Retail Marijuana Testing Facility	$300.00	$1,830.00	$2,130.00
Retail Marijuana Transporter	$300.00	$5,368.00	$5,668.00
Retail Marijuana Business Operator	$300.00	$2,684.00	$2,984.00
Marijuana Hospitality Business (Eff. Jan. 1, 2020)	$300.00	$915.00	$1,215.00
Retail Marijuana Hospitality and Sales Business (Eff. Jan. 1, 2020)	$300.00	$1,830.00	$2,130.00

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

1. Controlling Beneficial Owner Request for a Finding of Suitability Fee.

   a. $800.00 per Natural Person

   b. $400.00 per Natural Person in possession of a valid Owner's License who is an Accelerator-Endorsed Licensee and seeking to have the existing Owner's License designated as a Social Equity Licensee.

   c. $800.00 for an Entity that is not a Publicly Traded Corporation, plus the fee in paragraph (C)(1)(a) and (C)(1)(b), for each associated natural person subject to suitability

   d. $5,000.00 for a Publicly Traded Corporation, plus the fee in paragraph (C)(1)(a) and (C)(1)(b), for each associated natural person or Entity subject to suitability.

2. Passive Beneficial Owner Request for Finding of Suitability Fee. A Passive Beneficial Owner may, but is not required to, apply for an Owner License and Identification Badge,

and if the Passive Beneficial Owner chooses to do so, must submit the fees required by subparagraph (C)(1).

3. Renewal Fee for an Owner License. All Controlling Beneficial Owners and licensed Passive Beneficial Owners - $500.00.

D. Employee License – Initial Fees and Renewal Fees.

1. Employee License Initial Application and License Fee – $105.00

a. Of the total Employee License application and license fee, $75.00 is the application fee and $30.00 is the license fee. An individual submitting an application for an Employee License may submit the total fee of $105.00 in one form of payment.

2. Employee License Renewal Fee – $80.00

a. Of the total Employee License Renewal fee, $50.00 is the application fee and $30.00 is the license fee. An individual submitting an application for an Employee License renewal may submit the total fee of $80.00 in one form of payment.

b. All Key Licenses and Support Licenses issued before January 1, 2020 will be converted to an Employee License upon the first license renewal following January 1, 2020.

3. Conditional Employee License Fee - $200.00

E. Temporary Appointee Registration – Request for Finding of Suitability Fees.

1. Natural Person – $274.00

2. Entity – $976.00

F. Other Fees. The following other fees apply:

1. Permits.

a. Off Premises Storage Permit – $1,830.00

b. Transporter Off Premises Storage Permit – $2,684.00

c. Centralized Distribution Permit – $24.00

d. R&D Co-Location Permit – $61.00

e. Delivery Permit:

i. Initial Fee if the Store or Transporter Business License will expire in 6 months or less - $2,440.00.

ii. Initial Fee if the Store or Transporter Business License will expire in more than 6 months - $4,880.00.

iii. All Renewals - $2,440.00

f. Transition Permit – $305.00

2. Regulated Marijuana Business Changes. The following fees apply per license:

a. Change of Controlling Beneficial Owner – $1,952.00

b. Changes Exempt from Change of Owner Application Requirement – $976.00

c. Change of Trade Name – $61.00

d. Change of Location – $610.00

e. Modification of Licensed Premises – $122.00

3. Marijuana Research and Development Facility Research Project Proposal – $610.00

4. Responsible Vendor Provider Applications.

a. Responsible Vendor Program Provider Initial Application – $1,037.00

b. Responsible Vendor Program Provider Renewal Application – $427.00

5. Duplicate License, Identification Badge, Certificate, Regulated Marijuana Business License Reinstatement.

a. Duplicate Business License – $24.00

b. Duplicate Owner or Employee Identification Badge – $24.00

c. Responsible Vendor Program Provider Duplicate Certificate – $61.00

d. Reinstatement of Regulated Marijuana Business License - $305.00

6. Outdoor Contingency Plan Review - $1,200.00

G. When Fees are Due. All fees in this Rule are due at the time the application or request is submitted.

Basis and Purpose – 2-210

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(w), 44-10-305, 44-10-901(2), and 24-4-105(2) C.R.S. The purpose of this rule is to clarify the duties that Applicants and Licensees have when reporting to the State Licensing Authority information that is necessary for the issuance of a state license. These duties include but are not limited to reporting and keeping a mailing address current, reporting a felony conviction or other disqualifying event, cooperating with the State Licensing Authority and his or her employees, and notifying the State Licensing Authority of any change of registered agent in the State of Colorado. This rule further provides that all communications or notifications that the State Licensing Authority or Division send an Applicant or Licensee will be sent to the last known address. The Applicant's or Licensee's failure to notify the Division of a change of address does not relieve the Applicant or Licensee from timely responding to any correspondence or notification.

2-210 – Duties of All Applicants and Licensees

A. Duty to Keep Mailing Address Current: All Applicants and Licensees.

1. Timing of Notification. An Applicant or Licensee must provide a physical mailing address to the Division and may provide an electronic mailing address to the Division. A Licensee must inform the Division in writing of any change to its physical mailing address and/or electronic mailing address within 28 days of the change. The Division will not change a Licensee's information without written notice from the Licensee or its authorized agent.

2. State Licensing Authority and Division Communications. The State Licensing Authority and Division will send any formal notifications or determinations regarding any application or an administrative action to the last mailing address and to the last electronic mailing address, if any, furnished to the Division by the Applicant or Licensee.

3. Failure to Change Address Does Not Relieve Applicant's or Licensee's Obligations. An Applicant's or Licensee's failure to notify the Division of a change of physical or electronic mailing address does not relieve the Applicant or Licensee from the obligation of responding to a Division communication or a State Licensing Authority communication.

B. Duty to Report Felony - Convictions, Deferred Sentences and Judgments. An Applicant or Licensee must notify the Division in writing of any felony conviction or deferred sentence or judgment regarding a felony against him or her within seven days of the conviction or deferred sentence or judgment. The notification must include disposition documents. Failure to make required notification to the Division may be grounds for administrative action.

C. Duty to Report Any Disqualifying Event. Applicants and Licensees must notify the Division within seven days of any change of fact that would result in the Applicant or Licensee being disqualified from holding a license, permit, or registration pursuant to the Marijuana Code, or these Rules.

D. Duty to Cooperate. Applicants and Licensees must cooperate in any investigation conducted by the Division. Failure to cooperate with a Division investigation may be grounds for denial of an application or for administrative action against a Licensee.

E. Duty to Report Change of Registered Agent. A Regulated Marijuana Business must disclose any change of its registered agent in the State of Colorado within seven days of the change.

Basis and Purpose – 2-215

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(c), 44-10-203(2)(k), 44-10-203(2)(w), 44-10-305, 44-10-307, 44-10-308, 44-10-309, 44-10-310, 44-10-311, 44-10-312, 44-10-313, 44-10-314 and 44-10-316, C.R.S. The purpose of this rule is to establish requirements for all applications including: required application fees; complete, accurate and truthful applications; notification of the applicable local licensing authority or local jurisdiction; that the Applicant or Licensee establish he, she or it is not a person prohibited from licensure; submission of additional information or documents upon request by the Division; and notification that all application material may be disclosed consistent with the Marijuana Code.

2-215 – All Applications Requirements

A. Applicability. This Rule 2-215 applies to all applications submitted to the Division for a license, permit, or registration provided by the Marijuana Code.

B. Division Forms Required. All applications for licenses, registrations, or permits authorized by subsections 44-10-401(2) and (3), C.R.S., must be made on current Division forms.

C. Application Fees Required. Applications must be accompanied by full remittance of the required application and license fees. *See* Rule 2-205.

D. Complete, Accurate, and Truthful Applications Required. Applications must be complete, accurate, and truthful and include all attachments and supplemental information. Incomplete applications may not be accepted by the Division.

E. Local Licensing Authority/Local Jurisdiction.

1. Each application must identify the applicable Local Licensing Authority or Local Jurisdiction.

2. If the Local Licensing Authority or Local Jurisdiction requires a physical copy of the application, the Applicant or Licensee must submit the original application and one identical copy to the Division. Otherwise the Applicant or Licensee must submit only the original application to the Division.

F. Applicant Not Prohibited From Licensure. Applicants must provide information establishing the Applicant is not a Person prohibited from licensure by section 44-10-307, C.R.S. ~~Each natural person required to obtain an Owner License or an Employee License must provide proof of lawful presence or citizenship, and Colorado residency, if required.~~

G. Additional Information and Documents May Be Required.

1. Upon request by the Division, an Applicant must provide additional information or documents required to process and investigate the application. The additional information or documents must be provided within seven days of the request, however, this deadline may be extended for a period of time commensurate with the scope of the request.

2. An Applicant's failure to provide requested information or documents by the deadline may be grounds for denial of the application.

H. Application Forms Accessible. All application forms provided by the Division and filed by an Application for a license, registration, or permit, including attachments and any other documents associated with the investigation, may be used for a purpose authorized by the Marijuana Code, for investigation or enforcement of any international, federal, state, or local securities law or regulation, for any other state or local law enforcement purpose, or as otherwise required by law.

Basis and Purpose – 2-220

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(c), 44-10-203(1)(j), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(w), 44-10-203(2)(ee), 44-10-203(7), 44-10-301, 44-10-305, 44-10-307, 44-10-308, 44-10-309, 44-10-310, 44-10-311, 44-10-312, 44-10-313, and 44-10-316, C.R.S. The purpose of this rule is to establish the general requirements and processes for submission of an initial application for a Regulated Marijuana Business to the State Licensing Authority.

2-220 – Initial Application Requirements for Regulated Marijuana Businesses

A. Documents and Information Requested. Every initial application for a Regulated Marijuana Business license must include all required documents and information including, but not limited to:

1. A copy of the local license application, if required, for a Regulated Marijuana Business.

2. Certificate of Good Standing from the jurisdiction in which the Entity was formed, which must be one of the states of the United States, territories of the United States, District of Columbia, or another country that authorizes the sale of marijuana.

3. If the Applicant is an Entity, the identity and physical address of its registered agent in the state of Colorado.

4. Organizational Documents. Articles of Incorporation, by-laws, and any shareholder agreement for a corporation; articles of organization and operating agreement for a limited liability company; or partnership agreement for a partnership.

5. Corporate Governance Documents.

   a. A Regulated Marijuana Business that is a Publicly Traded Corporation must maintain corporate governance documents as required by the securities exchange on which its securities are listed and traded, and section 44-10-103(50), C.R.S., and must provide those corporate governance documents with each initial application.

   b. A Regulated Marijuana Business that is not a Publicly Traded Corporation is not required to maintain any corporate governance documents. However, if the Regulated Marijuana Business that is not a Publicly Traded Corporation voluntarily maintains corporate governance documents, the Division encourages inclusion of such documents with each initial application.

6. The deed, lease, sublease, rental agreement, contract, or any other document(s) establishing the Applicant is, or will be, entitled to possession of the premises for which the application is made.

7. Legible and accurate diagram for the facility. The diagram must include a plan for the Licensed Premises and a separate plan for the security/surveillance plan including camera location, number and direction of coverage. If the diagram is larger than 8.5 x 11 inches, the Applicant must also provide a copy of the diagram in a portable document format (.pdf).

8. All required findings of suitability issued by the Division.

9. If the Applicant is a Publicly Traded Corporation:

   a. Documents establishing the Publicly Traded Corporation qualifies to hold a Regulated Marijuana Business license including but not limited to disclosure of securities exchange(s) on which its Securities are listed and traded, the stock symbol(s), the identity of all regulators with regulatory oversight over its Securities; and

   b. Divestiture plan for any Controlling Beneficial Owner that is a Person prohibited by the Marijuana Code, has had her or his Owner License revoked, or has been found unsuitable.

10. Financial Statements. Consolidated financial statements (which may be prepared on either a calendar or fiscal year basis) that were prepared in the preceding 365 days, and which must include a balance sheet, an income statement, and a cash flow statement. If the Applicant or Regulated Marijuana Business is required to have audited financial statements by another regulator (e.g. United States Securities and Exchange Commission or the Canadian Securities Administrators) the financial statements provided to the Division must be audited and must also include all footnotes, schedules, auditors' report(s), and auditor's opinion(s). If the financial statements are publicly available on a website (e.g. EDGAR or SEDAR), the Applicant or Regulated Marijuana Business may

provide notification of the website link where the financial statements can be accessed in lieu of hardcopy submission.

11. Tax Documents. ~~Documentation establishing compliant return filing and payment of taxes related to any Regulated Marijuana Business in which the Person is, or was, required to file and pay taxes.~~While duplicate tax documentation is not required to be provided with the application, the Applicant shall cooperate with the Division to establish proof of compliant return filing and payment of taxes related to any Regulated Marijuana Business in which the Person is, or was, required to file and pay taxes.

B. Local Licensing/Approval Required.

1. Regulated Marijuana Business Local Licensing Authority Approval Required.

a. If the Division grants a license to a Regulated Marijuana Business before the Local Licensing Authority or Local Jurisdiction approves the application or grants a local license, the state license will be conditioned upon local approval. If the Local Licensing Authority denies the application, the state license will be revoked.

b. An Applicant is prohibited from operating a Regulated Marijuana Business prior to obtaining all necessary licenses, registrations, permits, or approvals from both the State Licensing Authority and the Local Licensing Authority or Local Jurisdiction.

2. Retail Marijuana Business One Year to Obtain Local Jurisdiction Approval Required.

a. The Applicant has one year from the date of licensing by the State Licensing Authority to obtain approval or licensing from the Local Jurisdiction. If the Applicant fails to obtain Local Jurisdiction approval or licensing within one year from grant of the state license, the state license expires and may not be renewed.

C. Social Equity License Qualification.

1. A natural person who can establish he or she qualifies as a Social Equity Licensee may apply for either a Regulated Marijuana Business License or an Accelerator License.

2. Qualifications. To qualify as a Social Equity Licensee, the Applicant must be found suitable for licensure pursuant to Rule 2-235, unless otherwise exempted by these Rules, and must meet the following minimum eligibility requirements:

a. The Applicant is a Colorado Resident and has established Colorado residency by providing the items required by Rule 2-265(H).

b. The Applicant has not been the Beneficial Owner of a License subject to administrative action issued by the State Licensing Authority resulting in the revocation of a license issued pursuant to the Marijuana Code;

c. The Applicant has demonstrated at least one of the following:

i. The Applicant has resided for at least fifteen years between the years 1980 and 2010 in a census tract designated by the office of economic development and international trade as an opportunity zone or a census tract designated as a Disproportionate Impacted Area;

ii. The Applicant or the Applicant's parent, legal guardian, sibling, spouse, child, or minor in their guardianship was arrested for a marijuana offense, convicted of a marijuana offense, or was subject to civil asset forfeiture related to a marijuana investigation; or

iii. The Applicant's household income in the year prior to application did not exceed 50% of the state median income as measured by the number of people who reside in the Applicant's household.

d. The Social Equity Licensee, or collectively one or more Social Equity Licensees, holds at least fifty-one percent of the Beneficial Ownership of the Regulated Marijuana Business License.

3. Information Required to Establish Qualification as a Social Equity Licensee.

a. To demonstrate qualification as a Social Equity Licensee based on residence during the relevant time period, the Applicant must demonstrate the Applicant's residency which may include either:

i. Provide information or documents including but not limited to a copy of school records, rental agreements, lease agreements, utility bills, mortgage statements, loan documents, bank records, tax returns, or any other document which proves the Applicant's place of residence; or

ii. Affirm, under penalty of perjury, the Applicant's place of residence and provide the name(s) and contact information for at least one individual who can verify the Applicant's place of residence during the time period at issue.

b. To demonstrate that an Applicant qualifies as a Social Equity Licensee based on a prior marijuana conviction of a family member, the Applicant must provide affirmation of the familial relationship and court or other documents demonstrating the family member's arrest or conviction for a marijuana offense or that the family member was subject to a civil asset forfeiture related to a marijuana investigation.

c. To demonstrate that an Applicant qualifies as a Social Equity Licensee based on the Applicant's income, the Applicant must provide the Applicant's tax return for the prior year. If an Applicant applies between January 1 and April 15 but has not yet filed a tax return, the application may be delayed or denied until the tax return is filed and provided to the Division. The Division cannot accept tax returns for previous years.

4. Denial of an Application on the Basis of a Marijuana Conviction. The State Licensing Authority will not deny an application for a Social Equity License or a related request for a finding of suitability on the sole basis of a marijuana conviction.

D. Accelerator License Application and Qualification.

1. License Issuance.

a. Beginning January 1, 2021, a Social Equity Licensee may apply for an Accelerator License. The application shall be made on Division forms and in accordance with the 2-200 Series Rules.

b. An Accelerator Licensee may exercise the privileges of a Retail Marijuana Cultivation Facility License, Retail Marijuana Products Manufacturer License, or Retail Marijuana Store License on the Licensed Premises of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, or Retail Marijuana Store that has been approved as an Accelerator-Endorsed Licensee or on a Licensed Premises under the control of the Accelerator-Endorsed Licensee.

2. Qualifications. To qualify for an Accelerator License, an Applicant must:

a. Be found suitable for licensure pursuant to Rule 2-235, unless otherwise exempted by these Rules; and

b. Be approved as a Social Equity Licensee pursuant to this Rule.

3. Information Required to Establish Qualification as an Accelerator Licensee. To establish that an Applicant qualifies as an Accelerator Licensee, he or she must establish:

a. Qualification as a Social Equity Licensee; and

b. An affirmation that the Applicant has not been the Beneficial Owner of a Regulated Marijuana Business License issued pursuant to the Marijuana Code.

Basis and Purpose – 2-225

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

2-225 – Renewal Application Requirements for All Licensees

A. License Periods.

1. Regulated Marijuana Business and Owner Licenses are valid for one year from the date of issuance.

2. Medical Marijuana Transporters, Retail Marijuana Transporters, and Employee Licenses are valid for two years from the date of issuance.

B. Division Notification Prior to Expiration.

1. The Division will send a notice of license renewal 90 days prior to the expiration of an existing Regulated Marijuana Business or Owner License by first class mail to the Licensee's physical address of record.

2. Failure to receive the Division notification does not relieve the Licensee of the obligation to timely renew the license.

C. Renewal Deadline.

1. A Licensee must apply for the renewal of an existing license prior to the License's expiration date.

2. A renewal application submitted to the Division prior to the license's expiration date shall be deemed timely pursuant to subsection 24-4-104(7), C.R.S., and the Licensee may continue to operate until Final Agency Order on the renewal application.

D. If License Not Renewed Before Expiration. A license is immediately invalid upon expiration if the Licensee has not filed a renewal application and remitted all of the required application and license fees prior to the license expiration date. A Regulated Marijuana Business that fails to file a renewal application and remit all required application and license fees prior to the license expiration date must not operate unless it first obtains a new state license and any required local license.

1. Reinstatement of Expired Regulated Marijuana Business License. A Regulated Marijuana Business that fails to file a renewal application and remit all required application and license fees prior to the license expiration date may request that the Division reinstate an expired license only in accordance to the following:

   a. The Regulated Marijuana Business license expired within the previous 30 days;

   b. The Regulated Marijuana Business License has submitted an initial application pursuant to Rule 2-220. The initial application must be submitted prior to, or concurrently with, the request for reinstatement;

   c. The Regulated Marijuana Business has paid the reinstatement fee in Rule 2-205; and

   d. Any license or approval from the Local Licensing Authority or Local Jurisdiction is still valid or has been obtained.

2. Reinstatement Not Available for Surrendered or Revoked Licenses. A request for reinstatement cannot be submitted and will not be approved for a Regulated Marijuana Business license that was surrendered or revoked.

3. Reinstatement Not Available for Owner Licenses or Employee Licenses. A request for reinstatement cannot be submitted and will not be approved for expired, surrendered, or revoked Owner Licenses or Employee Licenses.

4. Denial of Request for Reinstatement or Administrative Action. If the Licensee requesting reinstatement of a Regulated Marijuana Business license operated during a period that the license was expired, the request may be subject to denial and the Licensee may be subject to administrative action as authorized by the Marijuana Code or these Rules.

5. Approval of Request for Reinstatement. Upon approval of any request for reinstatement of an expired Regulated Marijuana Business License, the Licensee may resume operations until the final agency action on the Licensee's initial application for a Regulated Marijuana Business license.

   a. Approval of a request for reinstatement of an expired Regulated Marijuana Business license does not guarantee approval of the Regulated Marijuana Business Licensee's initial application; and

   b. Approval of a request for reinstatement of an expired license does not waive the State Licensing Authority's authority to pursue administrative action on the expired license or initial application for a Regulated Marijuana Business license.

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

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

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

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

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

G. Documents Required at Renewal. A Regulated Marijuana Business and all Controlling Beneficial Owner-Entities must provide the following documents with every renewal application:

1. Any document required by Rule 2-220(A)(1) through (9) that has changed since the document was last submitted to the Division. It is a license violation affecting public safety to fail to submit any document that changed since the last submission for the purpose of circumventing the requirements of the Marijuana Code, or these Rules;

2. A copy of the Local Licensing Authority or Local Jurisdiction approval, licensure, and/or documentation demonstrating timely submission of and pending local license renewal application;

3. A list of any sanctions, penalties, assessments, or cease and desist orders imposed by any securities regulatory agency, including but not limited to the United States Securities and Exchange Commission or the Canadian Securities Administrators;

4. A Regulated Marijuana Business operating under a single Entity name with more than one license may submit the following documents only once each calendar year on the first license renewal in lieu of submission with every license renewal in the same calendar year:

   a. ~~Tax documents and f~~Financial statements required by Rule 2-220(A)(10)~~ and (11)~~;

   b. If the Regulated Marijuana Business is a Publicly Traded Corporation, the most recent list of Non-Objecting Beneficial Owners possessed by the Regulated Marijuana Business;

   c. A copy of all management agreement(s) the Regulated Marijuana Business has entered into regardless of whether the Person is licensed or unlicensed; and

   d. Contracts, agreements, royalty agreements, equipment leases, financing agreement, or security contract for any Indirect Financial Interest Holder that is required to be disclosed by Rule 2-230(A)(3).

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

I. Accelerator Program Renewal Application Requirements.

1. Accelerator License Renewal. Accelerator Cultivator, Accelerator Manufacturer, and Accelerator Store licenses are required to be renewed annually. In addition to the documents and information required to be submitted with a renewal application, an Accelerator Licensee must also disclose to the Division copies of any agreements between the Accelerator Licensee and the Accelerator-Endorsed Licensee under which it operated during the previous year.

2. Accelerator-Endorsed Licensee Additional Renewal Requirements.

a. An endorsement issued to an Accelerator-Endorsed Licensee is required to be renewed annually.

b. At the time of submitting a renewal application for the endorsement, an Accelerator-Endorsed Licensee must submit the following:

i. The name and license number of any Accelerator Licensee for which it served as an Accelerator-Endorsed Licensee during the previous year;

ii. The equity assistance proposal if there have been any updates or amendments since the proposal was last submitted to the Division;

iii. Copies of any agreements between the Accelerator-Endorsed Licensee and the Accelerator Licensee(s), including the equity partnership agreement; and

iv. Any required Local Jurisdiction approvals.

c. In addition to any other basis for denial of a renewal application, the State Licensing Authority may also consider the following facts and circumstances as additional bases for denial of an endorsement renewal application:

i. The Accelerator-Endorsed Licensee violated the terms of any equity partnership agreement it entered into with an Accelerator Licensee;

ii. The Accelerator-Endorsed Licensee ended the equity partnership agreement with an Accelerator Licensee prematurely; and

iii. The Accelerator-Endorsed Licensee provided false or misleading statements, records, or information to an Accelerator Licensee.

Basis and Purpose – 2-230

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(c), 44-10-203(2)(t), 44-10-203(2)(u), 44-10-203(2)(w), 44-10-203(2)(ee), 44-10-203(7), 44-10-308, 44-10-309, and 44-10-316, C.R.S. Section 44-10-309, C.R.S., establishes varying disclosure requirements for Applicants and Licensees regarding disclosure of financial interests and ownership in a Regulated Marijuana Business. The purpose of this rule is to clarify information an Applicant or Licensee must disclose to the State Licensing Authority at the various levels, which include mandatory disclosure, disclosure in the State Licensing Authority's discretion, and

disclosure for reasonable cause. This rule also provides factors that will be considered in determining whether a Regulated Marijuana Business exercised reasonable care and whether a Person is in control of a Regulated Marijuana Business.

2-230 – Disclosure of Financial Interests in a Regulated Marijuana Business

A. Mandatory Disclosures. Information required to be disclosed by section 44-10-309, C.R.S., must be identified in every initial, renewal, and change of owner application. Mandatory disclosures include, but are not limited:

1. All Regulated Marijuana Businesses (including Publicly Traded Corporations and Entities that are not Publicly Traded Corporations) must disclose an organizational chart including the identity and ownership percentages of all Controlling Beneficial Owners;

2. All Controlling Beneficial Owners.

a. For any Controlling Beneficial Owner that is an Entity (including Publicly Traded Corporations and entities that are not Publicly Traded Corporations):

i. The Controlling Beneficial Owner's Executive Officers; and

ii. Beneficial Owners of ten percent or more of the Controlling Beneficial Owner.

b. Natural persons:

i. Name;

ii. Address;

iii. Date of birth;

iv. Social Security Number or other Federal Government-issued identification number.

c. Qualified Private Fund: Organizational chart reflecting the identity and ownership percentages of the Qualified Private Fund's Executive Officers, investment advisers, investment adviser representatives, any trustee or equivalent, and any other Person that controls the investment in, or management or operations of, a Regulated Marijuana Business.

d. Trust: A copy of any documents required to establish the trust, a certification of the trust, and any additional documents necessary to demonstrate the type of trust, the identity and age of the trustee and all beneficiaries of the trust.

3. Any Person that is an Indirect Financial Interest Holder that:

a. Holds two or more indirect financial interests;

b. Is also a Passive Beneficial Owner; or

c. That is contributing debt financing, secured or unsecured, that has not previously been disclosed and exceeds fifty percent of the operating capital of the Regulated Marijuana Business or if the calculation yields a negative number. Operating capital is defined as total current and fixed assets less total liabilities

(as presented on the balance sheet consistent with the business's past practices), measured as of the nearest month's end prior to the date of the applicable loan document(s).

B. Discretionary Disclosure. In his or her reasonable discretion, the State Licensing Authority may require disclosure following an initial or renewal application for a Regulated Marijuana business as follows:

1. For a Regulated Marijuana Business or a Controlling Beneficial Owner, neither of which is a Publicly Traded Corporation, its:

   a. Affiliates;

   b. Beneficial Owners of a Controlling Beneficial Owner;

2. Qualified Private Fund's Affiliates; and

3. Managers of a Controlling Beneficial Owner.

C. Reasonable Cause Disclosure. An Applicant will be notified by the State Licensing Authority of Reasonable Cause to require additional disclosure. The State Licensing Authority's notification will identify the facts and law supporting Reasonable Cause for the disclosure and the deadline for disclosure. The following may be required to be disclosed by the State Licensing Authority's notification:

1. An updated list of all Non-objecting Beneficial Owners in a Publicly Traded Corporation that is either a Regulated Marijuana Business or a Controlling Beneficial Owner reflecting ownership as of the date of request;

2. All Passive Beneficial Owners in a Regulated Marijuana Business that is not a Publicly Traded Corporation. If the Passive Beneficial Owner is not a natural person, the members of the board of directors, general partners, managing members, or Managers or Executive Officers and Beneficial Owners of ten percent or more of the Passive Beneficial Owner;

3. A list of all Beneficial Owners of a Qualified Private Fund;

4. All Indirect Financial Interest Holders of a Regulated Marijuana Business, and, for any Indirect Financial Interest Holder that is an Entity, the Beneficial Owners of ten percent or more of the Indirect Financial Interest Holder.

D. Affirmation of Reasonable Care.

1. Reasonable Care Affirmation for a Regulated Marijuana Business That is Not a Publicly Traded Corporation. A Regulated Marijuana Business that is not a Publicly Traded Corporation must affirm it exercised reasonable care to confirm its Passive Beneficial Owner(s), including any Qualified Institutional Investor(s), and Indirect Financial Interest Holder(s) are not Persons prohibited from holding a license under these Rules or the Marijuana Code. A Regulated Marijuana Business exercises reasonable care if it:

   a. Receives documentation from each Passive Beneficial Owner, including any Qualified Institutional Investor, and each Indirect Financial Interest Holder affirming each is not a Person prohibited from holding a license by these Rules or the Marijuana Code; and

b. The Regulated Marijuana Business does not know or reasonably should not know facts that would contradict the Passive Beneficial Owner or Indirect Financial Interest Holder's affirmation.

2. Reasonable Care Affirmation for a Regulated Marijuana Business That is a Publicly Traded Corporation. A Regulated Marijuana Business that is a Publicly Traded Corporation must affirm it exercised reasonable care to confirm its Passive Beneficial Owners, including any Qualified Institutional Investor(s), both of which are Non-Objecting Beneficial Owners, and Indirect Financial Interest Holder(s) are not Person prohibited from holding a license by these Rules and the Marijuana Code. A Regulated Marijuana Business that is a Publicly Traded Corporation exercises reasonable care if it:

a. At least annually, checks a list of its Passive Beneficial Owners, including any Qualified Institutional Investor(s), both of which are Non-Objecting Beneficial Owners, against the Specially Designated Nationals and Blocked Persons List (SDN List) on the United States Treasury Office of Foreign Assets Control (OFAC) website and the Financial Industry Regulatory Authority (FINRA) website for Persons Barred by FINRA to determine if there are any prohibited Persons;

b. Receives documentation from its Indirect Financial Interest Holder(s) affirming each is not a Person prohibited from holding a license by these Rules or the Marijuana Code; and

c. The Regulated Marijuana Business does not know or reasonably should not know facts that would contradict the Indirect Financial Interest Holder's affirmation.

E. Control. The State Licensing Authority will consider all facts and circumstances in determining whether a Person has Control of a Regulated Marijuana Business or is a Controlling Beneficial Owner by virtue of common control.

1. Non-Exhaustive Factors. Non-exhaustive facts and circumstances that will be considered when evaluating Control include, but are not limited to:

a. The Person's percentage of ownership, if any;

b. The Person's ability to influence the decision of the Regulated Marijuana Business;

c. The Person is a Manager of the Regulated Marijuana Business;

d. The Person has a close relationship, familial tie, or common purpose or motive with one or more Persons in Control of the Regulated Marijuana Business;

e. The Person has substantial business relationship(s) with the Regulated Marijuana Business;

f. The Person has the ability to control the proxy machinery or to win a proxy contest;

g. The Person is a primary creditor of the Regulated Marijuana Business; or

h. The Person is the original incorporator of the Regulated Marijuana Business.

2. Totality of the Evidence. The State Licensing Authority may consider the totality of the evidence when determining whether a Person has Control of a Regulated Marijuana Business or is a Controlling Beneficial Owner by virtue of common control.

Basis and Purpose – 2-235

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(e), 44-10-203(2)(c), 44-10-203(2)(ee), 44-10-309, 44-10-310, and 44-10-312(4), C.R.S. Section 44-10-310, C.R.S., requires that persons disclosed or who should have been disclosed to the State Licensing Authority obtain a finding of suitability from the State Licensing Authority. The purpose of this rule is to explain the conditions under which a Person is subject to either a mandatory finding of suitability or a finding of suitability for reasonable cause, to identify exemptions from an otherwise required finding of suitability and to identify the information and documents that, at a minimum, must be submitted in connection with any Person's request for a finding of suitability.

2-235 – Suitability

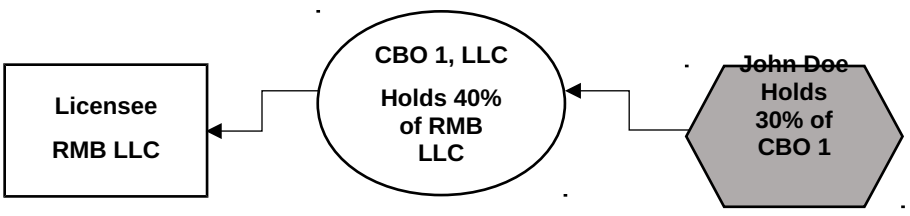
A. Persons Subject to a Mandatory Finding of Suitability for Regulated Marijuana Businesses That Are Not Publicly Traded Corporations.

1. Except as provided in subparagraph (A)(1)(a), any Person intending to become a Controlling Beneficial Owner by submitting an initial application for any Regulated Marijuana Business that is not a Publicly Traded Corporation must first obtain a finding of suitability from the State Licensing Authority.

a. Members of the Board of Directors and Executive Officers of a Regulated Marijuana Business. An individual who is a Controlling Beneficial Owner because he or she is a member of the board of directors or an Executive Officer of a Regulated Marijuana Business or is Controlling a Regulated Marijuana Business but who does not possess ten percent or more of the Owner's Interest in a Regulated Marijuana Business must submit a request for a finding of suitability to the State Licensing Authority within 45 days of becoming such a Controlling Beneficial Owner.

2. Indirect Ownership of Ten-Percent or More Owner's Interests in an Entity.

a. For a Controlling Beneficial Owner that is an Entity, the Entity's request for finding of suitability must include all information necessary for the State Licensing Authority to determine whether that Entity's Executive Officers and any Person that directly or indirectly owns ten percent or more of the Owner's Interest in the Regulated Marijuana Business are suitable. For example, assuming the scenario depicted below, Licensee RMB LLC has one-thousand outstanding ownership interests and CBO 1, LLC owns 400 of those ownership interests. John Doe owns 30% of CBO 1, LLC. Therefore, John Doe indirectly owns 12% of the outstanding ownership interests of Licensee RMB LLC, and must apply to the State Licensing Authority for a finding of suitability.



3. Any Person that has not received a finding of suitability and who intends to become a Controlling Beneficial Owner of a Regulated Marijuana Business that is not a Publicly Traded Corporation must submit their request for a finding of suitability prior to or contemporaneously with the change of owner application, unless exempt from the change of owner application requirement under Rule 2-245(C).

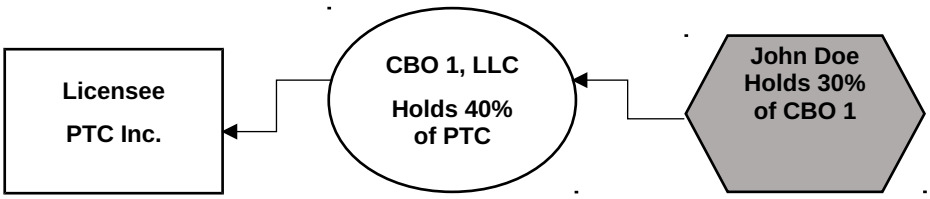
4. For a Controlling Beneficial Owner that is a trust, the trust's request for a finding of suitability must include all documents and information required or requested by the State Licensing Authority to permit a determination of whether or not the trustee and any beneficiary who may exercise control over the trust is suitable. A trust will not be found suitable if any person prohibited by section 44-10-307 is the trustee, otherwise controls the trust, or is positioned to receive distributions from the trust while a person prohibited.

B. Persons Subject to a Mandatory Finding of Suitability for Regulated Marijuana Businesses That Are Publicly Traded Corporations.

1. The following Persons must apply to the State Licensing Authority for a finding of suitability:

   a. Any Person that becomes a Controlling Beneficial Owner of any Regulated Marijuana Business that is a Publicly Traded Corporation; and

   b. Any Person that indirectly Beneficially Owns ten percent or more of the Regulated Marijuana Business that is a Publicly Traded Corporation through direct or indirect ownership of its Controlling Beneficial Owner. For example, assuming the scenario depicted below, Licensee PTC Inc. has one-million shares of outstanding Securities and CBO 1 owns 400,000 of those securities. John Doe owns 30% of CBO 1. Therefore, John Doe indirectly owns 12% of the outstanding securities of Licensee PTC Inc., and must apply to the State Licensing Authority for a finding of suitability.



2. For a Controlling Beneficial Owner that is an Entity, the Entity's request for finding of suitability must include all information necessary for the State Licensing Authority to determine whether its Executive Officers and any Person that indirectly owns ten percent or more of the Owner's Interest in the Regulated Marijuana Business are suitable.

3. Timing of Request for Finding of Suitability Involving Publicly Traded Corporation.

   a. Unless exempted under Rule 2-235(E), all Persons that will be a Controlling Beneficial Owner in a Regulated Marijuana Business that is entering into a Publicly Traded Corporation transaction described in Rule 2-245(C)(1) must first obtain a finding of suitability by the State Licensing Authority before the transaction can close or the public offering can occur.

b. A Person who becomes a Controlling Beneficial Owner in a Regulated Marijuana Business that is a Publicly Traded Corporation must submit a request for a finding of suitability to the State Licensing Authority within 45 days of becoming a Controlling Beneficial Owner.

c. An individual who is a Controlling Beneficial Owner because he or she is a member of the board of directors or an Executive Officer of a Regulated Marijuana Business or is Controlling a Regulated Marijuana Business but who does not possess ten percent or more of the Owner's Interest in a Regulated Marijuana Business must submit a request for a finding of suitability to the State Licensing Authority within 45 days of becoming such a Controlling Beneficial Owner.

C. Finding of Suitability for Reasonable Cause. For Reasonable Cause, any other Person that was disclosed or should have been disclosed pursuant to subsections 44-10-309(1) or (2) or that was required to be disclosed based on previous notification of Reasonable Cause must submit a request to the State Licensing Authority for a finding of suitability. Any Person required to submit a request for a finding of suitability pursuant to this Rule must submit such request within 45 days from notice of the State Licensing Authority's determination of Reasonable Cause for the finding of suitability.

D. Information Required in Connection with a Request for a Finding of Suitability. When determining whether a Person is suitable or unsuitable for licensure, the State Licensing Authority may consider the Person's criminal character or record, licensing character or record, or financial character or record. To consider a Person's criminal character or record, licensing character or record, and financial character or record, all requests for a finding of suitability must, at a minimum, be accompanied by the following information:

1. Criminal Character or Record:

a. A set of the natural person's fingerprints for purposes of a fingerprint-based criminal history record check.

2. Licensing Character or Record:

a. Affirmation that the Person is not prohibited from holding a license under section 44-10-307, C.R.S.

b. A list of all Colorado Department of Revenue-issued business licenses held in the three years prior to submission of the request for a finding of suitability;

c. A list of all Department of Regulatory Agencies business, professional, or occupational licenses held in the three years prior to submission of the request for a finding of suitability;

d. A list of any marijuana business or personal license(s) held in any other state or territory of the United States or District of Columbia or another country, where such license is or was at any time subject to a denial, suspension, revocation, surrender, or equivalent action by the licensing agency, commission, board, or similar authority; and

e. Disclosure of any civil lawsuits in which the Person was named a party where pleadings included allegations involving any Regulated Marijuana Business.

3. Financial Character or Record:

a. Disclosure of any sanctions, penalties, assessments, or cease and desist orders imposed by any securities regulatory agency other than the United States Securities Exchange Commission;

b. Account Statements or Property Ownership Documents Required.

i. If ~~the~~ a Person~~'s~~ is submitting a request for a finding of suitability ~~is to for purposes of~~ acquir~~eing~~ ten percent or more of the Owner's Interest in ~~the~~ a Regulated Marijuana Business and has identified both the source of funds or property and the Regulated Marijuana Business License that will be acquired at the time of the request for the finding of suitability, then the Person shall also include, copies of the Person's financial account statements for the preceding one-hundred eighty days for any accounts serving as a source of funding used to acquire the Owner's Interest in the Regulated Marijuana Business; or, if the Person is contributing one or more asset(s) to the Regulated Marijuana Business in exchange for the Owner's Interests, documents establishing the Person has owned such asset(s) for the preceding one-hundred eighty days.

ii. If a Person has not identified both the source of funding or property and the Regulated Marijuana Business License that will be acquired, then the Person can submit a request for a finding of suitability without account statements or property ownership documents.

iii. When a Person submits a Change of Controlling Beneficial Owner or new Regulated Marijuana Business License application, the Person shall also provide account statements for the funds that will be used to acquire the Owner's Interest in the Regulated Marijuana Business License or the property ownership documents for the preceding one hundred eighty (180) days.

E. Exemptions from a Finding of Suitability.

1. The following Persons are exempt from an otherwise required finding of suitability:

a. Any Person that currently possesses an approved Owner License issued by the State Licensing Authority and such Owner License has not, in the preceding 365 days, been subject to suspension or revocation.

2. Exemptions from an otherwise required finding of suitability are limited to those listed in this Rule. The State Licensing Authority will consider other factors that may inform amendments to this Rule through the Department's formal rulemaking session.

F. Timing to Approve or Deny a Request for Finding of Suitability. Absent Reasonable Cause, the State Licensing Authority must approve or deny a request for a finding of suitability within 120 days from the date of submission of the request for such finding, where such request was accompanied by all information required under subsection (D) of this Rule.

G. Executive Officer Considerations. Whether an individual is an Executive Officer subject to a mandatory finding of suitability is based on the definition in these rules and the facts and circumstances. In determining whether an individual is an Executive Officer, the State Licensing Authority will consider the following, non-exhaustive factors:

1. Title is not dispositive, however, the Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, president, the General Counsel, and any individual with similar policy making authority are Executive Officers;

2. The level of decision-making authority the individual possesses;

3. The Controlling Beneficial Owner and/or Regulated Marijuana Business's organizational chart; and

4. Any relevant guidance from the United States Securities and Exchange Commission or similar securities regulator, securities rules or securities case law.

H. Findings of Suitability ~~Valid for One Year~~.

1. Finding of Suitability. A finding of suitability other than for a Social Equity Licensee is valid for one year from the date it is issued by the State Licensing Authority. If more than one year has passed since the State Licensing Authority issued a finding of suitability to a Person other than for a Social Equity Licensee and such Person has not during that time applied to become a Controlling Beneficial Owner of a Regulated Marijuana Business pursuant to an initial business license application or change of owner application, then such Person shall submit a new request for finding of suitability to the State Licensing Authority and obtain a new finding of suitability before submitting any application to become a Controlling Beneficial Owner of a Regulated Marijuana Business.

2. Finding of Suitability for Social Equity Licensees. A finding of suitability for Social Equity License Applicants under Rule 2-220(C) is valid for two years from the date it is issued by the State Licensing Authority. If more than two years has passed since the State Licensing Authority issued the finding of suitability and such Social Equity Licensee has not during that time applied to become a Controlling Beneficial Owner of a Regulated Marijuana Business, then such Social Equity Licensee shall submit a new request for finding of suitability to the State Licensing Authority and obtain a new finding of suitability before submitting any application to become a Controlling Beneficial Owner of a Regulated Marijuana Business.

Basis and Purpose – 2-240

The statutory basis for this rule includes but is not limited to sections 44-10-103(53), 44-10-203(2)(ee)(C), 44-10-309(3), and 44-10-310(10), C.R.S. The purpose of this rule is to clarify factors the State Licensing Authority will consider when determining whether reasonable cause exists to require disclosure, to require a finding of suitability or to extend the 120-day deadline for granting or denying a request for a finding of suitability.

2-240 – Factors Considered in Determining Reasonable Cause for Disclosure, Finding of Suitability, and Extension of 120 Day Deadline for Finding of Suitability

A. Non-Exhaustive Factors Informing Reasonable Cause Considerations. The State Licensing Authority may consider the following non-exhaustive factors when evaluating whether Reasonable Cause exists for disclosure, requiring a reasonable cause finding of suitability or extension of time to provide a finding of suitability:

1. The Person provided materially inaccurate or incomplete documents to the Division;

2. The Person failed to provide required documents to the Division;

3. The request for a finding of suitability is sufficiently complex such that a determination cannot be completed within the 120-day deadline specified;

4. Information that an undisclosed Person is controlling or has the ability to control the Regulated Marijuana Business;

5. Information indicating one or more Persons prohibited holds an interest in the Regulated Marijuana Business;

6. Inability to obtain documents or information expected to be available from third-parties or publicly available sources;

7. The Person interfered with, obstructed, or impeded a Division investigation; or

8. The Person failed to make any filing required by a securities regulator or securities exchange that has regulatory oversight over the Person.

Basis and Purpose – 2-245

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(e), 44-10-203(1)(d), 44-10-203(1)(k), 44-10-203(2)(ee)(I)(A) and (E), 44-10-203(7), 44-10-308(3)(b), 44-10-309, 44-10-310, 44-10-311, ~~and~~ 44-10-312, 44-10-505(1)(a), and 44-10-605(1)(a), C.R.S. The purpose of this rule is to define the application process and conditions an Applicant or Licensee must meet when changing Beneficial Ownership in a Regulated Marijuana Business. This rule further describes requirements in the event of a dispute between the Controlling Beneficial Owners of a Regulated Marijuana Business.

2-245 – Change of Controlling Beneficial Owner Application or Notification

A. Application for Change of Controlling Beneficial Owner(s) – Not a Publicly Traded Corporation.

1. Division Approval Required Prior to Transfer of Owner's Interest. Unless excepted pursuant to subparagraph (C) of this Rule, a Regulated Marijuana Business that is not a Publicly Traded Corporation must obtain Division approval before it transfers the Owner's Interests of any Controlling Beneficial Owner(s) or before a trust that is a Controlling Beneficial Owner changes its trustee.

2. Documents Required. Any change of owner application regarding a Controlling Beneficial Owner of a Regulated Marijuana Business that does not involve a Publicly Traded Corporation must include the following documents:

a. Asset purchase agreement, merger, sales contract, agreement, or any other document necessary to effectuate the change of owner;

b. Request for a finding of suitability for each proposed Controlling Beneficial Owner(s) who has not already submitted a request for a finding of suitability, who has not already been found suitable, or who does not already hold an Owner License;

c. Operating agreement, by-laws, partnership agreement, or other governing document(s) as will apply to the Regulated Marijuana Business if the change of owner application is approved;

d. Request for voluntary surrender form of the Owner License of any Controlling Beneficial Owner that will not remain a Controlling Beneficial Owner, or Passive

Beneficial Owner electing to hold an Owner License in a Regulated Marijuana Business if the change of owner application is approved; and

e. Copy of current Medical Marijuana or Retail Marijuana State Sales Tax or Wholesale license and any other documents necessary to verify tax compliance.

3. Licensee Initiates Change of Owner for Permitted Economic Interests Issued Prior to January 1, 2020. All natural persons holding a Permitted Economic Interest who seek to become a Controlling Beneficial Owner are subject to this Rule. The Regulated Marijuana Business must initiate the change of owner process for a natural person holding a Permitted Economic Interest who seeks to convert its interest and become a Controlling Beneficial Owner in a Regulated Marijuana Business. Prior to submitting a change of owner application, the Permitted Economic Interest holder must obtain a finding of suitability pursuant to Rule 2-235 including any required criminal history record check. Permitted Economic Interest holders who fail to obtain a finding of suitability to become a Controlling Beneficial Owner may remain as a Permitted Economic Interest holder.

B. Change of Owner Involving a Publicly Traded Corporation. This Rule applies to transactions involving any Publicly Traded Corporation.

1. Publicly Traded Corporation Transactions. A Regulated Marijuana Business may transact with a Publicly Traded Corporation in the following ways:

a. Merger with a Publicly Traded Corporation. A Regulated Marijuana Business or a Controlling Beneficial Owner that intends to receive, directly or indirectly, an investment from a Publicly Traded Corporation, or that intends to merge or consolidate with a Publicly Traded Corporation, whether by way of merger, combination, exchange, consolidation, reorganization, sale of assets or otherwise, including but not limited to any shell company merger.

b. Investment by a Publicly Traded Corporation. A Regulated Marijuana Business that intends or that has a Controlling Beneficial Owner that intends to transfer, directly or indirectly, ten percent or more of the Securities in the Regulated Marijuana Business to a Publicly Traded Corporation, whether by sale or other transfer of outstanding Securities, issuance of new Securities, or otherwise.

c. Public Offering. A Regulated Marijuana Business that intends or that has a Controlling Beneficial Owner that intends to become, directly or indirectly, a Publicly Traded Corporation, whether by effecting a primary or secondary offering of its Securities, uplisting of outstanding Securities, or otherwise.

2. Required Finding(s) of Suitability.

a. Pre-Transaction Findings of Suitability Required. Any Person intending to become a Controlling Beneficial Owner in a Regulated Marijuana Business in connection with any transaction identified in subparagraph (B)(1)(a) through (c) above, must obtain a finding of suitability prior to the Publicly Traded Corporation transaction closing or becoming effective.

b. Ongoing Suitability Requirements. Any Person who becomes a Controlling Beneficial Owner of a Publicly Traded Corporation that is a Regulated Marijuana Business must apply to the State Licensing Authority for a finding of suitability or an exemption from a finding of a suitability pursuant to Rule 2-235 within forty-

five days of becoming a Controlling Beneficial Owner. A Publicly Traded Corporation that is a Regulated Marijuana Business must notify any Person that becomes a Controlling Beneficial Owner of the suitability requirements as soon as the Regulated Marijuana Business becomes aware of the ownership subjecting the Person to this requirement; however, the Controlling Beneficial Owner's obligation to timely request the required finding of suitability is independent of, and unaffected by, the Regulated Marijuana Business's failure to make the notification.

3. Change of Owner Application Required. A Licensee entering into a transaction permitted in subparagraph (B)(1)(a)-(c) above with Publicly Traded Corporation must submit any required change of owner application to the Division prior to the transaction closing. The change of owner application may be submitted simultaneously with the requests for finding(s) of suitability required by subparagraph (B)(2) or after the request(s) for findings of suitability were submitted to the Division.

4. Mandatory Disclosure of Required, United States Securities and Exchange Commission, Canadian Securities Administrators and/or Securities Exchange Filings. A Regulated Marijuana Business and any Controlling Beneficial Owner that is required to file any document with the United States Securities and Exchange Commission, the Canadian Securities Administrators, any other similar securities regulator or any securities exchange regarding any change of owner in subparagraphs (B)(1)(a) through (c) above must also provide a notice to the Division at the same time as the filing with the United States Securities and Exchange Commission, the Canadian Securities Administrators or the securities exchange.

5. Ordinary Broker Transactions. Resales or transfers of Securities of a Publicly Traded Corporation that is a Regulated Marijuana Business or Controlling Beneficial Owner or Passive Beneficial Owner in ordinary broker transactions through an established trading market do not require a change of owner application or prior approval from the State Licensing Authority.

C. Exemptions to the Change of Owner Application Requirement.

1. Entity Conversions or Change of Legal Name. A Regulated Marijuana Business or a Controlling Beneficial Owner may combine with or convert, including but not limited to under sections 7-90-201 et seq., C.R.S., for the exclusive purpose of changing its Entity jurisdiction to one of the states or territories of the United States or the District of Columbia, its Entity type or change the legal name of an Entity without filing a change of owner application. These exemptions apply only if the Controlling Beneficial Owners and their Owner's Interests will remain the same after the combination, conversion, or change of legal name, and there will not be any new Controlling Beneficial Owners (individuals or Entities). Within fourteen days of the combination, conversion, or change of legal name the Regulated Marijuana Business must submit the following to the Division:

a. A copy of the transaction documents;

b. Documents submitted to the Colorado Secretary of States;

c. Any document submitted to the secretary of state or similar regulator if the Entity is organized under the laws of a state of the United States other than Colorado, a territory of the United States, or the District of Columbia;

d. Identification of the Regulated Marijuana Business's or Controlling Beneficial Owner's registered agent;

e. Identification of any Passive Beneficial Owner and Indirect Financial Interest Holder for which disclosure is required by Rule 2-230; and

f. The fee required by Rule 2-205(F)(2)(b).

2. Reallocation of Owner's Interests Among Controlling Beneficial Owners. A Regulated Marijuana Business may reallocate Owner's Interests among existing Controlling Beneficial Owners holding valid Owner Licenses if it provides notification of the reallocation to the Division with its next application submission as long as there are no new Controlling Beneficial Owners. Reallocations that are solely a result of adding, removing, or changing Passive Beneficial Owners are not subject to this Rule 2-245(C)(2), but are subject to the requirements in Rule 2-245(C)(5). A reallocation under this R~~r~~ule is subject to the following requirements:

a. All Owner's Interests of a Controlling Beneficial Owner may be reallocated to other existing Controlling Beneficial Owners;

b. Only consensual reallocations where all Controlling Beneficial Owners whose ownership percentages will change agree to the reallocation are permitted under this Rule. Proof that the transfer was consensual may include affirmation from all Controlling Beneficial Owners for which the Owner's Interests were reallocated in the required disclosure at the next application submission.

c. If any Controlling Beneficial Owner will not hold any Owner's Interest in a Regulated Marijuana Business following the reallocation, that Controlling Beneficial Owner shall voluntarily surrender his or her Owner's License and identification badge within 30 days of the reallocation;

d. All Controlling Beneficial Owners remain responsible for all actions of the Regulated Marijuana Business while they were a Controlling Beneficial Owner and are subject to administrative action based on the same regardless of the reallocation; and

e. Disclosure and submission of the fee required by Rule 2-205(F)(2)(b) at the next application submission which shall not be longer than 365 days.

3. Passive Beneficial Owner Licensed Prior to August 1, 2019. A Passive Beneficial Owner who was issued an Owner License prior to August 1, 2019, and who has continuously maintained that license, is not required to submit a change of owner application if he or she becomes a Controlling Beneficial Owner in the business license(s) with which the Owner License is associated but must disclose and submit the fee required by Rule 2-205(F)(2)(b) at the next application submission, which shall not be longer than 365 days.

4. Change of Executive Officer or Member of the Board of Directors. A change of owner application is not required for a change of an Executive Officer or member of the board of directors of a Regulated Marijuana Business or an ~~Entity Controlling Beneficial Owner~~Owner Entity License of a Regulated Marijuana Business so long as the new Executive Officer or member of the board of directors does not possess ten percent or more of the Owner's Interest in the Regulated Marijuana Business or is otherwise Controlling the Regulated Marijuana Business. However, a change of Executive Officer or member of the board of directors is subject to the following requirements:

a. Any such Executive Officer or member of the board of directors of the Regulated Marijuana Business must notify the Division of the new Controlling Beneficial Owner, Executive Officer, or member of the board of directors and submit a

request for a finding of suitability as required by Rule ~~235-1~~2-235(A)(1)(a) unless exempt under subparagraph (b) of this Rule 2-245(C)(4); or,

b. ~~i~~If exempt from a finding of suitability pursuant to Rule ~~235-1(E)~~2-235(E), the Regulated Marijuana Business subject to any such change of the Executive Officer or members of their board of directors, whether adding or removing, must provide notice to the Division of the new Controlling Beneficial Owner within forty-five days.

~~b~~c. The fee required by Rule 2-205(F)(2)(b).

5. Change of Passive Beneficial Owner. Persons are not required to submit an application or obtain prior approval of their ownership, or provide notification, if: (1) the person was not a Direct Beneficial Interest Owner prior to November 1, 2019, (2) the Person will remain a Passive Beneficial Owner after the acquisition of Owner's Interests is complete, (3) the transfer will not create any previously undisclosed Controlling Beneficial Owner, and (4) disclosure is not otherwise required by section 44-10-309, C.R.S., or Rule 2-230.

D. Change of Owner Requirements, Restrictions and Procedures Applicable to All Regulated Marijuana Businesses.

1. Application Signature Requirements. All applications for change of Controlling Beneficial Owner(s) must be executed by every Controlling Beneficial Owner whose Owner's Interests are proposed to change and any Person proposed to become a Controlling Beneficial Owner(s). Controlling Beneficial Owners whose Owner's Interest will not change are not required to execute the change of owner application; however, at least one Controlling Beneficial Owner and all Persons proposed to become a Controlling Beneficial Owner must execute every change of owner application.

2. Process for Approval. Upon completion of the investigation of a change of owner application, the State Licensing Authority will issue a contingent approval letter. However, the State Licensing Authority will not issue the state license until:

a. Local Approval Required. If local approval is required, the proposed Controlling Beneficial Owner(s) demonstrates to the State Licensing Authority that local approval has been obtained and notifies the State Licensing Authority of the date by which the change of owner will be completed, which must be within thirty days of the notification. The proposed Controlling Beneficial Owner's notification to the Division must be within 365 days of the issuance of the Division's contingent approval letter.

i. If a Local Licensing Authority or Local Jurisdiction requires a change of owner application and that application is denied, the State Licensing Authority will deny the State change of owner application;

b. No Local Approval Required. If local approval is not required, the proposed Controlling Beneficial Owner(s) demonstrates that such approval is not required and notifies the State Licensing Authority of the date by which the change of owner will be completed, which must be within thirty days of the of the notification. However, the proposed Controlling Beneficial Owner's notification to the Division must be made within 365 days of issuance of the Division's contingent approval letter.

c. Contingent Approval. Contingent approval pursuant to this subparagraph (D)(2) is valid for one year from the date it is issued by the State Licensing Authority. If

more than one year has passed since the State Licensing Authority issued contingent approval to a Person and such Person during that time has not met the requirements of Rule 2-245(D)(2)(a) or 2-245(D)(2)(b) to complete the Change of Beneficial Owner Application, then such Person shall submit a new Change of Controlling Beneficial Owner Application. The State Licensing Authority in their discretion may extend the contingent approval upon written request.

3. Operational Restrictions Pending All Required Approvals. Unless otherwise provided under these Rules, any proposed new Controlling Beneficial Owner cannot operate the Regulated Marijuana Business for which it intends to become a Controlling Beneficial Owner until it receives any required finding of suitability and is issued all approvals and/or license(s) pursuant to any change of owner application required by this Rule. Controlling Beneficial Owners that have already been approved in connection with ownership of the Regulated Marijuana Business may continue to operate the Regulated Marijuana Business. A violation of this requirement is grounds for denial of the change of owner application, may be a violation affecting public safety, and may result in disciplinary action against existing license(s).

4. Modifications to Change of Owner Applications. If anything in a change of owner application is modified or changed after the Division approves the application, the Licensee must submit a new change of owner application, unless exempted by the Division prior to completing the change of owner.

5. Regulated Marijuana Business Subject to Investigation or Administrative Action. If a Regulated Marijuana Business or any of its Controlling Beneficial Owner(s) apply for a change of owner and is involved in an administrative investigation or administrative action, the following may apply:

   a. The change of owner application may be delayed or denied until the administrative action is resolved; or

   b. If the change of owner application is approved by the Division, the transferor, the transferee, or both may be responsible for the actions of the Regulated Marijuana Business and its prior Controlling Beneficial Owner(s), and subject to discipline based upon the same.

6. ~~Medical Marijuana Transporters and Retail Marijuana Transporters Not Eligible for Change of Owner. Medical Marijuana Transporters and Retail Marijuana Transporters are not eligible to transfer the entire Beneficial Ownership of their Regulated Marijuana Business~~Repealed.

E. Refundable and Nonrefundable Deposits Permitted. A proposed Controlling Beneficial Owner may provide a selling Controlling Beneficial Owner with a refundable or nonrefundable deposit in connection with a change of owner application.

F. Controlling Beneficial Owner Dispute.

1. In the event of a dispute between Controlling Beneficial Owner(s) not involving divestiture under Rule 2-275 and precluding or otherwise impeding the ability to comply with these Rules, a Regulated Marijuana Business that is not a Publicly Traded Corporation must submit a change of owner application, notification pursuant to subparagraph (C) of this Rule, or initiate mediation, arbitration, or a judicial proceeding within 90 days of the dispute. The 90-day period may be extended for an additional 90 days upon a showing of good cause by the Regulated Marijuana Business.

2. A Regulated Marijuana Business that is not a Publicly Traded Corporation must submit a change of owner application or notification pursuant to subparagraph (C) of this Rule within forty-five days of entry of a final court order, final arbitration award, or full execution of a settlement agreement altering the Controlling Beneficial Owner(s) of a Regulated Marijuana Business. Any change of owner application or notification based on a final court order, final arbitration award, or fully executed settlement agreement must include a copy of the order or settlement agreement and remains subject to approval by the Division. In this circumstance, the change of owner application or notification needs to be executed by at least one remaining Controlling Beneficial Owner.

3. If mediation, arbitration, or a judicial proceeding is not timely initiated, or if a change of owner application or notification pursuant to subparagraph (C) of this Rule is not timely submitted following entry of a final court order, final arbitration award, or full execution of a settlement agreement altering the Controlling Beneficial Owner(s) of a Regulated Marijuana Business that is not a Publicly Traded Corporation, the Regulated Marijuana Business and its Owner Licensee(s) may be subject to fine, suspension, or revocation of their license(s).

Basis and Purpose – 2-250

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(e), 44-10-203(2)(ee)(I), 44-10-203(7), and 44-10-309(6), C.R.S. The purpose of this rule is to require notification to the State Licensing Authority of any filing with a securities regulator by an Applicant or Licensee.

2-250 – Regulated Marijuana Business that is a Publicly Traded Corporation – Notification of Non-Confidential Securities Filings

A. A Regulated Marijuana Business that is a Publicly Traded Corporation must provide notice on Division forms within two business days of any non-confidential filing with the United States Securities and Exchange Commission, the Canadian Securities Administrators, any other securities regulator, or any security exchange on which the Securities are listed or traded. The notice must identify the title of the document and include a hyperlink to the website where the document is publicly available (example EDGAR or SEDAR link for the Publicly Traded Corporation).

B. In addition to any other administrative or investigative requests or inquiries, the Division may contact a Regulated Marijuana Business that is a Publicly Traded Corporation to obtain clarification of a securities filing.

C. This Rule is currently limited to require notice of securities filings that are not confidential. However, this Rule may be evaluated during subsequent rulemaking proceedings and/or in connection with development of a policy regarding confidential securities filings.

Basis and Purpose – 2-255

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(e), 44-10-203(2)(w), 44-10-203(2)(cc), 44-10-305, 44-10-313(8), and 44-10-313(13), C.R.S. The purpose of this rule is to clarify the application process for changing location of a Licensed Premises. This rule also provides the requirements for a Medical Marijuana Cultivation Facility or a Retail Marijuana Cultivation Facility to obtain a transition permit.

2-255 – Change of Location of a Regulated Marijuana Business

A. Application Required Before Changing Location of Licensed Premises. A Regulated Marijuana Business must apply for and receive Division approval before changing the location of its Licensed Premises.

B. Application Requirements. A change of location application must include the following:

1. At least one signature of a Controlling Beneficial Owner and representation that the signing Controlling Beneficial Owner(s) is/are authorized to submit the application on behalf of the Regulated Marijuana Business.

2. Evidence the Local Licensing Authority and/or Local Jurisdiction in which the Regulated Marijuana Business proposes to move have approved the proposed new location.

3. The deed, lease, sublease, rental agreement, contract, or any other document(s) establishing the Licensee is, or will be, entitled to possession of the premises for which the application is made.

4. Legible and accurate diagram for the proposed licensed Premises that complies with the requirements of the 3-200 Series Rules. The diagram must include a plan for the proposed Licensed Premises and a separate plan for the security/surveillance plan including camera location, number and direction of coverage. If the diagram is larger than 8.5 inches x 11 inches, the Applicant must also provide the diagram in a portable document format (.pdf).

C. Change of Location Permit Required.

1. A Regulated Marijuana Business cannot change the location of its Licensed Premises until it receives a change of location permit from the Division.

2. The permit is effective on the date of issuance, and the Licensee must, within 120 days, change the location of its Regulated Marijuana Business to the place specified in the change of location permit and at the same time cease to operate a Regulated Marijuana Business at the former location. For good cause shown, the 120-day deadline may be extended an additional 120 days.

3. If the Regulated Marijuana Business does not change the location of its Licensed Premises within the time period granted by the Division, including any extension, the Regulated Marijuana Business must submit a new application, pay the change of location fee, and receive a new change of location permit prior to changing the location of its Licensed Premises.

4. A Regulated Marijuana Business cannot operate or exercise any of the privileges of its license(s) in both locations, unless a Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility has received a transition permit.

D. Medical Marijuana Cultivation Facilities and Retail Marijuana Cultivation Facilities - Transition Permit. A Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility that has obtained an approved change of location from the State Licensing Authority may operate one License at two geographical locations for the purpose of transitioning operations from one location to the other, subject to the following requirements:

1. A Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility may apply for a transition permit and a change of location at the same time. The Division will not accept an application for a transition permit unless it is submitted prior to or concurrently with a change of location application. A Medical Marijuana Cultivation Facility or Retail

Marijuana Cultivation Facility is prohibited from exercising the privileges of a transition permit until it has also received all required approvals for a change of location.

2. A Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility that has an approved change of location and a transition permit must comply with the following requirements:

    a. The total plants cultivated at both locations do not exceed any plant count limit imposed on the Licensee by the Marijuana Code and these rules;

    b. The Licensed Premises of both geographical locations comply with all surveillance, security, and inventory tracking requirements imposed by the Marijuana Code and these rules at the Rule 3-200 Series and 3-800 Series;

    c. Both geographical locations shall track all Regulated Marijuana plants in transition in the Inventory Tracking System to ensure proper tracking for taxation purposes;

    d. Operation at both geographical locations does not exceed 180 days, unless Licensee demonstrates good cause to extend the deadline an additional 180 days; and

    e. The Licensee obtains a transition permit pursuant to this Rule and any local permit or license, as required by the Local Licensing Authority or Local Jurisdiction.

3. Change of Location in the Same Local Jurisdiction. If the change of location is within the same local jurisdiction, the Licensee must:

    a. First obtain a transition permit pursuant to this Rule; and

    b. If required by the Local Licensing Authority or Local Jurisdiction, obtain a transition permit or other form of approval from the Local Licensing Authority or Local Jurisdiction.

4. Change of Location to a Different Local Jurisdiction. If the change of location is to a different local jurisdiction, the Licensee must:

    a. First obtain a license from the Local Licensing Authority or Local Jurisdiction where the Licensee intends to locate;

    b. Obtain a transition permit pursuant to this Rule; and

    c. If required by the Local Licensing Authority or Local Jurisdiction, obtain a transition permit or other form of approval from the Local Licensing Authority or Local Jurisdiction for the local jurisdiction where it intends to locate.

5. Conduct at either location may be basis for fine, suspension, revocation, or other sanction against the License.

E. Violation Affecting Public Safety. It is a violation affecting public safety if a Regulated Marijuana Business changes the location of its Licensed Premises without first obtaining a change of location permit from the Division, and any required approval(s) from the Local Licensing Authority and/or Local Jurisdiction.

Basis and Purpose – 2-260

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(e), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(h), 44-10-203(2)(w), 44-10-305, 44-10-313(8)(b), and 44-10-313(2) C.R.S. The purpose of this rule is to establish guidelines for changing, altering, modifying, or transitioning the Licensed Premises. This Rule 2-260 was previously Rules M and R 303, 1 CCR 212-1 and 1 CCR 212-2.

2-260 – Changing, Altering, or Modifying Licensed Premises

A. Application Required to Change, Alter, or Modify Licensed Premises. After obtaining a license, the Licensee shall make no physical change, alteration, or modification of the Licensed Premises that significantly alters the Licensed Premises or the usage of the Licensed Premises from the plans originally approved, without the Division's prior written approval and, written approval or written acknowledgement from the relevant Local Licensing Authority or Local Jurisdiction. The Licensee whose Licensed Premises are to be significantly changed is responsible for filing an application for approval on current forms provided by the Division. Changes to the Licensed Premises which do not require an application must be disclosed on a floorplan submitted with the Licensee's renewal application.

~~1. Emergency Exemption. A Regulated Marijuana Business making temporary modifications to its Licensed Premises to effectuate social distancing measures in response to COVID-19 and applicable executive orders and public health orders in effect at the time of the temporary modifications, is exempt from State Licensing Authority application and prior-approval requirements in this Rule. The exemption provided under this subparagraph (A)(1) shall remain effective until repealed by the State Licensing Authority upon notice to the Secretary of State.~~

B. What Constitutes a Significant Change. This Rule does not exempt Licensees from complying with any Local Licensing Authority or Local Jurisdiction requirements regarding changes, alterations, or modifications to the Licensed Premises. Significant changes, alterations, or modifications requiring Division approval include, but are not limited to, the following:

1. Any increase or decrease in the total physical size or capacity of the Licensed Premises;

2. The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, walk-up window or drive-up window, when such common entryway, doorway, passage, walk-up or drive-up window alters or changes Limited Access Areas, such as the cultivation, harvesting, manufacturing, testing, or sale of Regulated Marijuana within the Licensed Premises; or

3. Any physical modification of the Licensed Premises which would require the installation of additional video surveillance cameras. *See* Rule 3-225 – Video Surveillance.

C. Attachments to Application. The Division and relevant Local Licensing Authority or Local Jurisdiction may grant approval for the types of changes, alterations, or modifications described herein upon the filing of an application by the Licensee and payment of any applicable fee. The Licensee must submit all information requested by the Division, including but not limited to, documents that verify the following:

1. The Licensee will continue to have possession of the Licensed Premises, as changed, by ownership, lease, or rental agreement; and

2. The proposed change conforms to any local restrictions related to the time, manner, and place of Regulated Marijuana Business regulation.

D. Application Required to Change Mobile Premises. After obtaining a License, a Marijuana Hospitality Business Licensee must apply for Division approval to change the Mobile Premises. The Licensee whose Mobile Premises is to be changed is responsible for filing an application for approval on current forms provided by the Division.

1. The Application to change Mobile Premises must include the following:

a. Documentation that the Mobile Premises is owned or leased by the Marijuana Hospitality Business;

b. The vehicle manufacturer/make, model, and model year associated with the Mobile Premises;

c. The vehicle identification number (VIN) associated with the Mobile Premises;

d. The Colorado license plate number and copy of the registration associated with the Mobile Premises;

e. If applicable, the automatic vehicle identification tag associated with the Mobile Premises;

f. A copy of a valid permit issued by the Public Utilities Commission to the Marijuana Hospitality Business; and

g. Information demonstrating the proposed Mobile Premises meets the requirements in Rule 6-940(E).

Basis and Purpose – 2-265

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(2)(b)-(c), 44-10-203(2)(e), 44-10-203(2)(t)-(u), 44-10-203(2)(w), 44-10-307, 44-10-308(2), 44-10-313(6), 44-10-401(2)(c), 44-10-901(1), 24-76.5-101 *et seq*., C.R.S. Historically, natural persons who held an Owner's Interest in a Regulated Marijuana Business were required to hold an Associated Key License. This Rule transitions the Associated Key designation to an Owner License designation after August 1, 2019. The purpose of this rule is to clarify the requirements and procedures a Person must follow when applying for or possessing either an Owner License or an Employee License. This rule also identifies factors the State Licensing Authority will consider in determining whether a natural person is a resident and whether such person possess good moral character.

2-265 – Owner and Employee License: License Requirements, Applications, Qualifications, and Privileges

A. ~~Associated Key Licenses. Associated Key licenses remain valid until the first renewal following August 1, 2019, after which such licenses will be renewed as an Owner License.~~Repealed.

B. Owner Licenses Required.

1. Each Controlling Beneficial Owner must hold a valid Owner License.

2. If a Controlling Beneficial Owner is an Entity, then its Executive Officer(s) and any natural person who indirectly holds ten percent or more of the Owner's Interests in the Regulated Marijuana Business must also hold a valid Owner's License.

a. The existence of an Owner Entity does not relieve the Owner Licensees from responsibility for acts and violations of the Regulated Marijuana Business.

3. A Passive Beneficial Owner who is a natural person may elect to hold an Owner License and obtain an Owner Identification Badge provided that such Person agrees to be disclosed as holding an Owner's Interest in the Regulated Marijuana Business.

4. Only Controlling Beneficial Owners and Passive Beneficial Owners can obtain an Owner License.

C. Owner License and Identification Badge or Employee License and Identification Badge Required. The following natural persons must possess a valid Owner License and Identification Badge or an Employee License and Identification Badge:

1. Any natural person who possesses, cultivates, manufactures, tests, dispenses, sells, serves, transports, or delivers Regulated Marijuana or Regulated Marijuana Products as permitted by privileges of a Regulated Marijuana Business license;

2. Any natural person who has access to the Inventory Tracking System or a Regulated Marijuana Business point-of-sale system; and

3. Any natural person with unescorted access in the Limited Access Area.

D. Escort or Monitoring Required.

1. Any natural person in a Limited Access Area that does not have a valid Owner License and Identification Badge or an Employee License and Identification Badge is a visitor and must be escorted at all times by a person who holds a valid Owner License and Identification Badge or Employee License and Identification Badge. Failure by a Regulated Marijuana Business to continuously escort an individual who does not have a valid Owner License and Identification Badge or an Employee License and Identification Badge in the Limited Access Area is a license violation affecting public safety.

2. Patients, their caregiver, and consumers in a Restricted Access Area and third-party vendors in a Limited Access Area do not need to be escorted at all times but must be reasonably monitored to ensure compliance with these rules.

E. Employee License Required to Commence or Continue Employment. Any natural person required to obtain an Employee License by these rules must obtain such license before commencing activities permitted by an Employee License.

1. Conditional License. Applicants for an Employee License may be issued a conditional License and Identification Badge upon results of an initial investigation that demonstrates the Applicant is qualified to hold such License in compliance with Rule 2-215, subject to the following requirements:

i. Applications for a conditional Employee License must be submitted in person to the Division to facilitate the issuance and physical transfer of the conditional License to the Applicant. Applications for a conditional Employee License must be accompanied by the Conditional Employee License Fee in Rule 2-205.

ii. The Employee's application remains subject to a Notice of Denial pending the complete results of the Applicant's initial fingerprint-based criminal history record check.

iii. If the Division issues the Applicant a Notice of Denial, the Employee License Applicant shall return the conditional License and Identification Badge within seven (7) days of the Division's mailing of the Notice of Denial.

F. Owner License and Employee License Identification Badges Are Property of the State Licensing Authority. All Owner Licenses and Employee Licenses, and all Identification Badges are property of the State Licensing Authority.

G. Owner and Employee Initial and Renewal Applications Required. Owner Licensees and Employee Licensees must submit initial license applications and renewal applications on Division forms and in accordance with this Rule and Rules 2-215, 2-220, and 2-225.

H. Licenses Requiring Proof of Residency. Where a license issued by the State Licensing Authority requires the Applicant to establish Colorado residency, an Applicant may demonstrate residency by the following methods including, but are not limited to:

1. Current valid Colorado driver's license or current Colorado identification card with a current address; or

2. A government issued photo identification and two of the following documents showing the Applicant's correct name, current date, and current Colorado address:

    a. Utility bill or phone bill;

    b. Car registration;

    c. Voter registration card;

    d. Statement from a major creditor;

    e. Bank statement;

    f. Recent County tax notice;

    g. Recent contract/mortgage statement.

I. Owner License Qualifications and Privileges.

1. Owner License Qualifications. Each Controlling Beneficial Owner, or Passive Beneficial Owner who elects to be subject to disclosure and licensure, must meet the following criteria before receiving an Owner License:

    a. The Applicant is not prohibited from licensure pursuant to section 44-10-307, C.R.S.;

    b. The Applicant has not been a State Licensing Authority employee with regulatory oversight responsibilities for Persons licensed by the State Licensing Authority in the six months immediately preceding the date of the Applicant's application;

    c. The Division has not received notice that the Applicant has failed to comply with a court or administrative order for current child support, child support debt, retroactive child support, or child support arrearages. If the Division receives notice of the Applicant's noncompliance pursuant to sections 24-35-116 and 26-13-126, C.R.S., the application may be denied or delayed until the Applicant has established compliance with the order to the satisfaction of the state child support enforcement agency.

    d. Each Controlling Beneficial Owner required to hold an Owner License, and any Passive Beneficial Owner that elects to hold an Owner License, must be

fingerprinted at least once every two years, and may be fingerprinted more often at the Division's discretion.

i. ~~[Emergency rule expired 05/11/2021]~~Repealed.

e. An Owner Licensee who exercises day-to-day operational control on the Licensed Premises of a Regulated Marijuana Business must possess an Identification Badge and must establish and maintain Colorado residency. Proof of residency may be accomplished by submission of the documents identified in Rule 2-265(H). A Controlling Beneficial Owner will not be deemed to exercise day-to-day operational control by reason of holding a title defined as an Executive Officer.

2. Owner License Exercising Privileges of an Employee License. A natural person who holds an Owner License and Identification Badge may exercise the privileges of an Employee License in a Regulated Marijuana Business, subject to the following limitations:

a. If the Owner Licensee is not a Controlling Beneficial Owner of the Regulated Marijuana Business for which he or she is seeking to exercise the privileges of an Employee License, the Owner Licensee may exercise such Employee License privileges regardless of that Person's residency.

b. If the Owner Licensee is a Controlling Beneficial Owner of the Regulated Marijuana Business for which he or she is seeking to exercise the privileges of an Employee License, the Owner Licensee may only exercise such Employee License privileges if he or she is a Colorado resident.

3. Business License Required. A natural person cannot hold an Owner License without holding a Regulated Marijuana Business license, or without at least submitting an application for a Regulated Marijuana Business license.

J. Employee License Qualifications and Privileges.

1. Employee License Qualifications and Requirements. An Employee License Applicant must meet the following criteria before receiving an Employee License:

a. The Applicant is not prohibited from licensure pursuant to section 44-10-307, C.R.S.;

b. The Applicant has not been a State Licensing Authority employee with regulatory oversight responsibilities for Persons licensed by the State Licensing Authority in the six months immediately preceding the date of the Applicant's application.

c. The Division has not received notice that the Applicant has failed to comply with a court or administrative order for current child support, child support debt, retroactive child support, or child support arrearages. If the Division receives notice of the Applicant's noncompliance pursuant to sections 24-35-116 and 26-13-126, C.R.S., the application may be denied or delayed until the Applicant has established compliance with the order to the satisfaction of the state child support enforcement agency.

2. Medical and Retail Employee Licenses. A natural person who holds a current, valid Employee License and Identification Badge issued pursuant to the Marijuana Code may work in any Regulated Marijuana Business.

K. Owner Licensees and Employee Licensees Required to Maintain Licensing Qualification. An Owner Licensee or Employee Licensee's failure to maintain qualifications for licensure may constitute grounds for discipline, including but not limited to, suspension, revocation, or fine.

L. Evaluating a Natural Person's Good Moral Character Based on Criminal History.

1. In evaluating whether a Person is prohibited from holding a license pursuant to ~~sections~~ subsections 44-10-307(1)(b) or (c), C.R.S., based on a determination that the person's criminal history indicates she or he is not of Good Moral Character, the Division will not consider the following:

   a. The mere fact a person's criminal history contains an arrest(s) or charge(s) of a criminal offense that is not actively pending;

   b. A conviction of a criminal offense in which the Applicant/Licensee received a pardon;

   c. A conviction of a criminal offense which resulted in the sealing or expungement of the record; ~~or~~

   d. A conviction of a criminal offense in which a court issued an order of collateral relief specific to the application for state licensure;

   e. A civil judgment or criminal conviction, discipline, or other sanction imposed under the laws of another state regarding consumption, possession, cultivation, or processing of marijuana that is lawful and consistent with professional conduct and standards of care within the State of Colorado; or

   f. The Applicant has been adjudicated for committing a delinquent act in a juvenile proceeding.

2. In evaluating whether a Person is prohibited from holding a license pursuant to subsections 44-10-307(1)(b) or (c), C.R.S., based on a determination that the person's criminal history indicates he or she is not of Good Moral Character, the Division may consider the following history:

   a. Any felony conviction(s), except as set forth in Rule 2-265(L)(1)(e) and 2-265(L)(1)(f);

   b. Any conviction(s) of crimes involving moral turpitude;

   c. Pertinent circumstances connected with the conviction(s); and

   d. Conduct underlying arrest(s) or charge(s) or a criminal offense for which the criminal case is not actively pending.

3. When considering criminal history in subparagraph (L)(2) above, the Division will consider:

   a. Whether there is a direct relationship between the conviction(s) and the duties and responsibilities of holding a state license issued pursuant to the Marijuana Code;

b. Any information provided to the Division regarding the person's rehabilitation, which may include but is not limited to the following non-exhaustive considerations:

i. Character references;

ii. Educational, vocational, and community achievements, especially those achievements occurring during the time between the person's most recent criminal conviction and the application for a state license;

iii. Successful participation in an alcohol and drug treatment program;

iv. That the person truthfully and fully reported the criminal conduct to the Division;

v. The person's employment history after conviction or release, including but not limited to whether the person was vetted and approved to hold a state or out-of-state license for the purposes of employment in a regulated industry;

vi. The person's successful compliance with any conditions of parole or probation imposed after conviction or release; or

vii. Any other facts or circumstances tending to show the Applicant has been rehabilitated and is ready to accept the responsibilities of a law-abiding and productive member of society.

Basis and Purpose – 2-270

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(l)-(m), 44-10-203(2)(w), 44-10-305, 44-10-306, 44-10-307, 44-10-313(8), 24-4-104, and 24-4-105, C.R.S. The purpose of this rule is to clarify the procedures and factors governing the denial process and voluntary withdrawal process for all licenses issued by the State Licensing Authority. This Rule 2-270 is similar to the previous Rules M and R 251, 1 CCR 212-1 and 1 CCR 212-2.

2-270 – Application Denial~~, and~~ Voluntary Withdrawal, and Effect of License Surrender or Revocation on Related Applications

A. Applicant Bears the Burden of Proving It Meets Licensure Requirements. A L~~l~~icense~~, registration, or permit~~ issued to a Person or a Regulated Marijuana Business is a revocable privilege. At all times during the application process, an Applicant must be capable of establishing it is qualified to hold a ~~l~~License.

B. Applicants Must Provide Information to the Division in a Full, Faithful, Truthful, and Fair Manner. An application may be denied where the Applicant made misstatements, omissions, misrepresentations, or untruths in the application or in connection with the Applicant's suitability investigation. Providing misstatements, misrepresentations, omissions, or untruths to the Division may be the basis for administrative action, or the basis of criminal charges against the Applicant.

C. Grounds for Denial.

1. The State Licensing Authority will deny an application for Good Cause.

2. The State Licensing Authority will deny an application from an Applicant that is statutorily disqualified from holding a license.

3. The State Licensing Authority will deny an application where the Applicant failed to provide all required information or documents, failed to obtain all required findings of suitability prior to submitting the application, provided inaccurate, incomplete, or untruthful information or documents, or failed to cooperate with the Division.

D. Voluntary Withdrawal of Application.

1. The Division and Applicant may mutually agree to allow the voluntary withdrawal of an application in lieu of a denial proceeding.

2. Applicants must first submit a form to the Division requesting the voluntary withdrawal of the application. Applicants will submit the form with the understanding that they were not obligated to request the voluntary withdrawal and that any right to a hearing in the matter is waived once the voluntary withdrawal is approved.

3. The Division will consider the request along with any circumstances at issue with the application in making a decision to accept the voluntary withdrawal. The Division may at its discretion grant the request with or without prejudice or deny the request.

4. The Division will notify the Applicant of its acceptance of the voluntary withdrawal and the terms thereof.

5. If the Applicant agrees to a voluntary withdrawal granted with prejudice, then the Applicant is not eligible to apply again for licensing or approval until after expiration of one year from the date of such voluntary withdrawal.

E. A Denied Applicant May Appeal a Denial. A Denied Applicant may appeal a denial pursuant to the Administrative Procedure Act.

F. Effect of License Surrender or Revocation on Related Applications. If a License is voluntarily surrendered or revoked, and there are related applications that are seeking some change to that License (including, but not limited to, renewal, change of Controlling Beneficial Owner, modification of Licensed Premises, or change of location) pending Final Agency Order, the related applications become moot and those moot applications will be closed by the Division without further action or notification to the Applicant.

Basis and Purpose – 2-275

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(b)-(c), 44-10-203(1)(k), 44-10-203(2)(q), 44-10-203(2)(t), 11-10-310, 44-10-401(3)(a)-(d), C.R.S. The purpose of this rule is to establish procedures and requirements for any Person appointed by a court as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person acting in accordance with sections 44-10-401(3)(a)-(d), C.R.S., and authorized by court order to take possession of, operate, manage, or control a Regulated Marijuana Business. This Rule 2-275 was previously Rules M and R 253, 1 CCR 212-1 and 1 CCR 212-2.

2-275 – Temporary Appointee Registrations for Court Appointees

A. Notice and Application Requirements for All Court Appointees.

1. Notice to the State and Local Licensing Authorities. Within seven days of accepting an appointment as a Court Appointee pursuant to sections 44-10-401(3), C.R.S., such Court

Appointee must file a notice to the State Licensing Authority and the applicable Local Licensing Authority on a form required by the State Licensing Authority which must include at least:

a. A copy of the order appointing the Court Appointee;

b. A statement affirming the Court Appointee complied with the certification required by section 44-10-401(3)(a), C.R.S.;

c. If the Court Appointee is an entity, a list of all natural persons responsible for taking possession of, operating, managing, or controlling the Regulated Marijuana Business; and

d. A complete list of all Regulated Marijuana Businesses for which the Court Appointee was appointed and the respective dates during which the Court Appointee is currently serving, or has previously served, as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person.

2. Application for Finding of Suitability. Within 14 days of accepting an appointment as a Court Appointee pursuant to section 44-10-401(3), C.R.S., each Court Appointee must file an application for a finding of suitability with the State Licensing Authority on forms required by the State Licensing Authority. Each entity and natural person for whom a notice was filed pursuant to Rule 2-275(A) must file an application for a finding of suitability. The Division may in its discretion extend the 14-day deadline to file an application for a finding of suitability upon a showing of good cause. The Division may also in its discretion rely upon a recent licensing background investigation for Court Appointees that currently hold a license or Temporary Appointee Registration issued by the State Licensing Authority and may waive all or part of the application fee accordingly.

3. Effective Date. The Temporary Appointee Registration will be issued following the State Licensing Authority's receipt of the notice required by Rule 2-275(A)(1) and is effective as of the date of the court appointment.

B. Temporary Appointee Registration.

1. Entities. If the Court Appointee is an entity, the entity and all natural persons responsible for taking possession of, operating, managing, or controlling the Regulated Marijuana Business must receive a Temporary Appointee Registration. Every Court Appointee that is an entity must have at least one natural person with a Temporary Appointee Registration.

2. Temporary Appointee Registrations. Every Temporary Appointee Registration issued to a Person will be treated as an Owner License except where inconsistent with section 44-10-401(3), C.R.S., or this Rule.

3. Other employees. Any other person working under the direction of a Court Appointee who possesses, cultivates, manufactures, tests, dispenses, sells, serves, transports, researches, or delivers Regulated Marijuana as permitted by privileges granted under a Regulated Marijuana Business license must have a valid Employee License.

4. Licensed Premises. A Court Appointee cannot establish an independent Licensed Premises but is authorized to exercise the privileges of the Temporary Appointee Registration in the Licensed Premises of the Regulated Marijuana Business for which it is appointed.

5. Medical Marijuana Business Operators or Retail Marijuana Business Operators. A Court Appointee may retain a Medical Marijuana Business Operator or a Retail Marijuana Business Operator. If the Medical Marijuana Business Operator or Retail Marijuana Business Operator is the Court Appointee, see subparagraph E of this Rule.

6. Marijuana Code and Rules Applicable. Court Appointees are subject to the requirements of the Marijuana Code and the rules promulgated thereto. Except where inconsistent with section 44-10-401(3), C.R.S., or this Rule, the State Licensing Authority may take any action with respect to a Temporary Appointee Registration that it could take with respect to any license issued under the Marijuana Code. In any action involving a Temporary Appointee Registration, these rules will be read to include the terms "registered", "registration", "registrant", or any other similar terms in lieu of "licensed", "licensee", and any other similar terms as the context requires when applied to a Temporary Appointee Registration.

C. Administrative Actions.

1. Suspension, Revocation, Fine, or Other Administrative Action Regarding a Regulated Marijuana Business. In addition to any other basis for suspension, revocation, fine, or other administrative action, a Regulated Marijuana Business's license may, pursuant to subsections 44-10-202(1)(b), 44-10-401(3)(b), and 44-10-901(1), C.R.S., be suspended, revoked, fined, or subject to other administrative action based upon its Court Appointee's violations of the Marijuana Code, the rules promulgated pursuant to the Marijuana Code, the terms, conditions, or provisions of the Temporary Appointee Registration issued by the State Licensing Authority, or any order of the State Licensing Authority. Grounds for discipline include, but are not limited to, the Court Appointee's failure to timely notify the Division of the appointment or failure to timely apply for and obtain a finding of suitability. Such administrative action may occur even after the Temporary Appointee Registration is expired or surrendered, if the action is based upon an act or omission that occurred while the Temporary Appointee Registration was in effect.

2. Suspension, Revocation, Fine, or Other Administrative Action Regarding a Temporary Appointee Registration. In addition to any other basis for suspension, revocation, fine, or other administrative action, a Temporary Appointee Registration may, pursuant to subsections 44-10-202(1)(b), 44-10-401(3)(b), and 44-10-901(1), C.R.S., be suspended, revoked, or subject to other administrative action based upon the Court Appointee's violations of the Marijuana Code or the Rules promulgated pursuant to the Marijuana Code, the terms, conditions, or provisions of the Temporary Appointee Registration issued by the State Licensing Authority, or any order of the State Licensing Authority. Grounds for discipline include, but are not limited to, the Court Appointee's failure to timely notify the Division of the appointment or failure to timely apply for and obtain a finding of suitability. Such administrative action may occur even after the Temporary Appointee Registration is expired or surrendered, if the action is based upon an act or omission that occurred while the Temporary Appointee Registration was in effect. If a Person holding a Temporary Appointee Registration also holds any other Owner License or Employee License, the Owner License, the Employee License, and the Temporary Appointee Registration may be suspended, revoked, fined, or subject to other administrative action for any violations of the Marijuana Code or the rules promulgated pursuant to the Marijuana Code, the terms, conditions, or provisions of the Temporary Appointee Registration, Owner License, and/or Employee License issued by the State Licensing Authority, or any order of the State Licensing Authority.

3. Suitability. If the State Licensing Authority denies an application for a finding of suitability because the Court Appointee failed to timely apply for a finding of suitability, failed to timely provide all information requested by the Division in connection with an application

for a finding of suitability, or was found unsuitable, the State Licensing Authority may also pursue administrative action as set forth in this Rule.

4. Court Appointee's Responsibility to Notify Appointing Court. The Court Appointee must notify the appointing court of any action taken against the Temporary Appointee Registration by the State Licensing Authority pursuant to sections 44-10-901 or 24-4-104, C.R.S., within two business days. Such actions include, without limitation, the issuance of an Order to Show Cause, the issuance of an Administrative Hold, the issuance of an Order of Summary Suspension, the issuance of an Initial Decision by the Department's Hearings Division, or the issuance of a Final Agency Order by the State Licensing Authority. The Court Appointee must forward a copy of such notification to the Division at the same time the notification is made to the appointing court.

D. Expiration and Renewal.

1. Conclusion of Court Appointment. A Court Appointee's Temporary Appointee Registration expires upon the conclusion of a Court Appointee's court appointment. Each Court Appointee and each Regulated Marijuana Business that has a Court Appointee must notify the State Licensing Authority within two business days of the date on which a Court Appointee's court appointment ends, whether due to termination of the appointment by the court, substitution of another Court Appointee, closure of the court case, or otherwise. For a Court Appointee that is appointed in connection with multiple court cases, the notice must be filed with the State Licensing Authority with respect to each such case.

2. Annual Renewal. If it has not yet expired pursuant to Rule 2-270(D)(1), each Temporary Appointee Registration is valid for one year, after which it must be subject to annual renewal in accordance with the Marijuana Code and the rules promulgated pursuant to the Marijuana Code. If a Court Appointee is appointed in connection with multiple court cases, the Temporary Appointee Registration is subject to annual renewal unless all such appointments have ended, whether due to termination of the appointments by the courts, substitution of other Court Appointees, closure of the court cases, or otherwise.

3. Other Termination. A Temporary Appointee Registration may be valid for less than the applicable term if surrendered, revoked, suspended, or subject to similar action.

E. Medical Marijuana Business Operators and/or Retail Marijuana Business Operators as Court Appointees. By virtue of its privileges of licensure, a Medical Marijuana Business Operator, a Retail Marijuana Business Operator, and their respective Owner Licensees may serve as Court Appointees without a Temporary Appointee Registration subject to the following terms:

1. Notice to the State Licensing Authority of Appointment. The Medical Marijuana Business Operator or the Retail Marijuana Business Operator, and its Owner Licensee(s) are responsible for notifying the State Licensing Authority within seven days of any court appointment to serve as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person and take possession of, operate, manage, or control a Regulated Marijuana Business. Such notice must be accompanied by a copy of the order making the appointment and must identify each Regulated Marijuana Business regarding which the Medical Marijuana Business Operator and/or Retail Marijuana Business Operator is appointed.

2. Notice to the Appointing Court of State Licensing Authority Action. The Medical Marijuana Business Operator or the Retail Marijuana Business, and its Owner Licensee(s) are responsible for notifying the appointing court of any action taken against the Medical Marijuana Business Operator license, the Retail Marijuana Business Operator license and/or the Owner License by the State Licensing Authority pursuant to sections 44-10-901 or 24-4-104, C.R.S., within two business days. Such actions include, without

limitation, the issuance of an Order to Show Cause, the issuance of an Administrative Hold, the issuance of an Order of Summary Suspension, the issuance of an Initial Decision by the Department's Hearings Division, or the issuance of a Final Agency Order by the State Licensing Authority. The Medical Marijuana Business Operator, the Retail Marijuana Business Operator and its Owner Licensee(s) must forward a copy of such notification to the Division at the same time the notification is made to the appointing court.

Basis and Purpose – 2-280

The statutory basis for this rule includes but is not limited to sections 44-10-203(2)(c), 44-10-203(2)(l), 44-10-203(2)(t), 44-10-203(2)(ee)(D), 44-10-203(7), 44-10-307, 44-10-309(4)-(5), 44-10-310(5) and (11), 44-10-313(8)(a), and 44-10-901, C.R.S. The purpose of this rule is to clarify the conditions and procedures for divestiture of any Person prohibited from holding a license under section 44-10-307, C.R.S., or who is found unsuitable by the State Licensing Authority. This rule also requires that every Regulated Marijuana Business have at least one Controlling Beneficial Owner and provides what happens in the event of suspension of a Regulated Marijuana Business's Controlling Beneficial Owner(s). Finally, this rule provides that Licensees cannot have unlicensed persons take actions on their behalf or for their benefit that the Licensees themselves are prohibited from taking under these rules or the Marijuana Code.

2-280 – Controlling Beneficial Owners that are Persons Prohibited, Unsuitable, Revoked, or Suspended; At Least One Controlling Beneficial Owner Holding a Valid Owner License Required; and Prohibited Third-Party Acts

A. Controlling Beneficial Owners That Are Persons Prohibited, Unsuitable, or Revoked.

1. Less than 100% of all Controlling Beneficial Owners – Divestiture. If less than 100% of a Regulated Marijuana Business's Controlling Beneficial Owners are or become a Person prohibited from holding a license by these Rules or the Marijuana Code, have his or her Owner License revoked by a Final Agency Order, or are found unsuitable, the Regulated Marijuana Business must divest all of the Beneficial Ownership of that Controlling Beneficial Owner.

a. Unless extended for good cause, within 90 days of a Controlling Beneficial Owner becoming a Person prohibited from holding a license, having his or her Owner License revoked, or being found unsuitable, the Regulated Marijuana Business must either:

i. Submit a change of owner application, where required, and any document(s) necessary to transfer all of that Controlling Beneficial Owner's Interests to one or more Persons that are not prohibited from holding a license or unsuitable. Any required change of owner application is subject to approval by the Division; or

ii. Where a change of owner application is not required, transfer all of that Controlling Beneficial Owner's Interests to one or more Persons that are not a Person prohibited from holding a license or unsuitable.

b. In determining whether good cause for an extension exists, the Division will consider whether there is any Owner Interest buy-back provision with the Controlling Beneficial Owner. If mediation, arbitration, or a legal proceeding has been initiated regarding the required divestiture, the 90-day deadline is extended until 90 days following execution of a settlement agreement, arbitration order, or final judgment concluding the mediation, arbitration, or legal proceeding.

c. A Regulated Marijuana Business that is a Publicly Traded Corporation must have a divestiture plan with its Controlling Beneficial Owners which must be disclosed to the Division pursuant to Rule 2-220(A).

d. A Regulated Marijuana Business that fails to divest a Controlling Beneficial Owner as required by this Rule may be subject to denial, fine, suspension, or revocation of its license(s). The State Licensing Authority may consider aggravating and mitigating factors surrounding measures taken to divest the unsuitable or Person prohibited from holding a license when determining the imposition of a penalty. However, a Regulated Marijuana Business that is unable to divest a Controlling Beneficial Owner that is a Person prohibited from holding a license or found unsuitable is prohibited from being issued or holding a license.

2. All Controlling Beneficial Owners are Unsuitable, Revoked, or Persons Prohibited From Holding a License. A Regulated Marijuana Business's License may be revoked if 100% of its Controlling Beneficial Owners are found unsuitable, have his or her Owner's License revoked, or are Persons prohibited from holding a license by these Rules or the Marijuana Code.

B. Suspension of Controlling Beneficial Owners.

1. Suspension of Less than 100% of the Controlling Beneficial Owner(s) of a Regulated Marijuana Business. In the event of the suspension of the Owner License of a Controlling Beneficial Owner, either (i) the Regulated Marijuana Business must comply with all requirements of rule 8-210 – Disciplinary Process: Summary Suspensions, or (ii) the non-suspended Owner Licensee(s) must control the Regulated Marijuana Business without participation from the suspended Controlling Beneficial Owner(s).

2. Suspension of 100% of the Controlling Beneficial Owners of a Regulated Marijuana Business. A Regulated Marijuana Business cannot operate or Transfer Regulated Marijuana if all Controlling Beneficial Owners are suspended.

C. At Least One Controlling Beneficial Owner Holding a Valid Owner License Required. No Regulated Marijuana Business may operate or be licensed unless it has at least one Controlling Beneficial Owner who holds a valid Owner License.

D. Loss Of Owner License As A Controlling Beneficial Owner Of Multiple Businesses. If an Owner License is suspended, revoked, or found unsuitable as to one Regulated Marijuana Business, that Owner License is automatically suspended, revoked, or found unsuitable as to any other Regulated Marijuana Business in which that Person is a Controlling Beneficial Owner.

E. Prohibited Third-Party Acts. No Licensee may employ, contract with, hire, or otherwise retain any Person, including but not limited to an employee, agent, or independent contractor, to perform any act or conduct on the Licensee's behalf or for the Licensee's benefit if the Licensee is prohibited by law or these rules from engaging in such conduct itself.

1. A Licensee may be held responsible for all actions and omissions of any Person the Licensee employs, contracts with, hires, or otherwise retains, including but not limited to an employee, agent, or independent contractor, to perform any act or conduct on the Licensee's behalf or for the Licensee's benefit.

2. A Licensee may be subject to license denial or administrative action, including but not limited to fine, suspension, or revocation of its license(s), based on the act and/or

omissions of any Person the Licensee employs, contracts with, hires, or otherwise retains, including but not limited to an employee, agent, or independent contractor, to perform any act or conduct on the Licensee's behalf or for the Licensee's benefit.

Basis and Purpose – 2-285

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(aa), 44-10-310(2), and 44-10-311(2), 44-10-401(2)(b)(I), 44-10-401(2)(b)(VII), 44-10-401(2)(b)(VIII), 44-10-607, 44-10-608, 44-10-611 C.R.S. The purpose of this rule is to establish requirements for Accelerator-Endorsed Licensees participating in the accelerator program.

2-285 – Accelerator Endorsement Application, Qualification, and Eligibility

A. Beginning January 1, 2021, Retail Marijuana Store Licensees, Retail Marijuana Cultivation Facility Licensees, and Retail Marijuana Products Manufacturers Licensees may apply for an endorsement to participate in the accelerator program. The application shall be made on Division forms and in accordance with the 2-200 Series Rules.

B. Qualifications and Eligibility. The State Licensing Authority may consider the following facts and circumstances for purposes of determining a Licensees' qualifications and eligibility to be an Accelerator-Endorsed Licensee.

1. The Applicant has not, in the previous two years, been subject to a license revocation or active suspension issued by the State Licensing Authority, any Local Licensing Authority or Local Jurisdiction, or any other state in which it operated.

2. Information demonstrating the Applicant operated its license for at least two years prior to the date of application; or if the Applicant is unable to demonstrate operations for a period of at least two years, it must satisfy at least one of the following:

a. The Applicant possesses a valid commercial marijuana license issued in another state and has operated such license for the preceding two years;

b. For the preceding two years the Applicant has participated in an accelerator, incubator, or social equity program that may, but is not required to be, associated with the commercial marijuana industry;

c. The Applicant has at least two years of regulated cannabis industry experience at a managerial or executive level; or

d. The Applicant has at least two years of business experience in a highly regulated industry other than the marijuana industry.

C. Application Requirements. In addition to all other application requirements outlined in the 2-200 Series Rules, an application to become an Accelerator-Endorsed Licensee must include the Applicant's equity assistance proposal, containing the information required by the 3-1100 Series Rules.

D. The Division will maintain a list of Accelerator-Endorsed Licensees on its website. By submitting an application to become an Accelerator-Endorsed Licensee, the Applicant authorizes the State Licensing Authority to publish the Applicant's name on the Division's website.

Part 3 – Regulated Marijuana Business Operations

3-100 Series – General Privileges and Limitations

Basis and Purpose – 3-105

The statutory authority for this rule includes but is not limited to sections 44-10-102(2), 44-10-102(3), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-401(2), 44-10-701(2)(a), 44-10-701(2)(c), and 44-10-701(3)(e), C.R.S. The purpose of this rule is to establish that it is unlawful for any Regulated Marijuana Business Licensee to exercise any privileges other than those granted to it by the State Licensing Authority.

3-105 – Regulated Marijuana Businesses: Privileges Granted

A Regulated Marijuana Business shall only exercise those privileges granted to it by the State Licensing Authority.

Basis and Purpose – 3-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-401(2), 44-10-701(1)(a), 44-10-701(3)(d), and 44-10-701(3)(f), C.R.S. The purpose of this rule is to clarify that, except for in a Licensed Hospitality Business, it is unlawful for a Regulated Marijuana Business to allow consumption on the Licensed Premises.

3-110 – Regulated Marijuana Businesses: General Restrictions

A. Consumption Prohibited.

1. Applicability. This subparagraph (A) applies to all Regulated Marijuana Businesses, except Licensed Hospitality Businesses.

2. Licensees shall not permit the consumption of marijuana or marijuana product on the Licensed Premises or in transport vehicles, including any Sampling Units Transferred to a Sampling Manager.

B. Alcohol Beverage License Prohibited. A Person may not operate a license issued pursuant to the Marijuana Code and these rules at the same Licensed Premises as a license or permit issued pursuant to article 3, 4 or 5 of Title 44.

Basis and Purpose – 3-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-401(2), and 44-10-701(2)(a), C.R.S. The purpose of this rule is to clarify those acts that are limited or prohibited in some way and to make clear that a Regulated Marijuana Business shall not offer or receive complimentary Regulated Marijuana from a licensed transporter.

3-115 – Transporter Transfer Restriction

A Licensee shall not sell or give away Regulated Marijuana to a Medical Marijuana Transporter or Retail Marijuana Transporter, and shall not buy, or receive, complimentary Regulated Marijuana from a Medical Marijuana Transporter or Retail Marijuana Transporter.

3-200 Series – Licensed Premises

Basis and Purpose – 3-205

The statutory authority for this rule includes but is not limited to sections 44-10-103(14), 44-10-103(26), 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(p), and 44-10-203(2)(t),

C.R.S. The purpose of this rule is to establish Limited Access Areas for Licensed Premises under the control of the Licensee to only individuals licensed by the State Licensing Authority. In addition, this rule clarifies that businesses and individuals cannot use the visitor system as a means to employ an individual who does not possess a valid and current Employee License. This Rule was previously Rules M and R 301, 1 CCR 212-1 and 1 CCR 212-2.

3-205 – Limited Access Areas

A. Proper Display of Identification Badge. All Persons in a Limited Access Area as provided for in section 44-10-103(26) C.R.S., shall be required to hold and properly display a current Identification Badge issued by the Division at all times. Proper display of the Identification Badge shall consist of wearing the badge in a plainly visible manner, at or above the waist, and with the photo of the Licensee visible. The Licensee shall not alter, obscure, damage, or deface the badge in any manner.

B. Visitors in Limited Access Areas.

1. Prior to entering a Limited Access Area, all visitors, including outside vendors, contractors or others, must obtain a visitor identification badge from management personnel of the Licensee that shall remain visible while in the Limited Access Area.

2. Visitors shall be escorted by the Regulated Marijuana Business's licensed personnel at all times. No more than five visitors may be escorted by a single employee. Except that trade craftspeople, including but not limited to ancillary business operators, not normally engaged in the business of cultivating, processing, or selling Regulated Marijuana need not be accompanied on a full-time basis, but only reasonably monitored.

3. A Regulated Marijuana Business and all Licensees employed by the Regulated Marijuana Business shall report to the Division any discovered plan or other action of any Person to (1) commit theft, burglary, underage sales, diversion of marijuana or marijuana product, or other crime related to the operation of the subject Regulated Marijuana Business; or (2) compromise the integrity of the Inventory Tracking System. A report shall be made as soon as possible after the discovery of the action, but not later than 14 days. Nothing in this paragraph (B) alters or eliminates any obligation a Regulated Marijuana Business or Licensee may have to report criminal activity to a local law enforcement agency.

4. The Licensee shall maintain a log of all visitor activity, for any purpose, within the Limited Access Area and shall make such logs available for inspection by the Division and relevant Local Licensing Authority or Local Jurisdiction.

5. All visitors admitted into a Limited Access Area must provide acceptable proof of age and must be at least 21 years of age. *See* Rule 3-405 – Acceptable Forms of Identification.

6. The Licensee shall check the identification for all visitors to verify that the name on the identification matches the name in the visitor log. *See* Rule 3-405 – Acceptable Forms of Identification.

7. A Licensee may not receive consideration or compensation for permitting a visitor to enter a Limited Access Area.

8. Use of a visitor badge to circumvent the Employee License requirements of Rule 2-265 is prohibited and may constitute a license violation affecting public safety.

C. Required Signage. All areas of ingress and egress to Limited Access Areas on the Licensed Premises shall be clearly identified by the posting of a sign which shall be not less than 12 inches

wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Do Not Enter - Limited Access Area – Access Limited to Licensed Personnel and Escorted Visitors." A Licensee may comply with this paragraph (C) when that sign is conspicuously placed immediately within an exterior entrance that is locked against public entry and only accessible to limited, licensed personnel and escorted visitors.

D. Diagram for Licensed Premises. All Limited Access Areas shall be clearly identified to the Division and relevant Local Licensing Authority or Local Jurisdiction and described in a diagram of the Licensed Premises reflecting walls, partitions, counters and all areas of ingress and egress. The diagram shall also reflect all Propagation, cultivation, manufacturing, testing, consumption, and Restricted Access Areas. *See* Rule 3-905 – Business Records Required.

E. Modification of Limited Access Area. A Licensee's proposed modification of designated Limited Access Areas must be approved by the Division, the Local Licensing Authority, and, if required, the relevant Local Jurisdiction prior to any modifications being made. *See* Rule 2-260 – Changing, Altering, or Modifying Licensed Premises.

F. Law Enforcement Personnel Authorized. Notwithstanding the requirements of subsection A of this Rule, nothing shall prohibit investigators and employees of the Division, authorities from relevant Local Jurisdiction or state or local law enforcement, for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose, from entering a Limited Access Area upon presentation of official credentials identifying them as such.

G. When the Limited Access Area within a Licensed Premises of a Regulated Marijuana Business can only be accessed from outside the Licensed Premises, the movement of Regulated Marijuana and Regulated Marijuana Product between and within the Licensed Premises must comply with the following requirements:

1. Any Regulated Marijuana or Regulated Marijuana Product must be moved by a person holding a valid Owner License or Employee License and who must be an employee of the Regulated Marijuana Business;

2. Any Regulated Marijuana or Regulated Marijuana Product must be in a sealed, opaque Container;

3. Any movement of Regulated Marijuana or Regulated Marijuana Product must remain on video surveillance;

4. The Owner Licensee or Employee Licensee moving the Regulated Marijuana or Regulated Marijuana Product must not enter the property of any other business, vehicle, residence, or building that is not controlled by the Licensee; and

5. Any movement must not be by a self-propelled vehicle that is designed primarily for travel on the public highways, that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle.

Basis and Purpose – 3-210

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-311(1)(b), and 44-10-311(2), C.R.S. The purpose of this rule is to establish and clarify the means by which the Licensee has lawful possession of the Licensed Premises. This Rule 3-210 was previously Rules M and R 302, 1 CCR 212-1 and 1 CCR 212-2.

3-210 – Possession of Licensed Premises

A. Evidence of Lawful Possession. Persons licensed pursuant to sections 44-10-501, 44-10-502, 44-10-503, 44-10-504, 44-10-507, 44-10-601, 44-10-602, 44-10-603, 44-10-604, 44-10-607, 44-10-608, 44-10-609, 44-10-610 C.R.S., or those applying for such licenses, must demonstrate proof of lawful possession of the premises to be licensed or Licensed Premises. Evidence of lawful possession consists of properly executed deeds of trust, leases, or other written documents acceptable to state and local licensing authorities.

B. Relocation Prohibited. The Licensed Premises shall only be those geographical areas that are specifically and accurately described in executed documents verifying lawful possession. Licensees are not authorized to relocate to other areas or units within a building structure without first filing a change of location application and obtaining approval from the Division and the relevant Local Jurisdiction. Licensees shall not add additional contiguous units or areas, thereby altering the initially-approved premises, without filing an application and receiving approval to modify the Licensed Premises on current forms prepared by the Division, including any applicable processing fee. *See* Rule 2-260 - Changing, Altering, or Modifying Licensed Premises

C. Subletting Not Authorized. Licensees are not authorized to sublet any portion of Licensed Premises for any purpose, unless all necessary applications to modify the existing Licensed Premises to accomplish any subletting have been approved by the Division and the relevant Local Licensing Authority or Local Jurisdiction.

Basis and Purpose – 3-215

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(d)(I)-(VI), 44-10-313(14), 44-10-401, 44-10-501, 44-10-502, 44-10-503, 44-10-504, 44-10-601, 44-10-602, 44-10-603, 44-10-604, C.R.S. The purpose of this rule is to establish guidelines for the manner in which a Medical Marijuana Business may share its existing Licensed Premises with a Retail Marijuana Business, and to ensure the proper separation of Regulated Marijuana Business operation operations. This Rule 3-215 was previously Rules M and R 304.1, 1 CCR 212-1 and 1 CCR 212-2.

3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation

A. Shared Licensed Premises for Medical Marijuana Stores and Retail Marijuana Stores.

1. Medical Marijuana Store that authorizes only patients that are over the age of 21. A Medical Marijuana Store that authorizes only Medical Marijuana patients who are over the age of 21 years to be on the Licensed Premises may also hold a Retail Marijuana Store license and operate at the same location under the following circumstances:

a. The relevant Local Licensing Authority and Local Jurisdiction permit a dual operation at the same location;

b. The Medical Marijuana Store and Retail Marijuana Store are commonly owned;

c. The Medical Marijuana Store and Retail Marijuana Store shall maintain physical or virtual separation between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory;

d. The Medical Marijuana Store and Retail Marijuana Store shall maintain separate displays between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other

Retail Marijuana-related inventory, but the displays may be on the same sale floor;

e. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Store and Retail Marijuana Store shall enable the Division and Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Store from the inventories and business transactions of the Retail Marijuana Store; and

f. The Medical Marijuana Store shall post and maintain signage that clearly conveys that persons under the age of 21 years may not enter.

2. Medical Marijuana Store that authorizes patients under the age of 21. A Medical Marijuana Store that authorizes Medical Marijuana patients under the age of 21 years to be on the Licensed Premises may operate in the same location with a Retail Marijuana Store under the following conditions:

a. The relevant Local Licensing Authority and Local Jurisdiction permit a dual operation at the same location;

b. The Medical Marijuana Store and Retail Marijuana Store are commonly owned;

c. The Medical Marijuana Store and Retail Marijuana Store maintain physical separation, including separate entrances and exits, between their respective Restricted Access Areas;

d. No point of sale operations occur at any time outside the physically separated Restricted Access Areas;

e. All Medical Marijuana, Medical Marijuana Concentrate, and Medical Marijuana Product in a Restricted Access Area must be physically separated from all Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Product in a Restricted Access Area, and such physical separation must include separate entrances and exits;

f. Any display areas shall be located in the physically separated Restricted Access Areas;

g. In addition to the physically separated sales and display areas, the Medical Marijuana Store and Retail Marijuana Store shall maintain physical or virtual separation for storage of Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory from storage of Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory; and

h. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Store and Retail Marijuana Store shall enable the Division and Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Store from the inventories and business transactions of the Retail Marijuana Store.

B. Shared Licensed Premises For Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility. A Medical Marijuana Cultivation Facility and a Retail Marijuana Cultivation Facility may share a single Licensed Premises and operate at the same location under the following circumstances:

1. The relevant Local Licensing Authority and Local Jurisdiction permit a dual operation at the same location;

2. The Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility are commonly owned;

3. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility shall maintain either physical or virtual separation between (i) Medical Marijuana and Medical Marijuana Concentrate and (ii) Retail Marijuana and Retail Marijuana Concentrate; and

4. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility must enable the Division and relevant Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Cultivation Facility from the Retail Marijuana Cultivation Facility.

C. Shared Licensed Premises For Medical Marijuana Products Manufacturer and Retail Marijuana Products Manufacturer. A Medical Marijuana Products Manufacturer and a Retail Marijuana Products Manufacturer may share a single Licensed Premises and operate at the same location under the following circumstances:

1. The relevant Local Licensing Authority and Local Jurisdiction permit a dual operation at the same location;

2. The Medical Marijuana Products Manufacturer and the Retail Marijuana Products Manufacturer are commonly owned;

3. The Medical Marijuana Products Manufacturer and Retail Marijuana Products Manufacturer shall maintain either physical or virtual separation between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory. Nothing in this Rule prohibits a Retail Marijuana Products Manufacturer and Medical Marijuana Products Manufacturer from sharing raw Ingredients in bulk, for example flour or sugar, except Retail Marijuana and Medical Marijuana may not be shared under any circumstances; and

4. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Products Manufacturer and Retail Marijuana Products Manufacturer must enable the Division and Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Products Manufacturer from the Retail Marijuana Products Manufacturer.

D. Shared Licensed Premises For Medical Marijuana Store, Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, Retail Marijuana Store, Retail Marijuana Cultivation Facility, and Retail Marijuana Products Manufacturer. A Medical Marijuana Store, Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, Retail Marijuana Store, Retail Marijuana Cultivation Facility, or Retail Marijuana Products Manufacturer may share the common areas of a Licensed Premises where the cultivation, manufacture, packaging, storing, or Transfers to patients and consumers of Regulated Marijuana does not occur. For example, the shared common areas may include hallways, break rooms, bathrooms, etc. Licensees must maintain physical separation of all Regulated Marijuana inventory. Nothing in this paragraph D prohibits Licensees sharing premises in accordance with paragraphs (B) and (C) of this Rule.

E. Shared Licensed Premises For Medical Marijuana Testing Facility and Retail Marijuana Testing Facility. A Medical Marijuana Testing Facility and a Retail Marijuana Testing Facility may share a single Licensed Premises and operate at the same location under the following circumstances:

1. The relevant Local Licensing Authority and Local Jurisdiction permit dual operation at the same location;

2. The Regulated Marijuana Testing Facilities are identically owned;

3. The Regulated Marijuana Testing Facilities shall maintain either physical or virtual separation between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory; and

4. Record-keeping, inventory tracking, packaging and labeling for the Regulated Marijuana Testing Facilities must enable the Division and Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Testing Facility from the Retail Marijuana Testing Facility.

F. Shared Licensed Premises Medical Marijuana Transporter and Retail Marijuana Transporter. A Medical Marijuana Transporter and a Retail Marijuana Transporter may share a single Licensed Premises and operate dual transporting, logistics, and temporary storage business operation at the same location under the following circumstances:

1. The relevant Local Licensing Authority and Local Jurisdiction permit dual operation at the same location;

2. The Medical Marijuana Transporter and Retail Marijuana Transporter are identically owned;

3. The Medical Marijuana Transporter and Retail Marijuana Transporter shall maintain either physical or virtual separation between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory; and

4. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Transporter and Retail Marijuana Transporter must enable the Division and Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Transporter from the Retail Marijuana Transporter.

G. Shared Licensed Premises Marijuana Research and Development Facility. A Marijuana Research and Development Facility that has obtained an R&D Co-Location Permit pursuant to Rule 5-705(C) may share a single Licensed Premises and operate at the same location as another Regulated Marijuana Business to the extent permitted by the R&D Co-Location Permit and otherwise in compliance with all applicable rules. *See* 5-700 Series Rules.

H. Violation Affecting Public Safety. Violation of this Rule may be considered a license violation affecting public safety.

Basis and Purpose – 3-220

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c),44-10-203(1)(k), 44-10-203(2)(e), and 29-2-114(8)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(IV). The purpose of this rule is to ensure adequate control of the Licensed Premises and Regulated Marijuana contained therein. This rule establishes the minimum guidelines for security requirements for alarm systems and commercial locking mechanisms for maintaining adequate security. This rule also establishes fencing and lighting requirements for outdoor cultivations. This Rule 3-220 was previously Rules M and R 305, 1 CCR 212-1 and 1 CCR 212-2.

3-220 – Security Alarm Systems and Lock Standards

A. Security Alarm Systems – Minimum Requirements. The following Security Alarm Systems and lock standards apply to all Regulated Marijuana Businesses, unless stated otherwise by these rules.

1. Each Licensed Premises shall have a Security Alarm System, installed by an Alarm Installation Company, on all perimeter entry points and perimeter windows.

2. Each Licensee must ensure that all of its Licensed Premises are continuously monitored. Licensees may engage the services of a Monitoring Company to fulfill this requirement.

3. A Licensee shall maintain up-to-date and current records and existing contracts on the Licensed Premises that describe the location and operation of each Security Alarm System, a schematic of security zones, the name of the Alarm Installation Company, and the name of any Monitoring Company. *See* Rule 3-905 – Business Records Required.

4. Upon request, Licensees shall make available to agents of the Division or relevant Local Licensing Authority or Local Jurisdiction or state or local law enforcement agency, for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose, all information related to Security Alarm Systems, Monitoring, and alarm activity.

5. Any outdoor or Greenhouse Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility is a Limited Access Area and must meet all of the requirements for Security Alarm Systems described in this Rule. An outdoor or Greenhouse Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility must provide sufficient security measures to demonstrate that outdoor areas are not readily accessible by unauthorized individuals. It shall be the responsibility of the Licensee to maintain physical security in a manner similar to a Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility located in an indoor Limited Access Area so it can be fully secured and alarmed. The fencing requirements shall include, at a minimum, perimeter fencing designed to prevent the general public from entering the Limited Access Areas and shall meet at least the following minimum requirements:

a. The entire Limited Access Area shall be surrounded by a fence constructed of nine gauge or lower metal chain link fence or another similarly secure material. The fence shall measure at least eight feet from the ground to the top, or in the alternative, the fence may measure six feet from the ground to the top with a 1 foot barbed wire arm with at least three strands along the entire fence. All support posts shall be steel and securely anchored.

b. All gates of ingress or egress shall measure at least eight feet from the ground to the top of the entry gate, or in the alternative, the gate may measure six feet from the ground to the top with a 1 foot barbed wire arm with at least three strands, and shall be constructed of nine gauge or lower metal chain link fence or a similarly secure material.

c. ~~The fence shall obscure the Limited Access Area so that it is not easily viewed from outside the fence~~Repealed.

d. All areas of ingress and egress of the fence shall either:

i. Be illuminated including a 20 foot radius from the point of ingress or egress. Lights may be, but are not required to be, motion sensing; or

ii. Have cameras with night vision capacity capable of recording a 20 foot radius from the point of ingress or egress.

e. A Licensee or Applicant for initial licensure may, in writing, request that the Division waive one or more of the security requirements described in these subparagraphs (a) through (d) of this Rule, by submitting on a form prescribed by the Division a security waiver request for Division approval. The Division may, in its discretion and on a case-by-case basis, approve the security waiver if it finds that the alternative safeguard proposed by the Licensee or Applicant for initial licensure meets the goals of the above security requirements or that the security requirements are in conflict with a local ordinance of general applicability. Approved security waivers expire at the same time as the underlying License and may be renewed at the time the License renewal application is submitted. The Licensee's or Applicant for initial licensure's request for a waiver shall include:

i. The specific rules and subsections of a rule that are requested to be waived;

ii. The reason for the waiver;

iii. A description of an alternative safeguard the Licensee will implement in lieu of the requirement that is the subject of the waiver; and

iv. An explanation of how and why the alternative safeguard accomplishes the goals of the security rules, specifically public safety, prevention of diversion, accountability, and prohibiting access to minors.

B. Lock Standards – Minimum Requirement.

1. At all points of ingress and egress, the Licensee shall ensure the use of commercial-grade, non-residential door locks.

2. Any outdoor or Greenhouse Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility must meet all of the requirements for the lock standards described in this Rule.

Basis and Purpose – 3-225

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(h), 44-10-203(1)(k), 44-10-203(2)(e), 44-10-313(14), and 44-10-1001, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure adequate control of the Licensed Premises and Regulated Marijuana contained therein. This rule also establishes the minimum guidelines for security requirements for video surveillance systems for maintaining adequate security. This Rule 3-225 was previously Rules M and R 306, 1 CCR 212-1 and 1 CCR 212-2.

3-225 – Video Surveillance

A. Minimum Requirements. The following video surveillance requirements shall apply to all Regulated Marijuana Businesses, unless stated otherwise in these rules.

1. Prior to exercising the privileges of a Regulated Marijuana Business, an Applicant must install a fully operational video surveillance and camera recording system. The recording system must record in digital format and meet the requirements outlined in this Rule.

2. All video surveillance records and recordings must be stored in a secure area that is only accessible to a Licensee's management staff.

3. Video surveillance records and recordings must be made available upon request to the Division, the relevant Local Licensing Authority or Local Jurisdiction, or any other state or local law enforcement agency for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose.

4. Video surveillance records and recordings of point-of-sale areas shall be held in confidence by all employees and representatives of the Division, except that the Division may provide such records and recordings to the Local Licensing Authority or Local Jurisdiction, or any other state or local law enforcement agency for a purpose authorized by the Marijuana Code, or for any other state or local law enforcement purpose.

B. Video Surveillance Equipment.

1. Video surveillance equipment shall, at a minimum, consist of digital or network video recorders, cameras capable of meeting the recording requirements described in this Rule, video monitors, digital archiving devices, and a color printer capable of delivering still photos.

2. All video surveillance systems must be equipped with a failure notification system that provides prompt notification to the Licensee of any prolonged surveillance interruption and/or the complete failure of the surveillance system.

3. Licensees are responsible for ensuring that all surveillance equipment is properly functioning and maintained, so that the playback quality is suitable for viewing and the surveillance equipment is capturing the identity of all individuals and activities in the monitored areas.

4. All video surveillance equipment shall have sufficient battery backup to support a minimum of four hours of recording in the event of a power outage. Licensee must notify the Division of any loss of video surveillance capabilities that extend beyond four hours.

C. Placement of Cameras and Required Camera Coverage.

1. Camera coverage is required for all areas identified as Restricted Access Areas or Limited Access Areas, point-of-sale areas, security rooms, all points of ingress and egress to Limited Access Areas, all areas where Regulated Marijuana is displayed for sale, and all points of ingress and egress to the exterior of the Licensed Premises.

2. Camera placement shall be capable of identifying activity occurring within 20 feet of all points of ingress and egress and shall allow for the clear and certain identification of any individual and activities on the Licensed Premises.

3. At each point-of-sale location, camera coverage must enable recording of the facial features of patients, caregivers or consumer(s), and employee(s) ~~facial features~~ with sufficient clarity to determine identity.

4. All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points.

5. The system shall be capable of recording all pre-determined surveillance areas in any lighting conditions. If the Licensed Premises has a Regulated Marijuana cultivation area, a rotating schedule of lighted conditions and zero-illumination can occur as long as ingress and egress points to Flowering areas remain constantly illuminated for recording purposes.

6. Areas where Regulated Marijuana is grown, tested, cured, manufactured, researched, or stored shall have camera placement in the room facing the primary entry door at a height which will provide a clear unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other equipment.

7. Cameras shall also be placed at each location where weighing, packaging, transport preparation, processing, or tagging activities occur.

8. At least one camera must be dedicated to record the access points to the secured surveillance recording area.

9. All outdoor cultivation areas must meet the same video surveillance requirements applicable to any other indoor Limited Access Areas.

D. Location and Maintenance of Surveillance Equipment.

1. The surveillance room or surveillance area shall be a Limited Access Area.

2. Surveillance recording equipment must be housed in a designated, locked, and secured room or other enclosure with access limited to authorized employees, agents of the Division, and the relevant Local Licensing Authority or Local Jurisdiction, state or local law enforcement agencies for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose, and service personnel or contractors.

3. Licensees must keep a current list of all authorized employees and service personnel who have access to the surveillance system and/or room on the Licensed Premises. Licensees must keep a surveillance equipment maintenance activity log on the Licensed Premises to record all service activity including the identity of the individual(s) performing the service, the service date and time and the reason for service to the surveillance system.

4. Off-site Monitoring and video recording storage of the areas identified in this Rule 3-225(C) by the Licensee or an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for on-site Monitoring.

5. Each Regulated Marijuana Business Licensed Premises located in a common or shared building, or commonly owned Regulated Marijuana Businesses located in the same Local Jurisdiction, must have a separate surveillance room/area that is dedicated to that specific Licensed Premises. Commonly-owned Regulated Marijuana Businesses located in the same Local Jurisdiction may have one central surveillance room located at one of the commonly owned Licensed Premises which simultaneously serves all of the commonly-owned Licensed Premises. The facility that does not house the central surveillance room is required to have a review station, printer, and map of camera placement on the premises. All minimum requirements for equipment and security standards as set forth in this section apply to the review station.

6. Licensed Premises that combine both a Medical Marijuana Business and a Retail Marijuana Business may have one central surveillance room located at the shared Licensed Premises. *See* Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation.

E. Video Recording and Retention Requirements.

1. All camera views of all Limited Access Areas must be continuously recorded 24 hours a day. The use of motion detection is authorized when a Licensee can demonstrate that monitored activities are adequately recorded.

2. All surveillance recordings must be kept for a minimum of 40 days and be in a format that can be easily accessed for viewing. Video recordings must be archived in a format that ensures authentication of the recording as legitimately captured video and guarantees that no alteration of the recorded image has taken place.

3. The Licensee's surveillance system or equipment must have the capabilities to produce a color still photograph from any camera image, live or recorded, of the areas identified in this Rule 3-225(C).

4. The date and time must be embedded on all surveillance recordings without significantly obscuring the picture. The date and time must be synchronized with any point-of-sale system.

5. Time is to be measured in accordance with the official United States time established by the National Institute of Standards and Technology and the U.S. Naval Observatory at: http://www.time.gov.

6. After the 40 day surveillance video retention schedule has lapsed, surveillance video recordings must be erased or destroyed prior to: sale or transfer of the facility or business to another Licensee; or being discarded or disposed of for any other purpose. Surveillance video recordings may not be destroyed if the Licensee knows or should have known of a pending criminal, civil, or administrative investigation, or any other proceeding for which the recording may contain relevant information.

F. Other Records.

1. All records applicable to the surveillance system shall be maintained on the Licensed Premises. At a minimum, Licensees shall maintain a map of the camera locations, direction of coverage, camera numbers, surveillance equipment maintenance activity log, user authorization list, and operating instructions for the surveillance equipment.

2. A chronological point-of-sale transaction log must be made available to be used in conjunction with recorded video of those transactions.

Basis and Purpose – 3-230

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), and 44-10-203(2)(h), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish waste disposal requirements for Regulated Marijuana Businesses and to provide more sustainable options including for Regulated Marijuana waste including composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification. This Rule 3-230 was previously Rules M and R 307, 1 CCR 212-1 and 1 CCR 212-2.

3-230 – Waste Disposal

A. All Applicable Laws Apply. Regulated Marijuana waste must be stored, secured, locked, and managed in accordance with all applicable federal, state, and local statutes, regulations, ordinances, or other requirements, including but not limited to the "Regulations Pertaining to Solid Waste Sites and Facilities" (6 CCR 1007-2, Part 1) established by the Colorado Department of Public Health and Environment pursuant to the "Solid Wastes Disposal Sites and Facilities Act", Title 30, Article 20, Part 1, C.R.S. and "Regulation No. 100 – Water and Wastewater Facility Operations Certification Requirements" (5 CCR 1003-2) established by the Colorado Department of Public Health and Environment pursuant to the Title 25, Article 9, Part 1, C.R.S.

B. Liquid Waste. Liquid waste from Regulated Marijuana Businesses shall be disposed of in compliance with all applicable federal, state and local laws, regulations, rules, and other requirements.

C. Chemical, Dangerous and Hazardous Waste. Disposal of chemical, dangerous, and hazardous waste must be conducted in a manner consistent with federal, state and local laws, statutes, regulations, rules, and other requirements. This may include, but is not limited to, the disposal of all Pesticide and other agricultural chemicals, certain solvents and other chemicals used in the production of Regulated Marijuana Concentrate and any Regulated Marijuana soaked in a Flammable Solvent for purposes of producing a Regulated Marijuana Concentrate.

1. Elemental Impurities Remediation. All post extraction plant material generated from the elemental impurities Remediation process, and other Regulated Marijuana waste products (including but not limited to, still bottoms, lipids removed during winterization) generated from the Remediation process have the potential to be hazardous waste. Therefore, all such post extraction plant material must be subject to one of the following actions prior to leaving the Licensed Premises:

    i. Treated as hazardous waste in regard to storage, labeling, and disposal; or

    ii. Tested for elemental impurities content.

        a. Materials that meet the definition of hazardous waste, as defined by the Resource Conservation and Recovery Act or other applicable federal, state, or local regulations, must be treated as hazardous waste. Accordingly, they must be properly labeled, contained, stored, and disposed of in accordance with the Environmental Protection Agency, the Resource Conservation and Recovery Act, and other applicable regulations for hazardous waste.

        b. Materials that contain elemental impurities concentrations less than the allowable concentration limits specified in the Resource Conservation and Recovery Act, and are not designated hazardous waste by other applicable federal, state, or local regulations, may be disposed of in accordance with this rule.

D. Regulated Marijuana Waste Must Be Made Unusable and Unrecognizable. Unless expressly exempt by these rules, all Regulated Marijuana waste must be made unusable and Unrecognizable prior to leaving the Licensed Premises.

1. A Regulated Marijuana Business may Transfer Vaporizer Delivery Device waste prior to being made unusable and Unrecognizable for purposes of grinding or compacting the Vaporizer Delivery Device waste at the Licensed Premises of another Regulated Marijuana Business.

E. Methods to Make Waste Unusable and Unrecognizable. Regulated Marijuana waste shall be rendered unusable and Unrecognizable through one of the following methods:

1. Grind or Compact and Mix with Non-Marijuana Waste. A Regulated Marijuana Business may render its Regulated Marijuana waste unusable and Unrecognizable by grinding or compacting and incorporating the marijuana waste with non-consumable, solid wastes listed below such that the resulting mixture is at least 50 percent non-marijuana waste, and such that the resulting mixture cannot easily be separated and sorted:

a. Paper waste;

b. Plastic waste;

c. Cardboard waste;

d. Food waste;

e. Grease or other compostable oil waste;

f. Bokashi or other compost activators;

g. Soil;

h. Sawdust;

i. Manure; and

j. Other wastes approved by the Division that will render the Regulated Marijuana waste unusable and Unrecognizable.

2. Other Permitted and Sustainable Methods for Rendering Regulated Marijuana Waste Unusable and Unrecognizable. A Regulated Marijuana Business may render its Regulated Marijuana waste unusable and Unrecognizable through the following methods and subject to the following requirements and restrictions:

a. The following methods are exempt from the 50/50 waste mixing requirement in subparagraph E(1) above and can be used to render Regulated Marijuana unusable and Unrecognizable:

i. On-site composting;

ii. Anaerobic digestion;

iii. Pyrolyze into biochar; or

iv. Biomass gasification.

b. Requirements for Other Permitted and Sustainable Methods to Render Regulated Marijuana Waste Unusable and Unrecognizable. A Regulated Marijuana Business using other methods of rendering Regulated Marijuana waste unusable and Unrecognizable must comply with the requirements of this rule.

i. A Regulated Marijuana Business may utilize on its own Licensed Premises or may Transfer Regulated Marijuana waste to another

Regulated Marijuana Business for on-site composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification.

ii. A Regulated Marijuana Business may transfer only the stalks, stems, fan leaves, and roots from Regulated Marijuana to an area outside the Licensed Premises that is under the Licensee's possession and control or to an unlicensed third-party that is registered and in good standing with the Colorado Secretary of State for composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification.

iii. Regulated Marijuana waste that is transferred to a location under the Licensee's possession and control, to another Regulated Marijuana Business, or to a third-party pursuant to this Rule is not required to comply with the 3-800 Series Rules - Inventory Tracking or the 3-1000 Series Rules - Labeling, Packaging, and Product Safety but must be recorded on the Transferring Regulated Marijuana Business' waste log.

iv. A Regulated Marijuana Business or an unlicensed third-party providing composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification shall ensure that the organic composition of the Regulated Marijuana waste is permanently altered so that it is rendered unusable and Unrecognizable.

v. Waste Management Plan. A Regulated Marijuana Business using on-site composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification to render Regulated Marijuana waste unusable and Unrecognizable must establish and maintain on its Licensed Premises a waste management plan that includes at least the following information: A description of the Regulated Marijuana Business's methods for on-site composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification and identification of the areas that will be used for these activities. The location of these activities may include areas used for other operational activities of the Regulated Marijuana Business or may be areas outside the Licensed Premises so long as such areas are within the Licensee's possession and control.

vi. Written Contract for Transfers to Unlicensed Third Parties. A Regulated Marijuana Business that is transferring stalks, stems, fan leaves, or roots from Regulated Marijuana to an unlicensed third-party for composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification must have a written contract with that third-party. The Regulated Marijuana Business must maintain on its Licensed Premises a copy of the written contract and copies of receipts and invoices related to such third-party services. The written contract with the third-party must document at least the following information:

A. The identity of the unlicensed third party receiving any transfer of Regulated Marijuana waste pursuant to this Rule;

B. A description of the services provided by the unlicensed third party and the agreed-upon methods for managing the Regulated Marijuana waste, including the end-use of such waste; and

C. A requirement that the third-party is registered with the Colorado Secretary of State and must remain in in good standing during the contract term.

F. Mobile Waste Rendering. A Licensee or a third party vendor may also render Regulated Marijuana waste unusable and Unrecognizable outside of the Licensed Premises, subject to the following requirements and restrictions:

1. The waste must be rendered unusable and Unrecognizable in accordance with subparagraph (E) of this Rule, and unless otherwise expressly exempt by this Rule 3-230, mobile waste rendering must occur on property under the control of the Licensee that is immediately adjacent to the Licensed Premises;

2. Unless otherwise expressly exempt by this Rule 3-230, the waste must be taken from the Licensed Premises by an Owner Licensee or Employee Licensee directly to the vehicle where the rendering will occur;

3. Unless otherwise expressly exempt by this Rule 3-230, an Owner Licensee or Employee Licensee must monitor and observe the rendering to ensure the waste is made unusable and Unrecognizable;

4. Unless otherwise expressly exempt by this Rule 3-230, the Licensee shall ensure the rendering of any Regulated Marijuana waste unusable and Unrecognizable by a third party is recorded on the Licensee's video surveillance system; and

5. Any other restrictions imposed by the Local Licensing Authority or Local Jurisdiction.

G. After Waste is Made Unusable and Unrecognizable. After Regulated Marijuana waste is made unusable and Unrecognizable, the rendered waste shall be disposed of or otherwise managed as follows:

1. Disposed of at a solid waste site and disposal facility that has a Certificate of Designation from the local governing authority; or

2. Deposited at a compost facility that is permitted or approved by the Colorado Department of Public Health and Environment; or

3. Regulated Marijuana waste that has been rendered unusable and Unrecognizable by composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification and pursuant to the Licensee's waste management plan(s) may be transferred to a Regulated Marijuana Business or an unlicensed third-party for further processing or use.

4. A Regulated Marijuana Business with cultivation privileges may reintroduce its own or Regulated Marijuana waste obtained from another Regulated Marijuana Business that has been rendered unusable and Unrecognizable into its Regulated Marijuana cultivation operations subject to its standard operating procedures. For example, a Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility may use such waste as a soil amendment, potting media, or fertilizer

H. Proper Disposal of Waste. A Licensee shall only dispose of Regulated Marijuana waste in a secured waste receptacle in possession and control of the Licensee.

I. Inventory Tracking Requirements.

1. In addition to all other tracking requirements set forth in these rules, a Licensee shall utilize the Inventory Tracking System to ensure its post-harvest waste and Fibrous Waste materials are identified, weighed, and tracked while on the Licensed Premises until disposed of.

2. All Regulated Marijuana waste must be weighed before leaving any Regulated Marijuana Business. A scale used to weigh Regulated Marijuana waste prior to entry into the Inventory Tracking System shall be tested and approved in accordance with section 35-14-127, C.R.S. *See* Rule 3-805 – Regulated Marijuana Businesses: Inventory Tracking System.

3. A Licensee is required to maintain accurate and comprehensive records regarding Regulated Marijuana waste that accounts for, reconciles, and evidences all waste activity related to the disposal of Regulated Marijuana. *See* Rule 3-905 – Business Records Required.

4. A Licensee is required to maintain accurate and comprehensive records regarding any waste material produced through the trimming or pruning of a Regulated Marijuana plant prior to harvest, which must include weighing and documenting all waste, including Fibrous Waste. Unless required by an Inventory Tracking System procedure, records of waste produced prior to harvest must be maintained on the Licensed Premises. Waste, excluding Fibrous Waste and Marijuana Consumer Waste, whether produced prior or subsequent to harvest, must be disposed of in accordance with this Rule and be made unusable and Unrecognizable. *See* Rule 3-235 – Transfers of Fibrous Waste and Rule 3-240 – Collection of Marijuana Consumer Waste.

Basis and Purpose – 3-235

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(2)(h), 44-10-203(2)(i), 44-10-203(1)(k), and 44-10-203(2)(x), C.R.S. The purpose of this rule is to establish conditions under which a Licensee is authorized to transfer Fibrous Waste to a Person for the purpose of producing only Industrial Fiber Products. This Rule 3-235 was previously Rules M and R 307.5, 1 CCR 212-1 and 1 CCR 212-2.

3-235 – Transfers of Fibrous Waste

A. All Applicable Laws Apply. Fibrous Waste must be stored and managed in accordance with all applicable state and local statutes, regulations, ordinances, or other requirements, including but not limited to the "Regulations Pertaining to Solid Waste Sites and Facilities" (6 CCR 1007-2, Part 1) established by the Colorado Department of Public Health and Environment pursuant to the "Solid Wastes Disposal Sites and Facilities Act", Title 30, Article 20, Part 1, C.R.S. and "Regulation No. 100 – Water and Wastewater Facility Operations Certification Requirements" (5 CCR 1003-2) established by the Colorado Department of Public Health and Environment pursuant to the Title 25, Article 9, Part 1, C.R.S.

B. Regulated Marijuana Cultivation Facilities and Regulated Marijuana Manufacturers may transfer Fibrous Waste to an Industrial Fiber Products Producer in accordance with the requirements of this Rule 3-235.

C. Contract Requirements. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, Retail Marijuana Products Manufacturers and Accelerator Manufacturers that transfer Fibrous Waste to an Industrial Fiber Products Producer shall enter into a written contract prior to transferring any Fibrous Waste.

1. The written contract must be complete, and must fully incorporate all terms and conditions.

2. The written contract shall include the following terms:

a. The identity of the Industrial Fiber Products Producer;

b. A requirement that the Industrial Fiber Products Producer shall be and shall remain in good standing with the Colorado Secretary of State during the contract term; and

c. A requirement that the Industrial Fiber Products Producer shall ensure the security of Fibrous Waste during transport from the Licensed Premises to the point of processing by the Industrial Fiber Products Producer.

3. The Licensee and Industrial Fiber Products Producer shall sign an affirmation that the Fibrous Waste is being transferred only for the purpose of producing Industrial Fiber Products. The affirmation may be incorporated into a purchase order, invoice, or manifest.

D. Business Records. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, Retail Marijuana Products Manufacturers and Accelerator Manufacturers that transfer Fibrous Waste to an Industrial Fiber Products Producer shall keep all contracts, receipts, and inventory records relating to the transfer of any Fibrous Waste in accordance with Rule 3-905, including but not limited to Rule 3-905(A)(2).

E. Security Measures.

1. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, and Retail Marijuana Products Manufacturers, and Accelerator Manufacturers that transfer Fibrous Waste to an Industrial Fiber Products Producer shall comply with all security requirements pursuant to Rules 3-220 and 3-225.

2. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, Retail Marijuana Products Manufacturers and Accelerator Manufacturers preparing Fibrous Waste for transfer to an Industrial Fiber Products Producer must separate Fibrous Waste from other Regulated Marijuana plant material and waste within the Limited Access Area and on video surveillance.

3. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators Retail Marijuana Products Manufacturers, and Accelerator Manufacturers shall physically segregate all Fibrous Waste from other waste and Regulated Marijuana.

4. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, Retail Marijuana Products Manufacturers and Accelerator Manufacturers shall affix a label to all receptacles holding Fibrous Waste that has already been separated from other Regulated Marijuana plant material and waste within the Limited Access Area prior to transfer to an Industrial Fiber Products Producer. The label must identify the receptacle as “Contains Fibrous Waste.”

5. An Industrial Fiber Products Producer, or its employee or agent, must sign the visitor log, unless such individual has a valid Division-issued Employee License, to enter the Limited Access Area for any transfer of Fibrous Waste.

6. The Licensee remains responsible for all Fibrous Waste until the Industrial Fiber Products Producer takes possession and removes Fibrous Waste from the Licensed Premises.

7. The Licensee shall ensure that only Fibrous Waste and waste that has been made unusable and Unrecognizable pursuant to Rule 3-320 is transferred to the Industrial Fiber Products Producer.

F. Inventory Tracking Requirements.

1. A Licensee shall utilize the Inventory Tracking System to ensure its post-harvest Fibrous Waste materials are identified, weighed, and tracked while on the Licensed Premises until transferred.

2. A scale used to weigh Fibrous Waste prior to entry into the Inventory Tracking System shall be tested and approved in accordance with section 35-14-127, C.R.S. *See* Rule 3-805 – Regulated Marijuana Business: Inventory Tracking System.

3. A Licensee is required to maintain accurate and comprehensive records regarding waste material that accounts for, reconciles, and evidences all Fibrous Waste transfers. *See* Rule 3-905 – Business Records Required.

G. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, Retail Marijuana Products Manufacturers and Accelerator Manufacturers shall not transfer contaminated Fibrous Waste to an Industrial Fiber Products Producer and shall handle contaminated Fibrous Waste using the same reasonable protocols used to handle waste.

H. Violation Affecting Public Safety. It may be considered a violation of public safety for a Licensee to transfer anything to an Industrial Fiber Products Producer other than in accordance with this Rule 3-235.

Basis and Purpose – 3-240

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), and 44-10-203(2)(bb), C.R.S. The purpose of this rule is to establish conditions under which Regulated Marijuana Businesses are permitted to collect Marijuana Consumer Waste for purposes of reuse and recycling.

3-240 – Collection of Marijuana Consumer Waste

A. All Applicable Laws Apply. Marijuana Consumer Waste must be stored and managed in accordance with all applicable state and local statutes, regulations, ordinances, or other requirements, including but not limited to the "Regulations Pertaining to Solid Waste Sites and Facilities" (6 CCR 1007-2, Part 1) established by the Colorado Department of Public Health and Environment pursuant to the "Solid Wastes Disposal Sites and Facilities Act", Title 30, Article 20, Part 1, C.R.S. and "Regulation No. 100 – Water and Wastewater Facility Operations Certification Requirements" (5 CCR 1003-2) established by the Colorado Department of Public Health and Environment pursuant to the Title 25, Article 9, Part 1, C.R.S.

B. Regulated Marijuana Businesses may collect, reuse, and recycle Marijuana Consumer Waste in accordance with the requirements of this Rule 3-240.

C. Collection, Separation, and Processes.

1. Collection. A Licensee must comply with the following requirements when collecting Marijuana Consumer Waste pursuant to this Rule:

a. Only Medical Marijuana Stores, Retail Marijuana Stores, and Licensed Hospitality Businesses may collect Marijuana Consumer Waste from patients and consumers. Medical Marijuana Stores, Retail Marijuana Stores, and Licensed Hospitality Businesses collecting Marijuana Consumer Waste pursuant to this Rule are not limited to collecting Marijuana Consumer Waste from patients or consumers who purchased Regulated Marijuana from the Medical Marijuana Store, Retail Marijuana Store, or Licensed Hospitality Business.

b. A Regulated Marijuana Business may collect Marijuana Consumer Waste from any of its Owner Licensees or Employee Licensees who purchased the Regulated Marijuana from the Regulated Marijuana Business, or may collect Marijuana Consumer Waste from other Regulated Marijuana Businesses pursuant to paragraph (E) of this Rule.

c. The Licensee must utilize receptacles that are locked, sealed and designed to require a key or specialized tools in order to open and access the contents of the receptacle used for collection of Marijuana Consumer Waste;

d. All receptacles used for collection of Marijuana Consumer Waste shall be located in a secured area on the Licensed Premises and shall be reasonably supervised by a Licensee to ensure any Marijuana Consumer Waste collected is only removed by a Licensee;

e. All receptacles used for collection of Marijuana Consumer Waste shall be recorded on video surveillance; and

f. All receptacles used for collection of Marijuana Consumer Waste shall be labeled. The label must at least identify the receptacle as “Contains Marijuana Consumer Waste.” A Licensee may choose to include additional information on the receptacle label.

2. Separation. Regulated Marijuana Businesses collecting Marijuana Consumer Waste pursuant to this Rule must separate any electronic and battery components from the Marijuana Consumer Waste.

3. Processes. Regulated Marijuana Businesses collecting Marijuana Consumer Waste pursuant to this Rule must establish standard operating procedures that ensure at a minimum any remaining Regulated Marijuana in Marijuana Consumer Waste is removed and destroyed to the extent practicable.

D. Reuse of Marijuana Consumer Waste. Once any remaining Regulated Marijuana has been removed and destroyed pursuant to these rules, a Regulated Marijuana Business may reuse Marijuana Consumer Waste as follows and subject to the following requirements and restrictions:

1. Sanitizing. The Containers have been sanitized and disinfected either by a Regulated Marijuana Business or by a third-party to ensure that they do not contain any harmful residue or contaminants.

2. Child-Resistant Containers. Either the Containers can be reused with new child resistant packaging that complies with 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995); or if new child resistant packaging is not being used, based on a visual inspection, the existing Child-Resistant packaging appears to be in good working order and does not appear to pose a risk of unintended exposure or ingestion of Regulated Marijuana. The visual inspection must ensure such Containers are not brittle or have chips, cracks, or

other imperfections that could compromise the child-resistant properties of the Container or otherwise pose a threat of harm to a patient or consumer.

E. Transfers of Marijuana Consumer Waste. Once any remaining Regulated Marijuana has been removed and destroyed pursuant to these rules, a Regulated Marijuana Business may transfer Marijuana Consumer Waste as follows:

1. A Licensee may Transfer Marijuana Consumer Waste to another Regulated Marijuana Business for purposes of further processing and recycling or for reuse pursuant to this Rule; or

2. A Licensee may transfer Marijuana Consumer Waste, excluding the electronic components and battery components, to a Person for purposes of recycling or for reuse pursuant to this Rule. To the extent required, such Person shall be registered as required by the Colorado Department of Public Health and Environment's regulations at 6 CCR 1007-2, Part 1, Section 8; or

3. A Licensee may transfer the electronic and battery components of Marijuana Consumer Waste to a Person for purposes of recycling in accordance with the Colorado Department of Public Health and Environment's regulations at 6 CCR 1007-3.

F. Business Records. Regulated Marijuana Businesses that collect and Transfer Marijuana Consumer Waste pursuant to this Rule 3-240 shall keep all contracts, standard operating procedures, and receipts relating to the collection and Transfer of any Marijuana Consumer Waste in accordance with Rule 3-905, including but not limited to Rule 3-905(A)(2).

G. Violation Affecting Public Safety. It may be considered a violation affecting public safety for a Licensee to Transfer Marijuana Consumer Waste that has remaining Regulated Marijuana and in a manner other than in accordance with this Rule 3-240.

Basis and Purpose – 3-245

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(dd)(XIII), 44-10-609(1), 44-10-610(1), and 44-10-301(3)(b) C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(f). The purpose of this rule is to establish hours of operation requirements for Regulated Marijuana Businesses. The State Licensing Authority modeled this rule after the Colorado Department of Revenue's liquor rules. This Rule 3-245 was previously Rules M and R 308, 1 CCR 212-1 and 1 CCR 212-2.

3-245 – Selling and Serving Regulated Marijuana – Hours of Operation

A. Hours of Operation.

1. Medical Marijuana Stores and Retail Marijuana Stores shall not sell or serve Regulated Marijuana between the hours of 12:00 a.m. and 8:00 a.m., Mountain Time, Monday through Sunday.

2. Retail Marijuana Hospitality and Sales Businesses shall not sell Retail Marijuana or permit the consumption or use of Retail Marijuana on its Licensed Premises, between the hours of 2:00 a.m. and 7:00 a.m., Mountain Time, Monday through Sunday.

3. Marijuana Hospitality Businesses shall not permit the consumption or use of marijuana on its Licensed Premises, between the hours of 2:00 a.m. and 7:00 a.m., Mountain Time, Monday through Sunday.

4. Regulated Marijuana Businesses with a valid delivery permit shall not make or complete deliveries of Regulated Marijuana at any time between the hours of 12:00 a.m. and 8:00 a.m., Mountain Time, Monday through Sunday. Regulated Marijuana Businesses with a valid delivery permit may accept orders for delivery 24 hours a day, Monday through Sunday.

B. Local Jurisdictions May Further Restrict Hours. Nothing in this Rule shall prohibit a Local Jurisdiction from further restricting hours of operation within its jurisdiction.

3-300 Series – Health and Safety Regulations

Basis and Purpose – 3-305

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(3)(f), and 44-10-1001(2), C.R.S. The purpose of this rule is to clarify the conditions under which a Regulated Marijuana Business may be subject to an inspection of its Licensed Premises by a county or municipal employee, specifically but not exclusively a fire safety inspection.

3-305 – Local Safety Inspections

A Regulated Marijuana Businesses may be subject to inspection of its Licensed Premises by the local fire department, building inspector, or code enforcement officer to confirm that no health or safety concerns are present. The inspection could result in additional specific standards to meet Local Jurisdiction restrictions related to Regulated Marijuana or other local businesses. An annual fire safety inspection may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety

Basis and Purpose – 3-310

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(k), 44-10-203(2)(g), 44-10-203(2)(h), ~~and~~ 44-10-203(2)(i), and 44-10-313(14), C.R.S. The purpose of this rule is to clarify the minimum health and sanitary conditions under which a Regulated Marijuana Business must maintain its Licensed Premises.

3-310 – General Sanitary Requirements

A. The Licensee shall take all reasonable measures and precautions to ensure the following:

1. That any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with Regulated Marijuana shall be excluded from any operations which may be expected to result in contamination until the condition is corrected;

2. That hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the Licensed Premises and where good sanitary practices require employees to wash or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices;

3. That all persons working in direct contact with Regulated Marijuana shall conform to hygienic practices while on duty, including but not limited to:

    a. Maintaining adequate personal cleanliness;

b. Washing hands thoroughly in an adequate hand-washing area(s) before starting work, prior to engaging in the production of Regulated Marijuana Product, and at any other time when the hands may have become soiled or contaminated; and

c. Refraining from having direct contact with Regulated Marijuana if the person has or may have an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected.

4. That litter and waste are properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Regulated Marijuana are exposed;

5. That floors, walls, and ceilings are constructed in such a manner that they may be adequately cleaned, and each is kept clean and in good repair;

6. That there is adequate lighting in all areas where Regulated Marijuana is stored or sold, and where equipment or utensils are cleaned;

7. That the Licensee provides adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests;

8. That any buildings, fixtures, and other facilities are maintained in a sanitary condition, including but not limited to the prevention of microorganism growth;

9. That toxic cleaning compounds, sanitizing agents, and other chemicals shall be identified, held, stored and disposed of in a manner that protects against contamination of Regulated Marijuana and in a manner that is in accordance with any applicable local, state or federal law, rule, regulation, or ordinance;

10. That all operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of Regulated Marijuana shall be conducted in accordance with adequate sanitation principles;

11. That each Regulated Marijuana Business provides its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and

12. That Regulated Marijuana that can support the rapid growth of undesirable microorganisms are held in a manner that prevents the growth of these microorganisms.

Basis and Purpose – 3-315

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(1)(g), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), and 44-10-1001(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). It sets forth general standards and basic sanitary requirements for Retail Marijuana Stores. It covers the physical premises where the products are made as well as the individuals handling the products. This rule authorizes the State Licensing Authority to require an independent consultant to conduct a health and sanitary audit of a Regulated Marijuana Business. The purpose of this rule is to establish the conditions under an independent health and safety audit may be required. This rule explains when an independent health and sanitary audit may be deemed necessary and sets forth possible consequences of a Regulated Marijuana Businesses refusal to cooperate or pay for the audit. The State Licensing Authority

intends for this rule to reduce any product contamination, which will benefit both the Licensees and consumers. The State Licensing Authority modeled this rule after those adopted by the Colorado Department Revenue for Medical Marijuana and those adopted by the Colorado Department of Public Health and Environment. Overall, the State Licensing Authority intends this rule to help maintain the integrity of Colorado's Retail Marijuana businesses and the safety of the public.

3-315 – Independent Health and Safety Audit

A. State Licensing Authority May Require A Health and Sanitary Audit.

1. When the State Licensing Authority determines a health and sanitary audit by an independent consultant is necessary, it may require a Regulated Marijuana Business to undergo such an audit. The scope of the audit may include, but need not be limited, to whether the Regulated Marijuana Business is in compliance with the requirements set forth in this Rule and other applicable health, sanitary, or food handling laws, rules, and regulations.

2. In such instances, the Division may attempt to mutually agree upon the selection of the independent consultant with a Regulated Marijuana Business. However, the Division always retains the authority to select the independent consultant regardless of whether mutual agreement can be reached.

3. The Regulated Marijuana Business will be responsible for all costs associated with the independent health and sanitary audit.

B. When Independent Health and Sanitary Audit Is Necessary. The State Licensing Authority has discretion to determine when an audit by an independent consultant is necessary. The following is a non-exhaustive list of examples that may justify an independent audit:

1. The Division has reasonable grounds to believe that the Regulated Marijuana Business is in violation of one or more of the requirements set forth in this Rule or other applicable public health or sanitary laws, rules, or regulations;

2. The Division has reasonable grounds to believe that the Regulated Marijuana Business was the cause or source of contamination of Regulated Marijuana;

3. A Regulated Marijuana Cultivation Facility does not provide requested records related to the use of Pesticide or other agricultural chemicals used in the cultivation process;

4. Multiple Harvest Batches or Production Batches produced by a Regulated Marijuana Cultivation Facility failed contaminant testing;

5. A Regulated Marijuana Products Manufacturer does not provide requested records related to the production of Regulated Marijuana Products, including but not limited to, certification of its Licensed Premises, equipment or standard operating procedures, food handling training required for Owner Licensees and Employee Licensees engaged in the production of Regulated Marijuana Products, or Production Batch specific records to the Division;

6. Multiple Production Batches of Regulated Marijuana Products produced by the Regulated Marijuana Products Manufacturer failed contaminant testing.

C. Compliance Required. A Regulated Marijuana Business must pay for and timely cooperate with the State Licensing Authority's requirement that it undergo an independent health and sanitary audit in accordance with this Rule.

D. Suspension of Operations.

1. If the State Licensing Authority has objective and reasonable grounds to believe and finds upon reasonable ascertainment of the underlying facts that the Licensee committed a deliberate and willful violation or there is a substantial danger to public health and safety and incorporates such findings into its order, it may order summary suspension of the Regulated Marijuana Business's license. *See* Rule 8-210 – Disciplinary Process: Summary Suspensions.

2. Prior to or following the issuance of such an order, the Regulated Marijuana Business may attempt to come to a mutual agreement with the Division to suspend its operations until the completion of the independent audit and the implementation of any required remedial measures.

    a. If an agreement cannot be reached or the State Licensing Authority, in its sole discretion, determines that such an agreement is not in the best interests of the public health, safety, or welfare, then the State Licensing Authority will promptly institute license suspension or revocation procedures. *See* Rule 8-210 – Disciplinary Process: Summary Suspensions.

    b. If an agreement to suspend operations is reached, then the Regulated Marijuana Business may continue to care for its inventory and conduct any necessary internal business operations, but it may not Transfer any Regulated Marijuana or Regulated Marijuana Product to another Regulated Marijuana Business, a patient, or a consumer during the period of time specified in the agreement

Basis and Purpose – 3-320

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(dd)(X), and 44-10-203(3)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). This rule prohibits a Regulated Marijuana Business from Transferring any contaminated Regulated Marijuana or Regulated Marijuana Product to any Person or another Regulated Marijuana Business.

3-320 – Contaminated Product

A Regulated Marijuana Business shall not accept or Transfer to any Person any Regulated Marijuana that has failed required testing pursuant to Rule 4-120 or Rule 4-125, unless otherwise permitted in these rules. *See* Rule 4-135. If, despite the prohibitions in these rules, another Regulated Marijuana Business Transfers any Regulated Marijuana that has failed or subsequently fails required testing pursuant to Rule 4-120 or Rule 4-125, the receiving Regulated Marijuana Business shall ensure that all Regulated Marijuana that failed required testing are safely disposed of in accordance with Rule 3-230.

Basis and Purpose – 3-325

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(dd)(X), and 44-10-203(3)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to clarify that a Regulated Marijuana Business engaged in the cultivation of Regulated Marijuana is prohibited from using certain chemicals or pesticides that may cause harm to employees or consumers.

3-325 – Prohibited Chemicals

A. Applicability. This Rule 3-325 applies to Medical Marijuana Cultivation Facilities, Retail Marijuana Cultivation Facilities, Accelerator Cultivator and Marijuana Research and Development Licensees.

B. The following chemicals are prohibited and shall not be used in Regulated Marijuana cultivation. Possession of chemicals and/or containers from these chemicals upon the Licensed Premises shall be a violation of this Rule. Additionally, possession of Regulated Marijuana or Regulated Marijuana Concentrate on which any of the following chemicals is detected shall constitute a violation of this Rule.

1. Any Pesticide the use of which would constitute a violation of the Pesticide Act, section 35-9-101 *et seq*., C.R.S., the Pesticide Applicators' Act, section 35-10-101 et seq., C.R.S., or the rules and regulations pursuant thereto.

2. Other chemicals (listed by chemical name and CAS Registry Number (or EDF Substance ID)):

ALDRIN

309-00-2

ARSENIC OXIDE (3)

1327-53-3

ASBESTOS (FRIABLE)

1332-21-4

AZODRIN

6923-22-4

1,4-BENZOQUINONE, 2,3,5,6-TETRACHLORO-

118-75-2

BINAPACRYL

485-31-4

2,3,4,5-BIS (2-BUTENYLENE) TETRAHYDROFURFURAL

126-15-8

BROMOXYNIL BUTYRATE

EDF-186

CADMIUM COMPOUNDS

CAE750

CALCIUM ARSENATE [2ASH3O4.2CA]

7778-44-1

CAMPHECHLOR

8001-35-2

CAPTAFOL

2425-06-1

CARBOFURAN

1563-66-2

CARBON TETRACHLORIDE

56-23-5

CHLORDANE

57-74-9

CHLORDECONE (KEPONE)

143-50-0

CHLORDIMEFORM

6164-98-3

CHLOROBENZILATE

510-15-6

CHLOROMETHOXYPROPYLMERCURIC ACETATE [CPMA] EDF-

183

COPPER ARSENATE

10103-61-4

2,4-D, ISOOCTYL ESTER

25168-26-7

DAMINOZIDE

1596-84-5

DDD

72-54-8

DDT

50-29-3

DI(PHENYLMERCURY)DODECENYLSUCCINATE [PMDS] EDF-

187

1,2-DIBROMO-3-CHLOROPROPANE (DBCP)

96-12-8

1,2-DIBROMOETHANE

106-93-4

1,2-DICHLOROETHANE

107-06-2

DIELDRIN

60-57-1

4,6-DINITRO-O-CRESOL

534-52-1

DINITROBUTYL PHENOL

88-85-7

ENDRIN

72-20-8

EPN

2104-64-5

ETHYLENE OXIDE

75-21-8

FLUOROACETAMIDE

640-19-7

GAMMA-LINDANE

58-89-9

HEPTACHLOR

76-44-8

HEXACHLOROBENZENE

118-74-1

1,2,3,4,5,6-HEXACHLOROCYCLOHEXANE (MIXTURE OF ISOMERS)

608-73-1

1,3-HEXANEDIOL, 2-ETHYL-

94-96-2

LEAD ARSENATE

7784-40-9

LEPTOPHOS

21609-90-5

MERCURY

7439-97-6

METHAMIDOPHOS

10265-92-6

METHYL PARATHION

298-00-0

MEVINPHOS

7786-34-7

MIREX

2385-85-5

NITROFEN

1836-75-5

OCTAMETHYLDIPHOSPHORAMIDE

152-16-9

PARATHION

56-38-2

PENTACHLOROPHENOL

87-86-5

PHENYLMERCURIC OLEATE [PMO]

EDF-185

PHOSPHAMIDON

13171-21-6

PYRIMINIL

53558-25-1

SAFROLE

94-59-7

SODIUM ARSENATE

13464-38-5

SODIUM ARSENITE

7784-46-5

2,4,5-T

93-76-5

TERPENE POLYCHLORINATES (STROBANE6)

8001-50-1

THALLIUM(I) SULFATE

7446-18-6

2,4,5-TP ACID (SILVEX)

93-72-1

TRIBUTYLTIN COMPOUNDS

EDF-184

2,4,5-TRICHLOROPHENOL

95-95-4

VINYL CHLORIDE

75-01-4

C. DMSO. Except for R&D Licensees, the use of Dimethylsulfoxide (DMSO) in the production of Regulated Marijuana and the possession of DMSO upon the Licensed Premises is prohibited.

Basis and Purpose – 3-330

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), 44-10-203(3)(c), 44-10-203(3)(e), and 44-10-1001, C.R.S. The purpose of this rule is to clarify the minimum health and safety requirements imposed on a Medical or Retail Marijuana Cultivation Facility. The State Licensing Authority has determined the cultivation of Medical or Retail Marijuana requires the application of processes and procedures, and the use of materials, chemicals, and pesticides which, if improperly used, may be potentially harmful to employees and consumers. Therefore, the cultivation of Medical or Retail Marijuana must be performed in a manner that reduces the likelihood of exposure to such materials, chemicals and pesticides, or other microbials or molds. The State Licensing Authority intends for this rule to reduce any product contamination, which will benefit both the Licensees and consumers. The State Licensing Authority modeled this rule after those adopted by the Colorado Department Revenue for Medical Marijuana and those adopted by the Colorado Department of Public Health and Environment. Overall, the State Licensing Authority intends this rule to help maintain the integrity of Colorado's Retail Marijuana businesses and the safety of the public.

3-330 – Cultivation of Regulated Marijuana: Specific Health and Safety Requirements

A. Additional Sanitary Requirements. In addition to the general sanitary requirements in Rule 3-310, a Regulated Marijuana Cultivation Facility shall take all reasonable measure and precautions to ensure the following:

1. That all contact surfaces, including utensils and equipment used for the preparation of Regulated Marijuana, Physical Separation-Based Medical Marijuana Concentrate, or Physical Separation-Based Retail Marijuana Concentrate, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana shall be cleaned and sanitized as frequently as necessary to protect against contamination. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable and shall be properly maintained. Only sanitizers and disinfectants registered with the Environmental Protection Agency shall be used in a Regulated Marijuana Cultivation Facility;

2. That the water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the Licensed Premises' needs. Reclaimed water may also be used only for the cultivation of Regulated Marijuana to the extent authorized under the Reclaimed Water Control Regulations (5 CCR 1002-84), and subject to approval of the Water Quality Control Division of the Colorado Department of Public Health and Environment and the local water provider;

3. That plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the plant and that shall properly convey sewage and liquid disposable waste from the Licensed Premises. There shall be no cross-connections between the potable water, reclaimed water, and waste water lines; and

4. That any room used for the cultivation of Regulated Marijuana has measures to prevent the accumulation of dangerous levels of CO_2.

B. Pesticide Application. A Regulated Marijuana Cultivation Facility may only use Pesticide in accordance with the "Pesticide Act" sections 35-9-101 et seq., C.R.S., the "Pesticides Applicators' Act," sections 35-10-101 et seq., C.R.S., and all other applicable federal, state, and local laws, statutes, rules and regulations. This includes, but shall not be limited to, the prohibition on detaching, altering, defacing or destroying, in whole or in part, any label on any Pesticide. The Colorado Department of Agriculture's determination that the Licensee used any quantity of a Pesticide that would constitute a violation of the Pesticide Act or the Pesticide Applicators' Act shall constitute prima facie evidence of a violation of this Rule.

C. Application of Other Agricultural Chemicals. A Regulated Marijuana Cultivation Facility may only use agricultural chemicals, other than a Pesticide, in accordance with all applicable federal, state, and local laws, statutes, rules, and regulations.

D. Required Documentation.

1. Standard Operating Procedures. A Regulated Marijuana Cultivation Facility must establish written standard operating procedures for the cultivation, harvesting, drying, curing, trimming, packaging, storing, and sampling for testing of Regulated Marijuana, and the processing, packaging, storing, and sampling for testing of Regulated Marijuana Concentrate, and the processing, rolling, filling or similar process, packaging, storing and sampling for testing of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana made from Physical Separation-Based Concentrate. A copy of all standard operating procedures must be maintained on the Licensed Premises of the Regulated Marijuana Cultivation Facility.

    a. The standard operating procedures must include when, and the manner in which, all Pesticide and other agricultural chemicals are to be applied during its cultivation process.

    b. The standard operating procedures must also include any methods and processes related to Decontamination of Harvest Batches.

    c. If a Regulated Marijuana Cultivation Facility produces Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana made from Physical Separation-Based Concentrate, the standard operating procedures must include all methods and processes related to the creation of each type of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana product, including but not limited to, the strains used, where strains are sourced, which parts of Harvest Batches are used (e.g. flower, shake, trim), the size of the product (e.g. 1 gram pre-rolls), and how much and what type of Regulated Marijuana Concentrate is added (if applicable) for each type of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana it produces.

    d. Provide adequate training to every Owner Licensee and Employee Licensee who performs a task or set of tasks that are referenced in the standard operating procedures. Adequate training must include, but need not be limited to, providing a copy of the standard operating procedures for that Licensed Premises detailing at least all of the topics required to be included in the standard operating procedures.

2. Material Change. If a Regulated Marijuana Cultivation Facility makes a Material Change to its cultivation procedures, it must document the change and revise its standard operating procedures accordingly. Records detailing the Material Change must be maintained on the relevant Licensed Premises.

3. Safety Data Sheet. A Regulated Marijuana Cultivation Facility must obtain a safety data sheet for any Pesticide or other agricultural chemical used or stored on its Licensed Premises. A Regulated Marijuana Cultivation Facility must maintain a current copy of the safety data sheet for any Pesticide or other agricultural chemical on the Licensed Premises where the product is used or stored.

4. Labels of Pesticide and Other Agricultural Chemicals. A Regulated Marijuana Cultivation Facility must have the original label or a copy thereof at its Licensed Premises for all Pesticide and other agricultural chemicals used during its cultivation process.

5. Pesticide Application Documentation. A Regulated Marijuana Cultivation Facility that applies any Pesticide ~~or other agricultural chemical~~ to any portion of a Regulated Marijuana plant~~, water, or feed used~~ during cultivation or generally within the Licensed Premises must document, and maintain a record on its Licensed Premises of, the following information:

   a. The name, signature, and Employee License number of the individual who applied the Pesticide ~~or other agricultural chemical~~;

   b. Applicator certification number if the applicator is licensed through the Department of Agriculture in accordance with the "Pesticides Applicators' Act," sections 35-10-101 et seq., C.R.S.;

   c. The date and time of the application;

   d. The EPA registration number of the Pesticide ~~or CAS number of any other agricultural chemical(s)~~ applied;

   e. Any of the active ingredients of the Pesticide ~~or other agricultural chemical(s)~~ applied;

   f. Brand name and product name of the Pesticide ~~or other agricultural chemical(s)~~ applied;

   g. The restricted entry interval from the product label of any Pesticide ~~or other agricultural chemical(s)~~ applied;

   h. The RFID tag number of the Regulated Marijuana plant(s) that the ~~Pesticide or other agricultural chemical(s)~~ was applied to or if applied to all plants, a statement to that effect; and

   i. The total amount of each Pesticide ~~or other agricultural chemical~~ applied.

E. Adulterants. A Regulated Marijuana Cultivation Facility may not treat or otherwise adulterate Regulated Marijuana with any chemical or other compound whatsoever to alter its color, appearance, weight, or smell.

Basis and Purpose – 3-335

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), 44-10-202(2)(y), 44-10-203(3)(b), 44-10-203(3)(c), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-203(3)(g), and 44-10-1001, C.R.S. The State Licensing Authority has determined the manufacturing of Medical or Retail Marijuana Infused Products involves the application of processes and procedures, materials, chemicals, and additives, which, if improperly applied, may cause harm to employees and consumers. Therefore, the purpose of this Rule is to clarify the minimum and specific health and safety requirements imposed on a Medical or Retail Marijuana Products Manufacturing Facility. This Rule clarifies which Edible Medical or Retail Marijuana Products, due to their specific composition, are *per se* practicable to mark with the Universal Symbol but exempts certain Liquid Products from the Universal Symbol requirements. Additionally, the Rule imposes manufacturing and production requirements (e.g. prohibiting products from being shaped like fruit or humans), identifies the standard THC portion, prohibits licensees from using commercial food products to remanufacture Medical or Retail Marijuana Products, and prohibits the use of toxic additives.

3-335 – Production of Regulated Marijuana Concentrate and Regulated Marijuana Products: Specific Health and Safety Requirements

A. Training.

1. Prior to engaging in the manufacture of any Edible Medical Marijuana Product or Edible Retail Marijuana Product each Owner Licensee or Employee Licensee must:

a. Have a currently valid ~~ServSafe~~ Food Handler Certificate obtained through the successful completion of an online assessment or print exam; or

b. Take a food safety course that includes basic food handling training and is comparable to, or is a course given by, the Colorado State University extension service or a state, county, or district public health agency, and must maintain a status of good standing in accordance with the course requirements, including attending any additional classes if necessary. Any course taken pursuant to this rule must last at least two hours and cover the following subjects:

i. Causes of foodborne illness, highly susceptible populations and worker illness;

ii. Personal hygiene and food handling practices;

iii. Approved sources of food;

iv. Potentially hazardous foods and food temperatures;

v. Sanitization and chemical use; and

vi. Emergency procedures (fire, flood, sewer backup).

2. A Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer must obtain documentation evidencing that each Owner Licensee or Employee Licensee has successfully completed the examination or course required by this Rule and is in good standing. A copy of the documentation must be kept on file at any Licensed Premises where that Owner Licensee or Employee Licensee is engaged in the manufacturing of an Edible Medical Marijuana Product or Edible Retail Marijuana Product.

B. Other State and Local Health and Safety Standards Apply. A Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer that manufactures Edible Medical Marijuana Products or Edible Retail Marijuana Products shall comply with all kitchen-related health and safety standards of the relevant Local Licensing Authority or Local Jurisdiction and, to the extent applicable, with all Colorado Department of Public Health and Environment health and safety regulations applicable to retail food establishments, as set forth in 6 CCR 1010-2.

C. Additional Sanitary Requirements. A Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer shall take all reasonable measures and precautions to ensure the following:

1. That there is sufficient space for placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations for production of Regulated Marijuana or Regulated Marijuana Products;

2. That all contact surfaces, including utensils and equipment used for the preparation of Regulated Marijuana or Regulated Marijuana Product, shall be cleaned and sanitized as frequently as necessary to protect against contamination. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable and shall be properly maintained. Only sanitizers and disinfectants registered with the Environmental Protection Agency shall be used by a Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer, and used in accordance with labeled instructions;

3. That the water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the Licensed Premises needs;

4. That plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the plant and that shall properly convey sewage and liquid disposable waste from the Licensed Premises. There shall be no cross-connections between the potable and waste water lines; and

5. That storage and transport of finished Regulated Marijuana Product shall be under conditions that will protect products against physical, chemical, and microbial contamination as well as against deterioration of any Container.

D. Product Safety.

1. A Regulated Marijuana Products Manufacturer that manufactures Edible Regulated Marijuana Product shall create and maintain standard production procedures and detailed manufacturing processes for each Edible Medical Marijuana Product or Edible Retail Marijuana Product it manufactures. These procedures and processes must be documented and made available on the Licensed Premises for inspection by the Division, the Colorado Department of Public Health & Environment, and local licensing authorities.

2. Universal Symbol Marking Requirements.

a. The following categories of Edible Medical Marijuana Products and Edible Retail Marijuana Products are considered to be per se practicable to mark, and shall be marked, stamped, or otherwise imprinted with the Universal Symbol directly on the Regulated Marijuana Product:

i. Chocolate;

ii. Soft confections;

iii. Hard confections or lozenges;

iv. Consolidated baked goods (e.g. cookie, brownie, cupcake, granola bar);

v. Pressed pills and capsules.

b. The Universal Symbol marking shall:

i. Be marked, stamped, or otherwise imprinted in its entirety on at least one side of the Edible Medical Marijuana Product or Edible Retail Marijuana

Product. The shape of the product shall not be included or take place of any part of the Universal Symbol;

ii. Be centered either horizontally or vertically on the Edible Medical Marijuana Product or Edible Retail Marijuana Product;

iii. If centered horizontally on the Edible Medical Marijuana Product or Edible Retail Marijuana Product, the height and width of the Universal Symbol shall be of a size that is at least 25% of the product's height, but not less than ¼ inch by ¼ inch.

iv. If centered vertically on the Edible Medical Marijuana Product or Edible Retail Marijuana Product, the height and width of the Universal Symbol shall be of a size that is at least 25% of the product's height, but not less than ¼ inch by ¼ inch.

c. The following categories of Edible Medical Marijuana Product and Edible Retail Marijuana Product are considered to be per se impracticable to mark with the Universal Symbol marking requirements, provided that they comply with labeling and Container requirements of 3-1000 Series Rules.

i. Loose bulk goods (e.g. granola, cereals, popcorn);

ii. Powders;

iii. Liquid Edible Medical Marijuana Products;

iv. Liquid Edible Retail Marijuana Products.

3. Medical Marijuana Products Manufacturer Specific Requirements.

a. Standard Portion of THC. A Medical Marijuana Products Manufacturer may determine a standard portion of THC for each Edible Medical Marijuana Product it manufactures. If a Medical Marijuana Products Manufacturer determines a standard portion for an Edible Medical Marijuana Product, that information must be documented in the product's standard production procedure.

b. Documentation. For each Edible Medical Marijuana Product, the total amount of active THC contained within the product must be documented in the standard production procedures.

c. If a Medical Marijuana Products Manufacturer elects to determine standard portions for an Edible Medical Marijuana Product, then the Universal Symbol shall be applied to each portion in accordance with the requirements of subparagraph (D)(2)(b) of this Rule 3-335. Except that the size of the Universal Symbol marking shall be determined by the size of the portion instead of the overall product size and shall not be less than ¼ inch by ¼ inch.

d. Medical Marijuana Concentrate Recommended Serving Size and Visual Representation.

i. The recommended serving size for Medical Marijuana Concentrate in Vaporized Delivery Devices should not exceed one (1) inhalation lasting two (2) seconds per serving.

ii. The recommended serving size for Medical Marijuana Concentrate intended to be inhaled in any manner other than a Vaporizer Delivery Device is a sphere identified in the tangible educational resource required to be provided to a patient pursuant to Rule 5-125(D) and Rule 5-115(C.5).

4. Retail Marijuana Products Manufacturer Specific Requirements.

a. Standardized Serving of Marijuana. The size of a Standardized Serving of Marijuana shall be no more than 10mg of active THC. A Retail Marijuana Products Manufacturer or an Accelerator Manufacturer that manufactures Edible Retail Marijuana Product shall determine the total number of Standardized Servings of Marijuana for each product that it manufactures. No individual Edible Retail Marijuana Product unit packaged for Transfer to a consumer shall contain more than 100 milligrams of active THC.

b. Documentation. The following information must be documented in the standard production procedures for each Edible Retail Marijuana Product: the amount in milligrams of Standardized Serving of Marijuana, the total number of Standardized Servings of Marijuana, and the total amount of active THC contained within the product.

c. Notwithstanding the requirement of subparagraph (D)(2)(b), an Edible Retail Marijuana Product shall contain no more than 10 mg of active THC per Container and the Retail Marijuana Products Manufacturer or an Accelerator Manufacturer must ensure that the product is packaged in accordance with the Rules 3-1005(C)(1) and 1010(D)(1), when:

i. The Edible Retail Marijuana Product is of the type that is impracticable to mark, stamp, or otherwise imprint with the Universal Symbol directly on the product in a manner to cause the Universal Symbol to be distinguishable and easily recognizable; or

ii. The Edible Retail Marijuana Product is of the type that is impracticable to clearly demark each Standardized Serving of Marijuana or to make each Standardized Serving of Marijuana separable.

d. Liquid Edible Retail Marijuana Product.

i. Pursuant to 44-10-603(4)(b), C.R.S., Liquid Edible Retail Marijuana Products are impracticable to mark with the Universal Symbol and are exempt from the provision in subparagraph (D)(4)(c) of this Rule 3-335 that requires Edible Retail Marijuana Products that are impracticable to mark with the Universal Symbol to contain 10mg or less active THC per Container.

ii. This exemption permits the manufacture and Transfer of Multi-Serving Liquid Edible Retail Marijuana Products so long as the product is packaged in accordance with Rules 3-1005(C)(1) and 3-1010(D)(1)(c)(ii).

e. Multiple-Serving Edible Retail Marijuana Product.

i. A Retail Marijuana Products Manufacturer or an Accelerator Manufacturer must ensure that each single Standardized Serving of Marijuana of a Multiple-Serving Edible Retail Marijuana Product is

physically demarked in a way that enables a reasonable person to intuitively determine how much of the product constitutes a single serving of active THC.

ii. Each demarked Standardized Serving of Marijuana must be easily separable in order to allow an average person 21 years of age and over to physically separate, with minimal effort, individual servings of the product.

iii. Each single Standardized Serving of Marijuana contained in a Multiple-Serving Edible Retail Marijuana Product shall be marked, stamped, or otherwise imprinted with the Universal Symbol directly on the product in a manner to cause the Universal Symbol to be distinguishable and easily recognizable. The Universal Symbol marking shall comply with the requirements of subparagraph (D)(2)(b) of this Rule 3-335.

iv. A Multiple-Serving Edible Retail Marijuana Product that is a Liquid Edible Retail Marijuana Product shall comply with the requirements in subparagraph (D)(4)(d)(ii) of this Rule 3-335 and is exempt from subparagraphs (i)-(iii) of this subparagraph (D)(4)(e)(iv).

f. Retail Marijuana Concentrate Recommended Serving Size and Visual Representation.

i. The recommended serving size for Retail Marijuana Concentrate in Vaporized Delivery Devices should not exceed one (1) inhalation lasting two (2) seconds per serving.

ii. The recommended serving size for Retail Marijuana Concentrate intended to be inhaled in any manner other than a Vaporizer Delivery Device is a sphere identified in the tangible educational resource required to be provided to a patient pursuant to Rule 6-110(C.5) and Rule 6-1110(C.5).

E. Remanufactured Products Prohibited. A Regulated Marijuana Products Manufacturer shall not utilize a commercially manufactured food product as its Edible Medical Marijuana Product or Edible Retail Marijuana Product. The following exceptions to this prohibition apply:

1. A food product that was commercially manufactured specifically for use by a Regulated Marijuana Products Manufacturer to infuse with Regulated Marijuana shall be allowed. The Licensee shall have a written agreement with the commercial food product manufacturer that declares the food product's exclusive use by the Regulated Marijuana Products Manufacturer.

2. Commercially manufactured food products may be used as Ingredients in an Edible Medical Marijuana Product or Edible Retail Marijuana Product so long as: (1) they are used in a way that renders them unrecognizable as the commercial food product in the final Edible Medical Marijuana Product or Edible Retail Marijuana Product, and (2) the Regulated Marijuana Products Manufacturer does not state or advertise to the consumer that the final Edible Medical Marijuana Product or Edible Retail Marijuana Product contains the commercially manufactured food product.

F. Trademarked Food Products. Nothing in this Rule alters or eliminates a Regulated Marijuana Products Manufacturer's responsibility to comply with the trademarked food product provisions required by the Marijuana Code per section 44-10-503(9)(a-c), C.R.S.

G. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit.

1. The production, Transfer, and donation of Edible Medical Marijuana Products or Edible Retail Marijuana Products in the following shapes is prohibited:

i. The distinct shape of a human, animal, or fruit; or

ii. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

2. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Regulated Marijuana Business. Nothing in this subparagraph (G)(2) alters or eliminates a Licensee's obligation to comply with the requirements of the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

3. Edible Medical Marijuana Products and Edible Retail Marijuana Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and

4. Edible Medical Marijuana Products and Edible Retail Marijuana Products that are manufactured in the shape of a marijuana leaf are permissible.

H. Inactive Ingredients.

1. Only non-cannabis derived inactive Ingredients listed in the Federal Food and Drug Administration Inactive Ingredient Database https://www.accessdata.fda.gov/scripts/cder/iig/index.cfm, or approved by another equivalent international government agency, may be used in the manufacture of Audited Product and Regulated Marijuana Concentrate intended for use through a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler.

2. All non-cannabis derived inactive Ingredients contained in any Audited Product or in any Regulated Marijuana Concentrate intended for use through a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler must be less than or equal to the concentration listed in the Federal Food and Drug Administration Inactive Ingredient Database, or approved by another equivalent international government agency for:

a. The inhalation route of administration for any Audited Product to be used in a metered dose nasal spray, or any Regulated Marijuana Concentrate to be used in a Vaporizer Delivery Device or pressurized metered dose inhaler;

b. The vaginal route of administration for any Audited Product to be used for vaginal administration; or

c. The rectal route of administration for any Audited Product to be used for rectal administration.

I. Other Permitted Ingredients. Nothing in paragraph H above prohibits a Regulated Marijuana Products Manufacturer from using marijuana-derived ingredients or Botanically Derived Compounds and/or terpenoids.

J. Processing Aids and Additives. A Regulated Marijuana Products Manufacturer shall not include any Processing Aid or Additive that is toxic, prohibited, or present at levels over the acceptable limits pursuant to Rule 4-115(D) within a Regulated Marijuana Product; nor include any Additive

for the purposes of making the product more addictive, appealing to children, or misleading to patients or consumers.

K. Prohibited Ingredients.

1. A Regulated Marijuana Products Manufacturer shall not use the following Ingredients in the production or Transfer of Regulated Marijuana Concentrate and Regulated Marijuana Product for which the inhaled product is the intended use in accordance with Rule 3-1015:

~~1~~a. Polyethylene glycol (PEG);

~~2~~b. Vitamin E Acetate;

~~3~~c. Medium Chain Triglycerides (MCT Oil);

~~4~~2. A Licensee authorized to manufacture Regulated Marijuana Concentrate or Regulated Marijuana Product shall not use ingredients, other than Regulated Marijuana, with over 0.3% combined D8-THC, D9-THC, D10-THC, Exo-THC or other THC isomers, salts, or salt isomers of tetrahydrocannabinol in the manufacture, production, or Transfer of Regulated Marijuana Concentrate or Regulated Marijuana Product.

L. Standard Operating Procedures.

1. A Regulated Marijuana Products Manufacturer must have written standard operating procedures for each category and type of Medical Marijuana Product or Retail Marijuana Product that it produces.

a. All standard operating procedures for the production of a Medical Marijuana Concentrate or Retail Marijuana Concentrate must follow the requirements in Rules 5-315 and 6-315.

b. A copy of all standard operating procedures must be maintained on the Licensed Premises of the Regulated Marijuana Products Manufacturer.

c. If a Regulated Marijuana Products Manufacturer produces Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana, the standard operating procedures must include all methods and processes related to the creation of each type of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana product, including but not limited to, the strains used, where strains are sourced, which parts of Harvest Batches are used (e.g. flower, shake, trim), the size of the product (e.g. 1 gram pre-rolls), and how much and what type of Regulated Marijuana Concentrate is added (if applicable) for each type of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana it produces.

d. Provide adequate training to every Owner Licensee and Employee Licensee who performs a task or set of tasks that are referenced in the standard operating procedures. Adequate training must include, but need not be limited to, providing a copy of the standard operating procedures for that Licensed Premises detailing at least all of the topics required to be included in the standard operating procedures.

2. If a Regulated Marijuana Products Manufacturer makes a Material Change to its standard Medical Marijuana Product production process or Retail Marijuana Product production process, it must document the change and revise its standard operating procedures

accordingly. Records detailing the Material Change must be maintained on the relevant Licensed Premises.

M. Expiration Date for Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers. Effective July 1, 2022, a Regulated Marijuana Products Manufacturer that produces a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler shall establish an expiration date upon which the Vaporized Delivery Device or Pressurized Metered Dose Inhaler will no longer be fit for consumption. The Licensee shall determine the expiration date by conducting potency and contaminant testing pursuant to Rules 4-120 and 4-125 on the final Vaporizer Delivery Device or Pressurized Metered Dose Inhaler prior to Transfer to ensure the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler can pass potency and contaminant testing prior to the established expiration date.

1. When determining the expiration date for a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler pursuant to this rule, the Licensee shall also consider the following:

   i. Any expiration dates of additives used to produce the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler;

   ii. The interaction with hardware;

   iii. The final formulation within the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler; and

   iv. The ideal storage conditions for the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler.

2. The License may, but is not required to, use accelerated stability tests to demonstrate compliance with this rule.

3. Expiration date determinations, along with any data used to establish the expiration date, shall be documented and maintained in the Licensee's business records pursuant to these rules.

N. DMSO. Except for R&D Licensees, the use of Dimethylsulfoxide (DMSO) in the production of Regulated Marijuana Product and possession of DMSO upon the Licensed Premises is prohibited.

Basis and Purpose – 3-336

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(b)-(c), 44-10-203(1)(k), 44-10-203(2)(d)(I)-(VI), 44-10-203(2)(m), 44-10-401(2)(a)(III), 44-10-503, and 44-10-901(1), C.R.S. The purpose of this rule is to establish minimum requirements for a recall plan, the process by which the Division or a Regulated Marijuana Business initiates a product recall, the requirements any recall must meet, and how such recall is terminated.

3-336 – Recall of Regulated Marijuana

A. Effective Date. This Rule is effective January 1, 2021.

B. Applicability. This Rule 3-336 applies to Medical Marijuana Stores, Medical Marijuana Products Manufacturers, Medical Marijuana Cultivation Facilities, Medical Marijuana Research and Development Facilities, Retail Marijuana Stores, Retail Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Licensed Hospitality Businesses, Accelerator Cultivators, Accelerator Manufacturers, and Accelerator Stores.

C. Initiating a Recall. A Regulated Marijuana Business subject to this Rule 3-336 may voluntarily initiate a recall at any time or a recall may be initiated at the request of the Division. A Regulated Marijuana Business subject to this rule must comply with the requirements of this Rule 3-336.

1. Division Requests for Recalls:

i. If the Division requests a Regulated Marijuana Business to initiate a recall pursuant to this rule, the Division's correspondence, which may be electronic, must include the reasons for the recall request and any other information necessary for the Regulated Marijuana Business to initiate a recall pursuant to this rule.

ii. A recall request issued by the Division does not require that a Regulated Marijuana Business initiate a recall. However, if the Division has reasonable grounds to believe a Licensee's Regulated Marijuana is contaminated or otherwise presents a risk to public safety, the Division may require a Regulated Marijuana Business to quarantine affected Regulated Marijuana Inventory pursuant to Rules 4-115 and 4-135.

D. Recall Plan Required. A Regulated Marijuana Business subject to this Rule 3-336 must have a written recall plan. A recall plan shall include, but is not limited to the following:

1. Evaluation of a Complaint or Condition. A Regulated Marijuana Business subject to this rule must maintain a record of all complaints it receives regarding the quality of Regulated Marijuana that has any potential negative impact to health or regarding an adverse reaction. To the extent known after reasonable diligence to ascertain the information, the record must contain the name of the complainant, the purchase date, the location of where the product was purchased, the date the complaint was received, the nature of the complaint, the steps taken to investigate the complaint, the response to the complaint, and the name and Production or Harvest Batch number for the Regulated Marijuana subject to the complaint.

a. If an initial assessment indicates a recall may be necessary, the Regulated Marijuana Business shall take the following measures:

i. Determine the hazard and evaluate the safety concerns with the product;

ii. Undertake necessary product quarantine measures for any affected Regulated Marijuana in the Licensee's possession or control; and

iii. Determine the product removal strategy appropriate to the threat and location in commerce.

2. Identification of Affected Regulated Marijuana. A recall plan must establish a process for identifying affected Regulated Marijuana subject to a recall, which shall include the following:

a. Distribution List. When identifying Regulated Marijuana subject to a recall, the Licensee shall create a distribution list that includes the following information:

i. The name, license number, and address of the Regulated Marijuana Business(es) that received the Regulated Marijuana subject to the recall;

ii. Ship or Transfer date(s) for the Regulated Marijuana subject to the recall; and

iii. Business contact information for each Regulated Marijuana Business that received Regulated Marijuana subject to the recall, including names and telephone numbers.

b. Product Information. When identifying Regulated Marijuana subject to a recall, the Licensee shall document the following product information:

i. The category of Regulated Marijuana (e.g. Medical Marijuana flower; Medical Marijuana Concentrate; Medical Marijuana Product; Retail Marijuana flower; Retail Marijuana Concentrate, Retail Marijuana Product);

ii. Product description;

iii. Net contents;

iv. Production or Harvest Batch number;

v. The license number(s) for the Regulated Marijuana Business(es) that cultivated or manufactured the product(s) subject to the recall; and

vi. To the extent known after reasonable diligence to ascertain the information, the recall plan must also include the following additional product information: The amount of affected Regulated Marijuana returned in response to the recall and the amount of affected Regulated Marijuana that remains in the marketplace.

3. Notification to Affected Parties.

a. A Licensee initiating a recall pursuant to this rule shall issue a recall notice to Regulated Marijuana Businesses identified on the Licensee's distribution list.

b. No later than 48 hours from issuing a recall notice to Regulated Marijuana Businesses on the Licensee's distribution list, the Licensee shall issue the following additional notifications:

i. The Licensee shall notify the Division and the Colorado Department of Public Health and Environment;

ii. The Licensee shall notify the Local Licensing Authority or Local Jurisdiction in which the Licensee issuing the recall is located; and

iii. The Licensee shall notify patients or consumers using the most effective method available, which may include any of the following methods: an email to the patient or customer list serve, an alert on the Regulated Marijuana Business' website, a warning that is clearly and visibly posted on the Regulated Marijuana Business' Licensed Premises, or a press release to notify patients or consumers.

c. Recall Notice. A recall notice issued by a Regulated Marijuana Business pursuant to this rule shall include at least the following information:

i. The reason for recall and related hazards, if any. If the Regulated Marijuana is being removed for quality rather than health reasons, the

notice may state that the Regulated Marijuana does not meet internal company specifications and is being removed from distribution;

ii. The category of Regulated Marijuana (e.g. Medical Marijuana flower; Medical Marijuana Concentrate; Medical Marijuana Product; Retail Marijuana flower; Retail Marijuana Concentrate, Retail Marijuana Product);

iii. Regulated Marijuana Businesses that received the Medical Marijuana Concentrate, Medical Marijuana Product, Retail Marijuana Concentrate or Retail Marijuana Product;

iv. The license number(s) and name(s), including trade name(s), of the Regulated Marijuana Business(es) that cultivated or manufactured the product(s) subject to the recall;

v. Product description(s) for Regulated Marijuana subject to the recall;

vi. Production or Harvest Batch number(s) for the Regulated Marijuana subject to the recall;

vii. Expiration date(s) for the Regulated Marijuana subject to the recall, if applicable;

viii. Ship or Transfer date(s) for the Regulated Marijuana subject to the recall; and

ix. Instructions regarding the disposition of the Regulated Marijuana subject to the recall.

4. Removal of Affected Regulated Marijuana.

a. Removal. A Regulated Marijuana Business subject to this Rule 3-336 shall make all reasonable efforts to remove the affected Regulated Marijuana from commerce. Affected Regulated Marijuana that is either still in control of the originating Regulated Marijuana Business or in commerce shall be, secured, segregated, clearly labeled not for sale or distribution and separated from any other Medical Marijuana Concentrate, Medical Marijuana Product(s), Retail Marijuana Concentrate, or Retail Marijuana Product(s).

b. Final Product Disposition. At the discretion of the Regulated Marijuana Business contaminated product must be disposed by either:

i. Destroying and documenting the destruction of the affected Regulated Marijuana pursuant to Rule 3-230; or

ii. If possible, Decontaminating the affected Regulated Marijuana pursuant to Rule 4-135(B)(2). If the Regulated Marijuana cannot be decontaminated, it must be destroyed pursuant to Rule 4-135(B)(3)(c) and 3-230.

c. Recall Effectiveness. A Regulated Marijuana Business initiating a recall pursuant to this rule is responsible for determining whether the recall is effective. The Licensee shall complete recall effectiveness checks to verify that all receiving Licensees have been notified and have taken the appropriate action.

i. Effectiveness checks shall determine:

A. If the receiving Licensee received the recall notification;

B. If the recalled Regulated Marijuana was handled as instructed in the recall notification; and

C. If the Regulated Marijuana was further distributed or sold by the receiving Licensee before receipt of the recall notification, and if so, were these additional Licensees notified.

ii. If 100 percent of the affected Regulated Marijuana has been accounted for, then no effectiveness checks are required.

d. Termination of Recall. A Regulated Marijuana Business initiating a recall pursuant to this rule may terminate the recall when the Licensee determines that all reasonable efforts have been made to remove or correct the affected Regulated Marijuana in accordance with the recall plan, and when it is reasonable to assume that the Regulated Marijuana subject to the recall has been removed and proper disposition or correction has been made commensurate with the degree of hazard of the recalled Regulated Marijuana.

i. Upon termination of the recall, the Regulated Marijuana Business shall provide notice to the Division with a recall status report and a description of the disposition of the recalled Regulated Marijuana. The recall status report shall contain the following information:

A. Number of receiving Licensees notified of the recall, the date and method of notification;

B. Number of receiving Licensees who responded to the recall notice and both the quantity of affected Regulated Marijuana in the possession of the Licensee at the time of response, and quantity of affected Regulated Marijuana returned or corrected;

C. Number and results of the effectiveness checks that were made; and

D. Estimated time frame for completion of the recall.

Basis and Purpose – 3-340

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(b)-(c), 44-10-203(1)(k), 44-10-203(2)(l), 44-10-203(2)(m), and 44-10-901(1), C.R.S. The purpose of this Rule is to clarify that a Regulated Marijuana Businesses failure to comply with the requirements of 3-300 Rules Series may jeopardize the public health and safety.

3-340 – Violation Affecting Public Safety

A violation of these 3-300 Rules may be considered a license violation affecting public safety.

Basis and Purpose – 3-345 {Emergency rule expired 05/11/2021]

Rule 3-345 – [Emergency rule expired 05/11/2021]

3-400 Series – Acceptable Forms of Identification for Regulated Marijuana Sales

Basis and Purpose – 3-405

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(v), 44-10-203(2)(z), 44-10-401(2)(a)(I), 44-10-401(2)(b)(I), 44-10-501(3)(b), 44-10-501(3)(c), 44-10-501(3)(d), 44-10-501(4), 44-10-501(10)(b)(II), 44-10-601(3)(b), 44-10-701(1)(b), 44-10-701(2)(a), 44-10-701(4)(a), and 44-10-701(5)(a), C.R.S. The purpose of this rule is to establish guidelines for the acceptable forms of identification for verifying the lawful sale of Regulated Marijuana. This Rule 3-405 was previously Rule M 405, 1 CCR 212-1, and Rule R 404, 1 CCR 212-2.

3-405 – Identification

A. Medical Marijuana Transfers.

1. Necessary Identification. Medical Marijuana Stores may only Transfer Medical Marijuana to any patient or primary caregiver who is permitted to deliver Medical Marijuana to homebound patients or minor patients as permitted by section 25-1.5-106(9)(e), C.R.S., if the patient or caregiver can produce:

   a. Proof of identification that complies with subparagraphs (C) and (D) of this Rule; and

   b. Either a valid patient registry card, including any valid and verified digital registry card, or a copy of a current and complete new application for the Medical Marijuana registry that is documented by proof of submittal to the Colorado Department of Public Health and Environment within the preceding 35 days.

2. Physical Inspection Required. A Licensee must physically view and inspect the patient or primary caregiver's registry card, including any valid and verified digital registry card, and proof of identification to confirm the information contained on the documents and also to judge the authenticity of the documents presented.

3. Valid and Verified Registry Card. For the purposes of these rules, a valid and verified digital registry card may include:

   a. A hard copy of the patient's registry card; or

   b. A portable document format (PDF) of the patient's registry card presented on a phone or other portable device.

      i. If a patient is presenting his or her registry card on a phone or other portable device, the PDF of the registry card must be presented.

      ii. A screen shot of the patient's profile, text image of a blank card, or photo of the hard copy is unacceptable.

B. Retail Marijuana Transfers. An Accelerator Store, a Retail Marijuana Store, or a Retail Marijuana Hospitality and Sales Business may only Transfer Retail Marijuana to a consumer that first produces a form of identification that complies with subparagraphs (C) and (D) of this Rule establishing the consumer is 21 years of age or older.

1. Fraudulent Identification and Licensee's Burden. Pursuant to section 44-10-601(3)(b)(I), C.R.S., if a person under 21 years of age presents a fraudulent proof of age to a Retail Marijuana Store, or an Accelerator Store any action based upon the fraudulent proof of age shall not be grounds for the revocation or suspension of a license. To establish that the identification presented by the minor was a fraudulent proof of age, the Licensee must establish that:

    a. The minor presented fraudulent identification of the type established in subparagraph (C) below;

    b. During the transaction in which Retail Marijuana was Transferred to the minor, the Licensee inspected the identification provided, compared the identification to the person presenting the identification, and:

        i. Inspected an identification book issued within the past three years:

        ii. Used an electronic scanner;

        iii. Used an ID checking software or other device used in the inspection of identification; or

        iv. Used other ID security features.

C. Forms of Valid Identification. The kind and type of identification deemed adequate shall be limited to the following, including any valid and verified digital identification:

1. An operator's, chauffeur's, or similar type driver's license, including a temporary license issued by any state within the United States, District of Columbia, or any U.S. territory;

2. An identification card, including a temporary identification card, issued by any state within the United States, District of Columbia, or any U.S. territory, for the purpose of proof of age using requirements similar to those in sections 42-2-302 and 42-2-303, C.R.S.;

3. A United States military identification card or any other identification card issued by the United States government including but not limited to a permanent resident card, alien registration card, or consular card;

4. A passport or passport identification card; or

5. An Enrollment card issued by the governing authority of a federally recognized Indian tribe, if the enrollment card incorporates proof of age requirements similar to sections 42-2-302 and 42-2-303, C.R.S.

D. Identification Must Be Valid. A Licensee shall refuse the Transfer of Regulated Marijuana if a person produces identification that is invalid or expired.

3-500 Series – Responsible Vendor Program

Basis and Purpose – 3-505

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-12-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(v), 44-203(2)(dd)(II), 44-10-609(3)(b), 44-10-1201, and 44-10-1202, C.R.S. The purpose of this rule is to establish the standards for a person, employee, manager, or Controlling Beneficial Owner, Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, Retail Marijuana Transporter, Marijuana Hospitality Businesses, and Retail Marijuana Hospitality and Sales

Businesses to obtain and maintain a "responsible vendor" designation. This rule identifies Licensees required to attend the Approved Training Program and requirements to maintain a "responsible vendor" designation after initially being designated a "responsible vendor." This Rule 3-505 was previously Rules M 408, 1 CCR 212-1, and R 407, 1 CCR 212-2.

3-505 – General Standards for ~~a Regulated Marijuana Business Designated A~~ Responsible Vendor Designations

A. Pursuant to section 44-10-1202, C.R.S., a Regulated Marijuana Business Licensee, Owner Licensee, or Employee Licensee ~~Medical Marijuana Store, Accelerator Store, Retail Marijuana Store, Medical Marijuana Transporter, Retail Marijuana Transporter, or Licensed Hospitality Business~~ shall comply with these 3-500 Series Rules to be designated a "responsible vendor" of Regulated Marijuana.

B. Regulated Marijuana Business Responsible Vendor Designation. To be designated a "responsible vendor" as a Regulated Marijuana Business all Controlling Beneficial Owners with day-to-day operational control of the Licensed Premises, management personnel with responsibility over sales or training of employees who engage in sales or other consumer, primary caregiver, or patient interactions, and Employee Licensees involved in the handling and Transfer of Regulated Marijuana ~~shall attend and~~must have successfully completed an Approved Training Program.

C. Individual Responsible Vendor Designation. A person, Employee Licensee, manager, or Controlling Beneficial Owner may receive a "responsible vendor" designation upon successful completion of an Approved Training Program~~Once a Licensee is designated a "responsible vendor," all new employees involved in the handling and Transfer of Regulated Marijuana shall successfully complete the training described in these 3-500 Series Rules within 90 days of hire~~.

D. Maintaining Responsible Vendor Designation.

1. After initial successful completion of a responsible vendor program, each Controlling Beneficial Owner with day-to-day operational control of the Licensed Premises, management personnel, and Employee Licensee of a Regulated Marijuana Business, as described in subparagraph (B) of this Rule, shall successfully complete ~~the~~an Approved Training ~~p~~Program once every two years thereafter for the Regulated Marijuana Business to maintain its designation as a "responsible vendor."

2. Once a Regulated Marijuana Business License is designated a "responsible vendor," all new Controlling Beneficial Owners with day-to-day operational control, new managers, or employees with responsibility over sales or training of employees who engage in sales or other consumer, primary caregiver, or patient interactions shall successfully complete the training described in these 3-500 Series Rules within 90 days of becoming employed or an owner.

3. If an Employee Licensee with a "responsible vendor" designation leaves the employment of a Regulated Marijuana Business and is employed by another Regulated Marijuana Business, the Employee Licensee does not have to receive a new "responsible vendor" designation until the Employee Licensee's current "responsible vendor" designation expires.

4. If an Employee Licensee or Controlling Beneficial Owner has a valid "responsible vendor" designation upon hiring or becoming a Controlling Beneficial Owner, then the Regulated Marijuana Business must verify the designation within 90 days to maintain the Regulated Marijuana Business's "responsible vendor" designation.

E. Documentation Required. Information or documentation related to a "responsible vendor" designation must be maintained in accordance with Rule 3-905 of these Rules.

1. An Employee Licensee or Controlling Beneficial Owner with a valid "responsible vendor" designation is responsible for maintaining information related to the designation, including but not limited to the date(s) the Employee Licensee or Controlling Beneficial Owner took the Approved Training Program and the Responsible Vendor Training Program Provider's information.

2. A Regulated Marijuana Business is responsible for maintaining information related to a "responsible vendor" designation, including but not limited to the Employee Licensee(s) or Controlling Beneficial Owner(s) who have passed an Approved Training Program and the date(s) of such training.

F. Failure to Complete Approved Training Program or Verify Valid Responsible Vendor Designation. If within 90 days of hire an Employee Licensee or Controlling Beneficial Owner either fails to successfully complete an Approved Training Program, or the Regulated Marijuana Business fails to verify the new employee, manager, or Controlling Beneficial Owner has a valid "responsible vendor" designation, then the Regulated Marijuana Business will lose its "responsible vendor" designation.

Basis and Purpose – 3-510

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-12-203(1)(c), 44-10-203(2)(v), and 44-10-203(1)(k), 44-10-1201, 44-10-1202, C.R.S. The purpose of this rule is to establish general application and notification requirements for Responsible Vendor Program Providers. This Rule 3-510 was previously Rules M 408, 1 CCR 212-1, and R 407, 1 CCR 212-2.

3-510 – General Standards for Responsible Vendor Program Provider

A. An application for approval of a responsible vendor program pursuant to section 44-10-1201 or 44-10-1202, C.R.S., shall be made upon current forms prescribed by the Division and in accordance with the 2-200 Series Rules.

B. Changes to an Approved Program. Within 30 days of any changes to the Marijuana Code, or these rules, a Responsible Vendor Program Provider shall update its responsible vendor program curriculum with any such changes.

Basis and Purpose – 3-515

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-12-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(v), 44-203(2)(dd)(II), 44-10-609(3)(b), 44-10-1201, and 44-10-1202, C.R.S. The purpose of this rule is to provide the general standards for an Approved Training Program including the minimum amount of instruction time required, that the training must be provided in a classroom setting which may be virtual or online and the testing and passing score requirements for successful completion of the Approved Training Program. This Rule 3-515 was previously Rules M 408, 1 CCR 212-1, and R 407, 1 CCR 212-2.

3-515 – Certification Training Program Standards

A. No owner or employee of a responsible vendor program may have an Owner's Interest in a Regulated Marijuana Business.

B. A Responsible Vendor Program Provider shall submit their responsible vendor program for approval every two years in order to maintain designation as a Responsible Vendor Program

Provider. The renewal application must be submitted within 60 days of the expiration of the Approved Training Program.

C. The responsible vendor program shall include at least two hours of instruction time.

D. Classroom setting. The responsible vendor program shall be taught in a classroom setting where the instructor is able to verify the identification of each individual attending the responsible vendor program and certify completion of the responsible vendor program by the individual identified.

1. An Approved Training Program may be delivered in an on-line or virtual based classroom setting provided the Responsible Vendor Program Provider utilizes a learning management system or other means to verify the identification of each individual attending the responsible vendor program. For purposes of this Rule, a learning management system means the platform or database used to monitor participation, attendance, and to deliver core-curriculum materials.

2. Any Approved Training Program delivered in an on-line or virtual based classroom setting must comply with the core curriculum and assessment requirements of Rule 3-520.

E. The Responsible Vendor Program Provider shall maintain its training records in a format that is readily understood by a reasonably prudent business person during the applicable year and for the following three years. The Responsible Vendor Program Provider shall make the records available for inspection by the State Licensing Authority upon request during normal business hours.

F. The responsible vendor program shall provide to the Licensee written or electronic documentation of attendance and successful passage of a test on the knowledge of the required curriculum for each attendee.

1. Successful completion of an Approved Training Program requires a minimum passage score of 70% or better. A Responsible Vendor Program Provider may provide a reasonable testing accommodation or modification to a Licensee participant, provided the results of the test are documented and meet the minimum passing score requirement.

G. A Responsible Vendor Program Provider shall solicit effectiveness evaluations from individuals who have completed the Approved Training Program.

Basis and Purpose – 3-520

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-12-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(v), 44-203(2)(dd)(II), 44-10-609(3)(b), 44-10-1201, and 44-10-1202, C.R.S. The purpose of this rule is to establish the required curriculum for an Approved Training Program. This rule also includes the required additional curriculum for Licensees engaged in delivery activity pursuant to a valid delivery permit and employees and Controlling Beneficial Owners of a Licensed Hospitality Businesses. This Rule 3-520 was previously Rules M 408, 1 CCR 212-1, and R 407, 1 CCR 212-2.

3-520 – Certification Training Class Core Curriculum

When considering whether to approve a responsible vendor program, the Division, after consulting with the Colorado Department of Public Health and Environment, will consider the following criteria.

A. Discussion concerning the health and safety concerns of marijuana use. Training shall include:

1. Health effects of marijuana use, including but not limited to the effects in connection with pregnancy and breast-feeding;

2. The amount of time to feel impairment based on the type of marijuana or marijuana product;

3. Recognizing signs of impairment;

4. The amount of time to wait before driving after marijuana use based on the type of marijuana or marijuana product;

5. Safe storage of marijuana;

6. Responsible use of marijuana; and

7. Appropriate responses in the event of unintentional or over-consumption of marijuana or marijuana product, including but not limited to access to the appropriate resources provided by state and local public health authorities.

B. Transfers to minors. Training shall cover all pertinent Colorado statutes, rules, and regulations.

C. Quantity Limitations on Transfer to Patients and Consumers. Training shall cover all pertinent Colorado statutes, rules, and regulations.

D. Acceptable Forms of Identification. Training shall include:

1. How to check identification;

2. Spotting false identification;

3. Patient Registry Cards issued by the Colorado Department of Public Health and Environment and equivalent patient verification documentation;

4. Provisions for confiscating false identification; and

5. Common mistakes made in verification.

E. Other Key State Laws and Rules That Apply to Medical Marijuana Stores, Medical Marijuana Transporters, Retail Marijuana Stores, Retail Marijuana Transporters Licensed Hospitality Businesses, and their Owners, Management Personnel, and Employees. Training shall include:

1. Local and state licensing and enforcement;

2. Compliance with all Inventory Tracking System regulations;

3. Administrative and criminal liability;

4. License sanctions and court sanctions;

5. Waste handling, management, and disposal;

6. Health and safety standards;

7. Patrons prohibited from bringing marijuana onto licensed premises;

8. Permitted hours of sale;

9. Licensee security and surveillance requirements;

10. Permitting inspections by state and local licensing and enforcement authorities;

11. Licensee responsibility for activities occurring within licensed premises;

12. Maintenance of records;

13. Privacy issues;

14. Applicable laws and regulations concerning Transfers to patients and consumers;

15. Packaging and labeling requirements for Transfers to patients and consumers;

16. How to access the Medical Marijuana Patient Registry website and how to sign up for the Registry's voluntary email list; and

17. Statutory and regulatory requirements related to Regulated Marijuana delivery.

F. Evaluation of Program Participants. The Responsible Vendor Program Provider shall establish that it has an adequate mechanism for evaluating attendees' successful completion of the Approved Training Program.

G. Additional Curriculum for Delivery to Patients and Consumers. In addition to the required curriculum in subparagraphs (B) through (F) above, training provided to any Licensee involved in activity pursuant to a valid delivery permit must also include all Colorado statutes and rules related to delivery of Regulated Marijuana to patients and consumers. Responsible Vendor Program Providers may provide the delivery curriculum as a separate training or as part of the core curriculum training. Licensees that do not engage in delivery activity are not required to, but may, complete the delivery training. Training provided to Licensees involved in delivery activity must include, but is not limited to:

1. Verification of identification and patient registry cards required before delivering Regulated Marijuana to a patient or consumer;

2. Maintaining confidentiality of patients' and consumers' personally identifiable information;

3. Methods for Licensees to identify themselves and verify the delivery permit during an interaction with law enforcement, Division employees or local regulators; and

4. Strategies to de-escalate potentially dangerous situations which could include development of an emergency action plan.

H. Additional Curriculum for Licensed Hospitality Businesses. In addition to the required curriculum in subparagraphs (B) through (F) above, training provided to Controlling Beneficial Owners of and any Licensee employed by a Licensed Hospitality Business must also include all Colorado statutes and rules related to Licensed Hospitality Businesses. Responsible Vendor Program Providers may provide the hospitality curriculum as a separate training or as part of the core curriculum training. Licensees that are not employed by a Licensed Hospitality Business are not required to, but may, complete the hospitality training. Training provided to Controlling Beneficial Owners of and employees of a Licensed Hospitality Business must include, but is not limited to:

1 Identifying signs of visible impairment including alcohol and drug impairment;

2. Resources to mitigate impaired driving including safe transportation options available to consumers;

3. Understanding customer's varying experience with Regulated Marijuana and options for lower dose Regulated Marijuana Products;

4. Resources available from the Colorado Department of Public Health and Environment regarding responsible Regulated Marijuana use;

5. Ceasing all consumption and other activities until law enforcement, firefighters, emergency medical service providers, or other public safety personnel have completed any investigation or services and left the Licensed Premises of the Licensed Hospitality Business;

6. Methods for Licensees to identify themselves during an interaction with law enforcement, Division employees or local regulators;

7. Poly-substance interactions including but not limited to interactions of Regulated Marijuana with alcohol, prescription and over-the-counter medications and other substances;

8. Risks and potential responses to adverse events such as overconsumption, altitude sickness, dehydration, poly-substance use or other similar events.

9. Strategies to de-escalate interactions with intoxicated consumers and potentially dangerous situations which could include development of an emergency action plan.

3-600 Series – Transport and Storage

Basis and Purpose – 3-605

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-313(5)(b), 44-10-505, and 44-10-605 C.R.S. The purpose of the rule is to provide clarity as to the requirements associated with the transport and delivery of Regulated Marijuana between Licensed Premises. It also prescribes the manner in which licensed entities will track inventory in the transport process to prevent diversionary practices. This Rule 3-605 was previously Rules M and R 801, 1 CCR 212-1 and 1 CCR 212-2.

3-605 – Transport: All Regulated Marijuana Businesses

A. Persons Authorized to Transport. Except as provided in these 3-600 Series Rules, any individual who transports Regulated Marijuana, Regulated Marijuana Vegetative plants, Regulated Marijuana Immature plants, Regulated Marijuana, or Regulated Marijuana Product on behalf of a Regulated Marijuana Business must hold a valid Owner License or Employee License and must be an employee of the Regulated Marijuana Business. An individual who does not possess a current and valid Owner's License or Employee License from the State Licensing Authority may not transport Regulated Marijuana, Regulated Marijuana Vegetative plants, Regulated Marijuana Immature plants, Regulated Marijuana Concentrate, or Regulated Marijuana Product between Licensed Premises.

B. Transport Between Licensed Premises.

1. Regulated Marijuana. Regulated Marijuana shall only be transported by Licensees between Licensed Premises; between Licensed Premises and a permitted off-premises storage facility; and between Licensed Premises and a Pesticide Manufacturer. Licensees transporting Regulated Marijuana are responsible for ensuring that all Regulated Marijuana are secured at all times during transport.

2. Regulated Marijuana Vegetative Plants and Regulated Marijuana Immature Plants.

   a. Regulated Marijuana Vegetative plants may only be transported between Licensed Premises and such transport shall only be permitted due to an approved change of location pursuant to Rule 2-255.

   b. Regulated Marijuana Immature plants shall only be transported between Licensed Premises; and between Licensed Premises and a Pesticide Manufacturer.

   c. Licensees transporting Regulated Marijuana Vegetative plants and Regulated Marijuana Immature plants are responsible for ensuring that all Regulated Marijuana Vegetative plants and Regulated Marijuana Immature plants are secure at all times during transport. Transportation of Regulated Marijuana Vegetative plants and Regulated Marijuana Immature plants to a permitted off-premises storage facility shall not be allowed. Transport of Regulated Marijuana plants other than Vegetative Plants and Immature plants shall not be allowed.

C. Inventory Tracking System-Generated Transport Manifest Required. A Licensee may only transport Regulated Marijuana if he or she has a copy of an Inventory Tracking System-generated transport manifest that contains all the information required by this Rule and shall be in the format prepared by the State Licensing Authority.

   1. A Licensee may elect to use a hard copy or digital copy of an Inventory Tracking System-generated transport manifest. Licensees are required to ensure all information is preserved with valid and verified signatures on any digital copy of an Inventory Tracking System-generated transport manifest.

   2. Regulated Marijuana. A Licensee may transport Regulated Marijuana from an originating location to multiple destination locations so long as the transport manifest correctly reflects the specific inventory destined for specific Regulated Marijuana Businesses and/or Pesticide Manufacturers.

   3. Regulated Marijuana Vegetative Plants. A Licensee shall transport Regulated Marijuana Vegetative plants only from the originating Licensed Premises to the destination Licensed Premises due to a change of location that has been approved by the Division pursuant to Rule 2-255.

   4. Manifest for Transfers to Pesticide Manufacturers. A Licensee may not transport or permit the transportation of Regulated Marijuana to a Pesticide Manufacturer unless an Inventory Tracking System-generated transport manifest has been generated.

D. Motor Vehicle Required. Transport of Regulated Marijuana shall be conducted by a motor vehicle that is properly registered in the state of Colorado pursuant to motor vehicle laws, but need not be registered in the name of the Licensee. Except that when a rental truck is required for transporting Regulated Marijuana Vegetative plants or Regulated Marijuana Immature plants, Colorado motor vehicle registration is not required.

E. Documents Required During Transport. Transport of Regulated Marijuana shall be accompanied by a copy of the originating Regulated Marijuana Business's business license, the driver's valid Owner's License or Employee License, the driver's valid motor vehicle operator's license, and all required vehicle registration and insurance information.

F. Use of Colorado Roadways. State law does not prohibit the transport of Regulated Marijuana on any public road within the state of Colorado as authorized in this Rule. However, nothing herein

authorizes a Licensee to violate specific local ordinances or resolutions enacted by any city, town, city and county, or county related to the transport of Regulated Marijuana.

G. Preparation of Regulated Marijuana for Transport.

1. Final Weighing and Packaging. A Regulated Marijuana Business shall comply with the specific rules associated with the final weighing and packaging of Regulated Marijuana before such items are prepared for transport pursuant to this Rule. The scale used to weigh product to be transported shall be tested and approved in accordance with measurement standards established in 35-14-127, C.R.S.

2. Preparation in Limited Access Area. Regulated Marijuana shall be prepared for transport in a Limited Access Area, including the packaging and labeling of Containers or Shipping Containers.

3. Shipping Containers. Licensees may Transfer multiple Containers of Regulated Marijuana in a Shipping Container. The contents of Shipping Containers shall be easily accessible and may be inspected by the State Licensing Authority, Local Licensing Authorities, Local Jurisdictions, and state and local law enforcement agency for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose.

a. Licensees shall ensure that either the multiple Containers placed within a Shipping Container each have an RFID tag, or the Shipping Container itself must have an RFID tag. If the Licensee elects to place the RFID tag on the Shipping Container, the Shipping Container shall contain only one Harvest Batch, or Production Batch of Regulated Marijuana. If a Shipping Container consists of more than one Harvest Batch or Production Batch, then each group of multiple Containers shall be affixed with an RFID tag

b. Regulated Marijuana Vegetative Plants and Regulated Marijuana Immature Plants. Each Regulated Marijuana Vegetative plant that is transported pursuant to this Rule must have a RFID tag affixed to it prior to transport. Each receptacle containing Regulated Marijuana Immature plants transported pursuant to this Rule must have an RFID tag affixed prior to transport.

H. Creation of Records and Inventory Tracking.

1. Use of Inventory Tracking System – Generated Transport Manifest.

a. Regulated Marijuana. Licensees who transport or permit the transportation of Regulated Marijuana shall create an Inventory Tracking System-generated transport manifest to reflect inventory that leaves the Licensed Premises destined for another Licensed Premises or Pesticide Manufacturers. The transport manifest may either reflect multiple destination locations within a single trip or separate transport manifests may reflect each single destination location. In either case, no inventory shall be transported without an Inventory Tracking System-generated transport manifest.

b. Use of a Medical Marijuana Transporter or Retail Marijuana Transporter. In addition to subparagraph (H)(1)(a), Licensees shall also follow the requirements of this subparagraph (H)(1)(b) when a Licensee utilizes the services of a Medical Marijuana Transporter or Retail Marijuana Transporter.

i. When a Medical Marijuana Business utilizes a Medical Marijuana Transporter for transporting its Medical Marijuana, the originating Licensee shall input the requisite information on the Inventory Tracking System-generated transport manifest for the final destination Licensee or Pesticide Manufacturer who will be receiving the Medical Marijuana.

ii. When a Retail Marijuana Business utilizes a Retail Marijuana Transporter for transporting its Retail Marijuana the originating Licensee shall input the requisite information on the Inventory Tracking System-generated transport manifest for the final destination Licensee or Pesticide Manufacturer who will be receiving the Retail Marijuana.

iii. A Medical Marijuana Transporter or Retail Marijuana Transporter is prohibited from being listed as the final destination Licensee.

iv. A Medical Marijuana Transporter or Retail Marijuana Transporter shall not alter the information of the final destination Licensee or Pesticide Manufacturer after the information has been entered on the Inventory Tracking System-generated transport manifest by the Licensee.

v. If the Medical Marijuana Transporter or Retail Marijuana Transporter is not delivering the originating Licensee's Regulated Marijuana directly to the final destination Licensee or Pesticide Manufacturer, the Medical Marijuana Transporter or Retail Marijuana Transporter shall communicate to the originating Licensee which of the Medical Marijuana Transporter's or Retail Marijuana Transporter's Licensed Premises or off-premises storage facilities will receive and temporarily store the Regulated Marijuana. The originating Licensee shall input the Medical Marijuana Transporter's or Retail Marijuana Transporter's location address and license number on the Inventory Tracking System-generated transport manifest.

c. Medical Marijuana Vegetative Plants and Retail Marijuana Vegetative Plants.

i. Licensees who transport Medical Marijuana Vegetative or Retail Marijuana Vegetative plants shall create an Inventory Tracking System-generated transport manifest to reflect inventory that leaves the originating Licensed Premises to be transported to the destination Licensed Premises due to a change of location approved by the Division pursuant to Rule 2-255, or a one-time Transfer pursuant to Rule 3-805.

ii. Retail Marijuana Transporters are permitted to transport Retail Marijuana Vegetative plants on behalf of other Licensees due to a change of location approved by the Division pursuant to Rule 2-255, or a one-time Transfer pursuant to Rule 3-805. The Retail Marijuana Transporter shall transport the Retail Marijuana Vegetative Plants directly from the originating Licensed Premises to the final destination Licensed Premises.

iii. Medical Marijuana Transporters are permitted to transport Medical Marijuana Vegetative plants on behalf of other Licensees due to a change of location approved by the Division pursuant to Rule 2-255, or a one-time Transfer pursuant to Rule 3-805. The Medical Marijuana Transporter shall transport the Medical Marijuana Vegetative plants directly from the originating Licensed Premises to the final destination Licensed Premises.

2. Copy of Transport Manifest to Recipient. A Licensee shall provide a copy of the transport manifest to each Regulated Marijuana Business, or Pesticide Manufacturer receiving the inventory described in the transport manifest. In order to maintain transaction confidentiality, the originating Licensee may prepare a separate Inventory Tracking System-generated transport manifest for each recipient Regulated Marijuana Business or Pesticide Manufacturer.

3. The Inventory Tracking System-generated transport manifest shall include the following:

    a. Departure date and approximate time of departure;

    b. Name, location address, and license number of the originating Regulated Marijuana Business;

    c. Name, location address, and license number of the destination Regulated Marijuana Business(es) or name and location address of the destination Pesticide Manufacturer;

    d. Name, location address, and license number of the Medical Marijuana Transporter or Retail Marijuana Transporter if applicable pursuant to Rule 3-605(H)(1)(b)(iv).

    e. Product name and quantities (by weight and unit) of each product to be delivered to each specific destination location(s);

    f. Arrival date and estimated time of arrival;

    g. Transport vehicle make and model and license plate number; and

    h. Name, Employee or Owner License number, and signature of the Licensee accompanying the transport.

I. Inventory Tracking. In addition to all the other tracking requirements set forth in these rules, a Regulated Marijuana Business shall be responsible for all the procedures associated with the tracking of inventory that is transported between Licensed Premises. *See* Rule 3-905 – Business Records Required.

1. Responsibilities of Originating Licensee.

    a. Regulated Marijuana. Prior to departure, the originating Regulated Marijuana Business shall adjust its records to reflect the removal of Regulated Marijuana. The scale used to weigh product to be transported shall be tested and approved in accordance with measurement standards established in 35-14-127, C.R.S. Entries to the records shall note the Inventory Tracking System-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest.

    b. Regulated Marijuana Vegetative Plants and Regulated Marijuana Immature Plants. Prior to departure, the originating Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility shall adjust its records to reflect the removal of Medical Marijuana Vegetative plants and Medical Marijuana Immature plants, or Retail Marijuana Vegetative plants and Retail Marijuana Immature plants. Entries to the records shall note the Inventory Tracking System-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest.

2. Responsibilities of Recipient Licensee.

a. Regulated Marijuana. Upon receipt, the receiving Licensee shall ensure that the Regulated Marijuana received are as described in the transport manifest and shall immediately adjust its records to reflect the receipt of inventory. The scale used to weigh product being received shall be tested and approved in accordance with measurement standards established in 35-14-127, C.R.S. Entries to the inventory records shall note the Inventory Tracking System-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest. Medical Marijuana Transporters and Retail Marijuana Transporters shall comply with all requirements of this subparagraph (I)(2)(a) except that they are not required to weigh Regulated Marijuana.

i. When a Regulated Marijuana Business transfers Regulated Marijuana to a Pesticide Manufacturer, the originating Licensee is responsible for confirming receipt of the Regulated Marijuana in the Inventory Tracking System.

b. Regulated Marijuana Vegetative Plants and Regulated Marijuana Immature Plants. Upon receipt, the recipient Licensee shall ensure that the Regulated Marijuana Vegetative plants received are as described in the transport manifest, accounting for all RFID tags and each associated plant, and shall immediately adjust its records to reflect the receipt of inventory. Upon Receipt, the recipient Licensee shall ensure that the Regulated Marijuana Immature plants received are as described in the transport manifest, accounting for all RFID tags and each receptacle containing Regulated Marijuana Immature plants, and shall immediately adjust its records to reflect the receipt of inventory.

i. When a Regulated Marijuana Business transfers Regulated Marijuana Immature plants to a Pesticide Manufacturer, the originating Licensee is responsible for confirming receipt of the Retail Marijuana Immature plants in the Inventory Tracking System.

3. Discrepancies.

a. Licensees. A recipient Licensee shall separately document any differences between the quantity specified in the transport manifest and the quantities received. Such documentation shall be made in the Inventory Tracking System and in any relevant business records.

b. Pesticide Manufacturers. In the event of a discrepancy between the quantity specified in a transport manifest and the quantity received by a Pesticide Manufacturer, the originating Licensee shall document the discrepancy in the Inventory Tracking System and in any relevant business records, and account for the discrepancy.

J. Adequate Care of Perishable Regulated Marijuana Product. A Regulated Marijuana Business must provide adequate refrigeration for perishable Regulated Marijuana Product during transport.

K. Failed Testing. In the event Regulated Marijuana has failed required testing, has been contaminated, or otherwise presents a risk of cross-contamination to other Regulated Marijuana, such Regulated Marijuana may only be transported if it is physically segregated and contained in a sealed package that prevents cross-contamination.

Basis and Purpose – 3-610

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-313(14), 44-10-505(2), 44-10-605(2), and 44-10-1001(2), C.R.S. The purpose of this rule is to establish that Regulated Marijuana may not be stored outside of Licensed Premises unless the Licensee obtains an off-premises storage facility permit. This Rule 3-610 was previously Rules M and R 802, 1 CCR 212-1 and 1 CCR 212-2.

3-610 – Off-Premises Storage of Regulated Marijuana: All Regulated Marijuana Businesses

A. Off-Premises Storage Permit Authorized.

1. A Medical Marijuana Store, Medical Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, Medical Marijuana Testing Facility may only have one off-premises storage facility permit and may store Medical Marijuana in their Limited Access Area or in their one permitted off-premises storage facility. Medical Marijuana Transporters are allowed to have more than one permitted off-premises storage facility.

2. A Retail Marijuana Store, Retail Marijuana Products Manufacturer, a Retail Marijuana Cultivation Facility, and a Retail Marijuana Testing Facility may only have one off-premises storage facility permit and may store Retail Marijuana in their Limited Access Area or in their one permitted off-premises storage facility. Retail Marijuana Transporters are allowed to have more than one permitted off-premises storage facility.

3. An Accelerator Licensee may only have one off-premises storage facility permit and may store Retail Marijuana in their Limited Access Area of in their one permitted off-premises storage facility.

B. Permitting. To obtain a permit for an off-premises storage facility, a Regulated Marijuana Business must apply on current Division forms and pay any applicable fees.

1. A Medical Marijuana Transporter may only apply for and hold an off-premises storage permit in a local jurisdiction that permits the operation of Medical Marijuana Stores.

2. A Retail Marijuana Transporter may only apply for and hold an off-premises storage permit in a Local Jurisdiction that permits the operation of Retail Marijuana Stores.

C. Extension of Licensed Premises. A permitted off-premises storage facility is an extension of the Regulated Marijuana Business's Licensed Premises, subject to all applicable Regulated Marijuana regulations.

D. Limitation on Inventory to be Stored.

1. A Medical Marijuana Store, Medical Marijuana Products Manufacturer, and a Medical Marijuana Cultivation Facility possessing a valid off-premises storage facility permit may only have upon the permitted off-premises storage facility Medical Marijuana that is part of the particular Medical Marijuana Business's finished goods inventory. The aforementioned Licensees may only share the premises with, and store inventory belonging to, a Medical Marijuana Business that has identical Controlling Beneficial Owners.

2. A Retail Marijuana Store, Retail Marijuana Products Manufacturer, and a Retail Marijuana Cultivation Facility possessing a valid off-premises storage facility permit may only have upon the permitted off-premises storage facility Retail Marijuana that is part of the particular Retail Marijuana Business's finished goods inventory. The aforementioned

Licensees may only share the premises with, and store inventory belonging to a Retail Marijuana Business that has identical Controlling Beneficial Owners.

3. A Medical Marijuana Business may share one off-premises storage facility with the same type of Retail Marijuana Business if the businesses operate a shared Licensed Premises pursuant to Rule 3-215 and if the Local Licensing Authority and Local Jurisdiction permit shared off-premises storage facilities. All Transfers of Regulated Marijuana by a Regulated Marijuana Business to or from its off-premises storage facility must be without consideration except for delivery orders packaged for delivery to patients or consumers pursuant to subparagraph E.

4. An Accelerator Licensee possessing a valid off-premises storage facility permit may only have upon the permitted off-premises storage facility Retail Marijuana that is part of the Accelerator Licensee's finished goods inventory. The aforementioned Accelerator Licensees may only share the off-premises storage facility with, and store inventory belonging to, an Accelerator Licensee that has identical Controlling Beneficial Owners.

E. Privileges and Restrictions. The permitted off-premises storage facility may be utilized for storage only. A Regulated Marijuana Business must not Transfer, cultivate, manufacture, process, test, research, or consume any Regulated Marijuana within the premises of the permitted off-premises storage facility. An off-premises storage facility shall not be used as a distribution center for Transfers to Regulated Marijuana Businesses without identical Controlling Beneficial Owners or for consideration.

1. A Medical Marijuana Store or Retail Marijuana Store with a valid delivery permit may use its own off-premises storage facility to package, label, and fill orders for delivery of Regulated Marijuana to a patient or consumer after the Medical Marijuana Store or Retail Marijuana Store receives an order for delivery, unless otherwise restricted by the local jurisdiction.

2. A Medical Marijuana Transporter or Retail Marijuana Transporter shall not use its own off-premises storage facility to package, label, or fill orders for delivery of Regulated Marijuana to a patient or customer. A Medical Marijuana Transporter or a Retail Marijuana Transporter may use its own off-premises storage facility to store Regulated Marijuana that is packaged and labeled for delivery to a patient or consumer, unless otherwise restricted by the Local Licensing Authority or Local Jurisdiction.

F. Display of Off-premises Storage Permit and License. The off-premises storage facility permit and a copy of the Regulated Marijuana Business's license must be displayed in a prominent place within the permitted off-premises storage facility.

G. Local Licensing Authority or Local Jurisdiction Approval.

1. Prior to submitting an application for an off-premises storage facility permit, the Regulated Marijuana Business must obtain approval or acknowledgement from the relevant Local Licensing Authority or Local Jurisdiction.

2. A copy of the relevant Local Licensing Authority's or Local Jurisdiction's approval or acknowledgement must be submitted by the Regulated Marijuana Business in conjunction with its application for an off-premises storage facility.

3. No Regulated Marijuana may be stored within a permitted storage facility until the relevant Local Licensing Authority or Local Jurisdiction has been provided a copy of the off-premises storage facility permit.

4. Any off-premises storage permit issued by the Division shall be conditioned upon the Regulated Marijuana Business's receipt of all required Local Jurisdiction approvals or acknowledgments.

H. Security in Storage Facility. A permitted off-premises storage facility must meet all video, security and lock requirements applicable to a Licensed Premises. *See* Rules 3-220 – Security Alarm and Lock Standards and Rule 3-225 – Video Surveillance.

I. Transport to and from a Permitted Off-Premises Storage Facility. A Licensee must comply with the provisions of Rule 3-605 – Transport: All Regulated Marijuana Businesses, when transporting any Regulated Marijuana to and from a permitted off-premises storage facility.

J. Inventory Tracking. In addition to all the other tracking requirements set forth in these rules, a Regulated Marijuana Business shall utilize the Inventory Tracking System to track its inventories from the point of Transfer to or from a permitted off-premises storage facility. *See* Rules 3-805 – All Regulated Marijuana Businesses: Inventory Tracking System and Rule 3-905 – Business Records Required.

K. Inventory Tracking System Access and Scale. Every permitted off-premises storage facility must have an Inventory Tracking System terminal and a scale tested and approved in accordance with measurement standards established in section 35-14-127, C.R.S.

L. Adequate Care of Perishable Regulated Marijuana Product. A Regulated Marijuana Business must provide adequate refrigeration for perishable Regulated Marijuana Product and shall utilize adequate storage facilities and transport methods.

M. Consumption Prohibited. A Regulated Marijuana Business shall not permit the consumption of marijuana or marijuana product on the premises of its permitted off-premises storage facility.

Basis and Purpose – 3-615

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(2)(dd), C.R.S. The purpose of this rule is to provide requirements for a Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter or Retail Marijuana Transporter to apply for and conduct deliveries to private residences pursuant to a delivery permit. This rule provides application and renewal requirements for a delivery permit. Additionally, the rule describes requirements for responsible vendor training, requirements for use of the inventory tracking system, Delivery Motor Vehicles requirements including security, requirements for delivery orders, requirements prior to completing a delivery to a patient or consumer at a private residence and requirements for maintaining the confidentiality of all patient and customer information.

3-615 – Regulated Marijuana Delivery Permits

A. Application, Qualification, and Eligibility for Delivery Permit.

1. Beginning January 2, 2020, a Medical Marijuana Store may apply for a delivery permit. The application shall be made on Division forms and in accordance with the 2-200 Series Rules. The delivery permit application can be submitted simultaneously with a Medical Marijuana Store initial or renewal application or it can be separate from a Medical Marijuana Store application but the application must identify the Medical Marijuana Store(s) seeking to obtain the delivery permit.

2. Beginning January 2, 2021, a Retail Marijuana Store, a Medical Marijuana Transporter, and a Retail Marijuana Transporter may apply for a delivery permit. The delivery permit application can be submitted simultaneously with a Retail Marijuana Store, Medical

Marijuana Transporter, or Retail Marijuana Transporter initial or renewal application or it can be separate from a Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter application but the application must identify the Retail Marijuana Store(s), Medical Marijuana Transporter(s), or Retail Marijuana Transporter(s) seeking to obtain the delivery permit.

3. Prior to the State Licensing Authority issuing an Applicant a delivery permit, the Applicant must establish the Local Licensing Authority and/or Local Jurisdiction where the Applicant is located, or for a Medical Marijuana Transporter or Retail Marijuana Transporter without a Licensed Premise, the Local Licensing Authority or Local Jurisdiction for the location where they intend to operate:

    a. By ordinance or resolution has permitted delivery of Regulated Marijuana in the jurisdiction, and

    b. Is currently accepting applications for delivery permits in the jurisdiction, if required.

4. Multiple Medical Marijuana Stores, Retail Marijuana Stores, Medical Marijuana Transporters, or Retail Marijuana Transporters with identical Controlling Beneficial Owners that are in the same local jurisdiction may obtain one delivery permit that allows all Medical Marijuana Stores, all Retail Marijuana Stores, all Medical Marijuana Transporters, or all Retail Marijuana Transporters in that jurisdiction to make deliveries to patients or consumers.

5. Delivery Permit Renewal.

    a. A delivery permit must be renewed annually with the Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter license it accompanies. A Medical Marijuana Store or Retail Marijuana Store must disclose to the Division any online platform provider that the Licensee has utilized during the previous year at the time of renewal.

    b. Length of Delivery Permit.

        i. A delivery permit issued with an initial or renewal license application is valid for one year and will expire at the same time as the license for the associated Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter.

        ii. A delivery permit that is not issued with an initial or renewal application will be valid for less than one year to align the license expiration date of the related Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter. In all years after the first year, such a delivery permit will be valid for one year.

    c. In addition to any other basis for denial of renewal application, the State Licensing Authority may also consider the following facts and circumstances as an additional basis for denial of a delivery permit renewal application:

        i. The Medical Marijuana Store or Retail Marijuana Store failed to collect the one-dollar surcharge on every delivery or failed to timely remit the one-dollar surcharge to the municipality where the Medical Marijuana Store or Retail Marijuana Store is located, or to the county if the Medical Marijuana Store or Retail Marijuana Store is in an unincorporated area.

B. Delivery to Private Residence. Private residence includes, but is not limited to, a private premises where a person lives such as a private dwelling, place of habitation, a house, a multi-dwelling unit for residential occupants, or an apartment unit. Private residence does not include any premises located at a school, on the campus of an institution of higher education, public property, or any commercial property unit such as offices or retail space.

C. Responsible Vendor Certification Required. A Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter must obtain a valid responsible vendor designation pursuant to section~~s 44-10-1201 or~~ 44-10-1202, C.R.S., and the 3-500 Series Rules including the delivery curriculum prior to conducting its first delivery.

D. Inventory Tracking System Required. A Regulated Marijuana Business possessing a valid delivery permit must use the inventory tracking system and transport manifests to track all Regulated Marijuana delivered to the intended patient or consumer. This includes the use of a transport manifest.

E. Delivery Motor Vehicle Requirements.

1. Any Delivery Motor Vehicle must be owned or leased by the Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, Retail Marijuana Transporter, or an Owner Licensee of the Regulated Marijuana Business that holds the delivery permit, must be registered in the State of Colorado, and must be insured.

2. Any Delivery Motor Vehicle must have a vehicle tracking system that is capable of real-time tracking and recording of the route taken by the Delivery Motor Vehicle while conducting deliveries that can be accessed remotely in real-time by the Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter. The vehicle tracking system may be an application installed on a mobile device. The real-time location of the Delivery Motor Vehicle shall not be displayed to any patients or consumers.

3. Any Delivery Motor Vehicle must not have any external markings, words, or symbols that indicate the Delivery Motor Vehicle is used for delivery of Regulated Marijuana or is owned or leased by a Medical Marijuana Business or a Retail Marijuana Business.

4. Regulated Marijuana must not be visible from outside the Delivery Motor Vehicle.

5. Delivery Motor Vehicle security requirements include but are not limited to:

a. A security alarm system, and

b. A secure, locked, opaque storage compartment that is securely affixed to the Delivery Motor Vehicle for the purpose of securing Regulated Marijuana.

6. Video Surveillance Requirements.

a. The Delivery Motor Vehicle must be equipped with video surveillance equipment that digitally records during all deliveries. The video surveillance shall record at least the secured, locked, opaque storage compartment containing the Regulated Marijuana and the front view of the Delivery Motor Vehicle (e.g. dash camera).

b. Video surveillance shall be kept for a minimum of 40 days, must be capable of being embedded with the date and time, must be reproducible upon request from

law enforcement, the Division, a Local Licensing Authority or a Local Jurisdiction and must be archived in a format that ensures authentication and guarantees no alteration of the video.

7. An enclosed Delivery Motor Vehicle shall not contain more than $10,000.00 in retail value of Regulated Marijuana. A Delivery Motor Vehicle that is not enclosed shall not contain more than $2,000.00 in retail value of Regulated Marijuana.

8. A Delivery Motor Vehicle must not leave the State of Colorado while any amount of Regulated Marijuana is in the Delivery Motor Vehicle.

9. Only persons licensed by the State Licensing Authority and identified on the transport manifest may occupy a Delivery Motor Vehicle while conducting deliveries of Regulated Marijuana.

F. Delivery Order Requirements.

1. A Medical Marijuana Store or a Retail Marijuana Store that has a valid delivery permit may accept orders for delivery of Regulated Marijuana to patients who are at least 21 years of age, parents or guardians of patient under 18 years of age, or consumers who are at least 21 years of age at a private residence. Delivery orders to patients ages 18 to 20 are not permitted.

2. For a Medical Marijuana Store or a Retail Marijuana Store that utilizes an online platform provider:

   a. The online platform provider must require that the patient or consumer choose a Medical Marijuana Store or Retail Marijuana Store before displaying the price of Regulated Marijuana to the patient or consumer; and

   b. The Medical Marijuana Store or Retail Marijuana Store must receive verification that there has not already been a delivery of Regulated Marijuana to that private residence through the online platform provider that same business day.

3. All delivery orders must document the following information which must be maintained pursuant to Rule 3-905 by the Medical Marijuana Store or the Retail Marijuana Store:

   a. The name and date of birth of the patient or consumer placing the delivery order;

   b. The address of the private residence where the order will be delivered;

   c. For Medical Marijuana delivery orders only, the registration number reflecting on the patient's registry identification card; and

   d. For Medical Marijuana delivery orders only, if the patient is under 18 years of age, the parent or guardian designated as the patient's primary caregiver, and if applicable, the registration number of the primary caregiver.

4. A Medical Marijuana Store or a Retail Marijuana Store may accept payment for delivery orders using any legal method of payment, gift card pre-payments or payment on delivery, or pre-payment accounts established with a Medical Marijuana Store or Retail Marijuana Store except that any payment with an Electronic Benefits Transfer Services Card is not permitted. A Medical Marijuana Transporter or Retail Marijuana Transporter may accept payment on behalf of a Medical Marijuana Store or Retail Marijuana Store at the point of Transfer to the patient or consumer.

a. A Local Licensing Authority or Local Jurisdiction may further restrict legal methods of payment not expressly permitted by section 44-10-203(2)(dd)(XV), C.R.S.

5. Regulated Marijuana must be weighed, packaged, prepared, and labeled for delivery on the Licensed Premises of a Medical Marijuana Store or Retail Marijuana Store or at their off-premises storage facility after receipt of a delivery order. Regulated Marijuana cannot be placed into a Delivery Motor Vehicle until after an order has been received and the Regulated Marijuana has been packaged and labeled for delivery to the patient or consumer as required by the 3-1000 Series Rules.

6. Medical Marijuana Transporters and Retail Marijuana Transporters shall not take delivery orders but may deliver Regulated Marijuana on behalf of Medical Marijuana Stores and Retail Marijuana Stores pursuant to a contract with the Medical Marijuana Store or Retail Marijuana Store provided that the store also holds a valid delivery permit. The Medical Marijuana Store and Medical Marijuana Transporter must maintain copies of all contracts for delivery pursuant to Rule 3-905. The Retail Marijuana Store and Retail Marijuana Transporter must maintain copies of all contracts for delivery pursuant to Rule 3-905.

G. Regulated Marijuana Delivery Requirements.

1. A Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter shall not deliver Regulated Marijuana to patients, parents, guardians, or consumers while also transporting Regulated Marijuana between Licensed Premises in the same Delivery Motor Vehicle.

2. Delivery of Medical Marijuana and Retail Marijuana.

a. A Medical Marijuana Store and Retail Marijuana Store, both of which hold a valid delivery permit, and which have identical Controlling Beneficial Owners, may complete deliveries of Medical Marijuana and Retail Marijuana using the same Delivery Motor Vehicle and without returning to the Medical Marijuana Store or Retail Marijuana Store between deliveries.

b. A Medical Marijuana Transporter and Retail Marijuana Transporter, both of which hold a valid delivery permit, and which have identical Controlling Beneficial Owners may complete deliveries of Medical Marijuana and Retail Marijuana using the same Delivery Motor Vehicle and without returning to the Medical Marijuana Store or Retail Marijuana Store between deliveries.

c. A Medical Marijuana Transporter holding a valid delivery permit may make deliveries for multiple Medical Marijuana Stores that also hold valid delivery permits using the same Delivery Motor Vehicle and without returning to a Medical Marijuana Store between deliveries.

d. A Retail Marijuana Transporter holding a valid delivery permit may make deliveries for multiple Retail Marijuana Stores that also hold valid delivery permits using the same Delivery Motor Vehicle and without returning to a Retail Marijuana Store between deliveries.

3. An Owner Licensee or Employee Licensee delivering Regulated Marijuana shall not open any Container of Regulated Marijuana in the Delivery Motor Vehicle and is prohibited from packaging or re-packaging Regulated Marijuana once the Delivery Motor Vehicle has departed from the Licensed Premises of a Medical Marijuana Store or Retail Marijuana Store.

4. A Medical Marijuana Store or Retail Marijuana Store shall not accept delivery orders for Regulated Marijuana Product that is perishable unless the Delivery Motor Vehicle that will make the delivery has the ability to secure the Regulated Marijuana Product in climate-controlled storage.

5. A Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter must maintain a transport manifest that documents the following:

    a. The time of delivery;

    b. The name, and identification number of the valid, acceptable identification (e.g. driver's license) presented by the patient or consumer;

    c. Address of the private residence;

    d. Acknowledgement of receipt of delivery by the person receiving the delivery;

    e. If applicable, patient registry number;

    f. If applicable, primary caregiver registry number of the patient's parent or guardian; and

    g. For every Regulated Marijuana delivery that could not be completed, the reason the delivery could not be completed.

6. Proof of Patient Medical Registry and Identification.

    a. Prior to Transferring possession of the order, the Owner Licensee or Employee Licensee delivering Medical Marijuana to a patient or a patient's parent or guardian must:

        i. Inspect the patient's or parent's or guardian's identification and registry identification card;

        ii. Verify the possession of a valid registry identification card;

        iii. Verify that the information provided at the time of order match the name and age on the patient's or parent or guardian's identification; and

        iv. Verify that the identification and registry identification card belong to the person receiving the delivery.

    b. The Owner Licensee or Employee Licensee must refuse delivery of Medical Marijuana if the person attempting to accept the delivery order cannot establish all of the requirements of subparagraph (FG)(6)(a)(i) through (iv) above.

7. Proof of Consumer Identification.

    a. The Owner Licensee or Employee Licensee delivering Retail Marijuana to a consumer must first verify that the natural person accepting the delivery has an acceptable form of identification demonstrating the person is at least 21 years of age and that the person is the same as the person that placed the order for delivery with the Retail Marijuana Store.

b. The Owner Licensee or Employee Licensee must refuse delivery of Retail Marijuana if the natural person attempting to accept the delivery order cannot establish all the requirements of subparagraph (GF)(57)(a) above.

8. Daily Delivery Limits.

a. A Medical Marijuana Store or Medical Marijuana Transporter must not deliver individually or in any combination, more than two ounces of Medical Marijuana, eight (8) grams of Medical Marijuana Concentrate, or Medical Marijuana Products containing more than 20,000 milligrams of THC to a patient in a single business day.

b. A Medical Marijuana Store or Medical Marijuana Transporter must not deliver to a patient, parent, or guardian or private residence where the Licensee knows or reasonably should know that the patient, parent or guardian, or private residence has already received a delivery during that same business day. This does not prohibit delivery to more than one patient at the same time and private residence.

c. A Retail Marijuana Store or Retail Marijuana Transporter must not deliver individually or in any combination, more than one ounce of Retail Marijuana, 8 grams of Retail Marijuana Concentrate, or Retail Marijuana Products containing more than ten 80 milligram servings of THC to a customer in a single business day.

d. A Retail Marijuana Store or Retail Marijuana Transporter must not deliver to a consumer or private residence where the Licensee knows or reasonably should know that the consumer or private residence has already received a delivery during that same business day. This does not prohibit delivery to more than one consumer at the same time and private residence.

9. An Owner Licensee or Employee Licensee who cannot complete a delivery order for any reason must return the Regulated Marijuana to the Medical Marijuana Store, Retail Marijuana Store, or off-premises storage facility from which the delivery order originated. If the Container is unopened and has not been tampered with, the Medical Marijuana Store, Retail Marijuana Store, or off-premises storage facility may return the Regulated Marijuana into its inventory and reconcile it with the Inventory Tracking System by the close of business that same day. Otherwise, the Regulated Marijuana must be destroyed in accordance with this Rule and Rule 3-235.

H. Confidentiality of Patient and Consumer Personal Identifying Information. A Medical Marijuana Store, a Retail Marijuana Store, a Medical Marijuana Transporter, a Retail Marijuana Transporter, and their respective Owner Licensees and Employee Licensees must keep all personal identifying information and any health care information obtained from patients and consumers confidential and must not disclose such personally identifiable information and any health care information to any person other than those who need that information to take, process, or deliver the order or otherwise as required by the Marijuana Code, or Title 18, or Title 25 of the Colorado Revised Statutes.

3-700 Series – Signage and Advertising

Basis and Purpose – 3-705

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(3)(a), and 44-10-701(3)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clearly delineate that a Regulated Marijuana Business is not

permitted to make deceptive, false, or misleading statements in Advertising materials or on any product or document provided to a patient or consumer. This Rule 3-705 was previously Rules M and R 1102, 1 CCR 212-1 and 1 CCR 212-2.

3-705 – Advertising General Requirements

A. No Deceptive, False, or Misleading Statements. A Regulated Marijuana Business shall not engage in Advertising that is deceptive, false, or misleading. A Regulated Marijuana Business shall not make any deceptive, false, or misleading assertions or statements on any product, any sign, or any document provided to a patient or consumer.

B. Potential Risks of Regulated Marijuana Concentrate Overconsumption. A Regulated Marijuana Business Advertising Medical Marijuana Concentrate or Retail Marijuana Concentrate shall include a notice as determined by the Division to patients or consumers regarding the potential risks of Medical Marijuana Concentrate or Retail Marijuana Concentrate overconsumption.

Basis and Purpose – 3-710

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(3)(a), and 44-10-701(3)(c), C.R.S. Authority also exists throughout Article XVIII, Section 16 of the Colorado Constitution. The purpose of this rule is to clarify the definition of the term “minor” as used in the Marijuana Code and these rules. This Rule 3-710 was previously Rules M and R 1103, 1 CCR 212-1 and 1 CCR 212-2.

3-710 – The Term “Minor” as Used in the Marijuana Code and These Rules

The term “minor” as used in the Marijuana Code and these rules means an individual under the age of 18 for Medical Marijuana and under the age of 21 for Retail Marijuana.

Basis and Purpose – 3-715

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(3)(a), and 44-10-103(10), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to Advertising and Branding.

3-715 – Use of Branding

A. For the purposes of these 3-700 Series Rules, the term Branding includes taglines, which may or may not be trademarked.

B. Branding may not be used to target individuals under the age of 21.

Basis and Purpose – 3-720

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to Advertising.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), (2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana “in a manner similar to alcohol” in certain key respects. Colo. Const. Art. XVIII,

§16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-720 was previously Rules M and R 1104, 1105, 1106, and 1107, 1 CCR 212-1 and 1 CCR 212-2.

3-720 – Advertising: All Media

A. Medical Marijuana Businesses. A Medical Marijuana Business may Advertise in television, radio, a print publication, or via the internet only where at least 71.6 percent of the audience is reasonably expected to be at least the age of 21. A Medical Marijuana Business is prohibited from specifically directing Advertising and marketing to persons under 21 years of age.

B. Retail Marijuana Businesses. A Retail Marijuana Business may Advertise in television, radio, a print publication or via the internet only where at least 71.6 percent of the audience is reasonably expected to be at least the age of 21.

C. Advertising for all Marijuana Businesses. Advertising proposes a commercial transaction or otherwise constitutes commercial speech. Advertising includes marketing.

Basis and Purpose – 3-725

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to safety and health and benefit claims that are by nature misleading, deceptive, or false.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), (2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-725 was previously Rules M and R 1109, 1 CCR 212-1 and 1 CCR 212-2.

3-725 – Signage and Advertising: No Safety Claims Because Regulated by State Licensing Authority

No Regulated Marijuana Business may engage in Advertising or utilize signage that asserts its products are safe because they are regulated by the State Licensing Authority.

Basis and Purpose – 3-730

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c) and 44-10-203(3)(a), and 44-10-701(3)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to safety claims that are by nature misleading, deceptive, or false. This Rule 3-730 was previously Rules M and R 1110, 1 CCR 212-1 and 1 CCR 212-2.

3-730 – Signage and Advertising: No Safety Claims Because Tested

A Regulated Marijuana Business shall not engage in Advertising or utilize signage that asserts its products are safe because they are tested by a Regulated Marijuana Testing Facility.

Basis and Purpose – 3-735

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to outdoor Advertising and signage.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), (2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-735 was previously Rules M and R 1111, 1 CCR 212-1 and 1 CCR 212-2.

3-735 – Signage and Advertising: Outdoor Advertising

A. Local Ordinances. In addition to any requirements within these rules, a Regulated Marijuana Business shall comply with any applicable local ordinances regulating signs and Advertising.

B. All Applicable State Laws Apply. A Regulated Marijuana Business that engages in any Advertising shall comply with all applicable state laws, including but not limited to the Outdoor Advertising Act at sections 43-1-401 through 43-1-420, C.R.S.

C. A Regulated Marijuana Business shall not Advertise on any outdoor sign that is within 500 feet of established and conspicuously identified elementary or secondary schools, places of worship, or public playgrounds.

Basis and Purpose – 3-740

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to prohibit signage and Advertising that has a high likelihood of reaching individuals under the age of 21.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), (2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-740 was previously Rules M and R 1112, 1 CCR 212-1 and 1 CCR 212-2.

3-740 – Signage and Advertising: No Content That Targets Minors

A. A Medical Marijuana Business shall not include in any form of Advertising or signage any content that specifically targets individuals under the age of 21, including but not limited to cartoon characters or similar images.

B. A Retail Marijuana Business shall not include in any form of Advertising or signage any content that specifically targets individuals under the age of 21, including but not limited to cartoon characters or similar images.

Basis and Purpose – 3-745

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to marketing directed toward location-based devices.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), (2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-745 was previously Rules M and R 1113, 1 CCR 212-1 and 1 CCR 212-2.

3-745 – Advertising: Advertising via Marketing Directed Toward Location-Based Devices

A Regulated Marijuana Business shall not engage in Advertising via marketing directed towards location-based devices, including, but not limited to, cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older for Medical Marijuana, 21 years of age or older for Retail Marijuana, and includes a permanent and easy opt-out feature.

Basis and Purpose – 3-750

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to pop-up Advertising.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), (2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-750 was previously Rules M and R 1114, 1 CCR 212-1 and 1 CCR 212-2.

3-750 – Pop-Up Advertising

A Regulated Marijuana Business shall not utilize unsolicited pop-up Advertising on the internet.

Basis and Purpose – 3-755

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to event sponsorship.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), (2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-755 was previously Rules M and R 1115, 1 CCR 212-1 and 1 CCR 212-2.

3-755 – Advertising: Event Sponsorship

A. A Medical Marijuana Business may sponsor a charitable, sports, or similar event, but a Medical Marijuana Business shall not engage in Advertising at, or in connection with, such an event unless the Medical Marijuana Business has reliable evidence that 71.6 percent of the audience at

the event and/or viewing Advertising in connection with the event is reasonably expected to be at least the age of 21.

B. A Retail Marijuana Business may sponsor a charitable, sports, or similar event, but a Retail Marijuana Business shall not engage in Advertising at, or in connection with, such an event unless the Retail Marijuana Business has reliable evidence that 71.6 percent of the audience at the event and/or viewing Advertising in connection with the event is reasonably expected to be at least the age of 21.

3-800 Series – Inventory Tracking Requirements

Basis and Purpose – 3-805

The statutory authority for this rule includes but is not limited to sections, 44-10-201(1), 44-10-202(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-501(1)(b), 44-10-502(2), 44-10-503(1)(b), 44-10-505(3), 44-10-601(1)(d), 44-10-602(3), 44-10-603(1)(b), 44-10-605(3), and 44-10-610(3)(a), C.R.S. The purpose of this rule is to establish a system that will allow the State Licensing Authority and the industry to jointly track Regulated Marijuana from either seed or immature plant stage until the Regulated Marijuana is sold to a patient or consumer, or destroyed.

The Inventory Tracking System is a web-based tool coupled with RFID technology that allows both the Inventory Tracking System User and the State Licensing Authority the ability to identify and account for all Regulated Marijuana. Through the use of RFID technology, a Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility will tag either the seed or immature plant with an individualized number, which will follow the Regulated Marijuana through all phases of production and final sale to a patient or consumer. This will allow the State Licensing Authority and the Inventory Tracking System User the ability to monitor and track Regulated Marijuana inventory. The Inventory Tracking System will also provide a platform for the State Licensing Authority to exchange information and provide compliance notifications to the industry.

The State Licensing Authority finds it essential to regulate, monitor, and track all Regulated Marijuana to eliminate diversion, inside and outside of the state, and to ensure that all marijuana grown, processed, sold, and disposed of in the Regulated Marijuana market is transparently accounted for.

The State Licensing Authority will engage the industry and provide training opportunities and continue to evaluate the Inventory Tracking System to promote an effective means for this industry to account for and monitor its Regulated Marijuana inventory. This Rule 3-805 was previously Rules M and R 309, 1 CCR 212-1 and 1 CCR 212-2.

3-805 – Regulated Marijuana Businesses: Inventory Tracking System

A. Inventory Tracking System Required. A Regulated Marijuana Business is required to use the Inventory Tracking System as the primary inventory tracking system of record. A Regulated Marijuana Business must have an Inventory Tracking System account activated and functional prior to operating or exercising any privileges of a License. Medical Marijuana Businesses converting to or adding a Retail Marijuana Business must follow the inventory transfer guidelines detailed in Rule 3-805(C) below. Because Marijuana Hospitality Businesses are not authorized to receive or conduct Transfers of Regulated Marijuana, this Rule does not apply to Marijuana Hospitality Businesses.

B. Inventory Tracking System Access - Inventory Tracking System Administrator.

1. Inventory Tracking System Administrator Required. A Regulated Marijuana Business must have at least one Owner Licensee who is an Inventory Tracking System Administrator. A Regulated Marijuana Business may also designate additional Owner

Licensees and Employee Licensees to obtain Inventory Tracking System Administrator accounts.

2. Training for Inventory Tracking System Administrator Account. In order to obtain an Inventory Tracking System Administrator account, a Person must attend and successfully complete all required Inventory Tracking System training. The Division may also require additional ongoing, continuing education for an individual to retain his or her Inventory Tracking System Administrator account.

3. Inventory Tracking System Access - Inventory Tracking System User Accounts. A Regulated Marijuana Business may designate licensed Owners and employees who hold valid Employee Licenses as Inventory Tracking System Users. A Regulated Marijuana Business shall ensure that all Owner Licensees and Employee Licensees who are granted Inventory Tracking System User account access for the purposes of conducting inventory tracking functions in the system are trained by Inventory Tracking System Administrators in the proper and lawful use of Inventory Tracking System.

C. Medical Marijuana Business License Conversions - Declaring Inventory Prior to Exercising Licensed Privileges as a Retail Marijuana Business.

1. Medical Marijuana Inventory Transfer to Retail Marijuana Business.

a. Except pursuant to Rules 5-205 and 6-205:

i. The only allowed Transfer of marijuana between a Medical Marijuana Business and Retail Marijuana Business is Medical Marijuana and Medical Marijuana Concentrate that was produced at the Medical Marijuana Cultivation Facility, from the Medical Marijuana Cultivation Facility to a Retail Marijuana Cultivation Facility.

ii. Each Medical Marijuana Cultivation Facility that is either converting to or adding a Retail Marijuana Cultivation Facility license must create a Retail Marijuana Inventory Tracking System account for each license it is converting or adding.

iii. A Medical Marijuana Cultivation Facility must Transfer all relevant Medical Marijuana and Medical Marijuana Concentrate into the Retail Marijuana Cultivation Facility's Inventory Tracking System account and affirmatively declare those items as Retail Marijuana or Retail Marijuana Concentrate as appropriate.

iv. The marijuana subject to the one-time Transfer is subject to the excise tax upon the first Transfer from the Retail Marijuana Cultivation Facility to another Retail Marijuana Business.

v. All other Transfers are prohibited, including but not limited to Transfers from a Medical Marijuana Store or Medical Marijuana Products Manufacturer to any Retail Marijuana Business.

2. No Further Transfer Allowed. Once a Licensee has declared any portion of its Medical Marijuana inventory as Retail Marijuana, no further Transfers of inventory from Medical Marijuana to Retail Marijuana shall be allowed.

D. RFID Tags Required.

1. Authorized Tags Required and Costs. Licensees are required to use RFID tags issued by a Division-approved vendor that is authorized to provide RFID tags for the Inventory Tracking System. Each licensee is responsible for the cost of all RFID tags and any associated vendor fees.

2. Use of RFID Tags Required. A Licensee is responsible to ensure its inventories are properly tagged where the Inventory Tracking System requires RFID tag use. A Regulated Marijuana Business must ensure it has an adequate supply of RFID tags to properly tag Regulated Marijuana as required by the Inventory Tracking System. An RFID tag must be physically attached to every Regulated Marijuana plant being cultivated that is greater than eight inches tall or eight inches wide. Prior to a plant reaching a viable point to support the weight of the RFID tag and attachment strap, the RFID tag may be securely fastened to the stalk. An RFID tag must be assigned to all Regulated Marijuana. *See* Rule 3-805(D); Rule 3-1005(G) – Shipping Containers.

3. Reuse of RFID Tags Prohibited. A Licensee shall not reuse any RFID tag that has already been affixed or assigned to any Regulated Marijuana.

4. When plants reach a viable point to support the weight of the RFID tag and attachment strap, the RFID tag shall be securely fastened to a lower supporting branch.

E. General Inventory Tracking System Use.

1. Reconciliation with Inventory. All inventory tracking activities at a Regulated Marijuana Business must be tracked through use of the Inventory Tracking System. A Licensee must reconcile all on-premises and in-transit Regulated Marijuana inventories each day in the Inventory Tracking System at the close of business.

2. Common Weights and Measures.

   a. A Regulated Marijuana Business must utilize a standard of measurement that is supported by the Inventory Tracking System to track all Regulated Marijuana.

   b. A scale used to weigh product prior to entry into the Inventory Tracking System shall be tested and approved in accordance with section 35-14-127, C.R.S.

3. Inventory Tracking System Administrator and User Accounts – Security and Record.

   a. A Regulated Marijuana Business shall maintain an accurate and complete list of all Inventory Tracking System Administrators and Inventory Tracking System Users for each Licensed Premises. A Regulated Marijuana Business shall update this list when a new Inventory Tracking System User is trained. A Regulated Marijuana Business must train and authorize any new Inventory Tracking System Users before those Owners or employees may access Inventory Tracking System or input, modify, or delete any information in the Inventory Tracking System.

   b. A Regulated Marijuana Business must cancel any Inventory Tracking System Administrators and Inventory Tracking System Users from their associated Inventory Tracking System accounts once any such individuals are no longer employed by the Licensee or at the Licensed Premises.

   c. A Regulated Marijuana Business is accountable for all actions employees take while logged into the Inventory Tracking System or otherwise conducting Regulated Marijuana inventory tracking activities.

d. Each individual user is also accountable for all of his or her actions while logged into the Inventory Tracking System or otherwise conducting Regulated Marijuana inventory tracking activities, and shall maintain compliance with all relevant laws.

4. Secondary Software Systems Allowed.

a. Nothing in this Rule prohibits a Regulated Marijuana Business from using separate software applications to collect information to be used by the business including secondary inventory tracking or point-of-sale systems.

b. A Licensee must ensure that all relevant Inventory Tracking System data is accurately transferred to and from the Inventory Tracking System for the purposes of reconciliations with any secondary systems.

c. A Regulated Marijuana Business must preserve original Inventory Tracking System data when transferred to and from a secondary application(s). Secondary software applications must use the Inventory Tracking System data as the primary source of data and must be compatible with updating to the Inventory Tracking System.

5. Regulated Marijuana Cultivations: Inventory Tracking System. A Manicure Batch may be combined with a Harvest Batch containing the same plants, provided that the Regulated Marijuana is homogenized prior to sampling and testing, uniform in strain, cultivated utilizing the same Pesticide and other agricultural chemicals. Manicure and Harvest Batches must be clearly identified at the Licensed Premises with the Manicure Batch and Harvest Batch name and date as it appears in the Inventory Tracking System.

F. Conduct While Using Inventory Tracking System.

1. Misstatements or Omissions Prohibited. A Regulated Marijuana Business and its designated Inventory Tracking System Administrator(s) and Inventory Tracking System User(s) shall enter data into the Inventory Tracking System that fully and transparently accounts for all inventory tracking activities. Both the Regulated Marijuana Business and the individuals using the Inventory Tracking system are responsible for the accuracy of all information entered into the Inventory Tracking System. Any misstatements or omissions may be considered a license violation affecting public safety.

2. Use of Another User's Login Prohibited. Individuals entering data into the Inventory Tracking System shall only use that individual's Inventory Tracking System account.

3. Loss of System Access. If at any point a Regulated Marijuana Business loses access to the Inventory Tracking System for any reason, the Regulated Marijuana Business must keep and maintain comprehensive records detailing all Regulated Marijuana tracking inventory activities that were conducted during the loss of access. *See* Rule 3-905 – Business Records Required. Once access is restored, all Regulated Marijuana inventory tracking activities that occurred during the loss of access must be entered into the Inventory Tracking System. A Regulated Marijuana Business must document when access to the system was lost and when it was restored. A Regulated Marijuana Business shall not Transfer any Regulated Marijuana to another Regulated Marijuana Business until such time as access is restored and all information is recorded into the Inventory Tracking System.

G. System Notifications.

1. Compliance Notifications. A Regulated Marijuana Business must monitor all compliance notifications from the Inventory Tracking System. The Licensee must resolve the issues detailed in the compliance notification in a timely fashion. Compliance notifications shall not be dismissed in the Inventory Tracking System until the Regulated Marijuana Business resolves the compliance issues detailed in the notification.

2. Informational Notifications. A Regulated Marijuana Business must take appropriate action in response to informational notifications received through the Inventory Tracking System, including but not limited to notifications related to RFID billing, enforcement alerts, and other pertinent information.

H. Lawful Activity Required. Proper use of the Inventory Tracking System does not relieve a Licensee of its responsibility to maintain compliance with all laws, rules, and other requirements at all times.

I. Inventory Tracking System Procedures Must Be Followed. A Regulated Marijuana Business must utilize Inventory Tracking System in conformance with these rules and Inventory Tracking System procedures, including but not limited to:

1. Properly indicating the creation of a Harvest Batch and/or Production Batch including the assigned Harvest Batch and/or Production Batch Number;

2. Accurately identifying the cultivation rooms and location of each plant within those rooms on the Licensed Premises;

3. Accurately identifying when inventory is no longer on the Licensed Premises;

4. Properly indicating that a Test Batch is being used as part of achieving a Reduced Testing Allowance;

5. Accurately indicating the Inventory Tracking System category for all Regulated Marijuana; and

6. Accurately including a note explaining the reason for any destruction of Regulated Marijuana, and reason for any adjustment of weights to Inventory Tracking System packages.

7. Properly designating one or more Sampling Managers before Transferring any Sampling Units;

8. Fully and accurately tracking the Transfer of any Sampling Unit from a Regulated Marijuana Business to a Sampling Manager identified by name and license number; and

9. When entering into the Inventory Tracking System a unit of Regulated Marijuana the Inventory Tracking System Trained Administrator or Inventory Tracking System User shall also identify the net contents of each unit consistent with Rules 3-1005(B)(2)(e) and (C)(2)(a)(iv). For example, if the Inventory Tracking System User enters 1 unit of Retail Marijuana Product that contains 100 milligrams of Retail Marijuana Product, then the Inventory Tracking System User shall also identify that each unit contains 100 milligrams. Further, if the Inventory Tracking System User enters 1 unit of Medical Marijuana Product that contains 200 mg of Medical Marijuana Product, the Inventory Tracking System User shall also identify that each unit contains 200 mg.

Basis and Purpose – 3-810

The statutory authority for this rule includes but is not limited to sections, 44-10-201, 44-10-202(1)(a), 44-10-202(1)(c), 44-10-203(2)(n), 44-10-501(1)(b), 44-10-502(2), 44-10-503(1)(b), 44-10-505(3), 44-10-601(1)(d), 44-10-601(4), 44-10-602(1), 44-10-602(6)(f), 44-10-603(1)(b), and 44-10-605(3), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to maintain a system that will allow the State Licensing Authority and the industry to jointly track Regulated Marijuana from either seed or immature plant stage until the Regulated Marijuana is sold to the patient or consumer or destroyed.

3-810 – Minimum Tracking Requirements

A. Requirement to Track Regulated Marijuana From Seed-to-Sale. Licensees must use the Inventory Tracking System to ensure Regulated Marijuana is identified and tracked from the point the Regulated Marijuana is Propagated from seed or cutting to the point when it is Transferred to another Regulated Marijuana Business, the Medical Marijuana Transporter or Retail Marijuana Transporter takes control of the Regulated Marijuana by removing it from the originating Licensee's Licensed Premises and placing the Regulated Marijuana in the transport vehicle, or it is Transferred to a Sampling Manager as a designated Sampling Unit, and through the delivery, point-of-sale, or the Regulated Marijuana is otherwise disposed of. *See* Rule 3-805 – Inventory Tracking System

B. Ability to Reconcile Required. Licensees must have the ability to reconcile transported and on-hand Regulated Marijuana inventory with the Inventory Tracking System and the associated transaction history and transportation order receipts. *See* Rule 3-905 – Business Records Required.

Basis and Purpose – 3-815

The statutory authority for this rule includes but is not limited to 44-10-201, 44-10-202(1)(a), 44-10-202(1)(c), 44-10-313(5)(b), 44-10-505(3), and 44-10-605(2) C.R.S. The purpose of this rule is to allow the State Licensing Authority and the industry to jointly track the Transfer and delivery of Regulated Marijuana and Regulated Marijuana Product between licensed Regulated Marijuana Businesses. It also prescribes the manner in which licensed entities will track inventory in the transport process to prevent diversionary practices.

3-815 – Transport Manifest Required

A. Transport of Regulated Marijuana Without Transport Manifest Prohibited. Licensees are prohibited from transporting any Regulated Marijuana without a valid transport manifest generated by the Inventory Tracking System.

B. Accepting Regulated Marijuana Without Transport Manifest Prohibited. Licensees are prohibited from accepting any Regulated Marijuana from another Regulated Marijuana Business without receiving a valid transport manifest generated from the Inventory Tracking System.

C. Information Must Be Accurate. All information on the Inventory Tracking System generated transport manifest must be accurate.

Basis and Purpose – 3-820

The statutory authority for this rule includes but is not limited to sections 44-10-201, 44-10-202(1)(a), 44-10-202(1)(c), 44-10-502(3), 44-10-503(10), 44-10-602(6), and 44-10-603(10). The purpose of this rule is to establish inventory tracking, reporting and recordkeeping requirements for Sampling Units to ensure that any Regulated Marijuana or Regulated Marijuana Products designated as a Sampling Unit is identified and tracked from the point of such designation.

3-820 – Sampling Unit Tracking Requirements

A. Applicability. This Rule 3-820 applies to Medical Marijuana Cultivation Facilities, Retail Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, and Retail Marijuana Products Manufacturers.

B. Sampling Unit Tracking Requirements.

1. In addition to all other requirements set forth in these rules, a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer shall utilize the Inventory Tracking System to ensure that any Regulated Marijuana designated as a Sampling Unit is identified and tracked from the point of such designation until the Sampling Unit is Transferred to a Sampling Manager. *See* Rules 5-230, 5-320, 6-225, 6-320 – Sampling Unit Protocols.

2. The Inventory Tracking System must adequately reflect all Transfers of Sampling Units. At a minimum, a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer must ensure that the Inventory Tracking System reflects the date the Sampling Unit was Transferred, the weight of the Sampling Unit, and the name and license number of the recipient Sampling Manager.

3. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer must have the ability to reconcile its Sampling Manager and Sampling Unit records with the Inventory Tracking System and any associated transaction history.

Basis and Purpose – 3-825

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-203(2)(d)(I), 44-10-504, and 44-10-604 The Purpose of this rule is to establish reporting standards for Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities.

3-825 – Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities Specific Tracking Requirements

A. Required Procedures. A Regulated Marijuana Testing Facility must establish procedures to ensure that results are accurate, precise, and scientifically valid prior to reporting such results.

B. Reports. Every final report, whether submitted to the Division, to a Regulated Marijuana Business, or to any other Person authorized to receive the report, must include the following:

1. Report quantitative results that are only above the lowest concentration of calibrator or standard used in the analytical run;

2. Verify results that are below the lowest concentration of calibrator or standard and above the LOQ by using a blank and a standard that falls below the expected value of the analyte in the sample in duplicate prior to reporting a quantitative result;

3. Qualitatively report results below the lowest concentration of calibrator or standard and above the LOD as either trace or using a non-specific numerical designation;

4. Adequately document the available external chain of custody information;

5. Ensure all final reports contain the name and location of the Regulated Marijuana Testing Facility that performed the test, name, and unique identifier of Sample, submitting client, Sample received date, date of report, type of Sample tested, test result, units of measure, and any other information or qualifiers needed for interpretation when applicable to the test method and results being reported, to include any identified and documented discrepancies; and

6. Provide the final report to the Division, as well as the Regulated Marijuana Business, and/or any other Person authorized to receive the report in a timely manner.

C. Inventory Tracking System. Each Regulated Marijuana Testing Facility shall:

1. Report all test results to the Division as part of daily reconciliation by the close of business and in accordance with all Inventory Tracking System Procedures under Rule 3-805 – All Regulated Marijuana Businesses: Inventory Tracking System. The requirement to report all test results includes:

a. Both positive and negative test results;

b. Results from both mandatory and voluntary testing; and

c. For quantitative tests, a quantitative value.

2. As part of Inventory Tracking System reporting, when results of tested Samples exceed maximum levels of allowable potency or contamination, or otherwise result in failed potency, homogeneity, or contaminant testing, the Regulated Marijuana Testing Facility shall, in the Inventory Tracking System, indicate failed test results for the Inventory Tracking System package associated with the failed Sample. This requirement only applies to testing of Samples that are comprised of Regulated Marijuana.

D. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

3-900 Series – Business Records

Basis and Purpose – 3-905

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-301, and 44-10-1001(1), C.R.S. This rule explains what business records a Licensee must maintain and clarifies that such records must be made available to the Division on demand. This Rule 3-905 was previously Rules M and R 901, 1 CCR 212-1 and 1 CCR 212-2.

3-905 – Business Records Required

A. General Requirements.

1. A Regulated Marijuana Business must maintain the information required in this Rule in a format that is readily understood by a reasonably prudent business person and may be stored electronically.

2. Each Regulated Marijuana Business shall retain all books and records necessary to fully account for the business transactions conducted under its license for the current year and three preceding calendar years.

a. On premises records: The Regulated Marijuana Business's books and records for the preceding six months (or complete copies of such records) must be maintained on the Licensed Premises at all times. Electronic records that are accessible from, but not physically located at, a Licensee's Licensed Premises may also satisfy the requirements of this Rule 3-905.

b. On- or off-premises records: Books and records associated with older periods may be archived on or off of the Licensed Premises.

3. Books and records necessary to fully account for the business transactions conducted under its License shall be made available to the State Licensing Authority or Division upon request.

B. The books and records must fully account for the transactions of the business and must include, but shall not be limited to:

~~a. Current Owner and Employee List – This list must provide the full name and License number of all Owner Licensees and every employee who works for a Regulated Marijuana Business. The list shall include all employees who work for the Regulated Marijuana Business, whether or not they report to the Licensed Premises as a part of their employment. A Regulated Marijuana Business can fulfill the requirements of this Rule by listing all employees in the Inventory Tracking System for each Licensed Premises. If a Regulated Marijuana Business does not use the Inventory Tracking System to list all employees, it must maintain a separate record for employees who do not report to the Licensed Premises.~~

~~i. Employees Required to be Listed in the Inventory Tracking System. A Regulated Marijuana Business must use the Inventory Tracking System to list all employees who report to the Licensed Premises. The employee list in the Inventory Tracking System must include the full name and Employee License number of every employee who works on the premises. The Regulated Marijuana Business is responsible for updating its list of employees who work at the Licensed Premises in the Inventory Tracking System within 10 days of an employee commencing or ceasing employment.~~

~~b~~1. Secure Facility Information – For its Licensed Premises and any associated permitted off-premises storage facility, a Regulated Marijuana Business must maintain the business contact information for vendors that maintain video surveillance systems and Security Alarm Systems.

2. Security Alarm Systems documents required by Rule 3-220(A)(3).

~~c~~3. Advertising Records – All records related to Advertising and marketing, including, but not limited to, audience composition data.

4. Child Resistance Certificates – A copy of the certificate that each Container into which a Licensee places Regulated Marijuana is Child Resistant.

~~d~~5. Diagram for the Licensed Premises – Diagram of all approved Limited Access Areas, Restricted Access Areas, and any permitted off-premises storage facilities.

~~e~~6. Visitor Log – List of all visitors entering Limited Access Areas or Restricted Access Areas.

~~f~~7. All records normally retained for tax purposes.

~~g~~8. Waste Log and Fibrous Waste Records – Comprehensive records regarding all waste and Fibrous Waste material that accounts for, reconciles, and evidences all waste and Fibrous Waste activity related to the disposal of marijuana.

9. Consumer Waste Records – All contracts, standard operating procedures, and receipts relating to collection and Transfer of Marijuana Consumer Waste as required by Rule 3-240.

~~h~~10. Surveillance Logs – Surveillance logs identify all authorized employees and service personnel who have access to the surveillance system and maintenance and activity log as required by Rule 3-225.

~~i~~11. Every Licensee shall maintain a record of its identity statement and Standardized Graphic Symbol ~~which shall be available upon request by the State Licensing Authority or Division~~. A Licensee may elect to have its Identity Statement also serve as its Standardized Graphic Symbol for purposes of complying with this rule.

~~j~~12. Testing Records Required to be Maintained by Regulated Marijuana Testing Facilities: ~~—~~

a. All testing records required by Rule 5-450 and Rule 6-450.

b. Digital photographs of each Test Batch.

c. Any delegation of responsibilities from the laboratory director to a qualified supervisory analyst as permitted by Rule 5-240(B)9 or 6-240(B).

13. Testing Records Required to be Maintained by Regulated Marijuana Businesses and Accelerator Licensees:

a. Documentation of Designated Test Batch Collector Training required by Rule 4-110(C)(3).

b. Records regarding wet whole plant that was not tested for microbials pursuant to Rule 4-121(F)(3).

c. Evidence of any achieved Reduced Testing Allowance - If a Licensee utilizes any Reduced Testing Allowances, then they must maintain documentation demonstrating how it was obtained and maintained throughout the allowance with all applicable rules.

~~k~~14. Sampling Unit Records – All records related to designated Sampling Managers, identified Sampling Units, and Transfers of Sampling Units. *See* Rules 3-810, 5-230, 5-320, 6-225, 6-320. This includes, but is not limited to, standard operating procedures that explain the requirements of sections 44-10-502(5), 44-10-503(10), 44-10-602(6) and 44-10-603(10), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements imposed by Rules 5-230, 5-320, 6-225, 6-320. 6-725, and 6-280.

~~l~~15. License Application Records – All records provided by the Licensee to both the state and local licensing authorities in connection with an application for licensure pursuant to the Marijuana Code and these Rules.

~~m~~16. Standard Operating Procedures – All standard operating procedures as required by these Rules, including up-to-date records of employee training, as follows:

a. Identification of required training of employees;

b. Documentation of training topic, training method, date of initial training, date of any necessary re-training, name and signature of trainer, and name and signature of employee;

c. Competency and effectiveness of employee training shall be adequately assessed in an appropriate manner determined by the Licensee that is described in the standard operating procedures.

~~n~~17. Audited Product and/or Alternative Use Product Records – All records required to demonstrate compliance with Rule 5-325 and 6-325.

~~o. All records required by Rule 3-240 regarding collection and Transfers of Marijuana Consumer Waste.~~

~~p~~18. Corrective Action and Preventive Action records required by Rules 5-115, 5-210, 5-310, 6-110, 6-210, 6-310.

~~q~~19. Certificates of analysis or other records demonstrating the full composition of each Ingredient used in the manufacture of Vaporizer Delivery Devices or Pressurized Metered Dose Inhalers as required by Rule 5-310(F).

~~r~~20. Records required to be maintained by Delivery Permit holders including delivery order requirements and contracts for delivery pursuant to Rule 3-615.

~~s. Records required to be maintained by Licensed Hospitality Businesses.~~

~~t~~21. Recall records required by Rule 3-336 including the recall plan, recall notice, and results of any action taken pursuant to the recall plan.

~~u~~22. All records related to Material Changes as required by Rules 3-330(D) and 3-335(L).

~~v~~23. Records related to Adverse Health Events as required by Rule 3-920.

~~w~~24. Internal Security Controls – Licensees must establish and maintain a security plan for each Licensed Premises, including at a minimum:

a. Protocols for the end-of-day handling of Regulated Marijuana and cash;

b. Protocols for reporting theft or burglaries when they are discovered to Local Law Enforcement, the Division, and Local Licensing Authority or Local Jurisdiction;

c. Protocols for reconciling inventory after a theft or burglary has been discovered;

d. Identification of exterior lighting of the Licensed Premises and any exterior camera angles, and protocols for maintenance of the lighting and cameras; and

e. Identification of ingress and egress routes for the property and identification of any access control measures taken outside of the Licensed Premises.

25. Patient Documents – Documents required for a patient to register a primary Medical Marijuana Store as required by Rule 5-115(D).

26. Regulated Marijuana Concentrate Production Records – All records required by Rules 5-315, 6-315, and 6-815 regarding production of Regulated Marijuana Concentrate.

27. Marijuana Research and Development Facility Records – Documents and correspondence sent to or received from an independent reviewer or the Scientific Advisory Council and any testing records if required by Rule 5-725.

28. Documents Related to Pesticide Manufacturers – Affidavit from a Pesticide Manufacturer that it meets the requirements of the Rule and the written agreement between the Licensee and the Pesticide Manufacturer as required by Rule 7-115.

29. Expiration date documents required by Rules 3-330(F) and 3-335(M).

30. Written report of change of management personnel as required by Rule 3-920(A)(2).

31. Current Owner and Employee List – This list must provide the full name and License number of all Owner Licensees and every employee who works for a Regulated Marijuana Business. The list shall include all employees who work for the Regulated Marijuana Business, whether or not they report to the Licensed Premises as part of their employment. A Regulated Marijuana Business can fulfill the requirements of this Rule by listing all employees in the Inventory Tracking System for each Licensed Premises. If a Regulated Marijuana Business does not use the Inventory Tracking System to list all employees, it must maintain a separate record for employees who do not report to the Licensed Premises.

32. Documentation required to demonstrate valid responsible vendor designation(s).

~~x~~33. All other records required by these Rules.

C. Records Required to be Maintained in the Inventory Tracking System. The following records must be maintained by Licensees in the Inventory Tracking System:

1. Records Related to Inventory Tracking. A Regulated Marijuana Business must maintain accurate and comprehensive inventory tracking records that account for, reconcile, and evidence all inventory activity for Regulated Marijuana from either seed or Immature Plant stage until the Regulated Marijuana is destroyed or Transferred to another Regulated Marijuana Business, a consumer, a patient, or a Pesticide Manufacturer.

2. Records Related to Transport. A Regulated Marijuana Business must maintain adequate records for the transport of all Regulated Marijuana. See Rule 3-605 – Transport: All Regulated Marijuana Businesses.

3. Employees Required to be Listed in the Inventory Tracking System. A Regulated Marijuana Business must use the Inventory Tracking System to list all employees who report to the Licensed Premises. The employee list in the Inventory Tracking System must include the full name and Employee License number of every employee who works on the premises. The Regulated Marijuana Business is responsible for updating its list of employees who work at the Licensed Premises in the Inventory Tracking System within 10 days of an employee commencing or ceasing employment.

4. Testing results.

~~B~~D. Loss of Records and Data. Any loss of electronically-maintained records shall not be considered a mitigating factor for violations of this Rule. Licensees are required to exercise due diligence in preserving and maintaining all required records.

~~C~~E. Violation Affecting Public Safety. Violation of this Rule may constitute a license violation affecting public safety.

~~D. Records Related to Inventory Tracking. A Regulated Marijuana Business must maintain accurate and comprehensive inventory tracking records that account for, reconcile and evidence all inventory activity for Regulated Marijuana from either seed or Immature Plant stage until the Regulated Marijuana is destroyed or Transferred to another Regulated Marijuana Business, a consumer, a patient, or a Pesticide Manufacturer.~~

~~E. Records Related to Transport. A Regulated Marijuana Business must maintain adequate records for the transport of all Regulated Marijuana. *See* Rule 3-605 – Transport: All Regulated Marijuana Businesses.~~

F. Provision of Any Requested Record to the Division. A Licensee must provide on-demand access to on-premises records following a request from the Division during normal business hours or hours of apparent operation, and must provide access to off-premises records within three business days following a request from the Division.

Basis and Purpose – 3-910

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), and 44-10-203(2)(j), C.R.S. A Regulated Marijuana Business must collect and remit sales tax on all retail sales made pursuant to the licensing activities. The purpose of this rule is to clarify when such taxes must be remitted to the Colorado Department of Revenue. This Rule 3-910 was previously Rules M and R 902, 1 CCR 212-1 and 1 CCR 212-2.

3-910 – Reporting and Transmittal of Taxes

A. Sales and Use Tax Returns Required. All state and state-collected sales and use tax returns must be filed, and all taxes must be remitted to the Department of Revenue, on or before the 20th day of the month following the reporting month. For example, a January return and remittance will be due to the Department of Revenue by February 20th. If the due date (20th of the month) falls on a weekend or holiday, the next business day is considered the due date for the return and remittance.

B. Excise and Retail Marijuana Sales Tax Returns Required. A Retail Marijuana Business shall submit any applicable tax returns and remit any payments due pursuant to Article 28.8 of Title 39, C.R.S.

C. Proof of Tax Remittance Required. All state tax payments shall require proof of remittance with the State Licensing Authority. A Retail Marijuana Cultivation Facility must maintain records evidencing the payment of all required excise taxes. Proof of retail sales taxes shall be identified in required tax records, tracking systems, and sales receipts provided to consumers.

Basis and Purpose – 3-915

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), and 44-10-1001(1), C.R.S. The Marijuana Code mandates that a Regulated Marijuana Business must pay for an audit when the State Licensing Authority deems an audit necessary. This rule explains when an audit may be deemed necessary and sets forth possible consequences of a Regulated Marijuana Business's refusal to cooperate or pay for the audit. This Rule 3-915 was previously Rules M and R 903, 1 CCR 212-1 and 1 CCR 212-2.

3-915 – Independent Audit May Be Required

A. State Licensing Authority May Require Independent Audit.

1. When the State Licensing Authority deems it necessary, it may require a Regulated Marijuana Business to undergo an audit by an independent accountant. The scope of the audit may include, but need not be limited, to financial transactions and inventory control measures.

2. In such instances, the Division may attempt to mutually agree upon the selection of the independent accountant with a Regulated Marijuana Business. However, the Division always retains the right to select the independent accountant regardless of whether mutual agreement can be reached. The independent accountant shall be a certified public accountant licensed by, and in good standing with, the Colorado State Board of Accountancy.

3. The Regulated Marijuana Business will be responsible for all direct costs associated with the independent audit.

B. When Independent Audit Is Necessary. The State Licensing Authority has discretion to determine when an audit by an independent accountant is necessary. The following is a non-exhaustive list of examples that may justify an independent audit:

1. A Regulated Marijuana Business does not provide requested records to the Division;

2. The Division has reason to believe that the Regulated Marijuana Business does not properly maintain its business records;

3. A Regulated Marijuana Business has a prior violation related to recordkeeping or inventory control;

4. A Regulated Marijuana Business has a prior violation related to diversion.

5. As determined by the Division, the scope of an audit conducted by the Division would be so extensive as to jeopardize the regular duties and responsibilities of the Division's audit or enforcement staff.

C. Compliance Required. A Regulated Marijuana Business must pay for and timely cooperate with the State Licensing Authority's requirement that it undergo an audit in accordance with this Rule.

D. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 3-920

The statutory authority for this rule includes but is not limited to sections 44-10-201(4), 44-10-204(1)(a), 44-10-202(1)(c), 44-10-202(1)(a), 44-10-204(1)(a), 44-10-203(1)(k), 44-10-313(12), and 44-10-701(2)(a), C.R.S. The State Licensing Authority must be able to immediately access information regarding a Regulated Marijuana Business's managing individual. Accordingly, this rule reiterates the statutory mandate that Licensees provide any management change to the Division within seven days of any change, and also clarifies that a Licensee must save a copy of any management change report to the Division, and clarifies that failure to follow this rule can result in discipline.

The State Licensing Authority finds it essential to the stringent and comprehensive enforcement of the Marijuana Code to regulate, monitor, and track all Regulated Marijuana in order to prevent diversion and to ensure that all Regulated Marijuana grown, processed, sold, and disposed of in the Regulated Marijuana market is accounted for transparently in accordance with the Marijuana Code.

Requiring Licensees to report instances when the Regulated Marijuana they cultivate, manufacture, distribute, sell, test, or dispose of is stolen, unlawfully Transferred, or otherwise diverted from the regulated market, or when Licensees discover plans to divert the Regulated Marijuana, emphasizes that Licensees are accountable for their Regulated Marijuana at all times and contributes to the transparency of the regulated market.

In addition to maintaining transparency in the regulated marijuana industry, the State Licensing Authority also must ensure the confidentiality of certain Licensee information and records, including information in the Inventory Tracking System. Requiring Licensees to report instances where the Inventory Tracking System was compromised or planned to be compromised through unlawful access, use for unlawful purposes, the deliberate alteration or deletion of data, or deliberately entering false data, contributes to ensuring the accuracy and transparency of the system and therefore the regulated market, and aids in maintaining the confidentiality of Licensee data.

This Rule 3-920 was previously Rules M and R 904, 1 CCR 212-1 and 1 CCR 212-2.

3-920 – Regulated Marijuana Business Reporting Requirements

A. Management Personnel Change Must Be Reported.

1. When Required. A Regulated Marijuana Business shall provide the Division a written report within seven days after any change in management personnel occurs. In addition, a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer shall report any designation or change of Sampling Manager(s) through the Inventory Tracking System.

2. Licensee Must Maintain Record of Reported Change. A Regulated Marijuana Business must also maintain a copy of this written report with its business records as required in Rule 3-905.

3. Consequence of Failure to Report. Failure to report a change in a timely manner may result in discipline.

B. Reporting of Crime on the Licensed Premises or Otherwise Related to a Regulated Marijuana Business. A Regulated Marijuana Business and all Licensees employed by the Regulated Marijuana Business shall report to the Division any discovered plan or other action of any Person to (1) commit theft, burglary, underage sales, diversion of marijuana or marijuana product, or other crime related to the operation of the subject Regulated Marijuana Business; or (2) compromise the integrity of the Inventory Tracking System. A report shall be made as soon as possible after the discovery of the action, but not later than 14 days. Nothing in this paragraph (B) alters or eliminates any obligation a Regulated Marijuana Business or Licensee may have to report criminal activity to a local law enforcement agency.

C. Adverse Health Event Reporting. If a Regulated Marijuana Business is notified of any possible Adverse Health Event, as defined by Rule 1-115, associated with Regulated Marijuana, it must report the Adverse Health Event to the Division within 48 hours from its receipt of notification of the Adverse Health Event. To the extent known after reasonable diligence to ascertain the information, the report must contain the name and contact information of the complainant, the date the complaint was received, the nature of the complaint, the Production Batch or Harvest Batch number, and any other identifying information found on the label of the Regulated Marijuana. The Regulated Marijuana Business must maintain records of reports of Adverse Health Events in accordance with Business Records Rule 3-905

Basis and Purpose – 3-925

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-204(1)(a), 44-10-203(2)(j), 44-10-203(2)(k), 44-10-203(1)(k), and 44-10-307(1)(e), C.R.S. *See also* articles 21, 22, 26 and 28.8 of title 39, C.R.S. The purpose of this rule is to clarify the Division's authority to provide taxation divisions within the Department copies of or access to reports or other information obtained from or regarding a Licensee, for the purpose of ensuring accurate and complete filing of tax returns and payment of sales, excise and income taxes required by Title 39 of the Colorado Revised Statutes. Such information sharing is for a purpose authorized by the Marijuana Code. This Rule 3-925 was previously Rules M and R 905, 1 CCR 212-1 and 1 CCR 212-2.

3-925 – Department Information Access

A. Department Access to Reports or Other Information. The Division may provide taxation divisions within the Department copies of or access to reports or other information obtained from or regarding a Licensee for the purpose of ensuring accurate and complete filing of tax returns and payment of sales, excise, and income taxes required by Title 39 of the Colorado Revised Statutes.

B. Confidentiality. Reports or other information provided to or accessed by taxation divisions within the Department for the purpose of ensuring accurate and complete filing of tax returns and payment of sales, excise, and income taxes required by Title 39 of the Colorado Revised Statutes shall be considered part of the Department's investigation pursuant to subsection 39-21-113(4)(a), C.R.S., and the Division shall continue to maintain such records and information in its possession or control as confidential pursuant to subsection 44-10-204(1)(a), C.R.S.

Basis and Purpose – 3-930

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-204, 44-10-301, and 44-10-1001(1), C.R.S. This rule identifies the business records a Licensee can request from the Division and how the business records will be provided to the Licensee.

3-930 – Request for Business Records from the Division.

A. A Controlling Beneficial Owner, a Passive Beneficial Owner who is licensed or disclosed to the Division or an authorized representative according to the Division's records may request from the Division a copy of applications which the Controlling Beneficial Owner, the Passive Beneficial Owner or a Regulated Marijuana Business for which the requestor was identified on the ownership structure that has previously been submitted to the Division. The following limitations apply to requests for business records from the Division:

1. Requests for records under this rule are limited to applications submitted by a Licensee in the prior two (2) calendar years during which the requesting Controlling Beneficial Owner or Passive Beneficial Owner that was licensed or disclosed was identified on the Licensee's ownership structure on file with the Division.

2. Applications provided by the Division in response to a request under this rule will not include supporting documents. For example, business records provided by the Division under this rule will not include leases, operating agreements, or premises diagrams.

3. Business records provided to a Controlling Beneficial Owner, Passive Beneficial Owner that was licensed disclosed, or authorized representative under this rule will only be provided in an electronic format and sent only to the Controlling Beneficial Owner, disclosed Passive Beneficial Owner, or to an individual with a valid authorization letter on file with the Division.

B. The Division will not provide any business records or provide business records to any person which could violate the obligation to maintain the confidentiality of documents and information provided by Applicants and Licensees to the State Licensing Authority as provided in Section 44-10-204, C.R.S.

3-1000 Series – Labeling, Packaging, and Product Safety

Basis and Purpose – 3-1005

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(c), 44-10-202(6), 44-10-203(2)(f), 44-10-203(1)(k), 44-10-203(3)(a)-(b), 44-10-601(2)(a), 44-10-601(5), 44-10-603(1)(d), 44-10-603(4)(a), and 44-10-603(8), C.R.S. The purpose of this rule is to define minimum packaging and labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product Transferred between Regulated Marijuana Businesses. The State Licensing Authority finds it essential to regulate and establish labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product and that this is in the interest of the health and safety of the people of Colorado. This rule identifies information that is required on all labels to provide information necessary for the Division to regulate the cultivation, production, and sale of Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product. This rule also seeks to minimize, to the extent practicable, the burden of labeling compliance to Licensees. The labeling requirements in this rule apply to all Containers immediately containing Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product. This Rule 3-1005 was previously Rules M and R 1001-1, 1 CCR 212-1 and 1 CCR 212-2.

3-1005 - Packaging and Labeling: Minimum Requirements Prior to Transfer to a Regulated Marijuana Business, except to a Regulated Marijuana Testing Facility

A. Applicability. This Rule establishes minimum requirements for packaging and labeling Regulated Marijuana prior to Transfer to a Regulated Marijuana Business, except to a Regulated Marijuana Testing Facility. See Rule 3-1025 for minimum requirements for packaging and labeling Regulated Marijuana prior to Transfer to a Regulated Marijuana Testing Facility. The labeling requirements in this Rule apply to all Containers immediately containing Medical Marijuana, Retail Marijuana, Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, and Retail Marijuana Product.

B. Packaging and Labeling of Regulated Marijuana Flower, Trim, Wet Whole Plant, and Regulated Marijuana Concentrate, Prior to Transfer to a Regulated Marijuana Business. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Medical Marijuana flower, trim, wet whole plant, or Medical Marijuana Concentrate to another Medical Marijuana Business, or Retail Marijuana flower, trim, wet whole plant, or Retail Marijuana Concentrate to another Retail Marijuana Business:

1. Packaging of Regulated Marijuana Flower and Trim, and Regulated Marijuana Concentrate.

a. Prior to Transfer to a Regulated Marijuana Business, Regulated Marijuana flower, trim, wet whole plant, or Regulated Marijuana Concentrate shall be placed into a Container. The Container may but is not required to be Child-Resistant.

b. Each Container of Regulated Marijuana flower or trim that is Transferred to a Regulated Marijuana Business shall not exceed 50 pounds of Regulated Marijuana flower or trim, but may include pre-weighed units that are within the sales limit in Rules 5-115(C),6-110(C), and 6-925(G).

c. A Container of wet whole plant that is Transferred to a Regulated Marijuana Business may exceed 50 pounds, but shall not exceed 100 pounds.

d. Each Container of Medical Marijuana Concentrate that is Transferred to a Medical Marijuana Business, or Retail Marijuana Concentrate that is Transferred to a Retail Marijuana Business, shall not exceed 50 pounds of Medical Marijuana Concentrate or Retail Marijuana Concentrate, but may include pre-weighed units that are within the applicable sales limit in Rules 5-115(C),6-110(C), and 6-925(G).

2. Labeling of Regulated Marijuana Flower, Trim, Wet Whole Plant, and Regulated Marijuana Concentrate. Prior to Transfer to a Regulated Marijuana Business, every Container of Regulated Marijuana flower, trim, wet whole plant, or Regulated Marijuana Concentrate shall be affixed with a label that includes at least the following information:

a. The license number of the Medical Marijuana Cultivation Facility where the Medical Marijuana was grown, the Retail Marijuana Cultivation Facility where the Retail Marijuana was grown, or the Accelerator Cultivator where the Retail Marijuana was grown;

b. The Harvest Batch Number(s) assigned to the Regulated Marijuana or the Production Batch Number(s) assigned to the Regulated Marijuana Concentrate;

c. If applicable, the license number of the Medical Marijuana Cultivation Facility(ies) that produced the Physical Separation-Based Medical Marijuana Concentrate, the Retail Marijuana Cultivation Facility(ies) that produced the Physical Separation-Based Retail Marijuana Concentrate, or the license number of the Accelerator Cultivator;

d. If applicable, the license number of the Medical Marijuana Products Manufacturer(s) where the Medical Marijuana Concentrate was produced, the Retail Marijuana Products Manufacturer(s) where the Retail Marijuana Concentrate was produced, or the Accelerator Manufacturer(s) where the Retail Marijuana Concentrate was produced;

e. The net contents, using a standard of measure compatible with the Inventory Tracking System, of the Regulated Marijuana or Regulated Marijuana Concentrate prior to its placement in the Container; and

f. Potency test results as required to permit the receiving Regulated Marijuana Business to label the Medical Marijuana, Retail Marijuana, Medical Marijuana Concentrate, or Retail Marijuana Concentrate as required by these rules.

g. Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers. A list of all Ingredients, including Additives, used to manufacture the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler.

h. Expiration/Use-By Date. Beginning January 1, 2024, the expiration or use-by date as required in Rule 3-1015.

i. Storage Conditions. Beginning January 1, 2024, if a Licensee establishes a use-by date that is longer than nine months based on shelf stability testing in accordance with Rule 3-1015(B)(2)(a.5), then the label for the Regulated Marijuana shall include storage conditions as determined by the Regulated Marijuana Business that cultivated or manufactured the Regulated Marijuana.

C. Packaging and Labeling of Regulated Marijuana Product Prior to Transfer to a Regulated Marijuana Business. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Medical Marijuana Product to another Medical Marijuana Business, or Transferring Retail Marijuana Product to another Retail Marijuana Business:

1. Packaging of Regulated Marijuana Product.

a. Transfer to a Regulated Marijuana Business Other Than a Medical Marijuana Store or Retail Marijuana Store. Prior to Transfer to a Regulated Marijuana Business other than a Medical Marijuana Store or Retail Marijuana Store, Regulated Marijuana Product shall be placed into a Container. The Container may but is not required to be Child-Resistant.

b. Transfer to a Medical Marijuana Store or Retail Marijuana Store. Prior to Transfer to a Medical Marijuana Store or Retail Marijuana Store, all Regulated Marijuana Product shall be packaged in a Child-Resistant Container that is ready for sale to the patient or consumer as required by the Rule 3-1010(D).

2. Labeling of Regulated Marijuana Product.

a. Transfer to a Regulated Marijuana Business other than a Medical Marijuana Store or Retail Marijuana Store. Prior to Transfer to a Regulated Marijuana Business other than a Medical Marijuana Store or Retail Marijuana Store, every Container of Regulated Marijuana Product shall be affixed with a label that includes at least the following information:

i. The license number of the Regulated Marijuana Cultivation Facility(ies) where the Medical Marijuana or Retail Marijuana was grown;

ii. The license number of the Regulated Marijuana Products Manufacturer that produced the Medical Marijuana Product or Retail Marijuana Product;

iii. The Production Batch Number(s) assigned to the Regulated Marijuana Product;

iv. The net contents, using a standard of measure compatible with the Inventory Tracking System, of the Regulated Marijuana Product prior to its placement in the Container; and

v. Potency test results as required to permit the receiving Regulated Marijuana Business to label the Regulated Marijuana Product as required by these rules.

b. Transfer to a Medical Marijuana Store or Retail Marijuana Store. Prior to Transfer to a Regulated Marijuana Store, every Container of Regulated Marijuana Product shall be affixed with a label ready for sale to the patient or consumer including all information required by Rules 3-1010(D)(2) and 3-1015(B).

D. Packaging and Labeling of Regulated Marijuana Seeds and Immature Plants Prior to Transfer to a Regulated Marijuana Business. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Regulated Marijuana seeds or Immature plants to another Regulated Marijuana Business:

1. Packaging of Regulated Marijuana Seeds.

    a. Prior to Transfer to a Regulated Marijuana Business, Regulated Marijuana seeds shall be placed into a Container. The Container may but is not required to be Child-Resistant.

    b. Each Container of Regulated Marijuana seeds that is Transferred to a Regulated Marijuana Business shall not exceed 10 pounds of Regulated Marijuana seeds.

2. Packaging of Immature Plants. Prior to Transfer to a Regulated Marijuana Business, Immature plants shall be placed into a receptacle. The receptacle may but is not required to be Child-Resistant.

3. Labeling of Regulated Marijuana Seeds and Immature Plants. Prior to Transfer to a Regulated Marijuana Business, every Container of Regulated Marijuana seeds and all receptacles holding an Immature plant shall be affixed with a label that includes at least the license number of the Regulated Marijuana Cultivation Facility where the Regulated Marijuana that produced the seeds or the Immature plant was grown.

E. Packaging and Labeling of Sampling Units. Regulated Marijuana Cultivation Facilities and Regulated Marijuana Products Manufacturers shall comply with the following minimum packaging and labeling requirements prior to Transferring any Sampling Unit to a Sampling Manager.

1. Packaging of Sampling Units. Prior to Transfer to a Sampling Manager, a Sampling Unit must be placed in a Container. If the Sampling Unit is Regulated Marijuana flower, trim, Medical Marijuana Concentrate, or Retail Marijuana Concentrate, the Container may, but is not required to, be Child-Resistant; however, the Container shall be placed into a Child-Resistant Exit Package at the point of Transfer to the Sampling Manager. If the Sampling Unit is composed of Regulated Marijuana Product, the Sampling Unit shall be packaged in a Child-Resistant Container.

2. Labeling of Sampling Units. Prior to Transfer to a Sampling Manager, every Container for a Sampling Unit shall be affixed with a label that includes at least the following information:

    a. Required License Number. The license number for the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer Transferring the Sampling Unit.

    b. Batch Number(s). The relevant Harvest Batch number and/or Production Batch number from which the Sampling Unit was designated.

    c. Universal Symbol. The Universal Symbol on the front of the Container and any Marketing Layer, no smaller than ½ of an inch by ½ of an inch, with the following statement directly below the Universal Symbol: "**Contains Marijuana. Keep away from children.**"

    d. Required Potency Statement.

        i. For a Sampling Unit composed of Regulated Marijuana, Medical Marijuana Concentrate, or Retail Marijuana Concentrate, the potency of the Sampling Unit's active THC and CBD expressed as a percentage.

ii. For a Sampling Unit composed of Regulated Marijuana Product, the potency of the Sampling Unit's active THC and CBD expressed in milligrams. If the potency of the Sampling Unit's active THC or CBD is less than 1 milligram, the potency may be expressed as "<1 mg."

iii. The required potency statement shall be displayed either: (1) In a font that is bold, and enclosed within an outlined shape such as a circle or square; or (2) highlighted with a bright color, such as yellow.

e. Date of Transfer. The label shall include the date of Transfer to the Sampling Unit.

f. Patient Number. If the Sampling Unit contains Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana Product, the label must also include the patient registration number of the recipient Sampling Manager.

g. Required Warning Statements. Either the label affixed to the Container or the Marketing Layer shall include the following information:

i. "This product was received as a Sampling Unit and may have been produced with undisclosed allergens, solvents, or pesticides, and may pose unknown physical or mental health risks. This product is not for resale and should not be used by anyone else."

F. Prohibited Transfers – All Regulated Marijuana Businesses. A Regulated Marijuana Business shall not Transfer to a Medical Marijuana Store, Retail Marijuana Store, Accelerator Store, or Retail Marijuana Hospitality and Sales Business—and a Medical Marijuana Store, Retail Marijuana Store, Accelerator Store, or Retail Marijuana Hospitality and Sales Business shall not accept nor offer for sale—any Regulated Marijuana that is not packaged and labeled in conformance with the requirements of these rules or that does not provide all information necessary to permit the Medical Marijuana Store, Retail Marijuana Store, Accelerator Store or Retail Marijuana Hospitality and Sales Business to package and label the Regulated Marijuana prior to Transfer to a patient or consumer. However, a Medical Marijuana Store or Retail Marijuana Store is not required to open any tamper evident Marketing Layer received from a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or a Retail Marijuana Products Manufacturer to verify the Container is Child-Resistant or labeled.

G. Shipping Containers. Licensees may Transfer multiple Containers of Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product to a Regulated Marijuana Business in a Shipping Container.

1. RFID Tag Required. Licensees shall ensure that either the multiple Containers placed within a Shipping Container each have an RFID tag, or the Shipping Container itself must have an RFID tag. If the Licensee elects to place the RFID tag on the Shipping Container, the Shipping Container shall contain only one Harvest Batch of Regulated Marijuana, one Production Batch of Regulated Marijuana Concentrate, or one Production Batch of Regulated Marijuana Product. If a Shipping Container consists of more than one Harvest Batch or Production Batch, then each group of multiple Containers shall be affixed with an RFID tag. *See* Rule 3-805 – Inventory Tracking System; Rule 3-605 – Transport: All Regulated Marijuana Businesses.

2. Labeling of Shipping Containers. Any Shipping Container that will not be displayed to the consumer is not required to be labeled according to these rules.

H. Packaging and Labeling of Regulated Marijuana Flower and Trim Prior to Transfer to a Pesticide Manufacturer or a Marijuana Research and Development Facility. The packaging and labeling requirements in these 3-1000 Series Rules also apply to any Transfer of Regulated Marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Product to a Pesticide Manufacturer or a Marijuana Research and Development Facility.

I. Marijuana Research and Development Facility Transfers to Persons as Part of an Approved Research Project. Any Marijuana Research and Development Facility conducting research as part of an approved Research Project involving human subjects shall comply with all packaging and labeling requirements that are applicable to a Medical Marijuana Store prior to Transfer to a patient, unless the Marijuana Research and Development Facility requests and receives in advance a waiver of specific packaging or labeling requirements in connection with the approved Research Project.

J. Research Transfers Prohibited. A Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store shall not Transfer any Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Product, Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product to a Pesticide Manufacturer or a Licensed Research Business.

K. Violation Affecting Public Safety. A violation of any rule in these 3-1000 Series Rules may be considered a license violation affecting public safety.

Basis and Purpose – 3-1010

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(c), 44-10-202(6), 44-10-203(2)(f), 44-10-203(1)(k), 44-10-203(3)(a)-(b), 44-10-601(2)(a), 44-10-601(5), 44-10-603(1)(d), 44-10-603(4)(a), and 44-10-603(8), C.R.S. The purpose of this rule is to define general packaging and labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product prior to Transfer to a patient or consumer. The labeling requirements in this rule apply to all Containers immediately containing Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product. The State Licensing Authority finds it essential to regulate and establish labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product and that this is in the interest of the health and safety of the people of Colorado. This rule identifies information that is required on all labels to provide necessary information to patients and consumers to make informed decisions and first responders in the event of accidental ingestion, over ingestion or allergic reaction. This rule also seeks to minimize, to the extent practicable, the burden of labeling compliance to Licensees. This Rule 3-1010 was previously Rules M and R 1002-1, 1 CCR 212-1 and 1 CCR 212-2.

3-1010 – Packaging and Labeling: General Requirements Prior to Transfer to a Patient or Consumer

A. Applicability. This Rule establishes general requirements for packaging and labeling Regulated Marijuana prior to Transfer to a patient or consumer. The labeling requirements in this Rule apply to all Containers immediately containing any Regulated Marijuana. The labeling requirements based on intended use in Rule 3-1015 are in addition to, not in lieu of, the requirements in this Rule.

1. Exemption for Transfers to Consumers by a Retail Marijuana Hospitality and Sales Business. Unless otherwise provided by these rules, a Retail Marijuana Hospitality and Sales Business Transferring Retail Marijuana to consumers in compliance with the packaging and labeling requirements of Rule 3-1020 is exempt from the requirements of this Rule.

B. Labeling Requirements – All Regulated Marijuana.

1. Font Size. Required labeling text on the Container and any Marketing Layer must be no smaller than 1/16 of an inch.

2. Labels Shall Not Be Designed to Appeal to Children. A Regulated Marijuana Business shall not place any content on a Container or the Marketing Layer in a manner that reasonably appears to target individuals under the age of 21, including but not limited to, cartoon characters or similar images.

3. False or Misleading Statements. Label(s) on a Container and any Marketing Layer shall not include any false or misleading statements.

4. Trademark Infringement Prohibited. No Container or Marketing Layer shall be intentionally or knowingly labeled so as to cause a reasonable consumer confusion as to whether the Regulated Marijuana is a trademarked product or labeled in a manner that violates any federal trademark law or regulation.

5. Health and Benefit Claims. The label(s) on the Container and any Marketing Layer shall not make any claims regarding health or physical benefits to the patient or consumer.

6. Use of English Language. Labeling text on the Container and any Marketing Layer must be clearly written or printed and in the English language. In addition to the required English label, Licensees may include an additional, accurate foreign language translation on the label that otherwise complies with these rules.

7. Unobstructed and Conspicuous. Labeling text on the Container and any Marketing Layer must be unobstructed and conspicuous. A Licensee may affix multiple labels to the Container, provided that none of the information required by these rules is obstructed and permanently hidden from view. For example and not by means of limitation, labels may be accordion, expandable, extendable or layered to permit labeling of small Containers.

8. Use of the Word “Candy” and/or “Candies” Prohibited.

    a. Licensees shall not use the word(s) “candy” and/or “candies” on the label of any Container holding Regulated Marijuana, or of any Marketing Layer.

    b. Notwithstanding the requirements of this subparagraph, a Regulated Marijuana Business whose identity statement contains the word(s) “candy” and/or “candies” may place its Identity Statement on the label of the Container holding Regulated Marijuana, or of any Marketing Layer.

9. Child Resistant Certificate(s). A Licensee shall maintain a copy of the certificate showing that each Child-Resistant Container into which the Licensee places Regulated Marijuana is Child-Resistant and complies with the requirements of 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995) in accordance with the requirements of Rule 3-905(A).

    a. Note that this Rule does not include any later amendments or editions to the Code of Federal Regulations. The Division has maintained a copy of 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995), which is available to the public for inspection and copying during the Division’s regular business hours.

10. Containers and Marketing Layers. The Container and any Marketing Layer shall have a label with all information required by these 3-1000 Series Rules. Any intermediary packaging between the Container and the Marketing Layer is not required to be labeled in accordance with these rules.

11. Exit Packages.

a. Exit Packages Permitted for Child-Resistant Containers. A Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store may but is not required to place a Child-Resistant Container into an Opaque Exit Package at the point of Transfer to the patient or consumer.

b. Exit Packages Required for Regulated Marijuana Flower, Trim, and Seeds. Any Regulated Marijuana flower, trim, or seeds in a Container that is not Child-Resistant shall be placed into a Child-Resistant Exit Package at the point of Transfer to a patient or consumer. The Exit Package is not required to be labeled but may include the Medical Marijuana Store's, Retail Marijuana Store's, or Accelerator Store's Identity Statement and/or Standardized Graphic Symbol.

C. Packaging and Labeling of Regulated Marijuana Flower and Trim, and Regulated Marijuana Concentrate Prior to Transfer to a Patient or Consumer. A Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store shall comply with the following minimum packaging and labeling requirements prior to Transferring Medical Marijuana flower and trim, Retail Marijuana flower and trim, Medical Marijuana Concentrate, or Retail Marijuana Concentrate to a patient or consumer:

1. Packaging of Regulated Marijuana Flower and Trim. Prior to Transfer to a patient or a consumer, Regulated Marijuana flower and trim shall be in a Container that does not exceed the sales limit in Rules 5-115(C) and 6-110(C). The Container may but is not required to be Child-Resistant. Any Regulated Marijuana flower and trim in a Container that is not Child-Resistant shall be placed into a Child-Resistant Exit Package at the point of Transfer to a patient or consumer.

2. Packaging of Regulated Marijuana Concentrate. Prior to Transfer to a patient or consumer, Regulated Marijuana Concentrate shall be in a Child-Resistant Container that does not exceed the sales limit in Rules 5-115(C) and 6-110(C).

a. A Pressurized Metered Dose Inhaler, Vaporizer Delivery Device, or syringe-type device that is within an intended use that is listed in Rule 3-1015(B) and is not an Alternative Use Product need not itself be Child-Resistant but must be placed into a Child-Resistant Container prior to Transfer to a patient or consumer.

b. A Pressurized Metered Dose Inhaler, Vaporizer Delivery Device, or syringe-type device with an intended use that is listed in Rule 3-1015(B) and that is not an Alternative Use Product must be labeled with at least the Universal Symbol, but is not required to include "**Contains Marijuana. Keep away from children.**", prior to Transfer to a patient or consumer. The Universal Symbol shall be legible and no smaller than ¼ of an inch by ¼ of an inch.

c. A Marketing Layer or Container for a Pressurized Metered Dose Inhaler or Vaporizer Delivery Device must be affixed with a label that states "**Not approved by the FDA.**"

d. Nothing in this Rule authorizes the use of a syringe for any type of injection involving a needle piercing the skin.

3. Labeling of Regulated Marijuana Flower and Trim, and Regulated Marijuana Concentrate. Prior to Transfer to a patient or consumer, every Container of Regulated Marijuana flower and trim, or Regulated Marijuana Concentrate and any Marketing Layer shall be affixed with a label that includes at least the following information:

a. Required License Number(s). The license number for each of the following:

i. The Regulated Marijuana Cultivation Facility where the Regulated Marijuana was grown;

ii. If applicable, the Regulated Marijuana Cultivation Facility(ies) where the Physical Separation-Based Medical Marijuana Concentrate or Physical Separation-Based Retail Marijuana Concentrate was produced;

iii. If applicable, the Regulated Marijuana Products Manufacturer where the Medical Marijuana Concentrate or Retail Marijuana Concentrate was produced; and

iv. The Regulated Marijuana Store that sold the Medical Marijuana, Retail Marijuana, Medical Marijuana Concentrate, or Retail Marijuana Concentrate to the patient or consumer, except the Regulated Marijuana Store may affix its license number to the Container or Marketing Layer.

v. Retail Marijuana that was designated as Medical Marijuana pursuant to Rule 5-235, 6-230, 6-730 must be labeled with the license number of the Retail Marijuana Cultivation Facility.

vi. Retail Marijuana Concentrate that was designated as Medical Marijuana Concentrate pursuant to Rule 5-335, 6-335, 6-830 must be labeled with the license number of the Retail Marijuana Products Manufacturer.

b. Batch Numbers. The Harvest Batch Number(s) assigned to the Regulated Marijuana or the Production Batch Number(s) assigned to the Regulated Marijuana Concentrate.

c. Statement of Net Contents. The statement of net contents must identify the net weight of the Regulated Marijuana or net weight or volume of Regulated Marijuana Concentrate prior to its placement in the Container, using a standard of measure compatible with the Inventory Tracking System.

d. Universal Symbol. The Universal Symbol on the front of the Container and any Marketing Layer, no smaller than ½ of an inch by ½ of an inch, with the following statement directly below the Universal Symbol: “**Contains Marijuana. Keep away from children.”**

e. Required Potency Statement.

i. The potency of Regulated Marijuana flower or trim shall be expressed as: (1) the percentage of total THC and CBD from the test results for that Harvest Batch, or (2) if the Harvest Batch is not required to be tested, either as: (i) a range of percentages of total THC and CBD that extends from the lowest percentage to the highest percentage for each cannabinoid listed, from every test conducted on that strain of Regulated Marijuana cultivated by the same Regulated Marijuana Cultivation Facility during the preceding six months or (ii) an average for each cannabinoid listed, from every test conducted on that strain of Regulated Marijuana cultivated by the Regulated Marijuana Cultivation Facility during the preceding six months. If CBD is not detected in Harvest Batch, then Total CBD potency is not required.

ii. The potency of Medical Marijuana Concentrate's or Retail Marijuana Concentrate's Total THC and CBD shall be expressed as a percentage. If CBD is not detected in the Production Batch, then Total CBD potency is not required. The potency of Regulated Marijuana, Medical Marijuana Concentrate, and Retail Marijuana Concentrate shall be displayed either: (i) In a font that is bold, and enclosed within an outlined shape such as a circle or square; or (ii) Highlighted with a bright color such as yellow.

f. Date of Sale. The Regulated Marijuana Store shall affix the date of sale to the patient or consumer to the Container or Marketing Layer.

g. Patient Number. The Medical Marijuana Store shall affix the patient's registration number to the Container or Marking Layer at the time of Transfer to the patient.

h. Solvent List. A list of any solvent(s) used to produce any Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate.

i. Ingredient List Including Major Allergens. If applicable, a list of all Ingredients used to manufacture the Regulated Marijuana Concentrate including identification of any major allergens contained in the Regulated Marijuana Concentrate in accordance with the Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010). The Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010) requires disclosure of the following major food allergens: milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat, and soybeans.

i. Note that this Rule does not include any later amendments or editions to the United States Code. The Division maintains a copy of 21 U.S.C. § 343 (2010), which is available to the public for inspection and copying during the Division's regular business hours.

j. Required Warning Statements. Either the label affixed to the Container or the Marketing Layer shall include the following information:

i. "**This product was produced without regulatory oversight for health, safety, or efficacy.**"

ii. "**There may be long term physical or mental health risks from use of marijuana including additional risks for women who are or may become pregnant or are breastfeeding. Use of marijuana may impair your ability to drive a car or operate machinery**."

k. Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers.

i. Ingredient List. A list of all Ingredients, including Additives, used to manufacture the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler.

ii. Expiration Date. Effective July 1, 2022, a Marijuana Products Manufacturer that produces a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler shall include an expiration date pursuant to Rule 3-335(M).

iii. Storage Conditions. Effective July 1, 2022, a Marijuana Products Manufacturer that produces a Vaporizer Delivery Device or Pressurized

Metered Dose Inhaler shall include ideal storage conditions for the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler pursuant to Rule 3-335(M).

D. Packaging and Labeling of Regulated Marijuana Product, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, and Audited Product. A Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, Accelerator Manufacturer, Medical Marijuana Store, Retail Marijuana Store, and an Accelerator Store shall comply with the following minimum packaging and labeling requirements prior to Transferring Regulated Marijuana Product:

1. Packaging of Regulated Marijuana Product. Every Regulated Marijuana Product shall be in a Child-Resistant Container at the time of Transfer to a Medical Marijuana Store or Retail Marijuana Store in accordance with the following packaging limits:

a. Regulated Marijuana Product Other than Edible Medical Marijuana Product or Edible Retail Marijuana Product. Medical Marijuana Product that is not Edible Medical Marijuana Product and Retail Marijuana Product that is not Edible Retail Marijuana Product shall be placed into a Child-Resistant Container that does not exceed the sales limit in Rule 5-115(C) and 6-110(C). A Pressurized Metered Dose Inhaler, Vaporizer Delivery Device, or syringe-type device that is within the intended use that is listed in Rule 3-1015(B) and is not an Alternative Use Product need not itself be Child-Resistant but must be placed into a Child-Resistant Container prior to Transfer to a patient or consumer. A Pressurized Metered Dose Inhaler, Vaporizer Delivery Device, or syringe-type device within an intended use that is listed in Rule 3-1015(B) and that is not an Alternative Use Product must be labeled with at least the Universal Symbol, but is not required to include "**Contains Marijuana. Keep away from children.**", prior to Transfer to a patient or consumer. The Universal Symbol shall be legible and no smaller than ¼ of an inch by ¼ of an inch. Nothing in this Rule authorizes the use of a syringe for any type of injection involving a needle piercing the skin.

b. Edible Medical Marijuana Product. Every Edible Medical Marijuana Product including Liquid Edible Medical Marijuana Product shall be in a Child-Resistant Container. If the Edible Medical Marijuana Product contains multiple portions then it shall be placed into a Child-Resistant Container that is Resealable.

c. Edible Retail Marijuana Product. Edible Retail Marijuana Product shall be in a Child-Resistant Container as follows:

i. Single-Serving Edible Retail Marijuana Product. Every Single-Serving Edible Retail Marijuana Product must be placed into a Child-Resistant Container.

ii. Bundled Single-Serving Edible Retail Marijuana Product. Single-Serving Edible Retail Marijuana Products that are placed into a Child-Resistant Container may be bundled into a larger Marketing Layer so long as the total amount of active THC per Marketing Layer does not exceed 100 milligrams.

iii. Multiple-Serving Edible Retail Marijuana Product. Every Multiple-Serving Edible Retail Marijuana Product shall be placed into a Child-Resistant Container that is Resealable and shall not exceed 100 milligrams of active THC per Container.

d. Liquid Edible Medical Marijuana Product and Liquid Edible Retail Marijuana Product. Liquid Edible Medical Marijuana Product and Single-Serving Liquid Edible Retail Marijuana Product shall be packaged in a Child-Resistant Container ~~as follows~~:

i. ~~Single-Serving Liquid Edible Medical Marijuana Product Liquid Edible Retail Marijuana Product. Each Liquid Edible Medical Marijuana Product and Liquid Edible Retail Marijuana Product that is a Single-Serving must be packaged in a Child-Resistant Container~~Repealed.

ii. Multiple-Serving Liquid Edible Retail Marijuana Product. Each Liquid Edible Retail Marijuana Product that is a Multiple-Serving Edible Retail Marijuana Product shall be:

a. Packaged in a structure that uses a single mechanism to achieve both Child-Resistant properties and accurate pouring measurement of each liquid serving in increments equal to or less than 10 milligrams of active THC per serving, with no more than 100 milligrams of active THC total per Container; and

b. The measurement component is within the Child-Resistant cap or closure of the bottle and is not a separate component.

iii. Multiple-Serving Liquid Edible Medical Marijuana Product. Each Liquid Edible Medical Marijuana Product that is a Multiple-Serving Edible Medical Marijuana Product shall be:

a. Packaged in a structure that uses a single mechanism to achieve both Child-Resistant properties and accurate pouring measurement of each liquid serving; and

b. The measurement component is within the Child-Resistant cap or closure of the bottle, and is not a separate component.

e. Audited Product. The Container containing Audited Product for administration by: (i) metered dose nasal spray or (ii) vaginal administration must be Child Resistant and labeled. A Container holding Audited Product for rectal administration need not be Child-Resistant but must be placed into a Child-Resistant Container prior to Transfer to a patient or consumer.

i. A metered dose nasal spray must be affixed with a label that states: "**Not approved by FDA.**"

ii. The Container holding Audited Product for vaginal administration and rectal administration must be affixed with a label that states: "**Not approved by FDA.**"

iii. For example and not by means of limitation, labels may be affixed using the following methods: accordion, expandable, extendable, layered, tags, or stickers.

2. Labeling of Regulated Marijuana Product. Prior to Transfer to a Regulated Marijuana Store and a patient or consumer, every Container of Regulated Marijuana Product and any Marketing Layer shall be affixed with a label that includes at least the following information:

a. Required License Number(s). The license number for each of the following:

i. The Regulated Marijuana Cultivation Facility where the Medical Marijuana or Retail Marijuana was grown;

ii. The Regulated Marijuana Products Manufacturer where the Medical Marijuana Product or Retail Marijuana Product was produced; and

iii. The Regulated Marijuana Store that sold the Medical Marijuana Product to a patient or consumer, except the Regulated Marijuana Store may affix its license number to the Container or Marketing Layer.

b. Batch Numbers. The Production Batch Number(s) assigned to the Regulated Marijuana Product.

c. Statement of Net Contents. The statement of net contents must identify the net weight, volume, or number of Regulated Marijuana Products prior to its placement in the Container, using a standard of measure compatible with the Inventory Tracking System.

d. Universal Symbol. The Universal Symbol on the front of the Container and any Marketing Layer, no smaller than ½ of an inch by ½ of an inch, with the following statement directly below the Universal Symbol: "**Contains Marijuana. Keep away from children**."

e. Ingredient List Including Major Allergens. A list of all Ingredients used to manufacture the Regulated Marijuana Product including identification of any major allergens contained in the Regulated Marijuana Product in accordance with the Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010). The Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010) requires disclosure of the following major food allergens: milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat, and soybeans.

i. Note that this Rule does not include any later amendments or editions to the United States Code. The Division maintains a copy of 21 U.S.C. § 343 (2010), which is available to the public for inspection and copying during the Division's regular business hours.

f. Required Potency Statement. The Target Potency or potency value determined from testing by a Regulated Marijuana Testing Facility of the Regulated Marijuana Product's active THC and CBD expressed in milligrams. If the Regulated Marijuana Product's Target Potency or potency value of THC or CBD is less than 1 milligram, the potency may be expressed as "<1 mg." If CBD is not detected in the Regulated Marijuana Product, then active CBD potency is not required. The Target Potency or potency value, shall be displayed either:

i. In a font that is bold, and enclosed within an outlined shape such as a circle or square; or

ii. Highlighted with a bright color such as yellow.

g. Solvent List. A list of any solvent(s) used to produce any Solvent-Based Medical Marijuana Concentrate used as a production input in any Medical Marijuana Product, or Solvent-Based Retail Marijuana Concentrate used as a production input in any Retail Marijuana Product.

h. Date of Sale. The Regulated Marijuana Store shall affix the date of sale to the Container or Marketing Layer at the time of Transfer to the patient or consumer.

i. Patient Number. The Medical Marijuana Store shall affix the patient's registration number to the Container or Marking Layer at the time of Transfer to the patient.

j. Required Warning Statements. Either the label affixed to the Container or the Marketing Layer shall include the following information:

i. "**This product was produced without regulatory oversight for health, safety, or efficacy.**"

ii. "**There may be long term physical or mental health risks from use of marijuana including additional risks for women who are or may become pregnant or are breastfeeding. Use of marijuana may impair your ability to drive a car or operate machinery.**"

3. Labeling of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana. Prior to Transfer to a Regulated Marijuana Store and to a patient or consumer, every Container of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana and any Marketing Layer shall be affixed with a label that includes at least the following information:

a. Required License Number(s). The license number for each of the following:

i. The Regulated Marijuana Cultivation Facility where the Medical Marijuana or Retail Marijuana was grown;

ii. The license number of the Regulated Marijuana Business where the Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana was produced; and

iii. The Regulated Marijuana Store that sold the Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana to a patient or consumer, except the Regulated Marijuana Store may affix its license number to the Container or Marketing Layer.

b. Batch Numbers. The Production Batch Number(s) assigned to the Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana.

c. Statement of Net Contents. The statement of net contents must identify the net weight (excluding the paper, wrapper, filter and/or equivalent) of each Pre-Rolled Marijuana joint or Infused Pre-Rolled Marijuana joint prior to its placement in the Container and the number of joints in each Container of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana, using a standard of measure compatible with the Inventory Tracking System.

d. Universal Symbol. The Universal Symbol on the front of the Container and any Marketing Layer, no smaller than ½ of an inch by ½ of an inch, with the following statement directly below the Universal Symbol: **"Contains Marijuana. Keep away from children."**

e. Solvent List. If applicable, a list of any solvent(s) used to produce any Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate used in the creation of Infused Pre-Rolled Marijuana.

f. Required Potency Statement. The potency of Pre-Rolled Marijuana shall be expressed as: (1) the percentage of total THC and CBD from the test results of each Production Batch, or (2) if each Production Batch is not required to be tested, either as: (i) a range of percentages of total THC and CBD that extends from the lowest percentage to the highest percentage for each cannabinoid listed, from every test conducted for a particular type of Pre-Rolled Marijuana produced by the same Regulated Marijuana Business during the preceding six months or (ii) an average for each cannabinoid listed, from every test conducted for a particular type of Pre-Rolled Marijuana produced by the same Regulated Marijuana Business during the preceding six months. If CBD is not detected in the Production Batch, then Total CBD potency is not required. The potency of Infused Pre-Rolled Marijuana shall be expressed as the percentages of total THC and CBD from the test results of each Production Batch. If CBD is not detected in the Production Batch, then Total CBD potency is not required. The potency of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana shall be displayed either:

i. In a font that is bold, and enclosed within an outlined shape such as a circle or square; or

ii. Highlighted with a bright color such as yellow.

g. Date of Sale. The Regulated Marijuana Store shall affix the date of sale to the Container or Marketing Layer at the time of Transfer to the patient or consumer.

h. Patient Number. The Medical Marijuana Store shall affix the patient's registration number to the Container or Marking Layer at the time of Transfer to the patient.

i. Required Warning Statements. Either the label affixed to the Container or the Marketing Layer shall include the following information:

i. **"This product was produced without regulatory oversight for health, safety, or efficacy."**

ii. **"There may be long term physical or mental health risks from use of marijuana including additional risks for women who are or may become pregnant or are breastfeeding. Use of marijuana may impair your ability to drive a car or operate machinery."**

E. Packaging and Labeling of Seeds and Immature Plants Prior to Transfer to a Patient or Consumer. A Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store shall comply with the following minimum packaging and labeling requirements prior to Transferring seeds or Immature plants to a patient or consumer:

1. Packaging of Regulated Marijuana Seeds. Prior to Transfer to a patient or consumer, Regulated Marijuana seeds shall be in a Container. The Container may but is not required to be Child-Resistant. Any Regulated Marijuana seeds in a Container that is not Child-Resistant shall be placed into a Child-Resistant Exit Package at the point of Transfer to a patient or consumer.

2. Packaging of Immature Plants. Prior to Transfer to a patient or consumer, Immature plants shall be placed into a receptacle. The receptacle may but is not required to be Child-Resistant.

3. Labeling of Seeds and Immature Plants. Prior to Transfer to a patient or consumer, every Container holding Regulated Marijuana seeds and any receptacle containing an

Immature plant must be affixed with a label that includes at least the following information:

a. Required License Number(s). The license number for each of the following:

i. The Medical Marijuana Cultivation Facility where the Medical Marijuana that produced the seeds or Immature plant was grown, the Retail Marijuana Cultivation Facility where the Retail Marijuana that produced the seeds or the Immature plant was grown, or the Accelerator Cultivator where the Retail Marijuana that produced the seeds or the Immature plant was grown; and

ii. The Medical Marijuana Store that sold the seeds or Immature plant to the patient, the Retail Marijuana Store that sold the seeds or Immature plant to the consumer, or the Accelerator Store that sold the seeds or Immature plant to the consumer.

b. Universal Symbol. The Universal Symbol on the front of the Container holding seeds and the receptacle containing each Immature plant, no smaller than ½ of an inch by ½ of an inch, with the following statement directly below the Universal Symbol: "**Contains Marijuana. Keep away from children.**"

c. Statement of Net Contents for Seeds. A statement of net contents identifying the number of seeds in the Container.

d. Date of Sale. The Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store shall affix the date of sale to the patient or consumer to the Container or receptacle.

e. Patient Number. The Medical Marijuana Store shall affix the patient's registration number to the Container or receptacle at the time of Transfer to the patient.

f. Required Warning Statements:

i. "**This product was produced without regulatory oversight for health, safety, or efficacy**."

ii. "**There may be long term physical or mental health risks from use of marijuana including additional risks for women who are or may become pregnant or are breastfeeding. Use of marijuana may impair your ability to drive a car or operate machinery**."

F. Permissive Information.

1. Identity Statement. A label affixed to a Container of Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product or any Marketing Layer may include, but is not required to include, the Identity Statement and/or Standardized Graphic Symbol for:

a. The Regulated Marijuana Cultivation Facility(ies) where the Medical Marijuana or Retail Marijuana was grown;

b. The Regulated Marijuana Products Manufacturer that manufactured the Regulated Marijuana Product or Regulated Marijuana Concentrate; and/or

c. The Regulated Marijuana Store that sold the Regulated Marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Product.

2. Nutritional Fact Panel. Label(s) may include, but are not required to include, a nutritional fact panel or dietary supplement fact panel in substantial conformance with 21 CFR 101.9 (2016) or 21 C.F.R. 101.36 (2016) as follows:

a. For Edible Medical Marijuana Products or Edible Retail Marijuana Products other than pills, capsules, and tinctures and Food-Based Medical Marijuana Concentrate or Food-Based Retail Marijuana Concentrate the nutritional fact panel shall be in substantial conformance with the requirements of 21 C.F.R. 101.9(C) (2016) which provides the FDA's nutritional labeling requirements for food;

b. For pills, capsules, and tinctures, the dietary supplement fact panel shall be in substantial conformance with the requirements of 21 C.F.R. 101.36 (2016) which provides the FDA's nutritional labeling requirements for dietary supplements.

i. Note that this Rule does not include any later amendments or editions to the Code of Federal Regulations. The Division maintains copies of 21 C.F.R. 101.9(C) (2016) and 21 C.F.R. 101.36 (2016), which are available to the public for inspection and copying during the Division's regular business hours.

3. Other Permissive Information. The labeling requirements in the 3-1000 Series Rules provide only the minimum labeling requirements. Licensees may include additional information on the label(s) so long as such information is consistent with the requirements of these Rules.

Basis and Purpose – 3-1015

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(c), 44-10-202(6), 44-10-203(2)(d)(IV)(A)-(C), 44-10-203(2)(f), 44-10-203(2)(w), 44-10-203(1)(a), 44-10-601(2)(a), 44-10-603(4)(a), and 44-10-603(8), C.R.S. The purpose of this rule is to define additional labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and/or Regulated Marijuana Product (except Regulated Marijuana seeds and Immature plants) based on its intended use. These labeling requirements are in addition to, not in lieu of, the labeling requirements in Rule 3-1010. This Rule 3-1015 was previously Rules M and R 1003-1, 1 CCR 212-1 and 1 CCR 212-2. The Division and State Licensing Authority intend to monitor data regarding Regulated Marijuana use-by dates following implementation of these rules, and will make any necessary changes, including but not limited to, reducing the nine months use-by date if Licensees choose not to conduct stabilization studies.

3-1015 – Additional Labeling Requirements Prior to Transfer to a Patient or Consumer

A. Applicability. This Rule establishes additional labeling requirements for Regulated Marijuana (except seeds and Immature plants), Regulated Marijuana Concentrate, and Regulated Marijuana Product prior to Transfer to a patient or consumer. The labeling requirements in this Rule apply to all Containers immediately containing Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product. These labeling requirements based on intended use are in addition to, not in lieu of, the requirements in Rule 3-1010.

1. Exemption for Transfers to Consumers by a Retail Marijuana Hospitality and Sales Business. Unless otherwise provided by these rules, a Retail Marijuana Hospitality and Sales Business Transferring Retail Marijuana to consumers in compliance with the

packaging and labeling requirements of Rule 3-1020 is exempt from the requirements of this Rule.

B. Additional Information Required on Every Container (Except Seeds and Immature Plants) Prior to Transfer to a Patient or Consumer. Prior to Transfer to a patient or consumer, every Container of Regulated Marijuana (except seeds and Immature plants), Regulated Marijuana Concentrate, or Regulated Marijuana Product and any Marketing Layer must have a label that includes at least the following additional information.

1. Statement of Intended Use. The Container and any Marketing Layer shall identify one or more intended use(s) for Medical Marijuana, Retail Marijuana, Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, and Retail Marijuana Product from the following exclusive list:

a. Inhaled Product:

i. Flower, shake, or trim;

ii. Pre-Rolled Marijuana and Infused-Pre-Rolled Marijuana;

iii. Solvent-Based Medical Marijuana Concentrate;

iv. Solvent-Based Retail Marijuana Concentrate;

v. Physical Separation-Based Medical Marijuana Concentrate;

vi. Physical Separation-Based Retail Marijuana Concentrate;

vii. Heat/Pressure-Based Medical Marijuana Concentrate;

viii. Heat/Pressure-Based Retail Marijuana Concentrate;

ix. Vaporizer Delivery Device;

x. Pressurized Metered Dose Inhaler.

b. For Oral Consumption:

i. Food or drink infused with Regulated Marijuana;

ii. Regulated Marijuana Concentrate intended to be consumed orally;

iii. Pills and capsules;

iv. Tinctures.

c. Skin and Body Products:

i. Topical;

ii. Transdermal.

d. Audited Product:

i. Metered Dose Nasal Spray;

ii. Vaginal Administration;

iii. Rectal Administration.

2. Inhaled Product. The "Inhaled Product" intended use may be used only for products intended for consumption by smoking or Vaporizer Delivery Device where the product is heated or burned prior to consumption, or through use of a Pressurized Metered Dose Inhaler. The label(s) on all inhaled product intended use shall also include:

a. The potency statement required by Rule 3-1010 for: (1) flower, shake, or trim, (2) Pre-Rolled Marijuana, (3) Infused-Pre-Rolled Marijuana, (4) Solvent-Based Medical Marijuana Concentrate, (5) Solvent-Based Retail Marijuana Concentrate, (6) Physical Separation-Based Medical Marijuana Concentrate, (7) Physical Separation-Based Retail Marijuana Concentrate, (8) Heat/Pressure-Based Medical Marijuana Concentrate, (9) Heat/Pressure-Based Retail Marijuana Concentrate shall be stated as the percentage of Total THC and CBD. If CBD is not detected, then total CBD potency is not required.

a.5. Use-By Date. Effective January 1, 2024, a product use-by date, upon which the Regulated Marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Product will no longer be fit for consumption, or upon which the Regulated Marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Product will no longer be optimally fresh. Once a label with a use-by date has been affixed to a Container containing Regulated Marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Product and any Marketing Layer, a Licensee shall not alter that use-by date or affix a new label with a later use-by date. The use-by date shall not be longer than nine months from the harvest or production date, unless shelf stability testing, including but not limited to potency, microbial, and water activity testing, supports a longer shelf life. All use-by dates must be entered into the Inventory Tracking System prior to Transfer. Prior to Transfer to a patient or consumer, a Regulated Marijuana Store or Accelerator Store must inform the patient or consumer if the Regulated Marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Product is past its use-by date.

b. The potency statement required by Rule 3-1010 for Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers shall be stated as either the percentage of Total THC and CBD, or the number of milligrams of Total THC and CBD, per cartridge, pen, or inhaler. If the potency value for Total THC or CBD of the Vaporizer Delivery Devices or Pressurized Metered Dose Inhalers is less than one milligram, the potency may be expressed as "<1 mg." If CBD is not detected in the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler, then total CBD potency is not required.

c. Additional Labeling Requirement for Regulated Marijuana Concentrate to Promote Consumer Health and Awareness: Effective January 1, 2023, if a Regulated Marijuana Concentrate that is an Inhaled Product cannot easily be measured or separable to the recommended serving size established under Rule 3-335(D)(3)(d) and (f), the Regulated Marijuana Manufacturer that manufacturers the Regulated Marijuana Concentrate must:

i. Affix the Container of Regulated Marijuana Concentrate with a measuring device that permits the patient or consumer to measure each serving in a manner consistent with the recommended serving established under Rule 3-335(D); or

ii. Include a label on the Container of Regulated Marijuana Concentrate that provides instructions to allow the patient or consumer to measure each recommended serving pursuant to Rule 3-335(D).

3. For Oral Consumption. The label(s) on all Edible Medical Marijuana Products and Edible Retail Marijuana Products, including but not limited to confections, liquids, pills, capsules and tinctures, shall also include:

a. Potency Statement. The potency statement required by Rule 3-1010 shall be stated as: (1) milligrams of active THC and CBD per serving and (2) milligrams of active THC and CBD per Container where the Container contains more than one serving. The Target Potency may be used to fulfill the requirement of this Rule. If CBD is not detected, then active CBD potency is not required.

i. If the Edible Medical Marijuana Product's or Edible Retail Marijuana Product's Target Potency or potency value of active THC or CBD is less than one milligram per serving, the potency may be expressed as "<1 mg." If "<1 mg" was used to display the active THC or CBD per serving, then a corresponding statement regarding the total THC or CBD content for the entire Container shall be included on the Container. For example, if there are five servings in the Container, "<5 mg" should be displayed for the active THC or CBD statement that was represented as "<1 mg" per serving.

b. Additional Warning Statement Required. The following additional warning statement shall be included on the label on the Container or Marketing Layer for all Edible Medical Marijuana Product and Edible Retail Marijuana Product: **"The intoxicating effects of this product may be delayed by up to 4 hours.**"

c. Expiration/Use-By Date. A product expiration date, upon which the Edible Medical Marijuana Product or Edible Retail Marijuana Product will no longer be fit for consumption, or a use-by-date, upon which the Edible Medical Marijuana Product or Edible Retail Marijuana Product will no longer be optimally fresh. Once a label with an expiration or use-by date has been affixed to a Container containing an Edible Medical Marijuana Product or Edible Retail Marijuana Product and any Marketing Layer, a Licensee shall not alter that expiration or use-by date or affix a new label with a later expiration or use-by date. All expiration or use-by dates must be entered into the Inventory Tracking System prior to Transfer. Prior to Transfer to a patient or consumer, a Regulated Marijuana Store or Accelerator Store must inform the patient or consumer if the Edible Medical Marijuana Product or Edible Retail Marijuana Product is past its expiration or use-by date.

d. Production Date. The date on which the Edible Medical Marijuana Product or Edible Retail Marijuana Product was produced which may be included in the Batch Number required by Rule 3-1010.

e. Statement Regarding Refrigeration. If an Edible Medical Marijuana Product or Edible Retail Marijuana Product is perishable, a statement that the product must be refrigerated.

4. Skin and Body Products (Topical and Transdermal). The "Skin and Body Products" intended use may be used only for products intended for consumption by topical or transdermal application, and must be intended for external use only. The label(s) on all skin and body products shall also include:

a. Topical Product Potency Statement. For topical product the potency statement required by Rule 3-1010 shall be stated as the number of milligrams of active THC and CBD per Container. The Target Potency may be used to fulfill the requirement of this Rule. If CBD is not detected, then active CBD potency is not required. If the THC or CBD comprises less than one percent of the total cannabinoids, the potency may be expressed as less than one percent of the total cannabinoids.

b. Transdermal Product Potency Statement. For transdermal product, the potency statement required by Rule 3-1010 shall be stated as the number of milligrams of active THC and CBD per transdermal product, and the total number of milligrams of active THC and CBD per Container. The Target Potency may be used to fulfill the requirement of this Rule. If CBD is not detected, then active CBD potency is not required.

i. If the transdermal product's Target Potency or potency value of active THC or CBD is less than one milligram per transdermal product, the potency may be expressed as "<1 mg." If "<1 mg" was used to display the active THC or CBD per transdermal product, then a corresponding statement regarding the total THC or CBD content for the entire Container shall be included on the Container. For example, if there are five servings in the Container, "<5 mg" should be displayed for the active THC or CBD statement that was represented as "<1 mg" per serving.

c. Expiration/Use-By Date. A product expiration or use-by date, after which the skin and body product will no longer be fit for use. Once a label with an expiration or use-by date has been affixed to any Container holding a skin and body product and any Marketing Layer, a Licensee shall not alter that expiration or use-by date or affix a new label with a later expiration or use-by date. All expiration or use-by dates must be entered into the Inventory Tracking System prior to Transfer. Prior to Transfer to a patient or consumer, a Regulated Marijuana Store or Accelerator Store must inform the patient or consumer if the skin and body product is past its expiration or use-by date.

d. Production Date. The date on which the skin and body product was produced which may be included in the Batch Number required by Rule 3-1010.

5. Audited Product. Packaging and labeling for all Audited Products: (i) metered dose nasal spray, (ii) vaginal administration, or (iii) rectal administration shall include:

a. All packaging and labeling requirements required by this 3-1000 Series for Regulated Marijuana Products; except Rules 5-325 and 6-325 control where the context otherwise clearly requires.

b. Audited Product shall be packaged and labeled for Transfer to a patient or consumer prior to Transfer from a Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer.

c. Expiration/Use-By Date. A product expiration date that is appropriate for the Audited Product when stored at room temperature as verified by testing required by Rules 5-325 and 6-325. Once a label with an expiration date has been affixed to a Container containing and Audited Product, a Licensee shall not alter that expiration date, or affix a new label with a later expiration date. All expiration or use-by dates must be entered into the Inventory Tracking System prior to Transfer. Prior to Transfer to a patient or consumer, a Regulated Marijuana Store

or Accelerator Store must inform the patient or consumer if the Audited Product is past its expiration or use-by date.

d. Production Date. The date on which the Audited Product was produced, which may be included in the Batch Number required by Rule 3-1010.

C. No Other Intended Use Permitted. No intended use other than those identified in this Rule shall be identified on any label, except as permitted by an Alternative Use Designation approved by the State Licensing Authority pursuant to Rules 5-325 and 6-325. Licensees shall accurately identify all intended use(s) from the exclusive list of intended uses in this Rule, or as required by the Alternative Use Designation, on the label.

1. Alternative Use Product. No Regulated Marijuana Business shall Transfer or accept an Alternative Use Product unless the Alternative Use Product received an Alternative Use Designation in accordance with Rules 5-325 and 6-325 and complied with all the requirements of Rules 5-325, 6-325, and 3-1005 through 3-1015, and with any additional packaging and labeling requirements identified in the Alternative Use Designation. At a minimum the label(s) on all Alternative Use Products shall include:

a. All packaging and labeling requirements applicable to the Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer by these 3-1000 Series Rules unless inconsistent with the Alternative Use Designation in which case the Alternative Use Designation shall control.

b. Expiration/Use-By Date. A product expiration date that is appropriate for the Alternative Use Product when stored at room temperature as verified by a Regulated Marijuana Testing Facility. Once a label with an expiration date has been affixed to a Container containing Alternative Use Product, a Licensee shall not alter that expiration date, or affix a new label with a later expiration date.

c. Production Date. The date on which the Alternative Use Product was produced, which may be included in the Batch Number required by Rule 3-1010.

d. All other requirements identified by the Alternative Use Designation.

D. Multiple Intended Uses. Any Regulated Marijuana having more than one intended use shall identify every intended use on the label and shall comply with all labeling requirements for each intended use. If there is any conflict between the labeling requirements for multiple intended uses, the most restrictive labeling requirements shall be followed. Licensees shall not counsel or advise any patient or consumer to use Regulated Marijuana other than in accordance with the intended use(s) identified on the label.

Basis and Purpose – 3-1020

The statutory authority for this rule includes but is not limited to 44-10-202(1)(a), 44-10-202(1)(c), 44-10-202(6), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to define minimum packaging and labeling requirements for Retail Marijuana Hospitality and Sales Businesses.

3-1020 – Packaging and Labeling: Requirements for Transfers to a Consumer at a Retail Marijuana Hospitality and Sales Business

A. Applicability. This Rule establishes minimum requirements for packaging and labeling Retail Marijuana Transferred to a consumer at a Retail Marijuana Hospitality and Sales Business.

B. Packaging and Labeling Exemptions and Minimum Requirements. A Retail Marijuana Hospitality and Sales Business may Transfer Retail Marijuana to a consumer without packaging and labeling under the following conditions:

1. The consumer intends to consume the Retail Marijuana on the Licensed Premises of the Retail Marijuana Hospitality and Sales Business;

2. At the time of Transfer to a consumer, the Retail Marijuana Hospitality and Sales Business provides the consumer with a written statement of the potency of the Retail Marijuana's active THC and CBD, which shall be expressed as a percentage for Retail Marijuana and Retail Marijuana Concentrate, and expressed in milligrams for Retail Marijuana Product. If CBD is not detected in the Retail Marijuana, then active CBD potency is not required;

3. The Retail Marijuana Hospitality and Sales Business maintains within the Restricted Access Area of the Licensed Premises—and makes available to the consumer upon request—written or electronic documentation reflecting all relevant information required in Rules 3-1010 and 3-1015; and

4. For Multiple-Serving Edible Retail Marijuana Product or Multiple-Serving Liquid Edible Retail Marijuana Product, the Retail Marijuana Hospitality and Sales Business shall at the time of Transfer to the consumer provide a measurement device necessary for the consumer to achieve accurate measurements of each serving in increments equal to or less than 10 milligrams of active THC per serving.

C. Packaging and Labeling Required Before Retail Marijuana is Removed from the Licensed Premises. Prior to a consumer removing any unconsumed Retail Marijuana from the Licensed Premises, the Retail Marijuana Hospitality and Sales Business shall:

1. Provide the consumer with written or electronic documentation reflecting all relevant information required in Rules 3-1010 and 3-1015; and

2. Place the unconsumed Retail Marijuana into a Child-Resistant Container, or if the Container is not Child-Resistant, a Child-Resistant Exit Package. The Container must be affixed with a label that includes at least the following:

i. Universal Symbol. The Universal Symbol on the Container, no smaller than ½ inch by ½ inch, with the following statement directly below the Universal Symbol: "**Contains Marijuana. Keep away from children.**"; and

ii. Required Potency Statement. A written statement of the potency of the Retail Marijuana's total THC and CBD expressed as a percentage. A written statement of the potency of the Retail Marijuana Product's active THC and CBD expressed in milligrams. If the potency of the Regulated Marijuana Product's active THC or CBD is less than 1 milligram, the potency may be expressed as "<1 mg." If CBD is not detected in the Retail Marijuana, then active CBD potency is not required.

iii. For Multiple-Serving Edible Retail Marijuana Product or Multiple-Serving Liquid Edible Retail Marijuana Product, the Retail Marijuana Hospitality and Sales Business shall provide a measurement device necessary for the consumer to achieve accurate measurements of each serving in increments equal to or less than 10 milligrams of active THC per serving.

D. Additional Packaging and Labeling Requirements for Retail Marijuana Hospitality and Sales Businesses.

1. Font Size. Required labeling text on the Container must be no smaller than 1/16 of an inch.

2. Labels Shall Not Be Designed to Appeal to Children. A Retail Marijuana Hospitality and Sales Business shall not place any content on a Container that reasonably appears to target individuals under the age of 21, including but not limited to, cartoon characters or similar images.

3. False or Misleading Statements. Label(s) on a Container shall not include any false or misleading statements.

4. Trademark Infringement Prohibited. No Container shall be intentionally or knowingly labeled so as to cause a reasonable consumer confusion as to whether the Retail Marijuana is a trademarked product or labeled in a manner that violates any federal trademark law or regulation.

5. Health and Benefit Claims. The label(s) on the Container shall not make any claims regarding health or physical benefits to the consumer.

6. Use of English Language. Labeling text on the Container must be clearly written or printed and in the English language. In addition to the required English label, Licensees may include an additional, accurate foreign language translation on the label that otherwise complies with these rules.

7. Unobstructed and Conspicuous. Labeling text on the Container must be unobstructed and conspicuous. A Licensee may affix multiple labels to the Container, provided that none of the information required by these rules is obstructed. For example and not by means of limitation, labels may be accordion, expandable, extendable or layered to permit labeling of small Containers.

8. Use of the Word “Candy” and/or “Candies” Prohibited. Licensees shall not use the word(s) “candy” and/or “candies” on the label of any Container.

9. Child Resistant Certificate(s). A Licensee shall maintain a copy of the certificate showing that each Child-Resistant Container into which the Licensee places Retail Marijuana is Child-Resistant and complies with the requirements of 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995) in accordance with the requirements of Rule 3-905(A). Note that this Rule does not include any later amendments or editions to the Code of Federal Regulations. The Division has maintained a copy of 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995), which is available to the public for inspection and copying during the Division’s regular business hours.

Basis and Purpose – 3-1025

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(c), 44-10-202(6), 44-10-203(2)(f), 44-10-203(1)(k), 44-10-203(3)(a)-(b) The purpose of this rule is to define minimum packaging and labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product Transferred to a Regulated Marijuana Testing Facility. The labeling requirements in this rule apply to all Containers immediately containing Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product being Transferred to a Regulated Marijuana Testing Facility.

3-1025 – Packaging and Labeling: Minimum Requirements for Test Batch Transfers to a Regulated Marijuana Testing Facility

A. Applicability. This Rule establishes minimum requirements for packaging and labeling of Regulated Marijuana Test Batches prior to Transfer to a Regulated Marijuana Testing Facility. The labeling requirements in this Rule apply to all Containers immediately containing Medical Marijuana, Retail Marijuana, Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, and Retail Marijuana Product.

B. Packaging and Labeling of Test Batches of Regulated Marijuana Flower, Trim, Wet Whole Plant, and Regulated Marijuana Concentrate, Prior to Transfer to a Regulated Marijuana Testing Facility. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Test Batches of Medical Marijuana flower, trim, wet whole plant, or Medical Marijuana Concentrate to a Medical Marijuana Testing Facility, and prior to Transferring Test Batches of Retail Marijuana flower, trim, wet whole plant, or Retail Marijuana Concentrate to a Retail Marijuana Testing Facility:

1. Packaging of Test Batches of Regulated Marijuana Flower, Trim, Wet Whole Plant and Regulated Marijuana Concentrate.

    a. A Licensee shall submit Test Batches of Regulated Marijuana flower, trim, wet whole plant, or Regulated Marijuana Concentrate in a transparent Container to allow for the Samples of the Test Batch to be photo documented.

    b. Each Container containing a Test Batch of Regulated Marijuana flower, trim, or wet whole plant shall have at least 20% empty space. Test Batch Containers shall not be completely full so that individual Samples of the Test Batch can be photo documented.

    c. Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers. Test Batches from Production Batches of Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers must be packaged in the hardware or inhaler, respectively, that allows for the consumption.

2. Labeling of Test Batches of Regulated Marijuana Flower, Trim, Wet Whole Plant and Regulated Marijuana Concentrate. Prior to Transfer to a Regulated Marijuana Testing Facility, every Container containing a Test Batch of Regulated Marijuana flower, trim, wet whole plant, or Regulated Marijuana Concentrate shall be affixed with a label that includes at least the following information, some of which may be included on the Inventory Tracking System RFID Tag:

    a. For Test Batches from Harvest Batches, the license number of the Medical Marijuana Cultivation Facility where the Medical Marijuana was grown, or the Retail Marijuana Cultivation Facility where the Retail Marijuana was grown;

    b. For Test Batches of Concentrates from Production Batches, the license number of the Medical Marijuana Products Manufacturer(s) where the Medical Concentrate was produced, or the Retail Marijuana Products Manufacturer(s) where the Retail Marijuana Concentrate was produced; and

    c. The net contents, using a standard of measure compatible with the Inventory Tracking System, of the Regulated Marijuana or Regulated Marijuana Concentrate prior to its placement in the Container.

C. Packaging and Labeling of Test Batches of Regulated Marijuana Product Prior to Transfer to a Regulated Marijuana Testing Facility. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Test Batches of Regulated Marijuana Product to a Regulated Marijuana Testing Facility:

1. Packaging Test Batches of Regulated Marijuana Product.

    a. Prior to any Transfer of a Test Batch to a Regulated Marijuana Testing Facility, the Test Batch of Regulated Marijuana Product subject to testing shall be placed into the Container(s) in which the rest of the Production Batch will be sold. The Container may but is not required to be Child-Resistant.

2. Labeling of Test Batches of Regulated Marijuana Product. Prior to Transfer to a Regulated Marijuana Testing Facility, every Container containing a Test Batch of Regulated Marijuana Product shall be affixed with a label, which can be noted on the Inventory Tracking System RFID Tag, that includes at least the following information:

    a. The license number of the Medical Marijuana Products Manufacturer or the Retail Marijuana Products Manufacturer that produced the Regulated Marijuana Product;

    b. The Production Batch Number(s) assigned to the Regulated Marijuana Product;

    c. The net contents, using a standard of measure compatible with the Inventory Tracking System, of the Regulated Marijuana Product prior to its placement in the Container; and

    d. The serving size, number of serving per package, and the Target Potency as required for a Regulated Marijuana Testing Facility to assess potency variance.

D. Packaging and Labeling of Test Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana, Prior to Transfer to a Regulated Marijuana Testing Facility. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Test Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana to a Medical Marijuana Testing Facility, and prior to Transferring Test Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana to a Retail Marijuana Testing Facility:

1. Packaging of Test Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana.

    a. Prior to any Transfer of a Test Batch to a Regulated Marijuana Testing Facility, the Test Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana subject to testing shall be placed into the Container(s) in which the rest of the Production Batch will be sold. The Container may but is not required to be Child-Resistant.

2. Labeling of Test Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana. Prior to Transfer to a Regulated Marijuana Testing Facility, every Container containing a Test Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana shall be affixed with a label that includes at least the following information, some of which may be included on the Inventory Tracking System RFID Tag:

    a. For Test Batches from Harvest Batches, the license number of the Medical Marijuana Cultivation Facility where the Medical Marijuana was grown, or the Retail Marijuana Cultivation Facility where the Retail Marijuana was grown which was used to create Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana;

    b. For Test Batches of Concentrates from Production Batches, the license number of the Medical Marijuana Products Manufacturer(s) where the Medical Concentrate was produced, or the Retail Marijuana Products Manufacturer(s) where the Retail Marijuana Concentrate was produced which was used to create Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana;

c. The Production Batch Number(s) assigned to the Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana; and

d. The net contents, using a standard of measure compatible with the Inventory Tracking System, of the Regulated Marijuana or Regulated Marijuana Concentrate prior to its placement in the Container.

3-1100 Series – Accelerator Program Operations

Basis and Purpose – 3-1105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(aa), 44-10-310(2), and 44-10-311(2), C.R.S. The purpose of this rule is to establish requirements for Accelerator-Endorsed Licensees and Accelerator Licensees participating in the accelerator program. The Accelerator Program permits different structures. The first option is for the Accelerator-Endorsed Licensee and the Accelerator Licensee to have a mentor/apprentice relationship at the same premises pursuant to Rules 3-1105 and 3-1110. The second option is for the Accelerator-Endorsed Licensee and the Accelerator Licensee to have a separate premises relationship pursuant to Rules 3-1105 and 3-1115.

3-1105 – Accelerator Program Participation and Privileges

A. Licensed Premises. An Accelerator Licensee may share a Licensed Premises or operate at a separate premises of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, or Retail Marijuana Store that is an Accelerator-Endorsed Licensee.

1. Shared Premises. An Accelerator Licensee may share the Licensed Premises of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, or Retail Marijuana Store pursuant to this Rule 3-1105 and Rule 3-1110.

2. Separate Premises. An Accelerator Licensee participating in the accelerator program may operate at a separate premises of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, or Retail Marijuana Store pursuant to this Rule 3-1105 and Rule 3-1115.

B. Number of Licenses held by an Accelerator Licensee.

1. An Accelerator Licensee may initially apply to be an Accelerator Cultivator, Accelerator Manufacturer or Accelerator Store and hold a single license.

2. After 180 days of demonstrated operations, an Accelerator Licensee may apply for additional accelerator licenses, which may include different accelerator license types. An Accelerator Licensee may not apply for more than one accelerator license until at least 180 days of demonstrated operations.

3. A Controlling Beneficial Owner who holds an accelerator license shall not have an Owner's Interest in more than three of the same accelerator license type. No Controlling Beneficial Owner shall have an Owner's Interest in more than nine total accelerator licenses.

C. Accelerator-Endorsed Licensee Required Equity Assistance Proposal.

1. An Accelerator-Endorsed Licensee must disclose its equity assistance proposal to the Division and to any prospective Social Equity Licensee pursuant to Rule 2-285 and these 3-1100 Series Rules prior to entering any contractual agreements with an Accelerator Licensee.

2. Required Information. An equity assistance proposal must detail the technical, compliance, and/or capital assistance the Accelerator-Endorsed Licensee intends to provide an Accelerator Licensee. All equity assistance proposals must, at a minimum, including the following:

    a. The types of assistance the Accelerator-Endorsed Licensee intends to provide, which may include but is not limited to, the following types of assistance:

        i. Accounting;

        ii. Business services (e.g. sales and marketing);

        iii. Financial or capital support;

        iv. Information technology support;

        v. Access to legal services from an attorney licensed in the state of Colorado; or

        vi. Regulatory compliance support.

    b. Whether the Accelerator-Endorsed Licensee intends to subcontract with any third parties to provide technical or compliance assistance, and the identity of the prospective third parties, if known;

    c. Any applicable timelines associated with the provisions of the assistance the Accelerator-Endorsed Licensee intends to provide;

    d. Whether the Accelerator-Endorsed Licensee intends to charge rent for a prospective Accelerator Licensee's use of the premises, and the amount of rent and required deposits, if applicable;

    e. How the Accelerator-Endorsed Licensee plans to protect or minimize disruptions on a prospective Accelerator Licensee in the event of a change of Controlling Beneficial Owner of the Accelerator-Endorsed Licensee's license; and

    f. Whether the Accelerator-Endorsed Licensee has been subject to any administrative action by the State Licensing Authority or the Local Jurisdiction within the preceding two years and, if so, whether there are any restrictions on the Licensee as a result of such administrative action.

3. Voluntary Information. An equity assistance proposal may, but is not required to, include additional information about the Accelerator-Endorsed Licensee, including but not limited to the following:

    a. The Accelerator-Endorsed Licensee's business objectives and organizational values;

    b. A description of the Accelerator-Endorsed Licensee's work environment;

    c. Information regarding the Accelerator-Endorsed Licensee's business profile, including company size, revenue, and distribution capabilities;

    d. Any educational or training assistance provided to the Accelerator Licensee in navigating human resources matters; and

e. Any other information that may be useful to informing prospective Accelerator Licensees and determining compatibility between an Accelerator-Endorsed Licensee and Accelerator Licensee.

4. Modification of Equity Assistance Proposal. Nothing in these rules shall preclude an Accelerator-Endorsed Licensee from amending or modifying its equity assistance proposal. The Accelerator-Endorsed Licensee shall submit the updated equity assistance proposal to the Division within 30 days of finalizing any such amendments or modifications.

5. The Accelerator-Endorsed Licensee may request that a prospective Social Equity Licensee enter into a non-disclosure agreement prior to providing the prospective Social Equity Licensee a copy of the Accelerator-Endorsed Licensee's equity assistance proposal in order to ensure the information remains confidential.

D. Equity Partnership Agreement – General Requirements. Prior to hosting or offering technical and/or capital support to an Accelerator Licensee, an Accelerator-Endorsed Licensee must first enter into an equity partnership agreement with the Accelerator Licensee. In addition to any other requirements in Rules 3-1110 and 3-1115, an equity partnership agreement must include the following minimum requirements:

1. The equity partnership agreement must be executed by both the Accelerator-Endorsed Licensee and the Accelerator Licensee.

2. The executed equity partnership agreement must represent the full legal and business relationship between the Accelerator-Endorsed Licensee and Accelerator Licensee unless additional agreements are permitted or required pursuant to Rules 3-1110 or Rule 3-1115.

3. The executed equity partnership agreement shall at a minimum, include the following:

a. A description of the types of technical, compliance, and/or capital assistance the Accelerator-Endorsed Licensee is providing to the Accelerator Licensee;

b. The timeline associate with the assistance the Accelerator-Endorsed Licensee is providing;

c. If the Accelerator-Endorsed Licensee is charging rent for the Accelerator Licensee's use of the Licensed Premises, the rent amount, any required deposits, and length of lease;

d. How the Accelerator-Endorsed Licensee will protect or minimize disruptions to the Accelerator Licensee in the event of a change of owner of the Accelerator-Endorsed Licensee's license;

e. Conditions for amendments to the equity partnership agreement; and

f. Conditions for dissolution of the equity partnership agreement.

4. An Accelerator-Endorsed Licensee must provide technical, compliance, and/or capital assistance to an Accelerator Licensee pursuant to its equity partnership agreement with an Accelerator Licensee. An Accelerator-Endorsed Licensee may provide technical and/or compliance assistance to an Accelerator Licensee through third parties. However, an equity partnership agreement cannot require an Accelerator Licensee to receive such assistance from a specific provider unless permitted pursuant to Rule 3-1115.

E. There shall not be any agreement(s) or contracts between the Accelerator-Endorsed Licensee and the Accelerator Licensee that are not disclosed to the Division.

F. Dissolution of Business Relationship. If the business relationship between the Accelerator-Endorsed Licensee and Accelerator Licensee dissolves, both parties must notify the Division within 10 days. The notification of dissolution must include the reasons for the dissolution of the business relationship between the Accelerator-Endorsed Licensee and Accelerator Licensee.

1. The Accelerator Licensee will have until renewal of the Accelerator License to identify a new Accelerator-Endorsed Licensee or apply for a new Regulated Marijuana Business license unless this deadline is extended by the Division. The Division may waive or reduce the application and/or licensing fees affiliated with the application. However, the Accelerator Licensee cannot operate without a Licensed Premises or an executed and valid equity partnership agreement with an Accelerator-Endorsed Licensee.

2. Upon notification of dissolution of the accelerator business relationship, the Division will determine whether the Accelerator-Endorsed Licensee retains the social equity leader designation for that calendar year.

G. Additional Privileges for Accelerator-Endorsed Licensees.

1. Social Equity Leader Designation. A Retail Marijuana Store, Retail Marijuana Cultivation Facility, or Retail Marijuana Products Manufacturer that is an Accelerator-Endorsed Licensee and that is operating under an equity partnership agreement with an Accelerator Licensee may be designated by the Division as a social equity leader for each year the Accelerator-Endorsed Licensee hosts an Accelerator Licensee on its premises. A social equity leader may use a logo or symbol created or approved by the Division to indicate its leadership status. The Accelerator-Endorsed Licensee may only use the social equity leader logo or symbol while the designation remains valid.

2. Mitigation. The Division and the State Licensing Authority may consider a social equity leader designation as a mitigating factor when determining the initiation of administrative action or assessment of penalties.

3. Compliance Assistance and Education Engagement. For an Accelerator-Endorsed Licensee operating under an equity partnership agreement with an Accelerator Licensee, the Division will conduct an on-site compliance assistance and education engagement with the Accelerator-Endorsed Licensee for purposes of supporting the Licensee's activities as an Accelerator-Endorsed Licensee.

4. Application and License Fee Exemptions. An Accelerator-Endorsed Licensee may submit a request to the State Licensing Authority for an exemption from application and license fees for a change of Controlling Beneficial Owner, change of location, or modification of premises that is directly related to its participation in the accelerator program.

a. The request for an exemption may be included with the submission of the application for which it is requesting an exemption from fees. The request for exemption must include any information demonstrating the application is related to its participation in the accelerator program, including but not limited to, the positive impact to the Accelerator Licensee.

b. If a request for an exemption is denied, the Applicant shall submit required fees within 10 days from notice that the fee exemption request was denied. Failure to submit required fees may result in denial of the application.

Basis and Purpose – 3-1110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(aa), 44-10-310(2), and 44-10-311(2), C.R.S. The purpose of this rule is to establish requirements for Accelerator-Endorsed Licensees and Social Equity Licensees to participate in the accelerator program. This option is for the Accelerator-Endorsed Licensee and the Social Equity Licensee to have a mentor/apprentice type relationship pursuant to Rules 3-1105 and 3-1110.

3-1110 – Accelerator Shared Premises

A. Equity Assistance Plan – Additional Requirements. In addition to all equity assistance proposal requirements outlined in Rule 3-1105(C)(1), an Accelerator-Endorsed Licensee intending to share its Licensed Premises with an Accelerator Licensee must also include the following in tis equity assistance proposal:

1. How the Accelerator-Endorsed Licensee will protect or minimize disruptions to a prospective Accelerator Licensee in the event of a change of location of the Accelerator-Endorsed Licensee's Licensed Premises;

2. The extent to which the Accelerator-Endorsed Licensee will provide equipment, ingredients, or other resources to an Accelerator Licensee pursuant to an equity partnership agreement.

B. Equity Partnership Agreement – Additional Requirements. An Accelerator-Endorsed Licensee's equity assistance proposal that includes the information required by Rule 3-1105 and this Rule 3-1110 may also serve as the equity partnership agreement.

1. How the Accelerator-Endorsed Licensee will protect or minimize disruptions to the Accelerator Licensee in the event of a change of location of the Accelerator-Endorsed Licensee's Licensed Premises;

2. Any intellectual property protections or restrictions;

3. Any agreements about operational control of any shared equipment, premises, or shared personnel;

4. Any agreements related to division of liability pursuant this Rule; and

5. Any non-disclosure agreements.

C. Division of Liability.

1. Shared Equipment. An Accelerator-Endorsed Licensee and Accelerator Licensee may share equipment in the same Licensed Premises if they have standard operating procedures addressing the following:

a. Rotational/time schedule for utilizing equipment;

b. Changes to the schedule; and

c. Sanitizing equipment.

2. Shared Ingredients and/or Co-Mingling of Inventory. An Accelerator-Endorsed Licensee and Accelerator Licensee may share non-marijuana ingredients such as soil, growing medium, fertilizers, sugar, flour, etc. If the Accelerator-Endorsed Licensee and the

Accelerator Licensee share non-marijuana ingredients, they must have standard operating procedures for the protection, use, and maintenance of such products.

3. Inventory Tracking and Record Keeping. Both the Accelerator-Endorsed Licensee and the Accelerator Licensee are each required to comply with the Inventory Tracking Requirements in the 3-800 Series Rules and all business records requirements in the 3-900 Series Rules. Nothing in this Rule prohibits an Accelerator-Endorsed Licensee from providing the Accelerator Licensee financial support to comply with these requirements such as purchasing RFID tags for use by the Accelerator Licensee.

4. Security and Surveillance. Both the Accelerator-Endorsed Licensee and the Accelerator Licensee are each required to comply with security and surveillance requirements in the 3-220 Series Rules. Nothing in this Rule prohibits an Accelerator-Endorsed Licensee from providing the Accelerator Licensee financial support to comply with these requirements.

5. Other. Both the Accelerator-Endorsed Licensee and the Accelerator Licensee will be jointly liable for any violations related to the Licensed Premises, security requirements, video surveillance requirements, health and safety requirements, possession limits, and waste rules, unless the Licensees have expressly established severed liability in the equity partnership agreement. It may be considered mitigation if the Accelerator-Endorsed Licensee demonstrated the Accelerator Licensee failed to comply with the standard operating procedures.

D. Accelerator License Operational Control. The Accelerator-Endorsed Licensee and the Accelerator Licensee may define the division of operational control of equipment in the shared premises.

E. Intellectual Property Protections. The Accelerator-Endorsed Licensee and the Accelerator Licensee shall maintain control over their individual intellectual property unless expressly agreed to in the equity partnership agreement.

Basis and Purpose – 3-1115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(aa), 44-10-310(2), and 44-10-311(2), C.R.S. The purpose of this rule is to establish requirements for Accelerator-Endorsed Licensees and Social Equity Licensees participating in the accelerator program. This option allows the Accelerator-Endorsed Licensee and the Social Equity Licensee to have a separate premises relationship pursuant to Rules 3-1105 and 3-1115.

3-1115 – Accelerator Separate Premises

A. Equity Assistance Proposal – Additional Requirements. In addition to all equity assistance proposal requirements outlined in Rule 3-1105(C)(1), an Accelerator-Endorsed Licensee intending to share a separate premises in its possession or control with an Accelerator Licensee must also include the following in its equity assistance proposal:

1. Estimate of the Accelerator Licensee's initial investment, if any;

2. Estimate of the Accelerator-Endorsed Licensee's initial investment;

3. Any anticipated application and/or licensing fees for which the Accelerator Licensee will be responsible;

4. Restrictions on the Accelerator Licensee's business (including any restrictions on sources of products or required vendors);

5. Assistance provided by the Accelerator-Endorsed Licensee to the Accelerator Licensee (including assistance in installing required security; hiring and training employees; providing necessary equipment; establishing prices; establishing administrative, bookkeeping, accounting, and inventory control procedures; etc.);

6. Advertising that will benefit the Accelerator Licensee;

7. Use of the Accelerator-Endorsed Licensee's brand, trade name, or trademarks;

8. Total number of licenses and locations of businesses the Accelerator-Endorsed License owns, operates, or is affiliated with;

9. Anticipated terms of the financing agreement, including leases and installment contracts offered directly or indirectly to the Accelerator Licensee;

10. Terms of renewal, termination, transfer, and dispute resolution procedures;

11. All proposed agreements, including any property or equipment leases;

12. The Accelerator-Endorsed Licensee's total annual revenue and fair financial projections of the Accelerator Licensee; and

13. The anticipated annual fee or percentage of profits the Accelerator Licensee will be required to pay the Accelerator-Endorsed Licensee for use of the Accelerator-Endorsed Licensee's brand, trade name, or trademarks.

B. Equity Partnership Agreement – Additional Requirements. In addition to all equity partnership agreement requirements outlined in Rule 3-1105, an equity partnership agreement between an Accelerator-Endorsed Licensee and Accelerator Licensee who is operating on a separate premises from the Accelerator-Endorsed Licensee must include the following:

1. Initial Investment.

   a. The Accelerator Licensee's initial business investment, if any; and

   b. The Accelerator-Endorsed Licensees initial business investment.

2. Fees. The fees, if any, the Accelerator Licensee and the Accelerator-Endorsed Licensee will be responsible for, which may include, but need not be limited to:

   a. Application and license fees;

   b. Assistance with legal fees, if any; and

   c. The annual fee or percentage of profits the Accelerator Licensee will be required to pay the Accelerator-Endorsed Licensee for use of the Accelerator-Endorsed Licensee's brand, trade name, or trademarks.

3. Restrictions on Accelerator Licensee Business Operations. Any restrictions placed on the Accelerator Licensee's business operations, which may include, but are not limited to:

   a. Ingredients, formulas, and processes the Accelerator Licensee is required to use;

   b. Sources of products;

c. Advertising; and

d. Third party vendors the Accelerator-Endorsed Licensee contracted with that the Accelerator Licensee will also be required to utilize;

4. Accelerator-Endorsed Licensee Obligations. All assistance the Accelerator-Endorsed Licensee will provide which may include, but is not limited to:

a. Assistance in hiring and training of employees;

b. Establishing prices;

c. Establishing administrative, bookkeeping, accounting, and inventory control procedures;

d. Resolving operating problems; and

e. Licensed Premises and equipment buildout.

5. Accelerator Licensee Obligations. If the Accelerator Licensee will be required to:

a. Comply with branding;

b. Utilize only the intellectual property of the Accelerator-Endorsed Licensee;

c. Use of identified third-party vendors; and

d. Selling product to specific purchasers.

6. Terms of Renewal, Termination, and Dispute Resolution. Any terms regarding renewal of the business relationship, termination of the business relationship, and dispute resolution. Any dispute resolution terms may not require Division or State Licensing Authority involvement.

7. Advertising. Any terms regarding advertising including the amount and methods of advertising, the distribution of costs for advertising, whether the Accelerator Licensee may do its own advertising, and how the costs of advertising will be distributed.

8. Agreements. All agreements between the Accelerator-Endorsed Licensee and Accelerator Licensee, including leases for property or equipment and any nondisclosure agreements.

C. Division of Liability.

1. Equipment. The Accelerator-Endorsed Licensee and the Accelerator licensee are individually and separately responsible for their own equipment.

2. Ingredients. The Accelerator-Endorsed Licensee and the Accelerator Licensee are individually and separately responsible for their own ingredients, unless otherwise expressly agreed to in the equity partnership agreement.

3. Inventory Tracking and Record Keeping. Both the Accelerator-Endorsed Licensee and the Accelerator Licensee are each required to comply with the Inventory Tracking Requirements in the 3-800 Series Rules and the Business Records in the 3-900 Series Rules. Nothing in this Rule prohibits an Accelerator-Endorsed Licensee from providing

the Accelerator Licensee financial support to comply with these requirements such as purchasing RFID tags for use by the Accelerator Licensee.

4. Security and Surveillance. The Accelerator-Endorsed Licensee and the Accelerator Licensee are individually and separately required to comply with security and surveillance requirements in the 3-200 Series Rules. Nothing in this Rule prohibits an Accelerator-Endorsed Licensee from providing the Accelerator Licensee financial support to comply with these requirements.

5. Other.

a. Accelerator Licensee Liability. An Accelerator Licensee is solely liable and responsible for all conduct and any violations that occur on the Accelerator Licensee's Licensed Premises.

b. Accelerator-Endorsed Licensee Liability. An Accelerator-Endorsed Licensee that makes available a separate premises in the Accelerator-Endorsed Licensee's possession to an Accelerator Licensee and who is in compliance with the Marijuana Code and these Rules will only be liable and responsible for conduct and any violations that occur on the Accelerator-Endorsed Licensee's Licensed Premises.

D. Operational Control. The Accelerator-Endorsed Licensee and the Accelerator Licensee are each responsible for the operational control at their separate Licensed Premises.

E. Intellectual Property. An Accelerator-Endorsed Licensee must permit and require the Accelerator Licensee to use the Accelerator-Endorsed Licensee's intellectual property. The Accelerator-Endorsed Licensee will maintain ownership and control of its intellectual property. The Accelerator Licensee shall maintain ownership and control of intellectual property it creates.

Part 4 – Regulated Marijuana Testing Program

Basis and Purpose – 4-105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing the mandatory testing portion of the Division's Regulated Marijuana sampling and testing program. This Rule 4-105 was previously Rules M and R 1502, 1 CCR 212-1 and 1 CCR 212-2.

4-105 – Regulated Marijuana Testing Program: Mandatory Testing

A. Required Sample Submission. A Regulated Marijuana Business may be required by the Division to submit a Sample(s) of Regulated Marijuana it possesses to a Medical Marijuana Testing Facility or a Retail Marijuana Testing Facility at any time regardless of whether it has achieved a Reduced Testing Allowance and without notice.

1. Samples collected pursuant to this Rule may be tested for potency or contaminants which may include, but is not be limited to, Pesticide, microbials, mycotoxin, molds, elemental impurities, residual solvents, biological contaminants, and chemical contaminants.

2. When a Sample(s) is required to be submitted for testing, the Regulated Marijuana Business may not Transfer or process into a Medical Marijuana Concentrate or Medical Marijuana Product any Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana Product, or Transfer or process into a Retail Marijuana Concentrate or Retail Marijuana Product any Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product, from the Inventory Tracking System package, Harvest Batch or Production Batch from which the Sample was taken, until it passes all required testing.

B. Methods for Determining Required Testing.

1. Random Testing. The Division may require Samples to be submitted for testing through any one or more of the following processes: random process, risk-based process, or other internally developed process, regardless of whether a Regulated Marijuana Business has achieved a Reduced Testing Allowance.

2. Inspection or Enforcement Tests. In addition, the Division may require a Regulated Marijuana Business to submit a Sample for testing if the Division has reasonable grounds to believe that:

a. Regulated Marijuana is contaminated or mislabeled;

b. A Regulated Marijuana Business is in violation of any product safety, health or sanitary statute, rule or regulation; or

c. The results of a test would further an investigation by the Division into a violation of any statute, rule, or regulation.

3. Beta Testing. The Division may require a Regulated Marijuana Business to submit Samples from certain randomly selected Harvest Batches or Production Batches for potency or contaminant testing prior to implementing mandatory testing.

C. Minimum Testing Standards. The testing requirements contained in this 4-100 Series are the minimum required testing standards. Regulated Marijuana Businesses are responsible for ensuring adequate testing on any Regulated Marijuana they produce or Transfer to ensure safety for human consumption.

D. Additional Sample Types. The Division may also require a Regulated Marijuana Business to submit Samples comprised of items other than Regulated Marijuana to be tested for contaminants which may include, but may not be limited to, Pesticide, microbials, molds, elemental impurities, residual solvents, biological contaminants, and chemical contaminants. The following is a non-exhaustive list of the types of Samples that may be required to be submitted for contaminant testing:

1. Specific Regulated Marijuana plant(s) or any portion of a Regulated Marijuana plant(s);

2. Any growing medium, water, or other substance used in the cultivation process;

3. Any water, solvent, or other substance used in the processing of a Regulated Marijuana Concentrate;

4. Any Ingredient or substance used in the manufacturing of a Regulated Marijuana Product; or

5. Swab of any equipment or surface.

E. R&D Testing.

1. R&D Tests. A Regulated Marijuana Business may submit Test Batches from a Harvest or Production Batch for R&D testing. R&D testing may be performed for any test required by these 4-100 Series Rules or any other test.

a. Passing R&D Test Results. If a Harvest or Production Batch passes an R&D test it shall not constitute a pass for the purposes of compliance with required contaminant or potency testing. If a Harvest or Production Batch passes an R&D test it shall not constitute a pass for purposes of achieving or maintaining a Reduced Testing Allowance. *See* Rules 4-120 and 4-125.

b. Failed~~ing~~ R&D Test Results. If a Harvest or Production Batch fails an R&D test~~ that is a contaminant or potency test required by these rules~~, it does not require compliance with failed test procedures. *See* Rule 4-135~~. A Licensee cannot achieve a Reduced Testing Allowance if a Harvest or Production Batch fails an R&D test that is required by contaminant and potency testing rules. *See* Rules 4-120 and 4-125. If a Licensee has a Reduced Testing Allowance, and fails an R&D test that is required by contaminant and potency testing rules, the Licensee must comply with Rules 4-120(F)(2) and 4-125(H)(2)~~.

c. Failed R&D Test Results – Reduced Testing Allowance. A failing R&D test that is a contaminant or potency test required by these Rules shall be considered a failing result for the purposes of achieving or maintaining a Reduced Testing Allowance.

i. If a Regulated Marijuana Business that is actively working to achieve a Reduced Testing Allowance fails a R&D test, it must restart the process of achieving Reduced Testing Allowance.

ii. If a Regulated Marijuana Business that has achieved and maintained a Reduced Testing Allowance fails a R&D test for a test type required by these Rules, it must follow the appropriate Reduced Testing Allowance re-authorization procedure for the failed test type to maintain that Reduced Testing Allowance. *See* Rules 4-120(F)(2)(b), 4-121(H), and 4-125(H)(2)(b).

F. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing sampling procedures and rules for the Division's Regulated Marijuana sampling and testing program. This Rule 4-110 was previously Rules M and R 1504, 1 CCR 212-1 and 1 CCR 212-2.

4-110 – Regulated Marijuana Testing Program: Sampling Procedures

A. Collection of Samples.

1. Sample Increment Collection. All Samples submitted for testing pursuant to this Rule must be collected by Division representatives or in accordance with the Division's sampling policy reflected in the marijuana laboratory testing reference library available at the Colorado Department of Public Health and Environment's website. This reference library may be continuously updated as new materials become available in accordance with section 25-1.5-106(3.5)(d), C.R.S.

2. Sample Increment Selection. The Division may elect, at its sole direction, to assign Division representatives to collect Sample Increments, or may otherwise direct Sample Increment selection, including, but not limited to, through Division designation of a Harvest Batch or Production Batch in the Inventory Tracking System from which a Regulated Marijuana Business shall select Samples for testing. A Regulated Marijuana Business, its Controlling Beneficial Owners, Passive Beneficial Owners, and employees shall not attempt to influence the Sample Increments selected by Division representatives. If the Division does not select the Harvest Batch or Production Batch to be tested, a Regulated Marijuana Business must collect and submit Sample Increments that are representative of the Harvest Batch or Production Batch being tested.

3. Adulteration or Alteration Prohibited. Pursuant to section 44-10-701(3)(b) and (9), C.R.S., it is unlawful for a Licensee or its agent to knowingly adulterate or alter, or attempt to adulterate or alter, any Sample Increments or Test Batches of Regulated Marijuana. The Sample Increments collected and submitted for testing must be representative of the Harvest Batch or Production Batch being tested. A violation of this sub-paragraph (A)(3) shall be considered a license violation affecting public safety and the person who commits adulteration or alteration of Sample Increments or Test Batches commits a class 2 misdemeanor and may be punished as provided in section 18-1.3-501, C.R.S.

4. Timing of Sample Increments for Harvest Batches and Production Batches. A Licensee shall not collect Sample Increments or submit Test Batches for testing until the Test Batch has completed all required steps and is in its final form as outlined in the standard operating procedures of the Licensee submitting the Test Batch, with the exception of packaging and labeling requirements which shall comply with Rule 3-1025.

    a. The following examples illustrate various methods, which are not limited to those listed herein, that a Licensee's standard operating procedures may include to verify a Test Batch completed all required steps and is in its final form pursuant to this Rule:

        i. The Licensee's standard operating procedures may include procedures that ensure the addition of all Ingredients or Additives has occurred and that the Harvest Batch or Production Batch associated with the Test Batch is completely ready to be packaged pending results of testing required by these Rules. This also includes creating Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana;

        ii. For a Production Batch of Concentrate, the Licensee's standard operating procedure may include procedures that ensure the entire Production Batch associated with the Test Batch has completed all sifting, extracting, purging, winterizing, and steps to remove plant pigments and ensuring the addition of all Ingredients and Additives has occurred.

        iii. For a Production Batch of Regulated Marijuana Product, the Licensee's standard operating procedure may include procedures that ensure the addition of all Ingredients and Additives has occurred and the Production

Batch associated with the Test Batch is completely ready to be packaged pending results of testing required by these Rules.

b. A Test Batch from a Harvest Batch or Production Batch shall be packaged and labeled according to Series 3-1025 prior to Transfer to a Regulated Marijuana Testing Facility.

c. This Rule 4-110(A)(4) does not apply for the submission of Test Batches submitted for R&D testing.

5. Vaporizer Delivery Device. This subsection (A)(5) is effective January 1, 2022. Retail Marijuana Concentrate that has been placed into a Vaporizer Delivery Device must be sampled and tested using a methodology that allows the laboratory to analyze the emission of the contents of the Vaporizer Delivery Device.

B. Designated Test Batch Collector Training, Documentation, and Designation.

1. Required Sample Increment Collection Training. To become a Designated Test Batch Collector an Owner Licensee or Employee Licensee involved in the Sample Increment Collection of Regulated Marijuana must be designated by a manager or Owner Licensee as such and must also complete either in-house training provided by the Regulated Marijuana Business or training from a third-party vendor. Nothing in this rule requires a Designated Test Batch Collector to be employed by the Regulated Marijuana Business making the designation.

2. Designated Test Batch Collection Training Required Topics. The training required to become a Designated Test Batch Collector must include at least the following topics:

a. Part 4–100 ~~Rule~~ Series Rules - Regulated Marijuana Testing Program;

b. The Marijuana Business's standard operating procedures on creating a Sampling Plan and Test Batches, and the CDPHE's Sampling Procedures.

c. “Guidance on Marijuana Sampling Procedures” Training Video or an equivalent training covering the following subjects:

i. Introduction to Sample Increment Collection:

A. Cross contamination as it relates to Sample Increment Collection;

B. Sample Increment Collection and how it works;

C. Sample Increment Collection documentation and record keeping requirements;

D. Penalties for Sample Increment or Test Batch adulteration or alteration;

E. Use of and disinfection of the Designated Test Batch Collection Area; and

F. Use of the Sample Plan.

3. Documentation of Designated Test Batch Collector Training. Any individual receiving the Designated Test Batch Collector training must sign and date a document which shall be maintained by the Regulated Marijuana Business as a business record pursuant to Rule 3-905. The document must acknowledge the following:

    a. The identity of the Person that created the training, such as the Regulated Marijuana Business or a third-party vendor; and

    b. That all required topics of the training identified in this Rule have been reviewed and understood by the Owner Licensee or Employee Licensee.

C. Test Batch Collection Requirements.

1. Required Minimum of Two Test Batch Collectors. At a minimum, two Designated Test Batch Collectors shall be involved in the collection of Sample Increments such that at least one Designated Test Batch Collector is responsible for collecting the Sample Increments and another Designated Test Batch Collector is responsible for reviewing documentation associated with the collection of Sample Increments in a timely manner and prior to any Transfer of the Production Batch or Harvest Batch from which Sample Increments were collected. This review can be completed in person or may be completed remotely by reviewing image(s) of the Test Batch and associated documentation.

2. Sample Plan Required. A Designated Test Batch Collector must establish a Sample Plan consistent with the Regulated Marijuana Business's Standard Operating Procedure for Sample Increment Collection. At a minimum, a Sample Plan must include the following:

    a. The date, amount or weight, and specific location for each Sample Increment collected;

    b. Identification of and acknowledgements from all Designated Test Batch Collectors involved in the Sample Increment Collection; and

    c. If applicable, the strain name(s) for each Harvest Batch from which Sample Increments are collected.

D. Minimum Number of Sample Increments Per Test Batch Submission. These sampling rules shall apply until such time as the State Licensing Authority revises these rules to implement a statistical sampling model. Unless a greater amount is required to comply with these rules or is required by a Regulated Marijuana Testing Facility to perform all requested testing, each Test Batch of Regulated Marijuana must contain at least the number of Sample Increments prescribed by this Section.

1. A Test Batch of Regulated Marijuana must be packaged and labeled according to Rule 3-1025.

2. The minimum number of Sample Increments required to be collected for each Test Batch from a Harvest Batch of Retail Marijuana or Medical Marijuana shall be determined by Table 4-110.D.2.T.

3. The minimum number of Sample Increments required to be collected for each Test Batch from a Production Batch of Regulated Marijuana Product, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, Audited Product and Alternative Use Product shall be determined by Table 4-110.D.2.T.

a. The Retail Marijuana Products Manufacturer or Medical Marijuana Products Manufacturer shall determine what constitutes a "Serving" and thus how many Servings are contained in a Production Batch of Regulated Marijuana Product, except that no serving of Edible Retail Marijuana Product can contain more than 10mg of active THC

b. Because all Test Batches of Regulated Marijuana Product, Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana are required to be submitted for testing in their final form, in the event the required number of Sample Increments does not match up within a finished package, the manufacturer must increase the number of Sample Increments collected for the Test Batch such that only finished packages of Regulated Marijuana Products, Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana are submitted for testing. For example, if a Production Batch of 4000 chocolate bars is manufactured, with each bar containing 100 mg THC and 10 servings per bar, the Production Batch would contain 40,000 Sample Increments which would require collection of at least 33 Sample Increments per Test Batch. But in this case, the manufacturer would have to collect 40 Sample Increments for testing (4 complete chocolate bars in final form).

c. No matter how small the Production Batch of Regulated Marijuana Product, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana a minimum of two finished packages in final form must be submitted for a Test Batch.

4. The minimum number of Sample Increments required to be collected for each Test Batch from a Production Batch of Retail Marijuana Concentrate or Medical Marijuana Concentrate shall be determined by Table 4-110.D.2.T.

a. Because all Test Batches of Retail Marijuana Concentrate and Medical Marijuana Concentrate are required to be submitted for testing in their final form, in the event the required number of Sample Increments does not match up with the number of Sample Increments in a finished package, the manufacturer must increase the number of Sample Increments collected for the Test Batch such that only finished packages of Marijuana Concentrate are submitted for testing. For example, if a Production Batch of 4,000 Vaporizer Delivery Devices is manufactured, with each Vaporizer Delivery Device containing 500 milligrams of Marijuana Concentrate, the Production Batch would contain 2,000 grams of Marijuana Concentrate, which would require collection of at least 15 Sample Increments per Test Batch. But in this case, the manufacturer would have to collect 16 Sample Increments for testing (8 vaporizer Delivery Devices in final form).

b. No matter how small the Production Batch of Retail Marijuana Concentrate or Medical Marijuana Concentrate, a minimum of two finished packages must be submitted for a Test Batch.

Table 4-110.D.2.T

Minimum Number of Sample Increments Required to be Collected per Test Batch	**Regulated Marijuana (Sample Increment = 0.5 grams)**		
	Total Weight of Harvest Batch (lbs)	Total Weight of Harvest Batch (grams)	**Minimum Weight of Test Batch (grams)**
5	0.000 -0.999	0.0 -453.5	**2.50**

8	1.00 -9.999	453.6 -4535.9	**4.00**
15	10.000 -19.999	4536.0 - 9071.8	**7.50**
22	20.000 -39.999	9071.9 - 18143.6	**11.00**
33	40.000 -99.999	18143.7 - 45359.2	**16.50**
43	100.000 - 199.999	45359.3 - 90718.4	**21.50**
53	200.000 - 499.999	90718.5 -226796.1	**26.50**
80	500 or more	226796.2 or more	**40.00**

Minimum Number of Sample Increments Required to be Collected per Test Batch	**Regulated Marijuana Concentrate (Sample Increment = 0.25 g)**		
	Total Weight of Production Batch (lbs)	Total Weight of Production Batch (grams)	**Minimum Weight of Test Batch (grams)**
5	0.000 -0.999	0.0-453.5	**1.25**
8	1.00 - 1.999	453.6-907.1	**2.00**
15	2.00 - 4.999	907.2-2267.9	**3.75**
22	5.000 - 14.999	2268.0-6803.8	**5.50**
33	15.000 – 49.999	6803.9-22679.6	**8.25**
43	50.000 – 99.999	22679.7-45359.2	**10.75**
53	100.000 – 249.999	45359.3-113398.0	**13.25**
80	250 or more	113398.1 or more	**20.00**

Minimum Number of Sample Increments Required to be Collected per Test Batch	**Regulated Marijuana Products (Sample Increment = 1 Serving)**				
	Number of Servings within Production Batch	**Minimum Number of Units for a Test Batch for a 5-Serving Unit***	**Minimum Number of Units for a Test Batch for a 10-Serving Unit***	**Minimum Number of Units for a Test Batch for a 20-Serving Unit***	**Minimum Number of Units for a Test Batch for a 100-Serving Unit***
5	0 - 99	**2**	**2**	**2**	**2**

8	100 - 999	**2**	**2**	**2**	**2**
15	1000 - 4999	**3**	**2**	**2**	**2**
22	5000 - 9999	**5**	**3**	**2**	**2**
33	10000 - 49999	**7**	**4**	**2**	**2**
43	50000 - 99999	**9**	**5**	**3**	**3**
53	100000 - 249999	**11**	**6**	**3**	**3**
80	250000 or more	**16**	**8**	**4**	**4**
*Other serving amounts per unit are acceptable. These are provided as examples.					

Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana								
Minimum Number of Sample Increments Required to be Collected per Test Batch	**Number of Pre-Rolls within the Production Batch**	**Minimum Number of Pre-Rolls for a Test Batch when each Pre-Roll is**						
		< or = 0.39 g	**0.40g to 0.50g**	**0.51g to 0.75g**	**0.76g - 1.00g**	**1.01g - 2.00g**	**2.01g - 3.00g**	**3.01g +**
5	0 - 99	5	4	3	2	2	2	2
8	100 - 999	8	5	4	3	2	2	2
15	1000 - 4999	15	10	8	5	4	2	2
22	5000 - 9999	22	14	11	8	6	3	2
33	10000 - 49999	33	21	17	11	9	5	3
43	50000 - 99999	43	27	22	15	11	6	4
53	100000 - 249999	53	34	26	18	14	7	5
80	250000 or more	80	50	40	27	20	10	7

E. Regulated Marijuana Testing Facility Selection. Unless otherwise restricted or prohibited by these rules or ordered by the State Licensing Authority, a Regulated Marijuana Business may select which Medical Marijuana Testing Facility or Retail Marijuana Testing Facility will test a Test Batch made up of Sample Increments collected pursuant to this Rule. However, the Division may elect, at its sole discretion, to assign a Regulated Marijuana Testing Facility to which a Regulated

Marijuana Business must submit for testing any Test Batch made up of Sample Increments collected pursuant to this Rule.

F. Industrial Hemp Product Sampling Procedures. Absent sampling and testing standards established by the Colorado Department of Public Health and Environment for the sampling and testing of Industrial Hemp Product, a Person Transferring an Industrial Hemp Product to a Licensee pursuant to the Marijuana Code and these Rules shall comply with the sampling and testing standards set forth in these 4-100 Series Rules – Regulated Marijuana Testing Program and as required by these Rules.

G. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish the portion of the Division's mandatory testing and sampling program that is applicable to Regulated Marijuana Businesses, and specifically Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities. While the Marijuana Code requires the State Licensing Authority to establish acceptable limits of potential contaminants, it also requires the State Licensing Authority to enact a plus or minus 15 percent potency variance, which is also included in this rule. This Rule 4-115 was previously Rules M and R 712, 1 CCR 212-1 and 1 CCR 212-2.

4-115 – Regulated Marijuana Testing Program: Sampling and Testing Program

A. Division Authority. The Division may require that a Test Batch be submitted to a specific Regulated Marijuana Testing Facility for testing to verify compliance, perform investigations, compile data or address a public health and safety concern.

1. Independent Third Party Review. The Division may require Regulated Marijuana to undergo an independent third-party review to verify that the Regulated Marijuana does not pose a threat to public health and safety when the Division, in consultation with the Colorado Department of Public Health and Environment, has objective and reasonable grounds to believe and finds, upon a full investigation, one of the following:

    a. The Regulated Marijuana contains one or more substances known to cause harm; or

    b. The Regulated Marijuana contains one or more substances that could be toxic as consumed or applied in accordance with the intended use.

2. The fact that Regulated Marijuana contains marijuana shall not constitute grounds to require an independent third-party review. Ingredients Generally Recognized as Safe by the U.S. Food & Drug Administration or that are regulated by the U.S. Food & Drug Administration under the Dietary Supplement Health and Education Act of 1994 that are included in Edible Medical Marijuana Product or Edible Retail Marijuana Product shall not constitute grounds to require an independent third-party review.

3. Quarantine. In addition to any other remedies provided by law, the Division may immediately quarantine Regulated Marijuana pursuant to Rule 4-135(A) in any one of the following circumstances:

a. The Division has objective and reasonable grounds to believe and finds, upon a full investigation, that a Regulated Marijuana Business has been guilty of deliberate and willful violations of these rules;

b. The Regulated Marijuana or Alternative Use Product poses a potential threat to public health and safety;

c. The Division has received one or more reports of an adverse event related to Regulated Marijuana or Alternative Use Product. For purpose of this Rule, adverse event means any untoward medical occurrence associated with the use of Regulated Marijuana or Alternative Use Product—this could include any unfavorable and unintended sign (including hospitalization, emergency department visit, doctor's visit, abnormal laboratory finding), symptom, or disease temporally associated with the use of a Regulated Marijuana or Alternative Use Product;

d. The Division determines the independent third-party audit submitted pursuant to Rules 5-325(B) or 6-325(B) does not meet the requirements of Rules 5-325 or 6-325; or

e. The Regulated Marijuana Products Manufacturer has violated or is not in compliance with all of the requirements in Rules 5-325 or 6-325.

4. Any quarantine pursuant to subparagraph (A)(3) above shall remain in effect unless the Regulated Marijuana undergoes an independent third-party review to verify the Regulated Marijuana does not pose a risk to public health and safety.

5. For the purpose of this Rule, full investigation means a reasonable ascertainment of the underlying facts on which the agency action is based.

B. Standard Minimum Weight of Test Batches and Photo Documentation.

1. Standard Minimum Weight of Test Batches.

a. Regulated Marijuana and Regulated Marijuana Concentrate. A Medical Marijuana Testing Facility must establish a standard minimum weight of Medical Marijuana and Medical Marijuana Concentrate, and a Retail Marijuana Testing Facility must establish a standard minimum weight of Retail Marijuana and Retail Marijuana Concentrate that must be included in a Test Batch for every type of test that it conducts.

b. Regulated Marijuana Product, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana. Regulated Marijuana Testing Facilities must establish a standard number of Samples required to be included in each Test Batch of Regulated Marijuana Product, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana for every type of test that it conducts. *See* Rule 4-110 – Regulated Marijuana Testing Program – Sampling Procedures.

2. Photo Documentation of Test Batches.

a. A Regulated Marijuana Testing Facility shall digitally photograph each Test Batch it receives to document the Sample Increments collected, condition of the Test Batch, and compliance with these rules. ~~*See* Rule 4-110(A)(5) -Test Batch Container and Packaging.~~

b. The Regulated Marijuana Testing Facility must maintain the digital photographs of each Test Batch as business records. *See* Rule 3-905 - Required Business Records.

c. Upon request by the Division, a Regulated Marijuana Testing Facility must provide copies of the digital photographs of Test Batches within seven days of the request unless a different deadline is agreed to.

C. Rejection of Test Batches.

1. A Regulated Marijuana Testing Facility ~~may~~ shall not accept a Test Batch that is smaller than its standard minimum amount.

2. A Regulated Marijuana Testing Facility ~~may~~ shall not accept a Test Batch that does not contain the minimum number and weight of Sample Increments, or the Regulated Marijuana Testing Facility ~~it has reason to believeknows~~ it was not collected~~taken~~ in accordance with Test Batch collection requirements in ~~these r~~Rule 4-110~~s or proceed with testing of a Test Batch for which adulteration is suspected, unless otherwise permitted by Rule 4-105(E), and except a Regulated Marijuana Testing Facility may accept a Test Batch that was collected by Division representatives or that was collected by a Licensee pursuant to Division direction~~.

3. Effective July 1, 2023, if a Regulated Marijuana Testing Facility suspects or has reason to suspect a Sample Increment or Test Batch has been adulterated, the Regulated Marijuana Testing Facility must:

a. Notify the Division; and

b. Quarantine the Sample Increment or Test Batch for a minimum of 48 hours from the time of notification to the Division before proceeding with any testing.

D. Permissible Levels of Contaminants. If Regulated Marijuana is found to have a contaminant in levels exceeding those established as permissible under this Rule, then it shall be considered to have failed contaminant testing. Notwithstanding the permissible levels established in this Rule, the Division reserves the right to determine, upon good cause and reasonable grounds, that a particular Test Batch presents a risk to the public health or safety and therefore shall be considered to have failed a contaminant test.

1. Microbials (Bacteria, Fungus)

Substance	**Acceptable Limits**	**Product to be Tested**
–Shiga-toxin producing *Escherichia coli* (STEC)*- Bacteria	Absent in 1 g	• Regulated Marijuana flower, shake, and trim (other than wet whole plant allocated for extraction); • Regulated Marijuana Products (other than Audited Product);
Salmonella species* – Bacteria	Absent in 1 g	
*Aspergillus (A. fumigatus, A. flavus, A. niger, A. terreus)***	Absent in 1 g	

Total Yeast and Mold	< 1.0 x 10^4 Colony Forming Unit (CFU) per 1 ml or 1 g	• Pre-Rolled Marijuana; • Infused Pre-Rolled Marijuana; • Physical Separation-Based, Heat/Pressure-Based, and Food-Based Medical Marijuana Concentrate; • Physical Separation-Based, Heat/Pressure-Based, and Food-Based Retail Marijuana Concentrate; • Industrial Hemp Products; • Pressurized Metered Dose Inhalers; • Vaporizer Delivery Device; • Solvent-Based Medical Marijuana Concentrate produced through Remediation; • Solvent-Based Retail Marijuana Concentrate produced through Remediation; • Solvent-Based Medical Marijuana Concentrate produced from Regulated Marijuana wet whole plant that was not tested for microbials; • Solvent-Based Retail Marijuana Concentrate produced from Regulated Marijuana wet whole plant that was not tested for microbials; • Re-testing of Regulated Marijuana flower, shake, and trim that has undergone Decontamination.
	≤ 1.0 x 10^1 CFU/ml or ≤ 1.0 x 10^1 CFU/g	Audited Product: administration by metered dose nasal spray or vaginal administration
	≤ 1.0 x 10^2 CFU/ml or ≤ 1.0 x 10^2 CFU/g	Audited Product: rectal administration
Total aerobic microbial count	≤ 1.0 x 10^2 CFU/ml or ≤ 1.0 x 10^2 CFU/g	Audited Product: administration by metered dose nasal spray or vaginal administration
	≤ 1.0 x 10^3 CFU/ml or ≤ 1.0 x 10^3 CFU/g	Audited Product: rectal administration
Staphylococcus aureus	Absent in 1 ml or 1 g	Audited Product: administration by metered dose nasal spray or vaginal administration
Pseudomonas aeruginosa	Absent in 1 ml or 1 g	Audited Product: administration by metered dose nasal spray or vaginal administration

Bile tolerant gram negative bacteria	Absent in 1 ml or 1 g	Audited Product: administration by metered dose nasal spray
Candida albicans	Absent in 1 ml or 1 g	Audited Product: vaginal administration

*The Regulated Marijuana Testing Facility shall contact the Colorado Department of Public Health and Environment when STEC and Salmonella are detected beyond the acceptable limits.

** Regulated Marijuana Products with intended use for oral consumption or skin and body products are exempt from required aspergillus testing.

1.5 Water Activity

Substance	**Acceptable Limits**	**Product to be Tested**
Water Activity	0.65 aW	• Regulated Marijuana flower shake, and trim (other than wet whole plant); • Retesting of Regulated Marijuana flower, shake, and trim that has undergone Decontamination; • Pre-Rolled Marijuana; • Infused Pre-Rolled Marijuana.

2. Mycotoxins

Substance	**Acceptable Limits**	**Product to be Tested**
Aflatoxins (B1, B2, G1, and G2)	< 20 Parts Per Billion (PPB) (total of B1 + B2 + G1 + G2)	• Solvent-Based Medical Marijuana Concentrate manufactured from Medical Marijuana flower or trim that failed microbial testing; • Solvent-Based Retail Marijuana Concentrate manufactured from Retail Marijuana flower or trim that failed microbial testing; • Solvent-Based Medical Marijuana Concentrate produced from Regulated Marijuana wet whole plant that was not tested for microbials; • Solvent-Based Retail Marijuana Concentrate produced from Regulated Marijuana wet whole plant that was not tested for microbials; • Regulated Marijuana flower, shake, and trim that has undergone Decontamination.
Ochratoxin A	< 20 PPB	

3. Residual Solvents

Substance	**Acceptable Limits**	**Product to be Tested**
Acetone	< 1,000 Parts Per Million (PPM)	• Solvent-Based Medical Marijuana Concentrate; • Solvent-Based Retail Marijuana Concentrate; • Industrial Hemp Product (if a solvent was used)
Butanes	< 1,000 PPM	
Ethanol***	< 1,000 PPM	
Heptanes	< 1,000 PPM	
Isopropyl Alcohol	< 1,000 PPM	
Propane	< 1,000 PPM	
Benzene**	< 2 PPM	
Toluene**	< 180 PPM	
Pentane	< 1,000 PPM	
Hexane**	< 60 PPM	
Total Xylenes (m,p, o-xylenes)**	< 430 PPM	
Methanol**	< 600 PPM	
Ethyl Acetate	< 1000 PPM	
Any other solvent not permitted for use pursuant to Rules 5-315 and 6-315.	None Detected	

** Note: These solvents are not approved for use. Due to their possible presence in the solvents approved for use per Rule 6-315, limits have been listed here accordingly.

***Note: Solvent-Based Medical Marijuana Concentrate and Solvent-Based Retail Marijuana Concentrate that exceeds the acceptable limit for ethanol may only be used in Medical Marijuana Concentrate or Medical Marijuana Product, or Retail Marijuana Concentrate or Retail Marijuana Product, which intended use is oral consumption, skin and body products, a vaporizer delivery device, pressurized metered dose inhaler, or Audited Product.

4. Elemental Impurities

Substance	**Acceptable Limits Based on Intended Use**	**Product to be Tested**
Elemental Impurities (Arsenic, Cadmium, Lead and Mercury)	**Inhaled Product or Audited Product: administration by metered dose nasal spray** Lead – Max Limit: < .5 PPM Arsenic – Max Limit: < 0.2 PPM Cadmium – Max Limit: < 0.2 PPM Mercury – Max Limit: < 0.1 PPM	• Regulated Marijuana flower, shake, trim, and wet whole plant; • Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Medical Marijuana Concentrate; • Physical Separation-Based, Food-Based, Heat/Pressure-Based
	Topical and/or Transdermal Lead – Max Limit: < 10 PPM Arsenic – Max Limit: < 3 PPM Cadmium – Max Limit: < 3 PPM Mercury – Max Limit: < 1 PPM	

	Oral Consumption or Audited Product: rectal or vaginal administration Lead – Max Limit: < 1 PPM Arsenic – Max Limit: < 1.5 PPM Cadmium – Max Limit: < 0.5 PPM Mercury – Max Limit: < 1.5 PPM	and Solvent Based Retail Marijuana Concentrate; • Regulated Marijuana Product; • Pre-Rolled Marijuana; • Infused Pre-Rolled

5. Pesticides.

a. Effective January 1, 2023, the following pesticides are currently subject to required testing, at the associated action limits:

Substance	**Action Limit**	**Product to be Tested**
Abamectin (Avermectins: B1a & B1b)	< 0.~~07~~1 PPM	• Regulated Marijuana flower, shake, trim, and wet whole plant; • Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Medical Marijuana Concentrate; • Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Retail Marijuana Concentrate; • Pre-Rolled Marijuana; • Infused Pre-Rolled Marijuana. • Industrial Hemp Product
Azoxystrobin	< 0.02 PPM	
Bifenazate	< 0.02 PPM	
Etoxazole	< 0.0~~2~~1 PPM	
Imazalil	< 0.0~~5~~4 PPM	
Imidacloprid	< 0.02 PPM	
Malathion	< 0.0~~2~~5 PPM	
Myclobutanil	< 0.0~~2~~4 PPM	
Permethrin (mix of isomers)	< 0.~~5~~04 PPM	
Spinosad (Mixture of A and D)	< 0.~~1~~06 PPM	
Spiromesifen	< 3.0~~.03~~ PPM	
Spirotetramat	< 0.02 PPM	
Tebuconazole	< 0.0~~5~~1 PPM	

b. Effective July 1, 2023, the following pesticides will be subject to required testing, at the associated action limits:

Substance	**Action Limit**	**Product To Be Tested**

Abamectin (Avermectins B1a & B1b)	< 0.1 PPM	• Regulated Marijuana flower, shake, trim, and wet whole plant; • Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Medical Marijuana Concentrate; • Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Retail Marijuana Concentrate; • Pre-Rolled Marijuana; • Infused Pre-Rolled Marijuana. • Industrial Hemp Product
Azoxystrobin	< 0.02 PPM	
Bifenthrin	< 1.0 PPM	
Bifenazate	< 0.02 PPM	
Boscalid	< 0.02 PPM	
Carbaryl	< 0.05 PPM	
Chlorpyrifos	< 0.04 PPM	
Clothianidin	< 0.05 PPM	
Cyhalothrin lambda	< 0.25 PPM	
Dichlorvos	< 0.1 PPM	
Dimethoate	< 0.02 PPM	
Dinotefuran	< 0.1 PPM	
Diuron	< 0.125 PPM	
Etoxazole	< 0.02 PPM	
Imazalil	< 0.05 PPM	
Imidacloprid	< 0.02 PPM	
Malathion	< 0.02 PPM	
Metalaxyl	< 0.02 PPM	
Myclobutanil	< 0.02 PPM	
Permethrins	< 0.5 PPM	
Propiconazole	< 0.1 PPM	
Pyriproxyfen	< 0.01 PPM	
Spinosad	< 0.1 PPM	
Spriomesifen	< 3.0 PPM	
Spirotetramat	< 0.02 PPM	
Tebuconazole	< 0.05 PPM	
Thiabendazole	< 0.02 PPM	
Thiamethoxam	< 0.02 PPM	

c. Effective July 1, 2024, the following pesticides will be subject to required testing, at the associated action limits:

Substance	**Action Limit**	**Product To Be Tested**
Abamectin (Avermectins B1a & B1b)	< 0.1 PPM	• Regulated Marijuana flower, shake, trim, and wet whole plant;
Acephate	< 0.02 PPM	

Acequinocyl	< 0.03 PPM	• Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Medical Marijuana Concentrate; • Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Retail Marijuana Concentrate; • Pre-Rolled Marijuana; • Infused Pre-Rolled Marijuana. • Industrial Hemp Product
Acetamiprid	< 0.1 PPM	
Aldicarb	< 1.0 PPM	
Allethrin	< 0.2 PPM	
Atrazine	< 0.025 PPM	
Azoxystrobin	< 0.02 PPM	
Benzovindiflupyr	< 0.02 PPM	
Bifenazate	< 0.02 PPM	
Bifenthrin	< 1.0 PPM	
Boscalid	< 0.02 PPM	
Buprofezin	< 0.02 PPM	
Carbaryl	< 0.05 PPM	
Carbofuran	< 0.02 PPM	
Chlorantraniliprole	< 0.02 PPM	
Chlorphenapyr	< 0.05 PPM	
Chlorpyrifos	< 0.04 PPM	
Clofentezine	< 0.02 PPM	
Clothianidin	< 0.05 PPM	
Coumaphos	< 0.02 PPM	
Cyantraniliprole	< 0.02 PPM	
Cyfluthrin	< 0.2 PPM	
Cyhalothrin lambda	< 0.25 PPM	
Cypermethrin	< 0.3 PPM	
Cyprodinil	< 0.25 PPM	
Daminozide	< 0.1 PPM	
Deltamethrin	< 0.5 PPM	
Diazinon	< 0.02 PPM	
Dichlorvos	<.01 PPM	
Dimethoate	< 0.02 PPM	
Dimethomorph	< 0.05 PPM	
Dinotefuran	< 0.1 PPM	
Diuron	< 0.125 PPM	
Dodemorph	< 0.05 PPM	
Endosulfan sulfate	< 0.05 PPM	
Endosulfan-alpha	< 0.2 PPM	

Endosulfan-beta	< 0.05 PPM	
Ethoprophos	< 0.02 PPM	
Etofenprox	< 0.05 PPM	
Etoxazole	< 0.02 PPM	
Etridiazole	< 0.03 PPM	
Fenhexamid	< 0.125 PPM	
Fenoxycarb	< 0.02 PPM	
Fenpyroximate	< 0.02 PPM	
Fensulfothion	< 0.02 PPM	
Fenthion	< 0.02 PPM	
Fenvalerate	< 0.1 PPM	
Fipronil	< 0.06 PPM	
Flonicamid	< 0.05 PPM	
Fludioxonil	< 0.02 PPM	
Fluopyram	< 0.02 PPM	
Hexythiazox	< 0.01 PPM	
Imazalil	< 0.05 PPM	
Imidacloprid	< 0.02 PPM	
Iprodione	< 1.0 PPM	
Kinoprene	< 0.5 PPM	
Krosoxim-methyl	< 0.02 PPM	
Malathion	< 0.02 PPM	
Metalaxyl	< 0.02 PPM	
Methiocarb	< 0.02 PPM	
Methomyl	< 0.05 PPM	
Methoprene	< 2.0 PPM	
Mevinphos	< 0.05 PPM	
MGK-264	< 0.05 PPM	
Myclobutanil	< 0.02 PPM	
Naled	< 0.1 PPM	
Novaluron	< 0.05 PPM	
Oxamyl	< 3.0 PPM	
Paclobutrazol	< 0.02 PPM	
Parathion-methyl	< 0.05 PPM	
Permethrins	< 0.5 PPM	

Phenothrin	< 0.05 PPM	
Phosmet	< 0.02 PPM	
Pirimicarb	< 0.02 PPM	
Prallethrin	< 0.05 PPM	
Propiconazole	< 0.1 PPM	
Propoxur	< 0.02 PPM	
Pyraclostrobin	< 0.02 PPM	
Pyridaben	< 0.05 PPM	
Pyriproxyfen	< 0.01 PPM	
Quintozene	< 0.02 PPM	
Resmethrin	< 0.1 PPM	
Spinetoram	< 0.02 PPM	
Spinosad	< 0.1 PPM	
Spirodiclofen	< 0.25 PPM	
Spriomesifen	< 3.0 PPM	
Spirotetramat	< 0.02 PPM	
Spiroxamine	< 0.1 PPM	
Tebuconazole	< 0.05 PPM	
Tebuenozide	< 0.02 PPM	
Teflubenzuron	< 0.05 PPM	
Tetrachlorvinphos	< 0.02 PPM	
Tetramethrin	< 0.1 PPM	
Thiabendazole	< 0.02 PPM	
Thiacloprid	< 0.02 PPM	
Thiamethoxam	< 0.02 PPM	
Thiophanate-methyl	< 0.05 PPM	
Trifloxystrobin	< 0.02 PPM	

6. Other Contaminants. If any Test Batch is found to contain levels of any microorganism, chemical, elemental impurity, or pesticides that could be toxic if consumed or present, then the Regulated Marijuana Testing Facility must notify the Regulated Marijuana Business and the Division, in accordance with subparagraph (7) of this Rule, and initiate corrective actions with all parties.

~~Pesticide~~	~~If the Test Batch is found to contain banned prohibited Pesticide not listed in paragraph (5) above, or the improper application of a permitted Pesticide, then that Test Batch shall be considered to have failed contaminant testing.~~
~~Chemicals~~	~~If the Test Batch is found to contain levels of any chemical that could be toxic if consumed or as applied, then the Division may determine that the Test Batch has failed contaminant testing.~~
~~Microbials~~	~~If the Test Batch is found to contain levels of any microbial that could be toxic if~~

	~~consumed or present, then the Division may determine that the Test Batch has failed contaminant testing.~~
~~Elemental Impurities~~	~~If the Test Batch is found to contain levels of any elemental impurities that could be toxic if consumed or present then the Division may determine that the Test Batch has failed contaminant testing.~~

7. Division Notification. A Regulated Marijuana Testing Facility must notify the Division by timely input in the Inventory Tracking System if a Test Batch is found to contain levels of a contaminant not listed within this Rule that could be injurious to human health if consumed. *See* Rule 3-825.

E. Potency Testing.

1. Cannabinoids Potency Profiles. A Regulated Marijuana Testing Facility may test and report results for any Cannabinoid provided the test is conducted in accordance with the Regulated Marijuana Testing Facility's standard operating procedure.

2. Reporting of Results.

a. For potency tests on Regulated Marijuana, Regulated Marijuana Concentrate, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana, results must be reported by listing a single percentage concentration for each Cannabinoid that represents an average of all Samples within the Test Batch. This includes reporting the Total THC in addition to each Cannabinoid required in Rule 4-125.

b. For potency tests conducted on Regulated Marijuana Product, whether conducted on each individual Production Batch or via a Reduced Testing Allowance per Rule 4-125, results must be reported by listing the total number of milligrams contained within a single Regulated Marijuana Product unit for sale for each Cannabinoid and stating whether the THC content is homogenous as defined in Paragraphs 3 and 4 of this subparagraph E.

c. Effective Date for Reporting D8-THC, D10-THC, and Exo-THC. Requirements for reporting potency test results for D8-THC, D10-THC, and Exo-THC shall take effect on July 1, 2022.

3. Failed Potency Tests for Medical Marijuana Product.

a. If the Cannabinoid content of Medical Marijuana Product is determined not to be homogeneous, then it shall be considered to have failed potency testing. A Production Batch of Medical Marijuana Product shall be considered homogeneous if a minimum of a total of four servings from two packaged units of a Test Batch has a relative standard deviation of less than 10 percent for each Cannabinoid listed on the label. A Production Batch of Medical Marijuana Product shall be considered homogenous if a minimum of a total of four servings from four individual single serve packaged units of a Test Batch has a relative standard deviation of less than 10 percent for each Cannabinoid listed on the label.

i. The four servings must also test within the allowed potency variance set forth in subparagraph E(5) of this Rule 4-115.

ii. Any Cannabinoid that makes up less than 10 percent of the total amount of Cannabinoids in the Medical Marijuana Product shall not be subject to the requirements set forth in this subparagraph (E)(3).

b. If an individually packaged Edible Medical Marijuana Product is determined to have more than the total milligrams of THC stated on the Container, or less than the total milligrams of THC stated on the Container, then the Test Batch shall be considered to have failed potency testing. Except that the potency variance provided for in subparagraph (E)(5) of this Rule 4-115 shall apply to potency testing.

4. Failed Potency Tests for Retail Marijuana Product.

a. If the Cannabinoid content of Retail Marijuana Product is determined not to be homogeneous, then it shall be considered to have failed potency testing. A Production Batch of Retail Marijuana Product shall be considered homogeneous if a minimum of a total of four servings from two packaged units of a Test Batch has a relative standard deviation of less than 10 percent for each Cannabinoid listed on the label. A Production Batch of Retail Marijuana Product shall be considered homogenous if a minimum of a total of four servings from four individual single serve packaged units of a Test Batch has a relative standard deviation of less than 10 percent for each Cannabinoid listed on the label.

i. The four servings must also test within the allowed potency variance set forth in subparagraph E(5) of this Rule 4-115.

ii. Any Cannabinoid that makes up less than 10 percent of the total amount of Cannabinoids in the Retail Marijuana Product shall not be subject to the requirements set forth in this subparagraph (E)(4).

b. If an individually packaged Edible Retail Marijuana Product is determined to have more than 100 milligrams of THC within it, then the Test Batch shall be considered to have failed potency testing. If an individually packaged Edible Retail Marijuana Product is determined to have more than the total milligrams of THC stated on the Container, or less than the total milligrams of THC stated on the Container, then the Test Batch shall be considered to have failed potency testing. If a single serving in an individually packaged Edible Retail Marijuana Product is determined to have more than 10 milligrams of THC then the Test Batch shall be considered to have failed potency testing. Except that the potency variance provided for in subparagraph (E)(5) of this Rule 4-115 shall apply to potency testing.

5. Potency Variance. Regulated Marijuana Product provided to the Regulated Marijuana Testing Facility must comply with the following potency variance:

a. For Regulated Marijuana Product with a Target Potency or making a potency claim for any cannabinoid of more than 2.5 milligrams per serving the potency variance shall differ no more than plus or minus 15 percent.

b. For Regulated Marijuana Product with a Target Potency or making a potency claim for any cannabinoid of 2.5 milligrams or less per serving the potency variance shall differ no more than the greater of plus or minus 0.5 mg or 40 percent per serving.

F. Testing Regulated Marijuana Ready for Transfer. All tests must occur at the time the Regulated Marijuana is ready for Transfer to another Regulated Marijuana Business, according to the required steps outlined in the standard operating procedures of the Licensee submitting the Test Batch.

G. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-120

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing the contaminant testing and related Reduced Testing Allowance portion of the Division's Regulated Marijuana sampling and testing program. This Rule 4-120 was previously Rules M and R 1501, 1 CCR 212-1 and 1 CCR 212-2.

4-120 – Regulated Marijuana Testing Program: Contaminant Testing

A. Contaminant Testing Required.

1. A Regulated Marijuana Business shall not Transfer or process Regulated Marijuana, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, Regulated Marijuana Concentrate or Regulated Marijuana Product unless Test Batches from each Harvest Batch or Production Batch from which that Regulated Marijuana was derived has been tested by a Regulated Marijuana Testing Facility for contaminants and passed all contaminant tests required by this Rule, except as permitted in Rule 5-205(C), 6-205(C), or the cultivation or production process has achieved a Reduced Testing Allowance under this Rule.

B. Reduced Testing Allowance and Ongoing Testing – Contaminant Testing.

1. Regulated Marijuana. A Regulated Marijuana Cultivation Facility's cultivation process may achieve a Reduced Testing Allowance for contaminant testing if every Harvest Batch that it produced during at least a six-week period (minimum 42 days) but no longer than a 12-week period (maximum 84 days) passed all contaminant tests required by Paragraph (C) of this Rule. This must include at least six Test Batches. The period begins from the date of the creation of the first Harvest Batch that passed reduced testing allowance testing. A Medical Marijuana Cultivation Facility, a Retail Marijuana Cultivation Facility, or an Accelerator Cultivator can achieve a Reduced Testing Allowance for all contaminants listed in paragraph (C) of this Rule at the same time or separately for each contaminant.

   a. Visual Microbial Growth. If a Regulated Marijuana Cultivation Facility is aware that a Harvest Batch contains visual microbial contamination, the Regulated Marijuana Cultivation Facility shall subject the Harvest Batch to microbial contaminant testing pursuant to Rule 4-120(C)(1). If the Test Batch fails testing, then the Harvest Batch shall be subject to the requirements in Rule 4-135(C). The Licensees must also follow Rule 4-120(F)(2).

2. Regulated Marijuana Concentrate, Regulated Marijuana Product, Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana. A Regulated Marijuana Business's production process may achieve a Reduced Testing Allowance for contaminant testing if for a particular type of Regulated Marijuana Concentrate, Regulated Marijuana Product, or Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana every Production Batch that it produced during at least a four-week period (minimum 28 days) but no longer than an eight-week period (maximum 56 days) passed all contaminant tests required by Paragraph (C) of this Rule. This must include Test Batches from at least four Production Batches. This period begins from the date of the creation of the first Production Bach that passed reduced testing allowance testing. If a Regulated Marijuana Concentrate or Regulated Marijuana Product is

manufactured using a different extraction process or infusion process or using any different Additives or Botanically Derived Compounds, it will be considered a different type of Regulated Marijuana Concentrate or Regulated Marijuana Product and therefore must separately achieve a Reduced Testing Allowance. If Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana is produced using different input materials, such as a different marijuana category (e.g. flower or trim), different wrapper materials, different processes, or different equipment, they must achieve separate Reduced Testing Allowances.

3. Reduced Testing Allowances are Effective for One Year. Once a Regulated Marijuana Business has successfully achieved a Reduced Testing Allowance for each of the contaminants listed in paragraph (C) of this Rule, the Reduced Testing Allowance is effective for one year (365 days inclusive, or 366 days inclusive during a leap year) from the date of the first passing harvest date or production date required to satisfy the Reduced Testing Allowance requirements.

4. Regulated Marijuana Ongoing Contaminant Testing. After successfully achieving a Reduced Testing Allowance, once every 30 days a Regulated Marijuana Business shall subject at least one Harvest Batch to all contaminant testing required by Paragraph (C) of this Rule. If during any 30-day period the Regulated Marijuana Business does not possess a Harvest Batch that is ready for testing, the Regulated Marijuana Business must subject its first Harvest Batch that is ready for testing to the required contaminant testing prior to Transfer or processing of the Regulated Marijuana. If a Harvest Batch subject to ongoing contaminant testing fails contaminant testing, the Regulated Marijuana Business shall follow the procedure in Paragraph (F)(2) of this Rule. Ongoing contaminant testing pursuant to this Rule 4-120 shall be subject to the requirements in Rule 4-110. *See* Rule 4-110(A) – Collection of Samples.

   a. The Division may reduce the frequency of ongoing contaminant testing required if the Division has reasonable grounds to believe Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities have reached maximum capacity to perform testing required by this Rule. The Division will provide notification of any reduction to the frequency of ongoing contaminant testing to the Licensee's last electronic mailing address provided to the Division.

   b. If the Licensee fails to comply with paragraph (B)(4) of this Rule, the Regulated Marijuana Business is no longer authorized a Reduced Testing Allowance.

5. Regulated Marijuana Concentrate, Regulated Marijuana Product, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana Ongoing Contaminant Testing. After successfully achieving a Reduced Testing Allowance, once every 30 days the Regulated Marijuana Business shall subject at least one Production Batch of each particular type of Regulated Marijuana Concentrate, Regulated Marijuana Product, Pre-Rolled Marijuana, or Infused Pre-Rolled Marijuana for which it has achieved a Reduced Testing Allowance to all contaminant testing required by Paragraph (C) of this Rule. If during any 30-day period the Regulated Marijuana Business does not possess a Production Batch that is ready for testing, the Regulated Marijuana Business must subject its first Production Batch that is ready for testing to the required contaminant testing prior to Transfer or processing of the Regulated Marijuana. If a Production Batch submitted for ongoing contaminant testing fails contaminant testing, the Regulated Marijuana Business shall follow the procedure in Paragraph (F)(2) of this Rule.

   a. The Division may reduce the frequency of ongoing contaminant testing required if the Division has reasonable grounds to believe Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities have reached maximum capacity to perform testing required by this Rule. The Division will provide notification of

any reduction to the frequency of ongoing contaminant testing to the Licensee's last electronic mailing address provided to the Division.

b. If the Licensee fails to comply with paragraph (B)(5) of this Rule, the Regulated Marijuana Business is no longer authorized under a Reduced Testing Allowance.

C. Required Contaminant Tests.

1. Microbial Contaminant Testing. Harvest Batches of Regulated Marijuana, flower, shake, and trim, re-testing of Regulated Marijuana flower, shake, and/or trim that has undergone Decontamination, Production Batches of Physical Separation-, Heat/Pressure-, or Food-Based Medical Marijuana Concentrate, Production Batches of Physical Separation-, Heat/Pressure-, or Food-Based Retail Marijuana Concentrate, Solvent-Based Medical Marijuana Concentrate produced through Remediation, Solvent-Based Retail Marijuana Concentrate produced through Remediation, Regulated Marijuana Product, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, Industrial Hemp Products, Pressurized Metered Dose Inhalers, Vaporizer Delivery Devices, and Audited Product must be tested for microbial contamination by a Regulated Marijuana Testing Facility at the frequency established by Paragraphs (A) and (B) of this Rule. The microbial contamination test must include, but need not be limited to, testing to determine the presence of and/or amounts present of microbial contaminants listed in Rule 4-115(D)(1): Shiga-toxin producing Escherichia coli (STEC)*- Bacteria, *Aspergillus (A. fumigatus, A. flavus, A. niger, A. terreus),* Salmonella species* – Bacteria, Total Yeast and Mold, Total aerobic microbial count, *Staphylococcus Aureus, Pseudomonas aeruginosa, Bile tolerant gram negative bacteria and Candida albicans*.

a. Effective Date for Required *Aspergillus* Testing. Requirements for *Aspergillus* testing pursuant to this rule shall take effect on July 1, 2022.

1.5 Water Activity Testing. Harvest Batches of Regulated Marijuana, flower, shake, and trim (other than wet whole plant), re-testing of Regulated Marijuana flower, shake, and/or trim that has undergone Decontamination, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana at the frequency established by Paragraphs (A) and (B) of this Rule.

2. Residual Solvent Contaminant Testing. Production Batches of Solvent-Based Medical Marijuana Concentrate, Solvent-Based Retail Marijuana Concentrate, and Audited Product that contains any Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate produced by a Regulated Marijuana Products Manufacturer must be tested by a Regulated Marijuana Testing Facility for residual solvent contamination at the frequency established by Paragraphs (A) and (B) of this Rule. The residual solvent contamination test must include, but need not be limited to, testing to determine the presence of, and amounts present of acetone, butane, ethanol, heptanes, isopropyl alcohol, propane, benzene*, toluene*, pentane, hexane*, methanol*, ethyl acetate, and total xylenes* (m, p, o – xylenes).

* Note: These solvents are not approved for use. Testing is required for these solvents due to their possible presence in the solvents approved for use per Rule 5-315 and 6-315.

3. Mycotoxin Contaminant Testing. As part of Remediation, each Production Batch of Solvent-Based Medical Marijuana Concentrate produced by a Medical Marijuana Products Manufacturer or Solvent-Based Retail Marijuana Concentrate produced by a Regulated Marijuana Products Manufacturer from Regulated Marijuana that failed microbial contaminant testing produced must be tested by a Regulated Marijuana Testing Facility for mycotoxin contamination. Each failed Harvest Batch of Regulated Marijuana flower, shake, and/or trim and each failed Production Batch of Pre-Rolled Marijuana or

Infused Pre-Rolled Marijuana that has undergone Decontamination must be tested by a Regulated Marijuana Testing Facility for mycotoxin contamination. Each Production Batch of Regulated Marijuana Concentrate produced from wet whole plant that was not tested for microbial contamination must be tested for mycotoxin contamination. The mycotoxin contaminant test must include, but need not be limited to, testing to determine the presence of, and amounts present of, aflatoxins (B1, B2, G1, and G2) and ochratoxin A. This is in addition to all other contaminant testing required by this Paragraph (C). This contaminant test cannot be exempt from testing by a Reduced Testing Allowance in accordance with subparagraph (B)(2) of this Rule, except Regulated Marijuana Concentrate produced from wet whole plant that was not tested for microbial contamination pursuant to Rule 4-121.

4. Pesticide Contaminant Testing. Harvest Batches of Regulated Marijuana, Production Batches of Regulated Marijuana Concentrate, Production Batches of Pre-Rolled Marijuana, and Production Batches of Infused Pre-Rolled Marijuana must be tested for Pesticide contamination by a Regulated Marijuana Testing Facility at the frequency established by this Rule 4-120(A) and (B). The Pesticide contamination test must include, but need not be limited to, testing to determine the presence of, and amounts present of, the Pesticides listed in Rule 4-115(E)(5).

    a. Effective Date for Required Pesticide Contaminant Testing for Production Batches of Regulated Marijuana Concentrate: Requirements for Pesticide contaminant testing for Production Batches of Regulated Marijuana Concentrate pursuant to this rule shall take effect on July 1, 2021.

5. Elemental Impurities Testing.

    a. Each Harvest Batch and Production Batch of Regulated Marijuana must be tested for elemental impurities by a Regulated Marijuana Testing Facility at the frequency established in paragraphs (A) and (B) of this Rule. The elemental impurities test must include, but need not be limited to, testing to determine the presence of, and amounts present of, arsenic, cadmium, lead, and mercury.

    b. Emissions Testing. This subsection (C)(5)(b) is effective January 1, 2022. Each Harvest Batch and Production Batch of Regulated Marijuana Concentrate in a Vaporized Delivery Device must be tested for elemental impurities via emissions testing by a Regulated Marijuana Testing Facility at the frequency established in subparagraphs (A) and (B) of this Rule. The elemental impurities test must include, but need not be limited to, testing to determine the presence and amounts of arsenic, cadmium, lead, and mercury.

D. Additional Required Tests. The Division may require additional tests to be conducted on a Harvest Batch or Production Batch prior to a Regulated Marijuana Cultivation Facility or Regulated Marijuana Products Manufacturer Transferring or processing any Regulated Marijuana from that Harvest Batch or Production into a Regulated Marijuana Concentrate or Regulated Marijuana Product. Additional tests may include, but need not be limited to, screening for Pesticide, chemical contaminants, biological contaminants, or other types of microbials, molds, elemental impurities, or residual solvents.

E. Exemptions.

1. Medical Marijuana Concentrate.

    a. A Medical Marijuana Products Manufacturer who combines multiple Production Batches of Solvent-Based Medical Marijuana Concentrate into a Production

Batch of Solvent-Based Medical Marijuana Concentrate shall be considered exempt from residual solvent testing pursuant to this Rule only if all original Production Batches passed residual solvent testing. This does not apply if a solvent, Additive, or any other Ingredient was introduced during the combination of the Production Batches.

b. A Production Batch of Medical Marijuana Concentrate shall be considered exempt from contaminant testing requirements pursuant to this Rule if the Medical Marijuana Products Manufacturer that produced it does not Transfer any portion of the Production Batch and uses the entire Production Batch to manufacture Medical Marijuana Product, except that a Solvent-Based Medical Marijuana Concentrate must still be submitted for residual solvent contaminant testing and Medical Marijuana Concentrate must still be submitted for pesticide contaminant testing. The manufactured Medical Marijuana Product shall be subject to mandatory testing under this Rule.

2. Retail Marijuana Concentrate.

a. A Retail Marijuana Products Manufacturer or Accelerator Manufacturer who combines multiple Production Batches of Solvent-Based Retail Marijuana Concentrate into a Production Batch of Solvent-Based Retail Marijuana Concentrate shall be considered exempt from residual solvent testing pursuant to this Rule only if all original Production Batches passed residual solvent testing. This does not apply if a solvent, Additive or any other Ingredient was introduced during the combination of the Production Batches.

b. A Production Batch of Retail Marijuana Concentrate shall be considered exempt from contaminant testing requirements pursuant to this Rule if the Retail Marijuana Products Manufacturer that produced it does not Transfer any portion of the Production Batch and uses the entire Production Batch to manufacture Retail Marijuana Product, except that a Solvent-Based Retail Marijuana Concentrate must still be submitted for residual solvent contaminant testing and Retail Marijuana Concentrate must still be submitted for pesticide contaminant testing. The manufactured Retail Marijuana Product shall be subject to testing under this Rule.

3. Regulated Marijuana Product. A Regulated Marijuana Business that produces Regulated Marijuana Products with intended use for oral consumption or skin and body products, is exempt from aspergillus testing as required by these 4-100 Series Rules.

F. Events Requiring Re-Authorization for a Reduced Testing Allowance - Contaminants.

1. Material Change. If a Licensee makes a Material Change to its cultivation or production process or its standard operating procedures , then it must have the first five Harvest Batches or Production Batches produced using the new procedures tested for all of the contaminants required by Paragraph (C) of this Rule regardless of whether its process has previously achieved a Reduced Testing Allowance regarding contaminants. If any of those tests fail, then the Regulated Marijuana Business's process must achieve a new Reduced Testing Allowance.

a. Pesticide or other Agricultural Substances. It is a Material Change if a Regulated Marijuana Cultivation Facility begins using a new or different Pesticide or other agricultural substances (e.g. nutrients, fertilizers) during its cultivation process.

b. Solvents. It is a Material Change if a Regulated Marijuana Products Manufacturer begins using a new or different solvent or combination of solvents or changes any parameters for equipment related to the solvent purging process, including but not limited to, time, temperature, or pressure.

c. Cultivation. It is a Material Change if a Regulated Marijuana Cultivation Facility begins using a new or different method for any material part of the cultivation process, including, but not limited to, changing from one growing medium to another.

d. Environmental Conditions. It is a Material Change if a Regulated Marijuana Cultivation Facility changes parameters associated with environmental conditions, including temperature, humidity, or lighting.

e. Cleaning and Sanitation. It is a Material Change if a Regulated Marijuana Cultivation Facility makes changes to cleaning or sanitation processes.

f. Inputs and Contact Surfaces. It is a Material Change if a Regulated Marijuana Cultivation Facility changes materials that have direct contact with product components, including but not limited to, ingredients, additives, or hardware such as Vaporizer Delivery Devices.

g. Testing Required Prior to Transfer or Processing. When a Harvest Batch or Production Batch is required to be submitted for testing pursuant to this Rule, the Licensee that produced it may not Transfer or process Regulated Marijuana, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, Regulated Marijuana Concentrate or Regulated Marijuana Product unless the Harvest Batch or Production Batch passes all required testing.

2. Failed Contaminant Testing and Reduced Testing Allowance. Failed contaminant testing may constitute a violation of these rules.

a. If a Test Batch is required to be tested by these Rules or required to be tested by the Division pursuant to Rule 4-120(A) and fails contaminant testing, the Licensee shall follow the procedures in Rule 4-135(B) for any Inventory Tracking System package, Harvest Batch, or Production Batch from which the failed Sample was taken.

b. The Licensee shall also submit Test Batches from three new Harvest Batches or Production Batches of the Regulated Marijuana for contaminant testing by a Regulated Marijuana Testing Facility within no more than 30 days. If any one of the three submitted Test Batches fails contaminant testing, the Licensee shall achieve a new Reduced Testing Allowance for contaminants.

G. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-121

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish requirements and exemptions for contaminant testing for wet whole plant.

4-121 – Regulated Marijuana Testing Program: Wet Whole Plant Contaminant Testing

A. Microbial Contaminant Testing. A Regulated Marijuana Cultivation Facility shall not Transfer wet whole plant or process wet whole plant into Regulated Marijuana Concentrate unless Test Batches from each Harvest Batch of Regulated Marijuana wet whole plant were tested for microbial contamination by a Regulated Marijuana Testing Facility and passed all microbial contaminant tests except as permitted in Rules 5-205(C), 6-205(C), or the cultivation process has achieved a Reduced Testing Allowance under this Rule. The microbial contamination test must include, but need not be limited to, testing to determine the presence of and/or amounts present of microbial contaminants listed in Rule 4-115(D)(1): Shiga-toxin producing Escherichia coli (STEC)*- Bacteria, *Aspergillus (A. fumigatus, A. flavus, A. niger, A. terreus),* Salmonella species* – Bacteria, Total Yeast and Mold.

B. Reduced Testing Allowance and Ongoing Testing – Microbial Contaminant Testing. A Regulated Marijuana Cultivation Facility's cultivation process for wet whole plant shall be deemed acceptable for a Reduced Testing Allowance for microbial contaminant testing if every Harvest Batch of wet whole plant that it produced during at least a ~~six~~three-week (minimum 21 days) period but no longer than a 12-week (maximum 84 days) period passed all microbial contaminant tests required by this Rule. This must include at least six Test Batches. A Medical Marijuana Cultivation Facility, a Retail Marijuana Cultivation Facility, or an Accelerator Cultivator can achieve a Reduced Testing Allowance for contaminants listed in this Rule 4-121.

C. Reduced Testing Allowances are Effective for One Year. Once a Regulated Marijuana Business has successfully achieved a Reduced Testing Allowance for a contaminant test, the Reduced Testing Allowance is effective for one year (365 days inclusive, or 366 days inclusive during a leap year) from the date of the first passing harvest date or required to satisfy the Reduced Testing Allowance requirements.

D. Regulated Marijuana Ongoing Contaminant Testing. After successfully achieving a Reduced Testing Allowance, once every 30 days a Regulated Marijuana Cultivation Facility shall subject at least one Harvest Batch of wet whole plant to microbial contaminant testing. If during any 30-day period a Regulated Marijuana Cultivation Facility does not possess a Harvest Batch of wet whole plant that is ready for testing, the Regulated Marijuana Cultivation Facility must subject its first Harvest Batch of wet whole plant that is ready for testing to a microbial contaminant testing prior to Transfer or processing of the Regulated Marijuana wet whole plant. If a Harvest Batch of wet whole plant subject to ongoing contaminant testing fails contaminant testing, the Regulated Marijuana Cultivation Facility shall follow the procedure in Paragraph (F)(2) of Rule 4-120. Ongoing contaminant testing pursuant to this Rule shall be subject to the requirements in Rule 4-110. *See* Rule 4-110(A) – Collection of Samples.

1. The Division may reduce the frequency of ongoing contaminant testing required if the Division has reasonable grounds to believe Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities have reached maximum capacity to perform testing required by this Rule. The Division will provide notification of any reduction to the frequency of ongoing contaminant testing to the Licensee's last electronic mailing address provided to the Division.

2. If the Licensee fails to comply with Paragraph (D) of this Rule, the Regulated Marijuana Cultivation Facility is no longer authorized a Reduced Testing Allowance.

E. Testing Exemptions for Wet Whole Plant.

1. Harvest Batches of Regulated Marijuana wet whole plant are exempt from required water activity testing.

2. Harvest Batches of Regulated Marijuana wet whole plant is exempt from required microbial contaminant testing if a Regulated Marijuana Cultivation Facility Transfers the Regulated Marijuana wet whole plant for the purposes of extraction to a Regulated Marijuana Business with at least one identical Controlling Beneficial Owner and in accordance with this Rule. If a Regulated Marijuana wet whole plant Harvest Batch is not tested for microbial contamination, each resulting Regulated Marijuana Concentrate Production Batch shall be tested for microbial contamination pursuant to Rule 4-120.

F. Regulated Marijuana Concentrate Produced from Wet Whole Plant That Was Not Tested for Microbial Contaminants.

1. Required Testing. Each Production Batch of Regulated Marijuana Concentrate produced from wet whole plant that was not tested for microbial contaminants in accordance with the exemption in paragraph (E)(2) of this Rule must be tested for microbial contaminants and mycotoxins. In addition, the Regulated Marijuana Concentrate must be tested in accordance with Rule 4-120 for other contaminants, including pesticides, elemental impurities, and residual solvents if applicable.

2. Regulated Marijuana Concentrate Produced from Wet Whole Plant Not Tested for Microbial Contamination. A Regulated Marijuana Business that produces Regulated Marijuana Concentrate may achieve a Reduced Testing Allowance for a Regulated Marijuana Concentrate produced from wet whole plant that was not tested for microbial contamination, subject to the following requirements:

a. Qualification Form. The Regulated Marijuana Business that produces Regulated Marijuana Concentrate from wet whole plant not tested for microbial contamination shall obtain a completed qualification form from the Regulated Marijuana Business that cultivated the wet whole plant. The qualification form must detail the following information related to the cultivation of the wet whole plant:

i. Implemented quality management systems;

ii. Record keeping;

iii. Notification of Material Change;

iv. Notification of a wet whole plant microbial Test Batch failure;

v. Cultivation and post-harvest procedures;

vi. Cleaning; and

vii. Corrective action and preventative action.

b. Completion Required. The Regulated Marijuana Business that wishes to Transfer the wet whole plant that was not tested for microbial contamination must provide a completed qualification form detailing the information listed above.

c. Approval. The Regulated Marijuana Business that receives a Transfer of wet whole plant is responsible for ensuring it conforms with specified approval requirements, which shall include but is not limited to the following:

i. The receiving Regulated Marijuana Business has confirmed it has not received notification by the Regulated Marijuana Cultivation Facility of a Material Change to its cultivation process;

ii. The receiving Regulated Marijuana Business has inspected the wet whole plant Harvest Batch for visual microbial contamination. If visual microbial contamination is identified in the Harvest Batch of wet whole plant, the Licensee shall subject the Harvest Batch to microbial contaminant testing pursuant to Rule 4-121. If the Test Batch fails testing, then the Harvest Batch shall be subject to the requirements in Rule 4-135(C).; and

iii. The receiving Regulated Marijuana Business has obtained evidence of compliance with testing requirements for the wet whole plant and proof of any Reduced Testing Allowances, if appliable.

d. Origin Verification. Verification of the Regulated Marijuana Business that cultivated the wet whole plant used to manufacture the Regulated Marijuana Concentrate.

3. Recordkeeping Requirements. A Regulated Marijuana Business shall maintain copies of documents and other records evidencing compliance with this Rule as part of its business books and records. *See* Rule 3-905 – Business Records Required.

G. Pesticide and Elemental Impurities Testing for Regulated Marijuana Wet Whole Plant. Each Harvest Batch of Regulated Marijuana wet whole plant must be tested for Pesticide and Elemental Impurities testing in accordance with Rule 4-120.

H. Events Requiring Re-Authorization for a Reduced Testing Allowance. A Regulated Marijuana Cultivation Facility must follow Rule 4-120 for any events that would require a Re-Authorization for a Reduced Testing Allowance. That may include a failed test or a Material Change described in Rule 4-120 (F). The Licensee must act in accordance with Rule 4-120 (F)(2) if either scenario occurs.

I. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-125

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing the potency testing and related Reduced Testing Allowance portion of the Division's Regulated Marijuana sampling and testing program. This Rule 4-125 was previously Rules M and R 1503, 1 CCR 212-1 and 1 CCR 212-2.

4-125 – Regulated Marijuana Testing Program: Potency Testing

A. Potency Testing – General.

1. Test Batches. A Test Batch submitted for potency testing may only be comprised of sample increments that are of the same strain of Medical Marijuana or Retail Marijuana or from the same Production Batch of Medical Marijuana Concentrate or Medical

Marijuana Product, or from the same Production Batch of Retail Marijuana Concentrate or Retail Marijuana Product, or from the same Production Batch of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana.

2. Cannabinoid Profile. A potency test conducted pursuant to this Rule must at least determine the level of concentration of D8-THC, D9-THC, D-10 THC, Exo-THC, THCA, CBD, CBDA, and CBN.

B. Potency Testing for Regulated Marijuana.

1. Initial Potency Testing. A Regulated Marijuana Cultivation Facility must have potency tests conducted by a Regulated Marijuana Testing Facility on four Harvest Batches, created a minimum of one week apart, for each strain of Regulated Marijuana that it cultivates. *See* Rule 4-105(B).

a. The first potency test must be conducted on each strain prior to the Regulated Marijuana Cultivation Facility Transferring or processing into a Medical Marijuana Concentrate any Medical Marijuana of that strain, or into a Retail Marijuana Concentrate any Retail Marijuana of that strain.

b. All four potency tests must be conducted on each strain no later than December 1, 2014 or six months after the Regulated Marijuana Cultivation Facility begins cultivating that strain, whichever is later.

2. Ongoing Potency Testing. After the initial four potency tests, a Regulated Marijuana Cultivation Facility shall have each strain of Regulated Marijuana that it cultivates tested for potency at least once per quarter.

a. If the Licensee fails to comply with paragraph (B)(2) of this Rule, the Regulated Marijuana Cultivation Facility is no longer authorized for a Reduced Testing Allowance.

C. Potency Testing for Regulated Marijuana Concentrate except Kief.

1. A Medical Marijuana Cultivation Facility or a Medical Marijuana Products Manufacturer must have a potency test conducted by a Medical Marijuana Testing Facility on every Production Batch of Medical Marijuana Concentrate that it produces prior to Transferring or processing into a Medical Marijuana Product any of the Medical Marijuana Concentrate from that Production Batch.

2. A Retail Marijuana Cultivation Facility, Accelerator Cultivator, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer must have a potency test conducted by a Retail Marijuana Testing Facility on every Production Batch of Retail Marijuana Concentrate that it produces prior to Transferring or processing into a Retail Marijuana Product any of the Retail Marijuana Concentrate from that Production Batch.

D. Repealed.

E. Potency Testing for Regulated Marijuana Product.

1. Potency Testing Required for Regulated Marijuana Product. A Regulated Marijuana Products Manufacturer shall have potency tests conducted by a Regulated Marijuana Testing Facility on every Production Batch of each type of Regulated Marijuana Product that it produces prior to Transferring any of the Regulated Marijuana Product from that Production Batch, unless the Regulated Marijuana Products Manufacturer has

successfully achieved a Reduced Testing Allowance for potency and homogeneity for the particular type of Regulated Marijuana Product.

2. Required Tests. Potency and homogeneity tests conducted on Regulated Marijuana Product must determine the level of concentration of the required Cannabinoids and whether or not THC is homogeneously distributed throughout the product.

3. Partially Infused Regulated Marijuana Products. If only a portion of a Regulated Marijuana Product is infused with Regulated Marijuana, then the Regulated Marijuana Products Manufacturer must inform the Regulated Marijuana Testing Facility of exactly which portions of the Regulated Marijuana Product are infused and which portions are not infused.

E.1. Potency Testing Required for Pre-Rolled Marijuana.

1. A Regulated Marijuana Business shall have potency tests conducted by a Regulated Marijuana Testing Facility on every Production Batch of each type of Pre-Rolled Marijuana product that it produces prior to Transferring or selling any of the Pre-Rolled Marijuana from that Production Batch if the Regulated Marijuana Business is using multiple strains from different sources (e.g. self-grown source, wholesale source) and/or selecting only a part of the Harvest Batch(es) that is not representative of the entire Harvest Batch each time they produce a certain type of Pre-Rolled Marijuana (e.g. using only the shake/trim out of a Harvest Batch).

2. If each type of Pre-Rolled Marijuana is created using select parts of a single strain (e.g. flower only, shake/trim only) or a specific ratio of strains from specified sources (e.g. self-grown source, wholesale source) defined by the Regulated Marijuana Business' standard operating procedures, ~~A~~a Regulated Marijuana Business shall have potency tests conducted according to paragraph (~~F~~E.1)(2)(a) and (b) of this Rule by a Regulated Marijuana Testing Facility for each type of Pre-Rolled Marijuana product that it produces prior to Transferring or selling any of the Pre-Rolled Marijuana from a Production Batch ~~if each type of Pre-Rolled Marijuana is created using select parts of a single strain (e.g. flower only, shake/trim only) or a specific ratio of strains from specified sources (e.g. self-grown source, wholesale source) defined by the Regulated Marijuana Business' standard operating procedures~~.

   a. Initial Potency Testing. Initial potency tests shall be conducted by a Regulated Marijuana Testing Facility on four Production Batches, created a minimum of one week apart, for each type of Pre-Rolled Marijuana that is created using a single strain or a specific ratio of strains defined by the Regulated Marijuana Business' standard operating procedures.

   b. Ongoing Potency Testing. After the initial four potency tests, ongoing potency tests shall be conducted by a Regulated Marijuana Testing Facility at least once per quarter for each type of Pre-Rolled Marijuana that is created using a single strain or a specific ratio of strains defined by the Regulated Marijuana Business' standard operating procedures.

      ~~i. If the Licensee fails to comply with Paragraph (F)(2) of this Rule, the Regulated Marijuana Business is no longer granted a Reduced Testing Allowance for the ongoing potency testing requirement.~~

3. A Regulated Marijuana Business shall be considered exempt from potency testing if the Pre-Rolled Marijuana Production Batch uses a single strain and uses all parts of the Harvest Batch that were included in the potency testing of the Harvest Batch prior to

creating the Pre-Rolled Marijuana Production Batches. In this case, the potency test results of the Harvest Batch shall be used for the Pre-Rolled Marijuana Production Batch.

4. Production Batches of Pre-Rolled Marijuana are exempt from homogeneity testing.

E.2. Potency Testing Required for Infused Pre-Rolled Marijuana.

1. A Regulated Marijuana Business shall have potency tests conducted by a Regulated Marijuana Testing Facility on every Production Batch of Infused Pre-Rolled Marijuana product that it produces prior to Transferring any of the Infused Pre-Rolled Marijuana from that Production Batch.

2. Production Batches of Infused Pre-Rolled Marijuana are exempt from homogeneity testing.

F. Reduced Testing Allowance - Potency and Homogeneity.

1. A Retail Marijuana Products Manufacturer or Accelerator Manufacturer may achieve a Reduced Testing Allowance for potency and homogeneity for each type of Retail Marijuana Product it manufactures.

    a. For Edible Retail Marijuana Products a potency test result that is within 15 percent of the target potency will count towards a Reduced Testing Allowance.

        i. For Edible Retail Marijuana Products that contain 2.5 milligrams of THC or less per serving, a potency test result that is within the greater of plus or minus 0.5 milligrams or 40 percent per serving will count towards a Reduced Testing Allowance.

2. A Medical Marijuana Products Manufacturer may achieve a Reduced Testing Allowance for potency and homogeneity for each type of non-Edible Medical Marijuana Product and each type of Edible Medical Marijuana Product that it manufactures.

    a. For Edible Medical Marijuana Products that contain 100 milligrams of THC or less per Container, a potency test result that is within 15 percent of the target potency will count towards a Reduced Testing Allowance.

        i. For Edible Medical Marijuana Products that contain 2.5 milligrams of THC or less per serving and less than 100 milligrams of THC per Container, a potency test result that is within the greater of plus or minus 0.5 milligrams or 40 percent per serving will count towards a Reduced Testing Allowance.

    b. For Edible Medical Marijuana Products that contain between 101 and 500 milligrams of THC per Container, a potency test result that is within 10 percent of the target potency will count towards a Reduced Testing Allowance.

    c. For Edible Medical Marijuana Products that contain 501 milligrams of THC or more per Container, a potency test result that is within 5 percent of the target potency will count towards a Reduced Testing Allowance.

3. A Regulated Marijuana Products Manufacturer’s production process for a particular type of Regulated Marijuana Product shall be deemed acceptable for a Reduced Testing Allowance for potency and homogeneity testing if every Production Batch that it produces for that particular type of Regulated Marijuana Product during at least a four-week period

but no longer than an eight-week period passes all potency and homogeneity tests required by Rule 4-125. This must include at least four Test Batches.

4. Expiration of a Reduced Testing Allowance. A Regulated Marijuana Products Manufacturer is required to achieve a new Reduced Testing Allowance every 12 months from the date the Reduced Testing Allowance is achieved (365 days inclusive, or 366 days inclusive during a leap year from the date of the first Production Batch utilized to initiate establishing a Reduced Testing Allowance), after which point the Reduced Testing Allowance expires. When the Reduced Testing Allowance expires, the Regulated Marijuana Business shall comply with the requirements of this Rule.

5. Regulated Marijuana Product Ongoing Potency and Homogeneity Testing. After successfully achieving a Reduced Testing Allowance, once per quarter a Regulated Marijuana Products Manufacturer shall subject at least one Production Batch of each type of Medical Marijuana Product or Retail Marijuana Product that it produces to potency and homogeneity testing required by Paragraph (D) of this Rule. If during any quarter the Regulated Marijuana Products Manufacturer does not possess a Production Batch that is ready for testing, the Licensee must subject its first Production Batch that is ready for testing to the required potency and homogeneity testing prior to Transfer or processing of the Regulated Marijuana. If a Test Batch submitted for ongoing potency and homogeneity testing fails potency and homogeneity testing, the Licensee shall follow the procedure in Paragraph (H) of this Rule. Ongoing potency and homogeneity testing pursuant to this Rule 4-125 shall be subject to the requirements in Rule 4-110. *See* Rule 4-110(A) – Collection of Samples.

   a. The Division may reduce the frequency of ongoing potency and homogeneity testing required if the Division has reasonable grounds to believe Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities have reached maximum capacity to perform testing required by this Rule. The Division will provide notification of any reduction to the frequency of ongoing potency and homogeneity testing to the Licensee's last electronic mailing address provided to the Division.

   b. If the Licensee fails to comply with paragraph (F)(5) of this Rule, the Regulated Marijuana Cultivation Facility is no longer authorized for a Reduced Testing Allowance.

G. Exemption. Any Regulated Marijuana that will be allocated for extraction in the Inventory Tracking System shall be considered exempt from potency testing pursuant to this Rule.

H. Events Requiring Re-Authorization for a Reduced Testing Allowance - Potency and Homogeneity - Regulated Marijuana Product.

1. Material Change. If a Regulated Marijuana Products Manufacturer elects to achieve a Reduced Testing Allowance for any Regulated Marijuana Products for potency and homogeneity and it makes a Material Change to its production process for that particular type of Regulated Marijuana Product, then the Regulated Marijuana Products Manufacturer shall achieve a new Reduced Testing Allowance.

   a. New Equipment. It is a Material Change if the Regulated Marijuana Products Manufacturer begins using new or different equipment for any material part of the production process.

   b. ~~Notification. A Regulated Marijuana Products Manufacturer must notify the Regulated Marijuana Testing Facility of a Material Change~~Repealed.

c. Testing Required Prior to Transfer. When a Production Batch is required to be submitted for testing pursuant to this Rule, the Regulated Marijuana Products Manufacturer that produced it may not Transfer Regulated Marijuana Product from that Production Batch unless it obtains a passing test.

2. Failed Potency Testing. Failed potency testing may constitute a violation of these rules.

a. If a Test Batch is required to be tested by these Rules or required to be tested by the Division pursuant to Rule 4-115(A) and fails potency testing, the Regulated Marijuana Products Manufacturer shall follow the procedures in Rule 4-135(C) for any Inventory Tracking System package or Production Batch associated with the failed Sample.

b. The Regulated Marijuana Products Manufacturer shall also submit Test Batches from three new Production Batches of the Regulated Marijuana Product t for potency testing by a Regulated Marijuana Testing Facility within no more than 30 days. If any one of the three submitted Test Batches fails potency testing, the Regulated Marijuana Products Manufacturer shall achieve a new Reduced Testing Allowance.

I. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-130

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing rules requiring Regulated Marijuana Businesses to cover certain costs associated with the Division's Regulated Marijuana Sampling and Testing Program. This Rule 4-130 was previously Rules M and R 1506, 1 CCR 212-1 and 1 CCR 212-2.

4-130 – Regulated Marijuana Testing Program: Costs

The cost for all sampling and tests conducted pursuant to these rules shall be the financial responsibility of the Regulated Marijuana Business that is required to submit the Sample for testing.

Basis and Purpose – 4-135

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing rules governing the quarantining of potentially contaminated product and the destruction of product that failed contaminant or potency testing for Division's Regulated Marijuana Sampling and Testing Program. This Rule 4-135 was previously Rules M and R 1507, 1 CCR 212-1 and 1 CCR 212-2.

4-135 – Regulated Marijuana Testing Program: Contaminated Product and Failed Test Results and Procedures

A. Quarantining of Product.

1. If the Division has reasonable grounds to believe that a particular Harvest Batch, Production Batch, or Inventory Tracking System package of Regulated Marijuana is contaminated or presents a risk to public safety, then the Division may require a Regulated Marijuana Business to quarantine it until the completion of the Division's investigation, which may include, but is not limited to, the receipt of any test results.

2. If a Regulated Marijuana Business is notified by any local or state agency, or by a Regulated Marijuana Testing Facility that a Test Batch failed a contaminant or potency testing, then the Regulated Marijuana Business shall quarantine any Regulated Marijuana from any Inventory Tracking System package, Harvest Batch or Production Batch associated with that failed Test Batch and must follow the procedures established pursuant to this Rule.

3. Except as provided by this Rule, Regulated Marijuana that has been quarantined pursuant to this Rule must be physically separated from all other inventory and the Licensee may not Transfer or further process the Regulated Marijuana.

4. In addition to any other method authorized by law, the Division may implement the quarantine through the Inventory Tracking System by (a) indicating failed test results and (b) limiting the Licensee's ability to Transfer the quarantined Regulated Marijuana unless otherwise permitted by these rules.

B. Failed Contaminant Testing: All Contaminant Testing Except Microbial and Water Activity Testing of Regulated Marijuana Flower, Trim, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, Pesticide Testing, and Elemental Impurities Testing of Regulated Marijuana Flower or Trim. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch failed contaminant testing (except microbial and water activity testing of Regulated Marijuana flower or trim, Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana, Pesticide testing, and elemental impurities testing of Regulated Marijuana flower or trim), then for each Inventory Tracking System package, Harvest Batch, or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch or Production Batch pursuant to Rule 3-230 – Waste Disposal;

2. Decontaminate the Inventory Tracking System package, Harvest Batch, or Production Batch, if possible, and create two new Test Batches, each containing the requisite number of Samples, and have those Test Batches tested for the required contaminant test that failed. Such testing must comport with the sampling procedures under Rule 4-110.

    a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Medical Marijuana Testing Facilities or Retail Marijuana Testing Facilities;

    b. If both new Test Batches pass the required contaminant testing, then the Inventory Tracking System package, Harvest Batch, or Production Batch of Regulated Marijuana or Regulated Marijuana Product associated with each Test Batch may be Transferred or processed into a Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, or Retail Marijuana Product;

    c. If one or both of the Test Batches do not pass contaminant testing, then the Regulated Marijuana Business must destroy and document the destruction of the

Inventory Tracking System package, Harvest Batch, or Production Batch included in that Test Batch pursuant to Rule 3-230 – Waste Disposal.

3. The Regulated Marijuana Business may Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch that failed contaminant testing to another Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer for Decontamination, if possible, and create two new Test Batches after Decontamination has occurred, each containing the requisite number of Samples, and have those Test Batches tested for the required contaminant test that failed. Such testing must comport with the sampling procedures under Rule 4-110.

   a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Medical Marijuana Testing Facilities or Retail Marijuana Testing Facilities;

   b. If both new Test Batches pass the required contaminant testing, then the Inventory Tracking System package, Harvest Batch, or Production Batch of Regulated Marijuana or Regulated Marijuana Product associated with each Test Batch may be Transferred or processed into a Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, or Retail Marijuana Product;

   c. If one or both of the Test Batches do not pass contaminant testing, then the Regulated Marijuana Business must destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch included in that Test Batch pursuant to Rule 3-230 – Waste Disposal.

C. Failed Contaminant Testing: Microbial Testing of Regulated Marijuana Flower, Wet Whole Plant, Trim, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch of Regulated Marijuana flower, wet whole plant, trim, Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana failed microbial testing, then for each Inventory Tracking System package, Harvest Batch, or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 2-230 – Waste Disposal;

2. Decontaminate the Inventory Tracking System package, Harvest Batch, or Production Batch, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments, and submit those Test Batches for microbial contaminant testing. Such testing must comply with the sampling procedures under Rule 4-110. If the Inventory Tracking System package, Harvest Batch, or Production Batch has undergone Decontamination, then it must also pass a mycotoxin and water activity test prior to Transfer. The mycotoxin and water activity testing is not required to occur until after the Inventory Tracking System package, Harvest Batch, or Production Batch has passed microbial testing. If a Test Batch fails mycotoxin or water activity testing the Regulated Marijuana Business must follow the failed contaminant testing procedures pursuant to Paragraph (B) above. Pursuant to Rule 4-120(C), wet whole plant is exempt from water activity testing.

   a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Regulated Marijuana Testing Facilities.

b. If both Test Batches pass the required microbial testing, then the Inventory Tracking System package, Harvest Batch, ~~,~~ or Production Batch associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

c. If one or both of the Test Batches do not pass microbial testing, then the Regulated Marijuana Business must:

i. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 – Waste Disposal;

ii. Decontaminate and re-test in accordance with this Paragraph (C)(2); or

iii. Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch for Decontamination or Remediation pursuant to Paragraph (C)(3)(b) below.

3. In lieu of Decontamination pursuant to Paragraph (C)(2) above, the Regulated Marijuana Business may Transfer all Regulated Marijuana from the Inventory Tracking System packages, Harvest Batches, and Production Batches associated with that failed Test Batch to a Regulated Marijuana Cultivation Facility for Decontamination, or may Transfer such Regulated Marijuana to a Regulated Marijuana Products Manufacturer for Decontamination and/or Remediation. If the Regulated Marijuana Business receiving the Regulated Marijuana for Decontamination will Transfer the Regulated Marijuana back to the originating Regulated Marijuana Business following the Decontamination procedures, then the originating Regulated Marijuana Business is responsible for all required testing. If the Regulated Marijuana Business receiving the Regulated Marijuana for Decontamination will Transfer the Regulated Marijuana to a different Regulated Marijuana Business or further processes the Regulated Marijuana following Decontamination, then the receiving Regulated Marijuana Business that performed the Decontamination is responsible for all required testing.

a. Decontamination. The Regulated Marijuana Business may Decontaminate the Inventory Tracking System package, Harvest Batch, or Production Batch, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments, and submit those Test Batches for microbial contaminant testing. Such testing must comply with the sampling procedures under Rule 4-110. If the Inventory Tracking System package, Harvest Batch, or Production Batch has undergone Decontamination, then it must also pass a mycotoxin and water activity test prior to Transfer. The mycotoxin and water activity testing is not required to occur until after the Inventory Tracking System package, Harvest Batch, or Production Batch has passed microbial testing. If a Test Batch fails mycotoxin or water activity testing the Regulated Marijuana Business must follow the failed contaminant testing procedures pursuant to Paragraph (B) above. Pursuant to Rule 4-120(C), wet whole plant is exempt from water activity testing.

i. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Medical Marijuana Testing Facilities or Retail Marijuana Testing Facilities

ii. If both Test Batches pass the required microbial testing, then the Inventory Tracking System packages, Harvest Batch, or Production Batch associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

iii. If one or both of the Test Batches that were created from Harvest Batches or Production Batches pursuant to Paragraph (C)(3)(a) do not pass microbial testing, the Regulated Marijuana Business must either:

A. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 Waste Disposal;

B. Decontaminate and re-test in accordance with this paragraph;

C. Attempt Remediation pursuant to Paragraph (C)(3)(b), except for Production Batches of Infused Pre-Rolled Marijuana; or

D. Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana for Decontamination or Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana for Remediation pursuant to Paragraph (C)(3)(b).

b. Remediation. The Regulated Marijuana Products Manufacturer may Remediate the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments. The new Test Batches are required to be re-tested for Microbial, Mycotoxin, and Water Activity contaminant testing. Such testing must comport with sampling procedures under Rule 4-110.

i. For Remediation, the Regulated Marijuana Business shall process the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana associated with the failed Test Batch into a Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate.

ii. The Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate that was manufactured pursuant to Paragraph (C)(3)(b) shall undergo all required contaminant testing pursuant to Rule 4-120(C) – Regulated Marijuana Testing Program – Contaminant Testing, potency testing pursuant to Rule 4-125 – Regulated Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Marijuana Code or these rules, including but not limited to microbial and mycotoxins contamination. Such testing must comport with the sampling procedures under Rule 4-110.

iii. If the Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate that was manufactured pursuant to Paragraph (C)(3)(b) fails contaminant testing, the Regulated Marijuana Business shall destroy and document the destruction of the Inventory Tracking System package(s) or Production Batch(es) of Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate pursuant to Rule 3-230 – Waste Disposal.

4. Nothing in this Rule removes or alters the responsibility of the Retail Marijuana Business Transferring the Retail Marijuana that failed microbial testing from complying with the requirement to pay excise tax pursuant to article 28.8 of title 39, C.R.S.

C.5. Failed Contaminant Testing: Water Activity Testing. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch of Regulated Marijuana flower, trim, Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana failed water activity testing, then for each Inventory Tracking System package, Harvest Batch, or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 2-230 – Waste Disposal; or

2. Decontaminate the Inventory Tracking System package, Harvest Batch, or Production Batch, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments, and submit those Test Batches for water activity testing. Such testing must comply with the sampling procedures under Rule 4-110. If the Inventory Tracking System package, Harvest Batch, or Production Batch has undergone Decontamination, then it must also pass a microbial contaminant test prior to Transfer. The microbial contaminant test is not required to occur until after the Inventory Tracking System package, Harvest Batch, or Production Batch has passed water activity testing. If a Test Batch fails microbial contaminant testing the Regulated Marijuana Business must follow the failed contaminant testing procedures pursuant to Paragraph (C) above. Pursuant to Rule 4-120(E), wet whole plant is exempt from water activity testing.

    a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Regulated Marijuana Testing Facilities.

    b. If both Test Batches pass the required water activity testing, then the Inventory Tracking System package, Harvest Batch, or Production Batch associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

    c. If one or both of the Test Batches do not pass water activity testing, then the Regulated Marijuana Business must:

        i. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 – Waste Disposal;

        ii. Decontaminate and re-test in accordance with this Paragraph (C.5)(2); or

        iii. Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch for Decontamination or Remediation pursuant to Paragraph (C)(3)(b) below.

3. In lieu of Decontamination pursuant to Paragraph (C.5)(2) above, the Regulated Marijuana Business may Transfer all Regulated Marijuana from the Inventory Tracking System packages, Harvest Batches, or Production Batches associated with that failed Test Batch to a Regulated Marijuana Cultivation Facility for Decontamination, or may Transfer such Regulated Marijuana to a Regulated Marijuana Products Manufacturer for Decontamination and/or Remediation. If the Regulated Marijuana Business receiving the Regulated Marijuana for Decontamination will Transfer the Regulated Marijuana back to the originating Regulated Marijuana Business following the Decontamination procedures, then the originating Regulated Marijuana Business is responsible for all required testing. If the Regulated Marijuana Business receiving the Regulated Marijuana for Decontamination will Transfer the Regulated Marijuana to a different Regulated Marijuana Business or further process the Regulated Marijuana following

Decontamination, then the receiving Regulated Marijuana Business that performed the Decontamination is responsible for all required testing.

a. Decontamination. The Regulated Marijuana Business may Decontaminate the Inventory Tracking System package, Harvest Batch, or Production Batch, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments, and submit those Test Batches for water activity testing. Such testing must comply with the sampling procedures under Rule 4-110. If the Inventory Tracking System package, Harvest Batch, or Production Batch has undergone Decontamination, then it must also pass a microbial contaminant test prior to Transfer. The microbial contaminant testing is not required to occur until after the Inventory Tracking System package, Harvest Batch, or Production Batch has passed water activity testing. If a Test Batch fails microbial contaminant testing the Regulated Marijuana Business must follow the failed contaminant testing procedures pursuant to Paragraph (C) above. Pursuant to Rule 4-120(C), wet whole plant is exempt from water activity testing.

   i. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Medical Marijuana Testing Facilities or Retail Marijuana Testing Facilities

   ii. If both Test Batches pass the required testing, then the Inventory Tracking System packages, Harvest Batch, or Production Batch associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

   iii. If one or both of the Test Batches that were created from Harvest Batches or Production Batches pursuant to Paragraph (C.5)(3)(a) do not pass water activity testing, the Regulated Marijuana Business must either:

      A. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 Waste Disposal;

      B. Decontaminate and re-test in accordance with this paragraph;

      C. Attempt Remediation pursuant to Paragraph (C.5)(3)(b), except for Production Batches of Infused Pre-Rolled Marijuana; or

      D. Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana for Decontamination or Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana for Remediation pursuant to Paragraph (C.5)(3)(b).

b. Remediation. The Regulated Marijuana Products Manufacturer may Remediate the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments. The new Test Batches are required to be re-tested for Microbial, Mycotoxin, and Water Activity contaminant testing. Such testing must comport with sampling procedures under Rule 4-110.

i. For Remediation, the Regulated Marijuana Business shall process the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana associated with the failed Test Batch into a Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate.

ii. The Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate that was manufactured pursuant to Paragraph (C)(3)(b) shall undergo all required contaminant testing pursuant to Rule 4-120(C) – Regulated Marijuana Testing Program – Contaminant Testing, potency testing pursuant to Rule 4-125 – Regulated Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Marijuana Code or these rules, including but not limited to microbial and mycotoxins contamination. Such testing must comport with the sampling procedures under Rule 4-110.

iii. If the Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate that was manufactured pursuant to Paragraph (C.5)(3)(b) fails contaminant testing, the Regulated Marijuana Business shall destroy and document the destruction of the Inventory Tracking System package(s) or Production Batch(es) of Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate pursuant to Rule 3-230 – Waste Disposal.

4. Nothing in this Rule removes or alters the responsibility of the Retail Marijuana Business Transferring the Retail Marijuana that failed microbial testing from complying with the requirement to pay excise tax pursuant to article 28.8 of title 39, C.R.S.

D. Failed Contaminant Testing: Pesticide Testing. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch failed Pesticide testing, then for each Inventory Tracking System package, Harvest Batch, or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 – Waste Disposal; or

2. Request that the Regulated Marijuana Testing Facility that reported the original fail conduct two additional analyses of the original Test Batch submitted in accordance with Rule 4-110.

a. If both retesting analyses pass the required Pesticide testing, then the Inventory Tracking System package, Harvest Batch, or Production Batch of Regulated Marijuana, Regulated Marijuana Concentrate, Regulated Marijuana Product, Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

b. If one or both of the retesting analyses do not pass Pesticide testing, then the Regulated Marijuana Business must destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 – Waste Disposal.

D.1. Failed Contaminant Testing: Elemental Impurities Testing of Regulated Marijuana Flower, Wet Whole Plant, and Trim. If a Regulated Marijuana Business is notified by the Division or a Testing Facility that a Test Batch of Regulated Marijuana flower, wet whole plant, or trim failed elemental

impurities testing, then for each Inventory Tracking System package or Harvest Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package or Harvest Batch pursuant to Rule 3-230 Waste Disposal.

2. Request that the Regulated Marijuana Testing Facility that reported the original fail conduct two additional analyses of the original Test Batch submitted in accordance with Rule 4-110.

    a. If both retesting analyses pass the required elemental impurities testing, then the Inventory Tracking System package or Harvest Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

    b. If one or both of the retesting analyses do not pass elemental impurities testing, then the Regulated Marijuana Business must either destroy and document the destruction of the Inventory Tracking System package or Harvest Batch pursuant to Rule 3-230 – Waste Disposal or Remediate the Inventory Tracking System package or Harvest Batch pursuant to Paragraph (3).

3. If the failed Test Batch is not deemed hazardous waste per the Resource Conservation and Recovery Act or other applicable federal, state, or local regulations, then the Regulated Marijuana Business may Ttransfer all Regulated Marijuana from the Inventory Tracking System packages or Harvest Batch associated with that failed Test Batch to a Regulated Marijuana Products Manufacturer for Remediation.

    a. The Regulated Marijuana Business that Transfers the Retail Marijuana that failed elemental impurities testing must comply with the requirement to pay excise tax pursuant to article 28.8 of title 39, C.R.S.

    b. The Regulated Marijuana Products Manufacturer may Remediate the Inventory Tracking System package or Harvest Batch associated with the failed Test Batch by processing it into a Regulated Marijuana Concentrate. The Regulated Marijuana Products Manufacturer is prohibited from adding any other Regulated Marijuana to the Regulated Marijuana Concentrate it manufactures pursuant to this Rule.

    c. In addition to all applicable regulations, the Regulated Marijuana Products Manufacturer must comply with 3-230 (C)(1), 5-315(D)(9), and 6-315 (D)(9).

    d. The Regulated Marijuana Concentrate that was manufactured pursuant to Paragraph (D.1)(23)(b) shall undergo all required contaminant testing pursuant to Rule 4-120(C) Regulated Marijuana Testing Program Contaminant Testing, potency testing pursuant to Rule 4-125 - Regulated Marijuana Testing Program - Potency Testing, and any other testing required or allowed by the Marijuana Code or these rules, including but not limited to elemental impurities testing. Such testing must comport with the sampling procedures under Rule 4- 110.

    e. For elemental impurities testing, the Regulated Marijuana Business must create two new Test Batches from the Remediated Production Batch, each containing the requisite number of Samples, and have those Test Batches tested. Such testing must comport with the sampling procedures under Rule 4-110.

i. A Licensee must either (1) submit both new Test Batches to the same Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Marijuana Testing Facilities.

ii. If both Test Batches pass the required elemental impurities testing, then the Inventory Tracking System package or Harvest Batch associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

iii. If one or both of the Test Batches do not pass elemental impurities testing, then the Regulated Marijuana Business must destroy and document the destruction of the Inventory Tracking System package or Harvest Batch pursuant to Rule 3-230 - Waste Disposal.

f. All Production Batches undergoing Remediation for elemental impurities must be tested and are not eligible for a Reduced Testing Allowance or otherwise exempt from required testing.

4. Nothing in this Rule eliminates or alters the responsibility of the Retail Marijuana Business Transferring the Retail Marijuana that failed elemental impurities testing from complying with the requirement to pay excise tax pursuant to article 28.8 of Title 39, C.R.S.

E. Failed Potency Testing. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch of Regulated Marijuana Product failed potency testing, then for each Inventory Tracking System package or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package or Production Batch pursuant to Rule 3-230 – Waste Disposal; or

2. Attempt corrective measures, if possible, and create two new Test Batches each containing the requisite number of Samples, and have those Test Batches tested for the required potency test that failed. Such testing must comport with the sampling procedures under Rule 4-110.

a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Regulated Marijuana Testing Facilities.

b. If both new Test Batches pass potency testing, then the Inventory Tracking System package or Production Batch associated with each Test Batch may be Transferred.

c. If one or both of the Test Batches do not pass potency testing, then the Regulated Marijuana Products Manufacturer must destroy and document the destruction of Inventory Tracking System package or Production Batch pursuant to Rule 3-230 – Waste Disposal.

F. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Part 5 – Medical Marijuana Business License Types

5-100 Series – Medical Marijuana Stores

Basis and Purpose – 5-105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(d)(I)-(VI), 44-10-313(7), 44-10-313(4), 44-10-313(14), 44-10-401(2)(a)(I), 44-10-501, and 44-10-505, C.R.S. The purpose of this rule is to establish a Medical Marijuana Store's license privileges. This Rule 5-105 was previously Rule M 401, 1 CCR 212-1.

5-105 – Medical Marijuana Store: License Privileges

A. Licensed Premises. To the extent authorized by Rule 3-215 – Medical Marijuana Business and Retail Marijuana Business – Shared Licensed Premises and Operational Separation, a Medical Marijuana Store may share a Licensed Premises with a commonly-owned Retail Marijuana Store. However, a separate license is required for each specific business or business entity, regardless of geographical location.

B. Authorized Sources of Medical Marijuana. A Medical Marijuana Store may only Transfer Medical Marijuana that was obtained from a Medical Marijuana Business.

C. Authorized Transfers. A Medical Marijuana Store may only Transfer Medical Marijuana to a patient, a primary caregiver, another Medical Marijuana Store, a Medical Marijuana Cultivation Facility, a Medical Marijuana Products Manufacturer, or a Medical Marijuana Testing Facility.

D. Samples Provided for Testing. A Medical Marijuana Store may provide Samples of its products to a Medical Marijuana Testing Facility for testing and research purposes. The Medical Marijuana Store shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

E. Authorized On-Premises Storage. A Medical Marijuana Store is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.

F. Authorized Marijuana Transport. A Medical Marijuana Store is authorized to utilize a licensed Medical Marijuana Transporter for transportation of its Medical Marijuana so long as the place where transportation orders are taken and delivered is a licensed Medical Marijuana Business. Nothing in this Rule prevents a Medical Marijuana Store from transporting its own Medical Marijuana.

G. Performance-Based Incentives. A Medical Marijuana Store may compensate its employees using performance-based incentives, including sales-based performance-based incentives.

H. Authorized Transfers of Industrial Hemp Products. This rule is effective July 1, 2020. A Medical Marijuana Store may Transfer Industrial Hemp Product to a patient only after it has verified:

1. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 ~~Rule~~ Series Rules at a Medical Marijuana Testing Facility; and

2. That the Person Transferring the Industrial Hemp Product to the Medical Marijuana Store is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

I. Medical Marijuana Store Delivery Permit. A Medical Marijuana Store with a valid delivery permit may accept delivery orders and deliver Medical Marijuana to a patient who is 21 years of age or

older, or the patient's parent or guardian who is also the patient's primary caregiver pursuant to Rule 3-615. A Medical Marijuana Store that does not possess a valid delivery permit cannot deliver Medical Marijuana to a patient, parent, or guardian.

J. Automated Dispensing Machines. A Medical Marijuana Store may use an automated machine in the Restricted Access Area of its Licensed Premises to dispense Regulated Marijuana to patients without interaction with an Owner Licensee or Employee Licensee if the automated machine is reasonably monitored and complies with all requirements of these rules including but not limited to:

1. Health and safety standards,

2. Testing,

3. Packaging and labeling requirements,

4. Inventory tracking,

5. Identification requirements, and

6. Transfer limits to patients.

K. Walk-up or Drive-Up Window. A Medical Marijuana Store may serve patients through a walk-up window or drive-up window pursuant to the requirements of this rule.

1. Modification of Premises Required. Before accepting orders for sales of Medical Marijuana to a patient through either a walk-up window or a drive-up window, a Medical Marijuana Store shall apply for, and obtain approval of, an application for a modification of its Licensed Premises for the addition of a walk-up window or a drive-up window.

2. The area immediately outside the walk-up window or drive-up window must be under the Licensee's possession and control and cannot include any public property such as public streets, public sidewalks, or public parking lots.

3. Order and Identification Requirements.

   a. Prior to accepting an order or Transferring Medical Marijuana to a patient, the Employee Licensee or Owner Licensee must physically view and inspect the patient's identification and the patient's registry identification card.

   b. The Medical Marijuana Store may accept internet or telephone orders or may accept orders from the patient at the walk-up or drive-up window.

   c. All orders received through a walk-up window or drive-up window must be placed by the patient from a menu. The Medical Marijuana Store may not display Medical Marijuana at the walk-up window or drive-up window.

4. Payment Requirements. Cash, credit, debit, cashless ATM, or other payment methods are permitted for payment for Medical Marijuana at the walk-up window or drive-up window.

5. Video Surveillance Requirements. For every Transfer of Regulated Marijuana through either a walk-up window or drive-up window, the Medical Marijuana Store's video surveillance must enable the recording of the patient's identity (and patient's vehicle in the event of drive-up window), and must enable the recording of the Licensee verifying

the patient's identification, registry identification card, and completion of the transaction through the Transfer of Regulated Marijuana.

6. Packaging and Labeling Requirements. A Medical Marijuana Store utilizing a walk-up or drive-up window must ensure that all Medical Marijuana is packaged and labeled in accordance with Rules 3-1010 and Rule 3-1015 prior to Transfer to the patient.

7. Local Restrictions. Transfers of Regulated Marijuana using a walk-up window or drive-up window are subject to requirements and restrictions imposed by the relevant Local Licensing Authority.

Basis and Purpose – 5-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-313(7), 44-10-313(4), 44-10-401(2)(a)(I), and 44-10-501, C.R.S. The purpose of this rule is to establish the requirements and processes applicable to a Medical Marijuana Store registering patients for primary store purposes. This Rule 5-110 was previously Rule M 402, 1 CCR 212-1.

5-110 – Registration of a Primary Medical Marijuana Store

A. Patient Designation Required. A Medical Marijuana Store may possess in the aggregate, only the amount of Medical Marijuana permitted by Rule 5-115 for each patient who has designated the Medical Marijuana Store as being his or her primary store. A patient's designation of a Medical Marijuana Store as his or her primary Medical Marijuana Store in accordance with these Rules establishes the Medical Marijuana Store registration requirements set forth in section 25-1.5-106(8)(f), C.R.S.

B. Change Only Allowed Every 30 Days. A Medical Marijuana Store shall not register a patient as being the patient's primary store if the patient has designated another Medical Marijuana Store as his or her primary store in the preceding 30 days. The Medical Marijuana Store and its employees must require a patient to sign in writing that he or she has not designated another Medical Marijuana Store as his or her primary store before including that patient's Medical Marijuana in its maximum allowed on-hand Medical Marijuana inventory calculation under Rule 5-115.

C. Notification to Former Medical Marijuana Store. A Medical Marijuana Store must maintain a copy of a written or electronic notification that it provided to a patient's former primary Medical Marijuana Store advising that the Medical Marijuana Store has been designated as the patient's new primary Medical Marijuana Store.

D. Documents Required. In addition to all records required to be maintained by Rule 3-905 – Business Records Required, ~~T~~the new primary Medical Marijuana Store shall maintain:

1. ~~w~~Written authorization from the patient;~~,~~

2. ~~any relative plant count waiver to support the number of ounces of Medical Marijuana (excluding Medical Marijuana Products and Medical Marijuana Concentrate) included in its on-hand inventory for that patient, a~~A hard or electronic copy of the patient's registry card;~~, and~~

3. ~~a~~A copy of the patient's proof of identification; and. ~~*See also* Rule 3-905 – Business Records Required.~~

4. The physician certification and, if authorized for sales exceeding the statutory daily limits the patient's uniform certification form.

E. Violation Affecting Public Safety. Notwithstanding the provisions in Rule 5-110(B), it may be considered a violation affecting public safety for a Medical Marijuana Store and its employees to become a patient's primary store when the patient already had designated one or more other Medical Marijuana Stores as his or her primary store.

Basis and Purpose – 5-115

The statutory authority for this includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-313(7), 44-10-313(4), 44-10-401(2)(a)(I), 44-10-501, and 44-10-505, 44-10-501(10) C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 14(4). The purpose of this rule is to clarify those acts that are prohibited, or limited in some fashion, by a licensed Medical Marijuana Store.

The sales limitations provision reflects the sales limitation imposed by statute. Clarifying the limitations on sales provides Medical Marijuana Stores and their employees with necessary information to avoid being complicit in a patient acquiring more Medical Marijuana than is lawful under the Colorado Constitution pursuant to Article XVIII, Subsection 14(4).

This Rule 5-115 was previously Rule M 403, 1 CCR 212-1.

5-115 – Medical Marijuana Sales: General Limitations or Prohibited Acts

A. Possession Limits. A Medical Marijuana Store may only possess at its Licensed Premises the number of ounces of Medical Marijuana (excluding Medical Marijuana Products and Medical Marijuana Concentrate) that equals the greater of: 1) twice the total, aggregate ounces of Medical Marijuana all of its registered patients are allowed to possess, or 2) the total, aggregate ounces of Medical Marijuana that the Medical Marijuana Store Transferred to patients in the thirty (30) previous calendar days. Under no circumstance shall a Medical Marijuana Store possess more Medical Marijuana than permitted by this subparagraph.

B. Medical Marijuana Products Manufacturers. A Medical Marijuana Store may also contract for the manufacture of Medical Marijuana Product with Medical Marijuana Products Manufacturer Licensees utilizing a contract as provided for in Rule 5-310 – Medical Marijuana Products Manufacturer: General Limitations or Prohibited Acts (Infused Product Contracts). Medical Marijuana distributed to a Medical Marijuana Products Manufacturer by a Medical Marijuana Store pursuant to such a contract for use solely in Medical Marijuana Product(s) that are returned to the contracting Medical Marijuana Store shall not be included for purposes of determining compliance with paragraph A.

B.5 Standard Operating Procedures. A Medical Marijuana Store must establish written standard operating procedures for the management and storage of Medical Marijuana inventory and the sale of Medical Marijuana to patients. A written copy of the standard operating procedures must be maintained on the Licensed Premises.

1. A Medical Marijuana Store must provide adequate training to every Owner Licensee and Employee Licensee who performs a task or set of tasks that are referenced in the standard operating procedures. Adequate training must include, but need not be limited to, providing a copy of the standard operating procedures for that Licensed Premises detailing at least all of the topics required to be included in the standard operating procedures.

C. Patient Sales Requirements. A Medical Marijuana Store shall comply with the sales and Inventory Tracking requirements in Rule 5-125.

C.5. Educational Resource. When completing a sale of Medical Marijuana Concentrate, a Medical Marijuana Store shall provide the patient with the tangible educational resource created by the State Licensing Authority regarding the use of Regulated Marijuana Concentrate

D. Repealed.

E. Transfer Restriction.

1. Sampling Units. A Medical Marijuana Store may not possess or Transfer Sampling Units.

2. Research Transfers Prohibited. A Medical Marijuana Store shall not Transfer any Medical Marijuana to a Pesticide Manufacturer or a Marijuana Research and Development Facility.

F. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to Transfer Medical Marijuana to a patient.

G. Delivery Outside Colorado Prohibited. A Medical Marijuana Store holding a valid delivery permit shall not deliver Medical Marijuana to an address that is outside the state of Colorado.

H. Storage and Display Limitations. A Medical Marijuana Store shall not display Medical Marijuana outside of a designated Restricted Access Area or in a manner in which Medical Marijuana can be seen from outside the Licensed Premises. Storage of Medical Marijuana shall otherwise be maintained in Limited Access Areas or Restricted Access Area.

I. Transfer of Expired Product Prohibited. A Medical Marijuana Store shall not Transfer any expired Medical Marijuana Product to a patient.

J. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit.

1. The Transfer of Edible Medical Marijuana Product in the following shapes is prohibited:

a. The distinct shape of a human, animal, or fruit; or

b. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

2. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Medical Marijuana Business. Nothing in this subparagraph (L)(2) alters or eliminates a Licensee's obligation to comply with the requirements of the 3-1000 Series Rules – Packaging, Labeling, and Product Safety.

3. Edible Medical Marijuana Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and

4. Edible Medical Marijuana Products that are manufactured in the shape of a marijuana leaf are permissible.

K. Adverse Health Event Reporting. A Medical Marijuana Store must report Adverse Health Events pursuant to Rule 3-920.

L. Corrective and Preventive Action. This paragraph L shall be effective January 1, 2021. A Medical Marijuana Store shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below

as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

M. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-120

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(b), 44-10-203(1)(k), and 44-10-203(3)(h), C.R.S. The purpose of this rule is to establish that a Medical Marijuana Store must control and safeguard access to certain areas where Medical Marijuana will be sold, and to prevent diversion to non-patients. This Rule 5-120 was previously Rule M 404, 1 CCR 212-1.

5-120 – Point of Sale: Restricted Access Area

A. Identification of Restricted Access Area. All areas where Medical Marijuana is sold, possessed for sale, displayed, or dispensed for sale shall be identified as a Restricted Access Area and shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Restricted Access Area – Only Medical Marijuana Patients Allowed."

B. Patients in Restricted Access Area. The Restricted Access Area must be supervised by a Licensee at all times to ensure that only persons with a valid patient registry card, primary caregivers of minors with a valid patient registry card (which may include guardians or parents of minors), advising caregivers who accompany patients that hold a valid registry card and whom they are advising, or transporting caregivers permitted to deliver Medical Marijuana to homebound patients as permitted by section 25-1.5-106(9)(e), C.R.S., are present in the Restricted Access Area. When allowing a patient or caregiver access to a Restricted Access Area,

Employee Licensees shall make reasonable efforts to limit the number of patients and caregivers in relation to the number of Employee Licensees in the Restricted Access Area at any time.

C. Display of Medical Marijuana. The display of Medical Marijuana for sale is allowed only in Restricted Access Areas. Any product displays that are readily accessible to the patient must be supervised by the Employee Licensee at all times when patients are present.

D. Pregnancy Warning. Medical Marijuana Stores must post, at all times and in a prominent place inside the Restricted Access Area, a warning that is at minimum three inches high and six inches wide that reads:

> **WARNING:** Using marijuana, in any form, while you are pregnant or breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of marijuana use during pregnancy or breastfeeding.

Basis and Purpose– 5-125

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(d)(I)-(VI), 44-10-313(7), 44-10-313(4), 44-10-401(2)(a)(I), 44-10-501, and 44-10-505, C.R.S. The purpose of this rule is to identify Medical Marijuana Store sales requirements including patient quantity limits, Inventory Tracking System requirements to identify discrepancies with daily authorized quantity limits and THC potency authorizations and to require that Medical Marijuana Stores provide an educational resource to patients regarding the use of Medical Marijuana Concentrate.

5-125 – Patient Sale Requirements

A. Sales Limitations.

1. A Medical Marijuana Store and its employees shall not sell to a patient in a single business day, individually or in any combination, more than:

   a. Two ounces of medical marijuana flower; or

   b. Eight grams of Medical Marijuana Concentrate for a patient ~~over~~ 21 years old of age or older, or two grams of Medical Marijuana Concentrate for a patient between 18 and 20 years old; or

   c. Medical Marijuana Products containing a combined total of 20,000 mg.

2. A Medical Marijuana Store and its employees shall not sell more than:

   a. Six Immature plants unless the patient has designated the Medical Marijuana Store as his or her primary store and supplied it with documentation from the patient's physician allowing the patient more than six plants;

   b. One half of the patient's extended plant count to a patient who has designated the Medical Marijuana Store as his or her primary store and supplied it with documentation from the patient's physician allowing the patient more than six plants; or

   c. Six Medical Marijuana plant seeds unless the patient has designated the Medical Marijuana Store as his or her primary store and supplied it with documentation from the patient's physician allowing the patient more than six Medical Marijuana seeds. One Medical Marijuana plant is equivalent to one Medical Marijuana seed.

3. Exemptions to Sales Limitations.

a. A Medical Marijuana Store may sell Medical Marijuana or Medical Marijuana Product in an amount that exceeds the sales limitation in subparagraph (C)(1) of this Rule if:

i. The patient has received a physician recommendation for more than two ounces of Medical Marijuana flower and the patient has designated the Medical Marijuana Store as his or her primary store;

ii. The patient has received a physician recommendation exempting the patient from the Medical Marijuana Product sales limitation and the patient has designated the Medical Marijuana Store as his or her primary store;

iii. The patient has designated the Medical Marijuana Store as his or her primary store and the patient has received a physician recommendation exempting the patient from the Medical Marijuana Concentrate sales limitation because:

A. ~~The patient is homebound~~Repealed;

B. The uniform certification form specifically states that the patient needs more than eight grams of Medical Marijuana Concentrate if a patient is ~~over~~ 21 years or age or older, or two grams of Medical Marijuana Concentrate if the patient is between 18 and 20 years old;

C. It would be a significant Physical or Geographic Hardship for the patient to make a daily purchase; or

D. The patient had a registry identification card prior to 18 years of age.

iv. If the patient is homebound, with a physician recommendation exempting the patient from the Medical Marijuana Concentrate sales limitation, the patient is not required to register with a Medical Marijuana Store.

b. Significant Physical Hardship: A patient's physician who has a bona fide patient-physician relationship may provide an exemption to the patient's daily Medical Marijuana Concentrate sales limits based on the physician's determination that the patient has a significant physical hardship. The physician's determination of a significant physical hardship must be documented on the patient's uniform certification form which must be signed by the patient's physician. The circumstances that constitute a significant physical hardship are as follows:

i. The patient has been diagnosed with a chronic or debilitating disease or disabling medical condition or limited physical condition that restricts the mobility of the patient;

ii. The patient does not have the ability to obtain a driver's license based on the patient's medical condition; or

iii. The patient cannot use, or it would be onerous for the patient to use, public transportation or another ride sharing service based on the patient's medical condition.

c. Significant Geographic Hardship: A patient's physician who has a bona fide patient-physician relationship may provide an exemption to the patient's daily Medical Marijuana Concentrate sales limits based on the physician's determination that the patient has a significant geographic hardship. The physician's determination of a significant geographic hardship must be documented on the patient's uniform certification form which must be signed by the patient's physician. The circumstances that constitute a significant geographic hardship are as follows:

i. The patient does not reside in the following counties: Adams, Arapahoe, Boulder, Denver, Douglas, El Paso, Jefferson, Larimer, or Pueblo; and

ii. At least one of the following circumstances:

A. The patient resides in a county that does not permit the operation of Medical Marijuana Stores and that county is not listed above; or

B. The patient does not have a means of transportation and resides in an area without public transportation or Medical Marijuana Stores cannot be accessed by a patient using public transportation; or

C. The physician recommended a Medical Marijuana Concentrate that is not available from a Medical Marijuana Store located in the patient's county of residence.

B. Multiple Transactions. For purposes of Rule 5-125(A), a single transaction to a patient includes multiple Transfers to the same patient during the same business day where the Medical Marijuana Store employee knows or reasonably should know that such Transfer would result in the patient possessing more than the quantities of Medical Marijuana set forth above. In determining the imposition of any penalty for violation of this Rule 5-125(A), the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235(C).

C. Inventory Tracking Requirements.

1. Before Completing a Transfer of Medical Marijuana to a patient, a Medical Marijuana Store and its Employee Licensee shall access and retrieve real-time sales data based on the patient identification number to verify that a sale to the patient will not exceed the daily authorized sales limit. The Medical Marijuana Store and Employee Licensee shall decline to complete the Transfer of Medical Marijuana to the patient if it would exceed the patient's daily authorized purchase limit which may be determined by a user error message from the Inventory Tracking System.

2. At the time of the sale to the patient the Medical Marijuana Store and its Employee Licensee shall record the sale in real time in the Inventory Tracking System. A Medical Marijuana Store may use a secondary software platform to transmit patient sale data to the Inventory Tracking system.

3. Temporary Outage of Inventory Tracking System. A Medical Marijuana Store may rely on the uniform certification form and is not responsible for any unintentional sale in excess of

the authorized Medical Marijuana quantity limit that occurs during the outage, provided that the Medical Marijuana Store uploads its sales data into the Inventory Tracking System as soon as reasonably practicable after the end of the outage. A temporary outage is any event in which there is a technology-related inability to enter or retrieve real time sales data from the Inventory Tracking System.

D. Educational Resource. When completing a sale of Medical Marijuana Concentrate, a Medical Marijuana Store shall provide the patient with the tangible educational resource created by the State Licensing Authority regarding the use of Regulated Marijuana Concentrate.

E. Confidentiality. All data collected pursuant to Rule, including any personal identifying patient information, is subject to the confidentiality requirements of 44-10-204, C.R.S.

F. Violation Affecting Public Safety. Violation of this Rule may be considered a license violation affecting public safety

5-200 Series – Medical Marijuana Cultivation Facility: License Privileges

Basis and Purpose – 5-205

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-401(2)(a)(II), 44-10-313, 44-10-502~~(5)~~, and 44-10-503, C.R.S. The purpose of this rule is to establish a Medical Marijuana Cultivation Facility's license privileges in addition to the privileges outlined in these rules. This Rule 5-205 was previously Rule M 501, 1 CCR 212-1.

5-205 – Medical Marijuana Cultivation Facility: License Privileges

A. Licensed Premises. To the extent authorized by Rule 3-215 – Regulated Marijuana Business – Shared Licensed Premises and Operational Separation, a Medical Marijuana Cultivation Facility may share a Licensed Premises with a commonly owned Retail Marijuana Cultivation Facility. However, a separate license is required for each specific business entity regardless of geographical location. In addition, a Medical Marijuana Cultivation Facility may share and operate at the same Licensed Premises as a Marijuana Research and Development Facility so long as:

1. Each business or business entity holds a separate license;

2. The Marijuana Research and Development Facility obtains an R&D Co-Location Permit;

3. Both the Marijuana Research and Development Facility and the Medical Marijuana Cultivation Facility comply with all terms and conditions of the R&D Co-Location Permit; and

4. Both the Marijuana Research and Development Facility and the Medical Marijuana Cultivation Facility comply with all applicable rules. *See* 5-700 Series Rules.

B. Cultivation of Medical Marijuana and Production of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Medical Marijuana Concentrate Authorized. A Medical Marijuana Cultivation Facility may propagate, cultivate, harvest, prepare, cure, package, store, and label Medical Marijuana and Physical Separation-Based Medical Marijuana Concentrate. A Medical Marijuana Cultivation Facility may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Medical Marijuana Concentrate.

C. Authorized Transfers. A Medical Marijuana Cultivation Facility may Transfer Medical Marijuana and Physical Separation-Based Medical Marijuana Concentrate to another Medical Marijuana Cultivation Facility, a Medical Marijuana Store, a Medical Marijuana Products Manufacturer, a

Medical Marijuana Testing Facility, a Marijuana Research and Development Facility, or a Pesticide Manufacturer.

1. A Medical Marijuana Cultivation Facility shall not Transfer Flowering plants. A Medical Marijuana Cultivation Facility may only Transfer Vegetative plants as authorized pursuant to Rule 3-605.

2. A Medical Marijuana Cultivation Facility may Transfer Sampling Units of Medical Marijuana or Medical Marijuana Concentrate to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-502(5), C.R.S., and Rule 5-230.

3. A Medical Marijuana Cultivation Facility may Transfer Medical Marijuana or Medical Marijuana Concentrate to another Medical Marijuana Cultivation Facility prior to testing required by these rules only if such Transfer is in accordance with one of the two options below.

    a. The Medical Marijuana Cultivation Facility may Transfer Medical Marijuana or Medical Marijuana Concentrate to another Medical Marijuana Cultivation Facility prior to testing if such Transfer is for the purpose of Decontamination and only after all other steps outlined in the Medical Marijuana Cultivation Facility's standard operating procedures have been completed, including but not limited to drying, curing, and trimming; or

    b. The Medical Marijuana Cultivation Facility may Transfer Medical Marijuana or Medical Marijuana Concentrate to another Medical Marijuana Cultivation Facility prior to testing, drying, curing, trimming, or completion of any other steps in the Medical Marijuana Cultivation Facility's standard operating procedures, subject to the following additional requirements:

        i. The Medical Marijuana Cultivation Facility receiving the Transfer is identified as a centralized processing hub in the Inventory Tracking System and must have identical Controlling Beneficial Owner(s) with the originating Medical Marijuana Cultivation Facility;

        ii. An originating Medical Marijuana Cultivation Facility may only Transfer Medical Marijuana to one receiving Medical Marijuana Cultivation Facility that will be serving as a centralized processing hub.

        iii. The Medical Marijuana or Medical Marijuana Concentrate is weighed prior to leaving the originating Medical Marijuana Cultivation Facility and immediately upon receipt at the receiving Medical Marijuana Cultivation Facility and in accordance with Rule 3-605;

        iv. The Transfer, weighing and entry into the Inventory Tracking System are all completed within 24 hours from initiating the Transfer;

        v. The receiving Medical Marijuana Cultivation Facility is responsible for compliance with all testing requirements regardless of any testing performed prior to Transfer. If the receiving Medical Marijuana Cultivation Facility is pursuing a Reduced Testing Allowance, a Reduced Testing Allowance must be achieved separately for Medical Marijuana received from each originating Medical Marijuana Cultivation Facility. A Medical Marijuana Cultivation Facility that has achieved a Reduced Testing Allowance must maintain and produce complete testing records that can

verify that facility's compliance with testing and Reduced Testing Allowance requirements; and

vi. The standard operating procedures for the originating Medical Marijuana Cultivation Facility and receiving Medical Marijuana Cultivation Facility clearly reflect the steps taken by each facility to Transfer, transport, receive, process, and test Harvest Batches.

4. A Medical Marijuana Cultivation Facility may Transfer Medical Marijuana to a Retail Marijuana Cultivation Facility or Accelerator Cultivator in accordance with Rules 5-235, 6-230, and 6-730.

D. Packaging Processed Medical Marijuana. Processed Medical Marijuana plants shall be packaged in units of ten pounds or less and labeled pursuant to the 3-1000 Series Rules – Labeling, Packaging, and Product Safety, and securely sealed in a tamper-evident manner.

E. Authorized Marijuana Transport. A Medical Marijuana Cultivation Facility is authorized to utilize a licensed Medical Marijuana Transporter for transportation of its Medical Marijuana so long as the place where transportation orders are taken is a Medical Marijuana Business and the transportation order is delivered to a licensed Medical Marijuana Business or Pesticide Manufacturer. Nothing in this Rule prevents a Medical Marijuana Cultivation Facility from transporting its own Medical Marijuana.

F. Performance-Based Incentives. A Medical Marijuana Cultivation Facility may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, a Medical Marijuana Cultivation Facility may not compensate a Sampling Manager using Sampling Units. *See* Rule 5-230 – Sampling Unit Protocols.

G. Authorized Sources of Medical Marijuana, Seeds, and Immature Plants. A Medical Marijuana Cultivation Facility shall only obtain Medical Marijuana seeds or Immature Plants from its own Medical Marijuana, properly Transferred Retail Marijuana cultivated at a Retail Marijuana Cultivation Facility with at least one identical Controlling Beneficial Owner, or properly Transferred from another Medical Marijuana Business pursuant to the inventory tracking requirements in the Rule 3-800 Series. A Medical Marijuana Cultivation Facility may also receive Transfers of Retail Marijuana from a Retail Marijuana Cultivation Facility or Accelerator Cultivator in compliance with Rules 5-235, 6-230, and 6-730. A Medical Marijuana Cultivation facility may not bring seeds, Immature Plants, or other marijuana that is not Regulated Marijuana onto the Licensed Premises at any time.

H. Centralized Distribution Permit. A Medical Marijuana Cultivation Facility may apply to the State Licensing Authority for a Centralized Distribution Permit for authorization to temporarily store Medical Marijuana Concentrate and Medical Marijuana Product received from a Medical Marijuana Products Manufacturer for the sole purpose of Transfer to commonly owned Medical Marijuana Stores.

1. For purposes of a Centralized Distribution Permit only, the term "commonly owned" means at least one natural person who is disclosed to the Division who has a minimum of five percent ownership in both the Medical Marijuana Cultivation Facility possessing a Centralized Distribution Permit and the Medical Marijuana Store to which the Medical Marijuana Concentrate and Medical Marijuana Product will be Transferred.

2. To apply for a Centralized Distribution Permit, a Medical Marijuana Cultivation Facility may submit an addendum to its new or renewal application or a separate addendum prior to a renewal application on forms prepared by the Division to request a Centralized Distribution Permit. The Medical Marijuana Cultivation Facility shall send a copy of its

Centralized Distribution Permit addendum to the Local Licensing Authority in the jurisdiction in which the Centralized Distribution Permit is proposed at the same time it submits the addendum to the State Licensing Authority.

3. A Medical Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit and has obtained all required approvals from the local licensing jurisdiction where it is located, if any, may accept Transfers of Medical Marijuana Concentrate and Medical Marijuana Product from a Medical Marijuana Products Manufacturer for the sole purpose of temporary storage and Transfer to commonly owned Medical Marijuana Stores.

    a. A Medical Marijuana Cultivation Facility may only accept Medical Marijuana Concentrate and Medical Marijuana Product that is packaged and labeled for sale to a patient pursuant to the 3-1000 Series Rules.

    b. A Medical Marijuana Cultivation Facility storing Medical Marijuana Concentrate and Medical Marijuana Product pursuant to a Centralized Distribution Permit shall not store such Medical Marijuana Concentrate or Medical Marijuana Product on the Medical Marijuana Cultivation Facility's Licensed Premises for more than 90 days from the date of receipt.

    c. All Transfers of Medical Marijuana Concentrate and Medical Marijuana Product by a Medical Marijuana Cultivation Facility shall be without consideration.

4. All security and surveillance requirements that apply to a Medical Marijuana Cultivation Facility apply to activities conducted pursuant to the privileges of a Centralized Distribution Permit.

I. Transition Permit. A Medical Marijuana Cultivation Facility may only operate at two geographical locations pursuant to Rule 2-255(D).

Basis and Purpose – 5-210

The statutory authority for this rule includes but is not limited to sections 44-10-201, 44-10-202(1)(c), 44-10-203(1)(k), 44-10-313, 44-10-401(2)(a)(II), 44-10-501, 44-10-502, 44-10-503, and 44-10-505, C.R.S. The purpose of this rule is to clarify what activity is or is not allowed at a Medical Marijuana Cultivation Facility. This Rule 5-210 was previously Rule M 502, 1 CCR 212-1.

5-210 – Medical Marijuana Cultivation Facility: General Limitations or Prohibited Acts

A. Packaging and Labeling Standards Required. A Medical Marijuana Cultivation Facility is prohibited from Transferring Medical Marijuana and Medical Marijuana Concentrate that is not packaged and labeled in accordance with these rules. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

B. Transfer to Patient Prohibited. A Medical Marijuana Cultivation Facility is prohibited from Transferring Medical Marijuana to a patient. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-502(5), C.R.S., and Rule 5-230.

C. Inventory Limit. A Medical Marijuana Cultivation Facility shall not possess more plants than it is permitted to possess based on its production management class. *See* Rule 5-225 – Medical Marijuana Cultivation Facility: Production Management.

D. Corrective and Preventive Action. This paragraph D shall be effective January 1, 2021. A Medical Marijuana Cultivation Facility shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements

listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

E. Adverse Health Event Reporting. A Medical Marijuana Cultivation Facility must report Adverse Health Events pursuant to Rule 3-920.

Basis and Purpose – 5-215

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(i), 44-10-203(2)(d)(I)-(VI), 44-10-502(3), and 44-10-401(2)(a)(II), C.R.S. The purpose of this rule is to permit laboratory testing of Medical Marijuana for Medical Marijuana Cultivation Facilities. The State Licensing Authority intends this rule to help maintain the integrity of Colorado's Medical Marijuana Businesses. This Rule 5-215 was previously Rule M 505, 1 CCR 212-1.

5-215 – Medical Marijuana Cultivation Facility: Testing

A. Samples on Demand. Medical Marijuana Cultivation Facility shall, upon request of the Division, submit a sufficient quantity of Medical Marijuana to a Medical Marijuana Testing Facility to enable laboratory or chemical analysis thereof. The Division will notify the Licensee of the results of the analysis. *See* Rule 3-805 – Regulated Marijuana Business: Inventory Tracking System and Rule 3-405 – Business Records Required.

B. Samples Provided for Testing. A Medical Marijuana Cultivation Facility may provide Samples of its Medical Marijuana to a Medical Marijuana Testing Facility for testing and research purposes. The Medical Marijuana Cultivation Facility shall maintain the testing results as part of its business books and records. *See* Rule 3-405 – Business Records Required.

Basis and Purpose – 5-220

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(d), 44-10-203(1)(k), 44-10-203(1)(c), 44-10-203(2)(d)(I)-(VI), and 44-10-401(2)(a)(II), C.R.S. The purpose of this rule is to establish the categories of Medical Marijuana Concentrate that may be produced at a Medical Marijuana Cultivation Facility and standards for the production of those concentrate. This Rule 5-220 was previously Rule M 506, 1 CCR 212-1.

5-220 – Medical Marijuana Cultivation Facility: Medical Marijuana Concentrate Production

A. Permitted Production of Certain Categories of Medical Marijuana Concentrate. A Medical Marijuana Cultivation Facility may only produce Physical Separation-Based Medical Marijuana Concentrate on its Licensed Premises and only in an area clearly designated as a Limited Access Area. *See* Rule 3-405- Business Records Required. No other method of production or extraction for Medical Marijuana Concentrate may be conducted within the Licensed Premises of a Medical Marijuana Cultivation Facility unless the Controlling Beneficial Owner(s) of the Medical Marijuana Cultivation Facility also has a valid Medical Marijuana Products Manufacturer license and the room in which Medical Marijuana Concentrate is to be produced is physically separated from all cultivation areas and has clear signage identifying the room.

B. Safety and Sanitary Requirements for Concentrate Production. If a Medical Marijuana Cultivation Facility produces Physical Separation-Based Medical Marijuana Concentrate, then all areas in which those concentrates are produced and all Owner Licensees and Employees Licensees engaged in the production of those concentrate shall be subject to all of requirements imposed upon a Medical Marijuana Products Manufacturer that produces Medical Marijuana Concentrate, including general requirements. *See* 3-300 Series Rules – Health and Safety Regulations and Rule 5-315 Medical Marijuana Products Manufacturer: Medical Marijuana Concentrate Production.

C. Possession of Other Categories of Medical Marijuana Concentrate.

1. It shall be considered a violation of this Rule if a Medical Marijuana Cultivation Facility possesses a Medical Marijuana Concentrate other than a Physical Separation-Based Medical Marijuana Concentrate on its Licensed Premises unless: the Controlling Beneficial Owner(s) of the Medical Marijuana Cultivation Facility also has a valid Medical Marijuana Products Manufacturer license, or the Medical Marijuana Cultivation Facility has been issued a Centralized Distribution Permit and is in possession of the Medical Marijuana Concentrate in compliance with Rule 5-205(H).

2. Notwithstanding subparagraph (C)(1) of this Rule 5-220, a Medical Marijuana Cultivation Facility shall be permitted to possess Solvent-Based Medical Marijuana Concentrate only when the possession is due to the Transfer of Medical Marijuana flower or trim that failed microbial testing to a Medical Marijuana Products Manufacturing Facility for processing into a Solvent-Based Medical Marijuana Concentrate, and the Medical Marijuana Products Manufacturer Transfers the resultant Solvent-Based Medical Marijuana Concentrate back to the originating Medical Marijuana Cultivation Facility.

a. The Medical Marijuana Cultivation Facility shall comply with all requirements in Rule 4-135(C) when having Solvent-Based Medical Marijuana Concentrate manufactured out of Medical Marijuana flower or trim that failed microbial testing.

b. The Medical Marijuana Cultivation Facility is responsible for submitting the Solvent-Based Medical Marijuana Concentrate for all required testing for contaminants pursuant to Rule 4-120 – Medical Marijuana Testing Program – Contaminant Testing, for potency pursuant to Rule 4-125 – Medical Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Marijuana Rules or Marijuana Code.

D. Production of Alternative Use Product or Audited Product Prohibited. A Medical Marijuana Cultivation Facility shall not produce an Alternative Use Product or Audited Product.

E. Possession of Alternative Use Product or Audited Product. A Medical Marijuana Cultivation Facility is authorized to possess or Transfer Alternative Use Product and/or Audited Product only if the Medical Marijuana Cultivation Facility received the Alternative Use Product and/or Audited Product pursuant to a Centralized Distribution Permit from a Medical Marijuana Products Manufacturer that is manufacturing and Transferring the Alternative Use Product or Audited Product in accordance with Rule 5-325.

Basis and Purpose – 5-225

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(5), 44-10-401(2)(a)(II), 44-10-502, C.R.S. The rule establishes a means by which to manage the overall production of Medical Marijuana. The intent of this rule is to encourage responsible production to meet demand for Medical Marijuana, while also avoiding overproduction or underproduction. The establishment of production management is necessary to ensure there is not significant under or over production, either of which will increase incentives to engage in diversion and facilitate the sale of illegal marijuana. This Rule 5-225 was previously Rule M 507, 1 CCR 212-1.

5-225 – Medical Marijuana Cultivation Facility: Production Management

A. One Medical Marijuana Cultivation Facility per Licensed Premises. Except as permitted by subparagraph (B)(1)(b), a Licensed Premises shall only have one Medical Marijuana Cultivation Facility license and each Licensed Premises must be located at a distinct address recognized by the local jurisdiction.

1. Existing Medical Marijuana Cultivation Facilities that have Multiple Licenses at a single Licensed Premises.

a. Mandatory Collapse for Licenses with Identical Controlling Beneficial Owner Percentages.

i. Medical Marijuana Cultivation Facilities that have multiple licenses at a single Licensed Premises and that have identical Controlling Beneficial Owners holding identical ownership percentages are subject to mandatory collapse. Such Licensees shall notify the Division prior to June 30, 2019 which Medical Marijuana Cultivation Facility license they desire to survive. The Medical Marijuana Cultivation Facility license identified as the surviving license will remain active after July 1, 2019; all other Medical Marijuana Cultivation Facility licenses shall be surrendered effective July 1, 2019.

ii. The production management class for the surviving Medical Marijuana Cultivation Facility license will be calculated pursuant to subparagraph (B)(3) below using the aggregate average plants actually cultivated by all Medical Marijuana Cultivation Facility licenses that were located at the Licensed Premises during the period January 1, 2018 to December 31, 2018.

b. Optional Collapse for Licenses with Non-Identical Controlling Beneficial Owner Percentages. Medical Marijuana Cultivation Facilities that have multiple licenses at a single Licensed Premises and that do not have identical Controlling Beneficial Owners holding identical ownership percentages as of July 1, 2019, may continue operating all Medical Marijuana Cultivation Facility licenses that

existed at that Licensed Premises prior to July 1, 2019. The maximum plant count for each such Medical Marijuana Cultivation Facility will be calculated pursuant to subparagraph (B)(3) below based on the number of average plants actually cultivated by that Medical Marijuana Cultivation Facility during the period January 1, 2018 to December 31, 2018.

i. Medical Marijuana Cultivation Facilities that are permitted to continue operating multiple licenses at a single Licensed Premises after July 1, 2019, may collapse through one or more approved change of ownership applications, or one or more voluntary license surrenders, establishing identical Controlling Beneficial Owners holding identical ownership percentages for all Medical Marijuana Cultivation Facilities at the single Licensed Premises.

ii. For any change of ownership application or voluntary license surrender seeking collapse after July 1, 2019, the Medical Marijuana Cultivation Facility shall identify the license that will survive. The Medical Marijuana Cultivation Facility license identified as the surviving license will remain after collapse; all other Medical Marijuana Cultivation Facility licenses will be surrendered at the time of collapse.

iii. The class for the surviving Medical Marijuana Cultivation Facility license will be determined according to subparagraph (B)(3) below based on the aggregate average number of Medical Marijuana plants actually cultivated by all Medical Marijuana Cultivation Facility Licensees that were located at the Licensed Premises during the 180 days prior to the collapse.

2. Collapse after July 1, 2019. After July 1, 2019, Medical Marijuana Cultivation Facility licenses shall be permitted to collapse at a single Licensed Premises through an approved change of location application if all Medical Marijuana Cultivation Facility licenses for which collapse is sought meet the following requirements:

a. All Medical Marijuana Cultivation Facility licenses sought to be collapsed have been consistently operating for at least 180 days prior to the proposed collapse;

b. All Medical Marijuana Cultivation Facility licenses sought to be collapsed have identical Controlling Beneficial Owners holding identical ownership percentages;

c. There is no pending administrative action regarding any of Medical Marijuana Cultivation Facility licenses sought to be collapsed;

d. The class for the surviving Medical Marijuana Cultivation Facility license has not been decreased in the 180 days prior to the change of location application;

e. All Medical Marijuana Cultivation Facility Licensees identify the desired surviving license and agree that all other Medical Marijuana Cultivation Facility licenses will be surrendered at the time of collapse; and

f. Determining Class for Surviving License.

i. Surviving License Class Will Not Decrease. The class for the surviving license will not be decreased as a result of any approved change of location application.

ii. Surrendered License is Class 1, Class 2, or Class 3. For the surviving license to increase one class or one increment of 3,000 plants if already higher than class 3, during the 180 days prior to the change of location application, the surrendered license must have cultivated at least 50% of the maximum authorized plant count and Transferred at least 85% of the inventory it produced during that time.

iii. Surrendered License is Higher than Class 3. For the surviving license to increase by the maximum authorized plant count of the surrendered license, during the 180 days prior to the change of location application the surrendered license must have cultivated at least 50% of the maximum authorized plant count and Transferred at least 85% of the inventory it produced during that time. If during the 180 days prior to the change of location application, the surrendering license did not cultivate at least 50% of the maximum authorized plant count and Transfer at least 85% of the inventory it produced, the surviving license will only increase one class or one increment of 3,000 plants if already higher than class 3.

iv. Division Determination of Class. If a collapse results in a maximum authorized plant count in the middle of a class, the surviving license's maximum authorized plant count will be rounded up to the top of that class.

B. Production Management.

1. Production Management Classes.

a. Class 1: 1 – 500 plants

b. Class 2: 501 – 1,500 plants

c. Class 3: 1,501 – 3,000 plants

i. The maximum authorized plant count above 3,000 plants shall increase in one or two increments of 3,000 plants. A Medical Marijuana Cultivation Facility may be allowed to increase its maximum authorized plant count one or two increments of 3,000 plants at a time upon application and approval by the Division pursuant to the requirements of paragraph (E) of this Rule 5-225.

2. All initial Medical Marijuana Cultivation Facility licenses issued on or after July 1, 2019 will be issued as a Class 1 License.

3. Each Medical Marijuana Cultivation Facility with a license(s) granted before July 1, 2019, at a minimum, will be placed into the production management class that includes the average number of plants it cultivated during the period January 1, 2018 to December 31, 2018.

a. Medical Marijuana Cultivation Facilities with less than 180 days of consistent cultivation history will be placed into the class 1 production management class.

b. Any Medical Marijuana Cultivation Facility that artificially increases plant count or otherwise misrepresents any data in connection with its plant count will be placed into the class the Division determines it would have been placed into without the artificial increase or misrepresentation. In addition, any such artificial increase of

plant count or other misrepresentation is a public safety violation that may result in administrative action.

4. Immature Plants. For purposes of calculating the maximum number of authorized plants, Immature Plants are excluded but must be fully accounted for in the Inventory Tracking System.

5. Ground for Denial. The Division may deny an application for additional plants pursuant to paragraph E of this Rule if the Licensee exceeded the authorized plant count during the relevant time period for production.

6. Violation Affecting Public Safety. It may be considered a license violation affecting public safety for a Licensee to exceed the authorized plant count pursuant to these Rules.

C. Inventory Management.

1. Inventory Management for Medical Marijuana Cultivation Facilities that Have One or Two Harvest Seasons a Year. Beginning the 721st day from the commencement of its first cultivation activities, a Medical Marijuana Cultivation Facility that has one or two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Medical Marijuana flower and trim the Licensee produced that was Transferred to another Medical Marijuana Business in the previous 720 days.

2. Inventory Management for Medical Marijuana Cultivation Facilities That Have More Than Two Harvest Seasons a Year. Beginning the 181st day from the commencement of its first cultivation activities, a Medical Marijuana Cultivation Facility that has more than two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Medical Marijuana flower and trim the Licensee produced that was Transferred to another Medical Marijuana Business in the previous 180 days.

D. Class Decrease. For any Medical Marijuana Cultivation Facility that is authorized to cultivate more than 500 plants, the Division may review the purchases, Transfers, and cultivated plant count in connection with the license renewal process or after an investigation. Based on the Division's review, it may reduce the Licensee's maximum allowed plant count to a lower production management class identified in subparagraph (B)(1) of this Rule 5-225. When determining whether to reduce the maximum authorized plant count, the Division may consider the following non-exhaustive factors including but not limited to:

1. The Licensee Transferred less than 70% of the inventory it reported as packaged in the Inventory Tracking System during any 180 day review period;

2. On average during the previous 180 days, the Licensee actually cultivated less than 90% of the maximum number of plants authorized by the next lower production management class;

3. Whether the plants/inventory suffered a catastrophic event during the review period;

4. Existing inventory and inventory history;

5. Sales contracts;

6 Number of patients registered to any commonly owned Medical Marijuana Store; and

7. Any other factors relevant to ensuring responsible cultivation, production, and inventory management.

E. Application for Additional Plants.

1. Medical Marijuana Cultivation Facilities That Have One or Two Harvest Seasons Per Year.

a. After one harvest season during which the Medical Marijuana Cultivation Facility Transferred and consistently cultivated, the Licensee may apply to the Division for a production management class increase to be authorized to cultivate the number of plants in the next highest production management class. The Licensee must demonstrate:

i. That during the previous harvest season, prior to the class increase application, it consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count;

ii. That the Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System in the previous 360 days to another Medical Marijuana Business;

iii. The Division may consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the previous 360 days, if the Licensee cultivated between 75% and 85% of its maximum authorized plant count; and

iv. Any other information requested to aid the Division in its evaluation of the production management class increase application.

b. If the Division approves the production management class increase application, the Licensee shall pay the applicable Expanded Production Management Class Fee prior to cultivating the additional authorized plants. *See* Rule 2-205 – Fees.

c. For a Licensee with an authorized plant count in Classes 2 or 3 to continue producing at its expanded authorized plant count, the Licensee shall pay the requisite Medical Marijuana Cultivation Facility license fee and the applicable expanded production management class fee at license renewal. *See* Rule 2-205 – Fees.

d. After one harvest season during which the Medical Marijuana Cultivation Facility Transferred and consistently cultivated the Licensee may apply to increase its authorized plant count by: (a) two production management classes, or (b) if already authorized to cultivate at a class 3, two increments of 3,000 plants (6,000 plants total), every 360 days. It is within the Division's discretion to determine whether or not to grant the requested two classes or two increments of 3,000 plant (6,000 plants total).

i. The Licensee must demonstrate:

A. That the Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count, and

B. That the Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Medical Marijuana Business;

C. If the Medical Marijuana Cultivation Facility cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a package in the Inventory Tracking System during that time period and/or Transfers into the Medical Marijuana Cultivation Facility or related Medical Marijuana Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Medical Marijuana Cultivation Facility currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two classes or two increments of 3,000 plants;

B. The Medical Marijuana Cultivation Facility cultivated on average at least 90% of its authorized plant count and during the preceding 360 days the Medical Marijuana Cultivation Facility and/or one or more commonly owned Medical Marijuana Stores Transferred in Medical Marijuana from one or more unrelated Medical Marijuana Cultivation Facility(ies);

C. The Medical Marijuana Cultivation Facility has entered into written agreement(s) or contract(s) for the sale of Medical Marijuana in the next 360 days supporting the requested two production management class increase or two increments of 3,000 plants; or

D. An established history of responsible cultivation and Transfer by the Medical Marijuana Cultivation Facility;

E. Any history of noncompliance with the Medical Code, Marijuana Code, and/or Rules by the Medical Marijuana Cultivation Facility, or any commonly owned Medical Marijuana Business, and/or any investigation of, or administrative action against, the Medical Marijuana Cultivation Facility or any commonly owned Medical Marijuana Business; or

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

2. Medical Marijuana Cultivation Facilities That Have More Than Two Harvest Seasons per Year.

a. After a 180-day period during which the Medical Marijuana Cultivation Facility Transferred and consistently cultivated, the Licensee may apply to the Division for a production management class increase to be authorized to cultivate the number of plants in the next highest production management class. The Division may consider the following in determining whether to approve the production management class increase:

i. That for the 180 days prior to the production management class increase application, the Licensee consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count, and

ii. That the Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Medical Marijuana Business.

iii. The Division may also consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the 180-day time period, if the Licensee cultivated between 75% and 85% of its maximum authorized plant count.

iv. Any other information requested to aid the Division in its evaluation of the production management class increase application.

b. If the Division approves the production management class increase application, the Licensee shall pay the applicable Expanded Production Management class License Fee prior to cultivating the additional authorized plants. *See* Rule 2-205 – Fees.

c. For a Licensee with an authorized plant count in Class 2 or Class 3 to continue producing at its expanded authorized plant count, the Licensee shall pay the requisite Medical Marijuana Cultivation Facility license fee and the applicable expanded production management class fee at license renewal. *See* Rule 2-205 – Fees.

d. After accruing 180 days during which the Medical Marijuana Cultivation Facility Transferred and consistently cultivated the Licensee may apply to increase its authorized plant count by: (a) two production management classes, or (b) if already authorized to cultivate at a class 3, two increments of 3,000 plants (6,000 plants total) every 180 days. It is within the Division's discretion to determine whether or not to grant the requested two classes or increments of 3,000 plants (6,000 plants total).

i. The Licensee must demonstrate:

A. That the Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count; and

B. That the Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Medical Marijuana Business;

C. If the Medical Marijuana Cultivation Facility cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a packing in the Inventory Tracking System during that time period and/or Transfers into the Medical Marijuana Cultivation Facility or related Medical Marijuana Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Medical Marijuana Cultivation Facility currently has possession of, or has entered into a written agreement or

contract to possess, sufficient space to grow the requested two classes or two increments of 3,000 plants;

B. The Medical Marijuana Cultivation Facility cultivated on average at least 90% of its authorized plant count and during the preceding 180 days the Medical Marijuana Cultivation Facility and/or one or more commonly owned Medical Marijuana Stores Transferred in Medical Marijuana from one or more unrelated Medical Marijuana Cultivation Facility(ies);

C. The Medical Marijuana Cultivation Facility has entered into a written agreement(s) or contract(s) for the sale of Medical Marijuana in the next 180 days supporting the requested two production management class increase or two increments of 3,000 plants;

D. An established history of responsible cultivation and Transfer by the Medical Marijuana Cultivation Facility;

E. Any history of noncompliance with the Medical Code, Marijuana Code, and/or Rules by the Medical Marijuana Cultivation Facility, or any commonly owned Medical Marijuana Business, and/or any investigation of, or administrative action against, the Medical Marijuana Cultivation Facility or any commonly owned Medical Marijuana Business; or

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

e. A Medical Marijuana Cultivation Facility that does not have 180 days of cultivating history may apply to increase its plant count to a Class 2 or Class 3 pursuant only to this subparagraph (E)(2)(e). A Medical Marijuana Cultivation Facility applying for a production management class increase request under this subparagraph (E)(2)(e) must demonstrate all of the following at the time of application:

i. The Medical Marijuana Cultivation Facility making the class increase request also owns at least three Medical Marijuana Stores with identical Controlling Beneficial Owners;

ii. The Controlling Beneficial Owners of the Medical Marijuana Cultivation Facility and three Medical Marijuana Stores used to support the class increase request have owned the aforementioned Medical Marijuana Store licenses for at least the preceding 180 days;

iii. The three Medical Marijuana Stores used to support the class increase request have consistently Transferred Regulated Marijuana to consumers in the preceding 180 days and have a history of wholesale purchases that justify the need for a class increase above a class 1;

iv. In the 180 days preceding the Licensee's class increase request pursuant to this subparagraph (e), the Medical Marijuana Cultivation Facility, three Medical Marijuana Stores, and identical Controlling Beneficial Owners have not been subject to administrative action by the State Licensing Authority;

v. The Medical Marijuana Cultivation Facility making the class increase request has an established history of responsible cultivation and Transfers of its Regulated Marijuana inventory; and

vi. The Medical Marijuana Cultivation Facility subject to the class increase request has not previously requested a class increase pursuant to this subparagraph (e).

3. Application for Class Increase. Applications for a class increase shall be submitted on Division forms, and shall be complete and accurate. Applications for a class increase that include any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation will be denied. In addition to denial, any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation is a public safety violation that may result in administrative action.

F. Maximum Allowed Medical Marijuana Cultivation Facility Licenses.

1. A Person that is a Controlling Beneficial Owner with an Interest in Three or More Medical Marijuana Cultivation Facility Licenses. For every multiple of three Medical Marijuana Cultivation Facility licenses in which a Person is a Controlling Beneficial Owner, the Person must also be a Controlling Beneficial Owner in at least one Medical Marijuana Store. For example: (1) a Person that is a Controlling Beneficial Owner in three, four, or five Medical Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least one Medical Marijuana Store; (2) a Person that is a Controlling Beneficial Owner in six, seven, or eight Medical Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least two Medical Marijuana Stores; (3) a Person that is a Controlling Beneficial Owner in nine, ten, or eleven Medical Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least three Medical Marijuana Stores; etcetera.

2. A Person that is a Controlling Beneficial Owner in Less than Three Medical Marijuana Cultivation Facility Licenses. A Person that is a Controlling Beneficial Owner in less than three Medical Marijuana Cultivation Facility licenses shall not be required to be a Controlling Beneficial Owner in a Medical Marijuana Store.

G. The State Licensing Authority, in his or her sole discretion, may adjust any of the plant limits described in this Rule 5-225 on an industry-wide aggregate basis for all Medical Marijuana Cultivation Facilities subject to that limitation.

Basis and Purpose – 5-230

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(a)(II), and 44-10-502(5), C.R.S. The purpose of this rule is to establish the circumstances under which a Medical Marijuana Cultivation Facility may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's regulated Medical Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting and recordkeeping requirements on a Medical Marijuana Cultivation Facility that Transfer Sampling Units. This Rule 5-230 was previously Rule M 508, 1 CCR 212-1.

5-230 – Medical Marijuana Cultivation Facility: Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, a Medical Marijuana Cultivation Facility may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Medical Marijuana Cultivation Facility who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. An individual designated as a Sampling Manager by a Medical Marijuana Cultivation Facility must possess a valid patient registry card.

3. An individual may be designated as a Sampling Manager by more than one Regulated Marijuana Business.

4. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

5. A Medical Marijuana Cultivation Facility that wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-502(5), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 5-230. *See also* Rule 3-905 – Business Records Required. A Medical Marijuana Cultivation Facility shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Harvest Batch or Production Batch. A Sampling Unit shall not be designated until the Harvest Batch or Production Batch has satisfied the testing requirements in 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Medical Marijuana flower or trim shall not exceed one gram.

2. A Sampling Unit of Medical Marijuana Concentrate shall not exceed one-quarter of one gram; except that a Sampling Unit of Medical Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Medical Marijuana Cultivation Facility as a Sampling Manager for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than one ounce of Medical Marijuana or fifteen grams of Medical Marijuana Concentrate.

4. The monthly limit established in subparagraph (C)(3) applies to each Sampling Manager, regardless of the number of Medical Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (C)(3). Before Transferring any Sampling Units, a Medical

Marijuana Cultivation Facility shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limits established in subparagraph (C)(3).

6. A Sampling Manager shall not Transfer any Sampling unit to any other Person, including but not limited to any other Person designated as a Sampling Manager.

D. Compensation Prohibited. A Medical Marijuana Cultivation Facility may not use Sampling Units to compensate a Sampling Manager.

E. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

F. Acceptable Purposes. Sampling Units shall only be designated and Transferred for purposes of quality control and product development in accordance with section 44-10-502(5), C.R.S.

G. Recordkeeping Requirements. A Medical Marijuana Cultivation Facility shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, a Medical Marijuana Cultivation Facility shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of either quality control or product development. A Medical Marijuana Cultivation Facility shall also maintain copies of the Medical Marijuana Cultivation Facility's standard operating procedures provided to Sampling Managers.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-235

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(a)(II), ~~and~~ 44-10-502(9)(a)-(c), 44-10-502(9.5), and 3~~9~~8-28.8-~~302(2)(b)~~297, C.R.S. The purpose of this rule is to allow a Medical Marijuana Cultivation Facility to receive Transfers of Retail Marijuana from a Retail Marijuana Cultivation Facility in order to change its designation from "Retail" to "Medical."

5-235 – Medical Marijuana Cultivation Facility: Ability to Change Designation ~~from Retail~~of Regulated Marijuana ~~to Medical Marijuana~~

A. Changing Designation from Retail Marijuana to Medical Marijuana.~~:~~ Beginning July 1, 2022, a Medical Marijuana Cultivation Facility may accept Retail Marijuana from a Retail Marijuana Cultivation Facility in order to change its designation from Retail Marijuana to Medical Marijuana pursuant to the following requirements:

1. The Medical Marijuana Cultivation Facility may only accept Retail Marijuana that has passed all required testing;

2. The Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility are co-located;

3. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility have at least one identical Controlling Beneficial Owner;

4. The Medical Marijuana Cultivation Facility must receive the Transfer and designate the inventory as Medical Marijuana in the Inventory Tracking System the same day. The Medical Marijuana Cultivation Facility must assign and attach an RFID tag reflecting its

Medical Marijuana license number to the Medical Marijuana following completion of the Transfer in the Inventory Tracking System;

5. After the designation change, the Medical Marijuana cannot be Transferred to the originating or any other Retail Marijuana Business or otherwise treated as Retail Marijuana. The inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules;

6. Both the Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility must remain at, or under, its inventory limit before and after the Retail Marijuana changes its designation to Medical Marijuana; and

7. The Transfer and change of designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change of designation.

B. Changing Designation from Medical Marijuana to Retail Marijuana. Beginning January 1, 2023, a Medical Marijuana Cultivation Facility may Transfer Medical Marijuana to a Retail Marijuana Cultivation Facility or Accelerator Cultivator in order to change its designation from Medical Marijuana to Retail Marijuana pursuant to the following requirements:

1. The Medical Marijuana Cultivation Facility may only Transfer Medical Marijuana that has passed all required testing in accordance with the 4-100 Series Rules – Regulated Marijuana Testing Program;

2. The Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility or Accelerator Cultivator share a Licensed Premises in accordance with Rule 3-215, unless:

a. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility or Accelerator Cultivator have at least one identical Controlling Beneficial Owner; and

b. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility or Accelerator Cultivator cannot share a Licensed Premises because the Local Licensing Authority or Local Jurisdiction prohibits the operation of either a Medical Marijuana Cultivation Facility or a Retail Marijuana Cultivation Facility.

3. The Medical Marijuana Cultivation Facility must report the Transfer in the Inventory Tracking System the same day that the change in designation from Medical Marijuana to Retail Marijuana occurs;

4. After the designation change, the Retail Marijuana cannot be Transferred to the originating or any other Medical Marijuana Business or otherwise be treated as Medical Marijuana. The inventory is Retail Marijuana and is subject to all permissions and limitations in the 6-200 Series Rules;

5. Both the Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility or Accelerator Cultivator must remain at, or under, its respective inventory limit before and after the Medical Marijuana changes its designation to Retail Marijuana;

6. The Retail Marijuana Cultivation Facility or Accelerator Cultivator shall pay any Retail Marijuana excise tax that is imposed pursuant to section 39-28.8-302, C.R.S.;

7. The Retail Marijuana Cultivation Facility or Accelerator Cultivator shall notify the Local Licensing Authority or Local Jurisdiction where the Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility or Accelerator Cultivator operate and pay any

applicable excise tax on the Retail Marijuana in the manner determined by the Local Licensing Authority or Local Jurisdiction; and

8. Pursuant to the requirements of this subparagraph (B), a Medical Marijuana Cultivation Facility may make a virtual Transfer of Medical Marijuana that is reflected in the Inventory Tracking System even if the Medical Marijuana is not physically moved prior to the change of designation to Retail Marijuana.

Basis and Purpose – 5-240

The Statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(j.5), 44-10-203(1)(k), 44-10-401(2)(a)(II), and 44-10-502(10)(a)-(c). The purpose of this rule is to allow a Medical Marijuana Cultivation Facility Licensee that plans to cultivate Medical Marijuana outdoors to submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event.

5-240 Medical Marijuana Cultivation Facility: Contingency Plan for Outdoor Cultivation

A. Submission of Contingency Plan.

1. Beginning January 1, 2022, Medical Marijuana Cultivation Facility Licensees that plan to cultivate Medical Marijuana outdoors may submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event. The Medical Marijuana Cultivation Facility shall also submit a copy of the plan to the Local Licensing Authority in the local jurisdiction where the Licensee operates, and if Transferring Medical Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

2. A Medical Marijuana Cultivation Facility may submit a contingency plan at any time, but it must be filed at least 7 days prior to taking action pursuant to the contingency plan and must be approved by the State Licensing Authority prior to taking action pursuant to the contingency plan.

3. After initial submission and approval of a contingency plan, a contingency plan must be submitted with the Medical Marijuana Cultivation Facility's license renewal application. Any material change to a contingency plan prior to a renewal application must be submitted for review and approval pursuant to subsection (A)(2) above prior to taking action pursuant to the revised contingency plan.

4. The Division shall notify the appropriate Local Licensing Authorities of the approval of the contingency plan.

B. Requirements for Outdoor Contingency Plans.

1. Identification of the type of Adverse Weather Event that the plan applies to, including any deviations based on the type of Adverse Weather Event.

2. Primary Contact. A primary contact for the Medical Marijuana Cultivation Facility must be identified on the contingency plan, including the: name, title, phone number, and email address of the primary contact. The Medical Marijuana Cultivation Facility shall notify the Division of any change to the primary contact or required contact information within 48 hours of the change.

3. Transport Manifest. If the contingency plan provides for the Transfer of Medical Marijuana, a Medical Marijuana Cultivation Facility shall submit a standing transport manifest that could be used by a Licensee upon approval during an Adverse Weather Event if creating a transport manifest through the Inventory Tracking System is impracticable. The standing transport manifest shall include: identification and address of the receiving Licensee.

4. Disclosure of Receiving Licensed Premises.

   a. Medical Marijuana may only be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or an off-premises storage facility.

   b. If Medical Marijuana will be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility pursuant to a contingency plan, that plan must include the name, ownership, and address of the receiving Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility, along with a diagram of the proposed receiving Licensed Premises.

   c. The receiving Licensed Premises shall be an existing location that currently holds an approved state and local license or an off-premises storage facility permit. The receiving Licensee is not required to share any Controlling Beneficial Owners with the Transferring Medical Marijuana Cultivation Facility.

   d. A Medical Marijuana Cultivation Facility that cultivates outdoors may identify and Transfer Medical Marijuana to no more than five receiving Licensed Premises' as part of a contingency plan.

5. Disclosure of Modifications to the Premises and Security and Surveillance. Proposed modifications to the Licensed Premises and any anticipated impacts to compliance with security and surveillance requirements pursuant to Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6).

C. License Requirements when Acting Pursuant to a Contingency Plan. To the extent that this subsection (C) conflicts with other rule sections, this subsection shall control during the time that a Licensee is acting pursuant to a contingency plan.

1. Notification.

   a. Notification of action pursuant to an approved contingency plan shall be made to the Division within 24 hours after initiating action pursuant to a contingency plan. A Medical Marijuana Cultivation Facility that cultivates outdoors must also notify the Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Medical Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

   b. Notification of ceasing action pursuant to the approved contingency plan shall be made to the Division within 24 hours of returning to normal business operations. If action will continue more than 7 days after initiating action pursuant to a contingency plan the licensee shall contact the Division and explain why they cannot return to normal business operations.

c. Any notification shall be made in writing and can be made by email to the Division.

2. Production Management. Medical Marijuana Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility pursuant to a contingency plan is not included in the receiving Licensed Premises' inventory limit until the Medical Marijuana Cultivation Facility acting pursuant to the contingency plan returns to normal business operations.

3. Modification of Premises. An application for a modification of a Licensed Premises is not required as part of a contingency plan unless the modification or change in premises becomes a permanent modification. If that change becomes a permanent change, a modification of premises application must be submitted within 14 days.

4. Security Requirements. All security and surveillance requirements that apply to a Medical Marijuana Cultivation Facility apply to activities conducted pursuant to the contingency plan. If the contingency plan does not require the Transfer of Regulated Marijuana to another Licensed Premises, but requires plants to be covered or video surveillance to be otherwise temporarily obstructed, exemptions to the video surveillance requirements in Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6) may be approved as part of the contingency plan.

5. Inventory Tracking Requirements. Licensees must use the Inventory Tracking System to ensure Medical Marijuana is identified and tracked during all times that action is being taken pursuant to a contingency plan. If a Medical Marijuana Cultivation Facility harvests, Transfers, or packages Medical Marijuana it must be fully reconciled in the Inventory Tracking System within 48 hours of initiating action pursuant to the contingency plan.

   a. Harvest Requirements. If Medical Marijuana is harvested, the weight of Medical Marijuana can be captured on a per harvest level and equally applied to individual plants rather than requiring the initial wet weight of each plant. This initial harvest weight may be captured at a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility upon arrival at the Licensed Premises approved as part of the contingency plan. Harvest Batches and Inventory Tracking System packages must be reported by the Medical Marijuana Cultivation Facility acting pursuant to the contingency plan in the Inventory Tracking System.

   b. Transport Manifest. The Medical Marijuana Cultivation Facility acting pursuant to the contingency plan must report all Medical Marijuana that is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility on a transport manifest.

      i. A Licensee may use the approved standing transport manifest during an Adverse Weather Event only when using the Inventory Tracking System is not possible.

      ii. The Licensee shall manually fill out the dates, times, and individual transporting Medical Marijuana on a copy of the standing transport manifest.

      iii. The Licensee shall ensure the standing transport manifest and copy of the approved Contingency plan remain in the Licensee's possession

during any transport of Medical Marijuana when it is not possible to use an Inventory Tracking System generated transportation manifest at the time of the Adverse Weather Event.

6. Transfers. If Medical Marijuana is Transferred to another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility it is exempted from the packaging and labeling requirements in Rule 3-1005(B).7. Virtual and Physical Separation. If Medical Marijuana is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility that inventory must be virtually separated by Harvest Batch and must also be virtually and physically separated from the receiving Licensee's inventory. Harvest Batches must also be clearly identified at the receiving Licensed Premises with the Harvest Batch name and date of harvest.

8. Finishing Product. After Transferring Medical Marijuana to another Licensed Premises, a Medical Marijuana Cultivation Facility may finish that harvest at the receiving Licensed Premises if all Medical Marijuana is accounted for in the Inventory Tracking System and the Licensed Premises is in compliance with all surveillance requirements.

9. Testing. The originating Licensee acting pursuant to a contingency plan is responsible for the submission of Test Batch(es).

   a. Each Harvest Batch or Production Batch Transferred pursuant to a contingency plan must be submitted for all required tests and is not eligible for a Reduced Testing Allowance or otherwise exempt from required testing.

   b. Any passing or failing tests of a Harvest Batch or Production Batch Transferred pursuant to a contingency plan will not count for or against a Licensee's Reduced Testing Allowance.

5-300 Series – Medical Marijuana Products Manufacturers

Basis and Purpose – 5-305

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(d)(I)-(VI), 44-10-313(14), and 44-10-503, C.R.S. The purpose of this rule is to establish a Medical Marijuana Products Manufacturer's license privileges. This Rule 5-305 was previously Rule M 601, 1 CCR 212-1.

5-305 – Medical Marijuana Products Manufacturer: License Privileges

A. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, ~~A~~a Retail Marijuana Products Manufacturer may share and operate at the same Licensed Premises with a commonly owned Medical Marijuana Products Manufacturer. However, a separate license is required for each specific business or business entity, regardless of geographical location. In addition, a Medical Marijuana Products Manufacturer may share, and operate at, the same Licensed Premises as a Marijuana Research and Development Facility so long as:

   1. Each business or business entity holds a separate license;

   2. The Marijuana Research and Development Facility obtains an R&D Co-Location Permit;

3. Both the Marijuana Research and Development Facility and the Medical Marijuana Products Manufacturer comply with all terms and conditions of the R&D Co-Location Permit; and

4. Both the Marijuana Research and Development Facility and the Medical Marijuana Products Manufacturer comply with all applicable rules. *See* 5-700 Series Rules.

B. Authorized Transfers. A Medical Marijuana Products Manufacturer is authorized to Transfer Medical Marijuana as follows:

1. Medical Marijuana Concentrate and Medical Marijuana Product.

a. A Medical Marijuana Products Manufacturer may Transfer its own Medical Marijuana Product and Medical Marijuana Concentrate to Medical Marijuana Stores, other Medical Marijuana Products Manufacturers, Medical Marijuana Testing Facility, Marijuana Research and Development Facility and Pesticide Manufactures.

b. A Medical Marijuana Products Manufacturer may Transfer Medical Marijuana Product and Medical Marijuana Concentrate to a Medical Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit.

i. Prior to any Transfer pursuant to this Rule 5-305(B)(1)(b), a Medical Marijuana Products Manufacturer shall verify Medical Marijuana Cultivation Facility possesses a valid Centralized Distribution Permit. *See* Rule 5-205 – Medical Marijuana Cultivation Facility: License Privileges.

ii. For any Transfer pursuant to this Rule 5-305(B)(1)(b), A Medical Marijuana Products Manufacturer shall only Transfer Medical Marijuana Product and Medical Marijuana Concentrate that is packaged and labeled for Transfer to a patient. *See* 3-1000 Series Rules.

2. Medical Marijuana.

a. A Medical Marijuana Products Manufacturer may Transfer Medical Marijuana to another Medical Marijuana Products Manufacturer, a Medical Marijuana Store, a Marijuana Research and Development Facility or a Pesticide Manufacturer.

3. Sampling Units. A Medical Marijuana Products Manufacturer may also Transfer Sampling Units of its own Medical Marijuana Products and Medical Marijuana Concentrate to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-503(10), C.R.S., and Rule 5-320.

C. Manufacture of Medical Marijuana Concentrate, Medical Marijuana Product, Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana Authorized. A Medical Marijuana Products Manufacturer may manufacture, prepare, package, and label Medical Marijuana Concentrate Medical Marijuana Product comprised of Medical Marijuana and other Ingredients intended for use or consumption, such as Edible Medical Marijuana Products, ointments, or tinctures. A Medical Marijuana Products Manufacturer may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana.

1. Industrial Hemp Product Authorized. This subparagraph (C)(1) is effective July 1, 2020. A Medical Marijuana Products Manufacturer that uses Industrial Hemp Product as an

Ingredient in the manufacture and preparation of Medical Marijuana Product must comply with this subparagraph (C)(1) of this Rule.

a. Prior to accepting and taking possession of any Industrial Hemp Product for use as an Ingredient in a Medical Marijuana Product the Medical Marijuana Products Manufacturer shall verify the following:

i. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Medical Marijuana Testing Facility; and

ii. That the Person Transferring the Industrial Hemp Product to the Medical Marijuana Products Manufacturer is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

D. Location Prohibited. A Medical Marijuana Products Manufacturer may not manufacture, prepare, package, store, or label Medical Marijuana Product in a location that is operating as a retail food establishment.

E. Samples Provided for Testing.

1. A Medical Marijuana Products Manufacturer may provide samples of its Medical Marijuana Concentrate or Medical Marijuana Product to a Medical Marijuana Testing Facility for testing and research purposes. The Medical Marijuana Products Manufacturer shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

F. Authorized Marijuana Transport. A Medical Marijuana Products Manufacturer is authorized to utilize a Medical Marijuana Transporter for transportation of its Medical Marijuana Product or Medical Marijuana Concentrate so long as the place where transportation orders are taken is a licensed Medical Marijuana Business and the transportation order is delivered to a Medical Marijuana Business, or Pesticide Manufacturer. Nothing in this Rule prevents a Medical Marijuana Products Manufacturer from transporting its own Medical Marijuana or Medical Marijuana Concentrate.

G. Performance-Based Incentives. A Medical Marijuana Products Manufacturer may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, a Medical Marijuana Products Manufacturer may not compensate a Sampling Manager using Sampling Units. *See* Rule 5-320 – Sampling Unit Protocols.

H. Receipt of Retail Marijuana Concentrate. A Medical Marijuana Products Manufacturer may receive a Transfer of Retail Marijuana Concentrate in compliance with Rules 5-335, 6-335, and 6-730.

Basis and Purpose – 5-310

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-401(2)(a)(III), and 44-10-503, C.R.S. The Marijuana Code sets forth minimum requirements for written agreements between Medical Marijuana Products Manufacturers and Medical Marijuana Stores. Specifically, the written agreements must set forth the total amount of Medical Marijuana obtained from a Medical Marijuana Store to be used in the manufacturing process, and the total amount of Medical Marijuana Product to be manufactured from the Medical Marijuana obtained from the Medical Marijuana Store. This rule clarifies that the Division must approve such written agreements to ensure they meet

those requirements. This rule also provides those acts that are generally limited or prohibited. This Rule 5-310 was previously Rule M 602, 1 CCR 212-1.

5-310 – Medical Marijuana Products Manufacturer: General Limitations or Prohibited Acts

A. Contract Required. Any contract required pursuant to section 44-10-503(3), C.R.S., shall contain such minimum requirements as to form and substance as required by statute. All contracts need to be current and available for inspection on the Licensed Premises by the Division when requested. *See* Rule 3-905 – Business Records and Reporting.

B. Packaging and Labeling Standards Required. A Medical Marijuana Products Manufacturer is prohibited from Transferring Medical Marijuana Concentrate or Medical Marijuana Product that are not properly packaged and labeled. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety

C. Transfer to Patient Prohibited. A Medical Marijuana Products Manufacturer is prohibited from Transferring Medical Marijuana to a patient. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-503(10), C.R.S., and Rule 5-320.

D. Adequate Care of Perishable Product. A Medical Marijuana Products Manufacturer must provide adequate refrigeration for perishable Medical Marijuana Product that will be consumed and shall utilize adequate storage facilities and transport methods.

E. Homogeneity of Edible Medical Marijuana Product. A Medical Marijuana Products Manufacturer must ensure that its manufacturing processes are designed so that the Cannabinoid content of any Edible Medical Marijuana Product is homogenous.

F. Use of Ingredients. A Medical Marijuana Products Manufacturer must obtain and maintain certificates of analysis or other records demonstrating the full composition of each Ingredient used in the manufacture of Vaporizer Delivery Devices or Pressurized Metered Dose Inhalers.

G. Corrective and Preventive Action. This paragraph G shall be effective January 1, 2021. A Medical Marijuana Products Manufacturer shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

H. Adverse Health Event Reporting. A Medical Marijuana Products Manufacturer must report Adverse Health Events pursuant to Rule 3-920.

Basis and Purpose – 5-315

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(i), 44-10-401(2)(a)(III), and 44-10-503, C.R.S. The purpose of this rule is to establish the categories of Medical Marijuana Concentrate that may be produced at a Medical Marijuana Products Manufacturer and establish standards for the production of those concentrate. Nothing in this rule authorizes the unlicensed practice of engineering under Article 25 of Title 12, C.R.S. This Rule 5-315 was previously Rule M 605, 1 CCR 212-1.

5-315 – Medical Marijuana Products Manufacturer: Medical Marijuana Concentrate Production.

A. Permitted Categories of Medical Marijuana Concentrate Production.

1. A Medical Marijuana Products Manufacturer may produce Physical Separation-Based Medical Marijuana Concentrate, Food-Based Medical Marijuana Concentrate, and Heat/Pressure-Based Medical Marijuana Concentrate

2. A Medical Marijuana Products Manufacturer may also produce Solvent-Based Medical Marijuana Concentrate using only the following solvents: butane, propane, CO_2, ethanol, isopropanol, acetone, heptane, ethyl acetate, and pentane. The use of any other solvent is expressly prohibited unless it is approved by the Division.

3. A Medical Marijuana Products Manufacturer may submit a request to the Division to consider the approval of solvents not permitted for use under this Rule during the next formal rulemaking.

B. General Applicability. A Medical Marijuana Products Manufacturer that engages in the production of Medical Marijuana Concentrate, regardless of the method of extraction or category of concentrate being produced, must:

1. Ensure that the space in which any Medical Marijuana Concentrate is to be produced is a fully enclosed room and clearly designated on the current diagram of the Licensed Premises. *See* Rule 3-905 – Business Records Required.

2. Ensure that all applicable sanitary rules are followed. *See* 3-300 Series Rules.

3. Ensure that the standard operating procedure for each method used to produce a Medical Marijuana Concentrate includes, but need not be limited to, step-by-step instructions on how to safely and appropriately:

a. Conduct all necessary safety checks prior to commencing production;

b. Prepare Medical Marijuana for processing;

c. Extract Cannabinoids and other essential components of Medical Marijuana;

d. Purge any solvent or other unwanted components from a Medical Marijuana Concentrate,

e. Clean all equipment, counters and surfaces thoroughly; and

f. Dispose of any waste produced during the processing of Medical Marijuana in accordance with all applicable local, state and federal laws, rules and regulations. *See* Rule 3-230 – Waste Disposal.

4. Establish written and documentable quality control procedures designed to maximize safety for Owner Licensees and Employee Licensees and minimize potential product contamination.

5. Establish written emergency procedures to be followed by Owner Licensees or Employee Licensees in case of a fire, chemical spill or other emergency.

6. Have a comprehensive training manual that provides step-by-step instructions for each method used to produce a Medical Marijuana Concentrate. The training manual must include, but need not be limited to, the following topics:

   a. All standard operating procedures for each method of concentrate production used;

   b. The Medical Marijuana Products Manufacturer's quality control procedures;

   c. The emergency procedures;

   d. The appropriate use of any necessary safety or sanitary equipment;

   e. The hazards presented by all solvents used as described in the safety data sheet for each solvent;

   f. Clear instructions on the safe use of all equipment involved in each process and in accordance with manufacturer's instructions, where applicable; and

   g. Any additional periodic cleaning required to comply with all applicable sanitary rules.

7. Provide adequate training to every Owner Licensee or Employee Licensee prior to that individual undertaking any step in the process of producing a Medical Marijuana Concentrate.

   a. Adequate training must include, but need not be limited to, providing a copy of the training manual for that Licensed Premises and live, in-person instruction detailing at least all of the topics required to be included in the training manual.

   b. The individual training an Owner Licensee or Employee Licensee must sign and date a document attesting that all required aspects of training were conducted and that he or she is confident that the Owner Licensee or Employee Licensee can safely produce a Medical Marijuana Concentrate. *See* Rule 3-905 – Business Records Required.

c. The Owner Licensee or Employee Licensee that received the training must sign and date a document attesting that he or she can safely implement all standard operating procedures, quality control procedures, and emergency procedures, operate all closed-loop extraction systems, use all safety, sanitary and other equipment and understands all hazards presented by the solvents to be used within the Licensed Premises and any additional periodic cleaning required to maintain compliance with all applicable sanitary rules. *See* Rule 3-905 – Business Records Required.

8. Maintain clear and comprehensive records of the name, signature and Owner Licensee or Employee License number of every individual who engaged in any step related to the creation of a Production Batch of Medical Marijuana Concentrate and the step that individual performed. *See* Rule 3-905 – Business Records Required.

C. Physical Separation-Based Medical Marijuana Concentrate, Food-Based Medical Marijuana Concentrate, and Heat/Pressure-Based Medical Marijuana Concentrate. Medical Marijuana Products Manufacturer that engages in the production of a Medical Marijuana Concentrate must:

1. Ensure that all equipment, counters, and surfaces used in the production of a Medical Marijuana Concentrate is food-grade including ensuring that all counters and surface areas were constructed in such a manner that it reduces the potential for the development of microbials, molds and fungi and can be easily cleaned.

2. Ensure that all equipment, counters, and surfaces used in the production of a Medical Marijuana Concentrate are thoroughly cleaned after the completion of each Production Batch.

3. Ensure that any room in which dry ice is stored or used in processing Medical Marijuana into a Medical Marijuana Concentrate is well ventilated to prevent against the accumulation of dangerous levels of CO_2.

4. Ensure that the appropriate safety or sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Medical Marijuana Concentrate.

5. Ensure that only finished drinking water and ice made from finished drinking water is used in the production of a Physical Separation-Based Medical Marijuana Concentrate.

6. Ensure that if propylene glycol or glycerin is used in the production of a Food-Based Medical Marijuana Concentrate, then the propylene glycol or glycerin to be used is food-grade.

7. Follow all of the rules related to the production of a Solvent-Based Medical Marijuana Concentrate if a pressurized system is used in the production of a Medical Marijuana Concentrate.

D. Solvent-Based Medical Marijuana Concentrate. A Medical Marijuana Products Manufacturer that engages in the production of Solvent-Based Medical Marijuana Concentrate must:

1. Obtain a report from an Industrial Hygienist or a Professional Engineer that certifies that the equipment, Licensed Premises and standard operating procedures comply with these rules and all applicable local and state building codes, fire codes, electrical codes and other laws. If a local jurisdiction has not adopted a local building code or fire code or if local regulations do not address a specific issue, then the Industrial Hygienist or Professional Engineer shall certify compliance with the International Building Code of

2012 (http://www.iccsafe.org), the International Fire Code of 2012 (http://www.iccsafe.org) or the National Electric Code of 2014 (http://www.nfpa.org), as appropriate. Note that this Rule does not include any later amendments or editions to each Code. The Division has maintained a copy of each code, which are available to the public;

a. Flammable Solvent Determinations. If a Flammable Solvent is to be used in the processing of Medical Marijuana into a Medical Marijuana Concentrate, then the Industrial Hygienist or Professional Engineer must:

i. Establish a maximum amount of Flammable Solvents and other flammable materials that may be stored within that Licensed Premises in accordance with applicable laws, rules, and regulations.

ii. Determine what type of electrical equipment, which may include but need not be limited to outlets, lights, junction boxes, must be installed within the room in which Medical Marijuana Concentrate are to be produced or Flammable Solvents are to be stored in accordance with applicable laws, rules, and regulations.

iii. Determine whether a gas monitoring system must be installed within the room in which Medical Marijuana Concentrate are to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules, and regulations.

iv. Determine whether fire suppression system must be installed within the room in which Medical Marijuana Concentrate are to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules, and regulations.

b. CO_2 Solvent Determination. If CO_2 is used as solvent at the Licensed Premises, then the Industrial Hygienist or Professional Engineer must determine whether a CO_2 gas monitoring system must be installed within the room in which Medical Marijuana Concentrate are to be produced or CO_2 is stored, and if required the system's specifications, in accordance with applicable laws, rules, and regulations.

c. Exhaust System Determination. The Industrial Hygienist or Professional Engineer must determine whether a fume vent hood or exhaust system must be installed within the room in which Medical Marijuana Concentrate are to be produced, and if required the system's specifications, in accordance with applicable laws, rules, and regulations.

d. Material Change. If a Medical Marijuana Products Manufacturer makes a Material Change to its equipment or a concentrate production procedure, in addition to all other requirements, it must obtain a report from an Industrial Hygienist or Professional Engineer re-certifying its standard operating procedures and, if changed, its equipment as well.

e. Manufacturer's Instructions. The Industrial Hygienist or Professional Engineer may review and consider any information provided to the Medical Marijuana Products Manufacturer by the designer or manufacturer of any equipment used in the processing of Medical Marijuana into a Medical Marijuana Concentrate.

f. Records Retention. A Medical Marijuana Products Manufacturer must maintain copy of all reports received from an Industrial Hygienist and Professional

Engineer on its Licensed Premises. Notwithstanding any other law, rule, or regulation, compliance with this Rule is not satisfied by storing these reports outside of the Licensed Premises. Instead the reports must be maintained on the Licensed Premises until the Licensee ceases production of Medical Marijuana Concentrate.

2. Ensure that all equipment, counters, and surfaces used in the production of a Solvent-Based Medical Marijuana Concentrate must be food-grade and must not react adversely with any of the solvents to be used in the Licensed Premises. Additionally, all counters and surface areas must be constructed in a manner that reduces the potential development of microbials, molds, and fungi and can be easily cleaned;

3. Ensure that the room in which Solvent-Based Medical Marijuana Concentrate shall be produced must contain an emergency eye-wash station;

4. Ensure that a professional grade, closed-loop extraction system capable of recovering the solvent is used to produce Solvent-Based Medical Marijuana Concentrate;

    a. UL or ETL Listing.

        i. If the system is UL or ETL listed, then a Medical Marijuana Products Manufacturer may use the system in accordance with the manufacturer's instructions.

        ii. If the system is UL or ETL listed but the Medical Marijuana Products Manufacturer intends to use a solvent in the system that is not listed in the manufacturer's instructions for use in the system, then, prior to using the unlisted solvent within the system, the Medical Marijuana Products Manufacturer must obtain written approval for use of the non-listed solvent in the system from either the system's manufacturer or a Professional Engineer after the Professional Engineer has conducted a peer review of the system. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

        iii. If the system is not UL or ETL listed, then there must a designer of record. If the designer of record is not a Professional Engineer, then the system must be peer reviewed by a Professional Engineer. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

    b. Ethanol or Isopropanol. A Medical Marijuana Products Manufacturer Facility need not use a professional grade, closed-loop system extraction system capable of recovering the solvent for the production of a Solvent-Based Medical Marijuana Concentrate if ethanol or isopropanol are the only solvents being used in the production process.

5. Ensure that all solvents used in the extraction process are food-grade or at least 99% pure;

    a. A Medical Marijuana Products Manufacturer must obtain a safety data sheet for each solvent used or stored on the Licensed Premises. A Medical Marijuana Products Manufacturer must maintain a current copy of the safety data sheet and a receipt of purchase for all solvents used or to be used in an extraction process. *See* Rule 3-905 – Business Records Required.

b. A Medical Marijuana Products Manufacturer is prohibited from using denatured alcohol to produce a Medical Marijuana Concentrate, unless the denaturant is an approved solvent listed in Rule 5-315(A)(2) and the alcohol and the denaturant meet all other requirements set forth in this Rule.

6. Ensure that all Flammable Solvents or other flammable materials, chemicals and waste are stored in accordance with all applicable laws, rules and regulations. At no time may a Medical Marijuana Products Manufacturer store more Flammable Solvent on its Licensed Premises than the maximum amount established for that Licensed Premises by the Industrial Hygienist or Professional Engineer;

7. Ensure that the appropriate safety and sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Solvent-Based Medical Marijuana Concentrate; and

8. Ensure that a trained Owner Licensee or Employee Licensee is present at all times during the production of a Solvent-Based Medical Marijuana Concentrate whenever an extraction process requires the use of pressurized equipment.

9. Medical Marijuana Products Manufacturers Engaged in the Remediation of Medical Marijuana for elemental impurities. Medical Marijuana Products Manufacturers engaged in the Remediation of Medical Marijuana for elemental impurities shall:

a. Implement effective cleaning procedures, additional testing plans, and other measures that will be performed to prevent cross contamination.

i. If potentially contaminated equipment, ingredients, or solvents used in the Remediation process are used for processing other ‘non Remediated’ material, the subsequent Production Batch made using the equipment, ingredients, or solvent must then be tested for elemental impurities, and the Production Batch made using that equipment, ingredients, or solvents is not eligible for testing exemptions through a Reduced Testing Allowance or otherwise exempt from required testing.

ii. Manufacturers must document the equipment and lots of ingredients/solvents used in Remediation to ensure this requirement is met.

b. Register as a hazardous waste generator, obtain a U.S. Environmental Protection Agency ID number for manifesting hazardous waste, and must have a disposal contract in place with a hazardous waste management company prior to attempting Remediation.

c. Have a staff member who has received basic training in hazardous waste identification, storage, and disposal procedures, or hire a consultant who satisfies this criteria.

d. Regardless of which type of analyte, if the Medical Marijuana flower, wet whole plant, or trim has failed elemental impurities testing, the Licensee must implement Standard Operating Procedures to ensure:

i. That contaminated material is stored in a labelled container identifying the material as potentially hazardous, and that the container seals in

such a way to prevent the risk of cross contamination or inhalation of dusts.

ii. That when material is removed from the sealed container and handled in any fashion (preparation, the extraction or other Remediation process, wasting, etc.), any workers exposed to dusts or particulates generated from the material must wear appropriate personal protective equipment (PPE), including at minimum: gloves, American National Standards Institute (ANSI) Z87.1 safety glasses, and a respirator rated to protect them from airborne dusts or particulates that may contain elemental impurities. Respirators should utilize National Institute for Occupational Safety and Health rated particulate filters of sufficient grade to prevent exposure to airborne dusts that could contain elemental impurities.

A. Workers utilizing a respirator must comply with applicable Occupational Safety and Health Administration regulations regarding respirator use before handling contaminated material. This includes receiving respirator clearance from a qualified professional and passing a respirator fit test before using a respirator.

e. Additional forms of environmental airborne particulate control, such as industrial air filtration systems, handling material inside of enclosures, etc. must be implemented by the Licensee to minimize the risk of exposure or cross contamination of contaminated dusts.

f. These steps must be documented in the Licensee's respiratory protection program that all employees exposed to plant material or waste products contaminated with elemental impurities must be trained on.

g. The Licensee must establish and train employees on standard operating procedures designed to safely handle this contaminated material and prevent cross contamination.

h. Mercury poses additional workplaces hazards since it is easily volatilized and since mercury vapor is highly toxic. Before attempting to remediate any Regulated Marijuana flower, wet whole plant, or trim that has failed elemental impurities testing and contains mercury, Licensees must additionally:

i. Work with a certified industrial hygienist to develop and implement some form of monitoring program that is capable of detecting mercury vapor concentrations in the areas where material contaminated with mercury will be processed and can be used to generate time weighted average exposures to mercury vapor. The monitoring system must be sufficient to ensure airborne concentrations of mercury do not exceed Occupational Safety and Health Administration Permissible Exposure Limits for Airborne Contaminants.

ii. Have a certified industrial hygienist approve the Licensee's air handling system for managing mercury vapors in a fashion that is compliant with the Occupational Safety and Health Administration, and other applicable federal, state, and local regulations.

iii. Utilize a National Institute for Occupational Safety and Health rated half mask respirator with cartridges rated specifically for mercury vapor.

i. A Licensee must ensure their processes and safety practices comply with applicable federal, state, and local environmental health and safety regulations.

10. Medical Marijuana Products Manufacturer Engaged in the Remediation of Medical Marijuana for Microbial Contamination. Medical Marijuana Products Manufacturers engaged in the Remediation of Medical Marijuana for microbial contamination shall:

a. Implement effective cleaning procedures, additional testing plans, and other measures that will be performed to prevent cross contamination.

b. Ensure that contaminated material is stored in a labeled container identifying the material as potentially hazardous, and that the container seals in such a way to prevent the risk of cross contamination or inhalation of dusts.

c. Ensure that when material is removed from the sealed container and handled in any fashion (preparation, the extraction or other Remediation process, wasting, etc.), any workers exposed to dusts or particulates generated from the material must wear appropriate personal protective equipment (PPE), including at minimum: gloves, American National Standards (ANSI) Z87.1 safety glasses, and a respirator rated to protect them from airborne dusts or particulates that may contain elemental impurities. Respirators should utilize National Institute for Occupational Safety and Health rated particulate filters of sufficient grade to prevent exposure to airborne dusts that could contain elemental impurities.

i. Workers utilizing a respirator must comply with applicable Occupational Safety and Health Administration regulations regarding respirator use before handling contaminated material. This includes receiving respirator clearance from a qualified professional and passing a respirator fit test before using a respirator.

d. Implement additional forms of environmental airborne particulate control, such as industrial air filtration systems, handling material inside of enclosures, etc. must be implemented by the Licensee to minimize the risk of exposure or cross contamination of contaminated dusts.

e. These steps must be documented in the Licensee's respiratory protection program that all employees exposed to plant material or waste products contaminated with elemental impurities must be trained on.

f. The Licensee must establish and train employees on standard operating procedures designed to safely handle this contaminated material and prevent cross contamination.

g. The Licensee must ensure their processes and safety practices comply with applicable federal, state, and local environmental health and safety regulations.

E. Ethanol and Isopropanol. If a Medical Marijuana Products Manufacturer only produces Solvent-Based Medical Marijuana Concentrate using ethanol or isopropanol at its Licensed Premises and no other solvent, then it shall be considered exempt from the requirements in paragraph D of this Rule and instead must follow the requirements in paragraph C of this Rule. Regardless of which rule is followed, the ethanol or isopropanol must be food grade or at least 99% pure and denatured alcohol cannot be used. The Medical Marijuana Products Manufacturer shall comply with contaminant testing required in Rule 4-120(C)(3).

F. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-320

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(a)(III), and 44-10-503 C.R.S. The purpose of this rule is to establish the circumstances under which a Medical Marijuana Products Manufacturer may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's regulated Medical Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting, and recordkeeping requirements on a Medical Marijuana Products Manufacturer that Transfer Sampling Units. This Rule 5-320 was previously Rule M 606, 1 CCR 212-1.

5-320 – Medical Marijuana Products Manufacturer: Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, a Medical Marijuana Products Manufacturer may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Medical Marijuana Products Manufacturer who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. An individual designated as a Sampling Manager by a Medical Marijuana Products Manufacturer must possess a valid patient registry card.

3. An individual may be designated as a Sampling Manager by more than one Medical Marijuana Business.

4. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

5. A Medical Marijuana Products Manufacturer that wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-503(10), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 5-320. *See also* Rule 3-905 – Business Records Required. A Medical Marijuana Products Manufacturer shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Production Batch. A Sampling Unit shall not be designated until the Production Batch has satisfied the testing requirements in 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Edible Medical Marijuana Product shall not exceed one serving size. Before designating any Sampling Units, a Medical Marijuana Products Manufacturer shall establish the specific serving size for each Edible Medical Marijuana Product it produces and maintain a record of the serving size in its standard operating procedures provided pursuant to subparagraph (A)(5).

2. A Sampling Unit of non-Edible Medical Marijuana Product shall not exceed the equivalent of one serving size. Before designating any Sampling Units, a Medical Marijuana

Products Manufacturer shall establish the specific serving size for each non-Edible Medical Marijuana Product it produces and maintain a record of the serving size in its standard operating procedures provided pursuant to subparagraph (A)(5).

3. A Sampling Unit of Medical Marijuana Concentrate shall not exceed one-quarter of one gram; except that a Sampling Unit of Medical Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Medical Marijuana Products Manufacturer as a Sampling Manager for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than:

a. Fourteen servings of Medical Marijuana Products; and

b. Fifteen grams of Medical Marijuana Concentrate.

4. The monthly limit established in subparagraph (C)(3) applies to each Sampling Manager, regardless of the number of Medical Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (C)(3). Before Transferring any Sampling Units, a Medical Marijuana Products Manufacturer shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limit established in subparagraph (C)(3).

6. A Sampling Manager shall not Transfer any Sampling Unit to any other Person, including but not limited to any Person designated as a Sampling Manager.

D. Compensation Prohibited. A Medical Marijuana Products Manufacturer may not use Sampling Units to compensate a Sampling Manager.

E. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

F. Acceptable Purposes. Sampling Units shall only be designated and Transferred for purposes of quality control and product development in accordance with section 44-10-503(10), C.R.S.

G. Record keeping requirements. A Medical Marijuana Products Manufacturer shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, A Medical Marijuana Products Manufacturer shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of either quality control or product development. A Medical Marijuana Products

Manufacturer shall also maintain copies of the Medical Marijuana Products Manufacturer's standard operating procedures provided to Sampling Managers.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-325

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(i), 44-10-203(3)(b), 44-10-203(2)(d), 44-10-203(3)(a), 44-10-401(2)(a)(III), 44-10-503, and 44-10-701(3)(c), C.R.S. The purpose of this rule is to define requirements for manufacture of Audited Product for administration by: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration which may raise public health concerns. This rule defines audit, insurance, minimum product requirements, minimum production process requirements, and pre-production testing requirements for Medical Marijuana Products Manufacturers that manufacture Audited Products. The purpose of this rule further recognizes that Alternative Use Product not within an intended use identified in Rule 3-1015 may raise public health concerns that outweigh its manufacturer or Transfer entirely or that require additional safeguards to protect public health and safety prior to manufacturer or Transfer. This rule identifies general requirements for Medical Marijuana Products Manufacturer to seek an Alternative Use Designation from the State Licensing Authority to manufacture any type of Medical Marijuana Product that is not within an intended use identified in Rule 3-1015. This Rule 5-325 was previously Rule M 607, 1 CCR 212-1.

5-325 – Medical Marijuana Products Manufacturer: Audited Product and Alternative Use Product

A. General Rule. A Medical Marijuana Products Manufacturer shall not Transfer Audited Product to a Medical Marijuana Store, another Medical Marijuana Products Manufacturer, or a Medical Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit except in accordance with all requirements of this Rule 5-325. The requirements of this Rule 5-325 are in addition to all other Rules that apply to Medical Marijuana Products Manufacturers; except where the context otherwise clearly requires this Rule 5-325 controls.

B. Audited Products – Mandatory Audit Prior to Transfer. Following submission of an independent third-party audit to the Division and to the Local Licensing Authority as required by this Rule, a Medical Marijuana Products Manufacturer may Transfer Audited Product with an intended use of: (1) metered dose nasal spray, (2) vaginal administration, or (4) rectal administration to another Medical Marijuana Products Manufacturer, a Medical Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit, or a Medical Marijuana Store.

1. A written audit report from an independent third-party auditor that was completed within the last twenty-four (24) months shall be submitted to the Division and to the Local Licensing Authority: (i) before the first Transfer of Audited Product to any Medical Marijuana Store, (ii) prior to Transfer of any Audited Product following a Material Change to any standard operating procedure or master formulation record regarding the Audited Product, and (iii) with the Medical Marijuana Products Manufacturer's renewal application if the Medical Marijuana Products Manufacturer will Transfer Audited Product after renewal.

2. The independent third-party audit shall be performed by either a certified quality auditor or a certified GMP auditor. The Medical Marijuana Products Manufacturer shall be responsible for all costs associated with obtaining the independent third-party audit.

3. The independent third-party written audit report shall include the following minimum requirements:

a. The independent third-party auditor's qualifications and an attestation that the certified quality auditor or certified GMP auditor has no conflict of interest;

b. Establish that the Medical Marijuana Products Manufacturer and the Audited Product meet all requirements of this Rule 5-325, including but not limited to the specific requirements of this Rule 5-325(C), 5-325(D), 5-325(E), 5-325(G), and 5-325(H);

c. Verify the written standard operating procedure(s) for Audited Product include sufficient and detailed step-by-step instructions on how to produce the Audited Product in a manner that prevents contamination and protects the public health and safety;

d. Verify, based upon a physical inspection, the manufacture of Audited Product by the Medical Marijuana Products Manufacturer adheres to all applicable standard operating procedures;

e. Verify, based upon a physical inspection, of any Licensed Premises that such Licensed Premises complies with the requirements of this Rule 5-325(E), including any Limited Access Area where the Audited Product is to be manufactured;

f. Include the independent third-party auditor's findings;

g. Include the plan of correction identifying any corrective actions and/or preventative actions implemented as a result of the findings of the independent third-party audit; and

h. Include the independent third-party auditor's assessment that the Medical Marijuana Products Manufacturer demonstrated compliance with all requirements of Rule 5-325 and with the requirements of all standard operating procedures, master formulation records, and Batch manufacturing records that apply to the Audited Product.

C. Products Liability Insurance. Any Medical Marijuana Products Manufacturer that intends to Transfer Audited Product shall first obtain products liability insurance providing coverage for liability arising from manufacture or Transfer of Audited Product and shall provide an unredacted certificate of product liability insurance to the Division and the independent third-party auditor.

D. Audited Product Requirements. Audited Product shall meet the following minimum product requirements:

1. Inactive Ingredients. Audited Product must meet the requirements outlined in Rule 3-335 – Production of Regulated Marijuana Products.

a. If the Audited Product contains a fungicidal or bactericidal Ingredient listed in, and with a concentration that is at or below the maximum concentration permitted in, the Federal Food and Drug Administration Inactive Ingredients Database, https://www.accessdata.fda.gov/scripts/cder/iig/index.cfm, the Audited Product is not required to undergo microbial contaminant testing required by Rules 4-115 and 4-120.

2. Required Product Development Testing. The Medical Marijuana Products Manufacturer must establish the Audited Product meets the following through independent third-party testing:

a. The Audited Product must deliver the amount of each cannabinoid identified on the label throughout the entire volume of the Audited Product using the intended delivery device and in accordance with the instructions provided by the Medical Marijuana Products Manufacturer, as demonstrated by testing at a Medical Marijuana Testing Facility.

i. For Audited Product with an intended use of metered dose nasal spray, compliance with this requirement shall be established by test results verifying the delivered dose of each cannabinoid identified on the label using the methods described in The United States Pharmacopeia Physical Test and Determination Chapter 601, *Aerosols, Nasal Sprays, Metered-Dose Inhalers, and Dry Powder Inhalers*.

ii. For Audited Product with an intended use of either vaginal administration or rectal administration, compliance with this testing requirement shall be established by test results demonstrating that each cannabinoid identified on the label is within +/- 15% of the amount identified on the label.

b. The expiration date identified on the label of the Audited Product is appropriate when the Audited Product is stored at room temperature, as demonstrated by testing from a Medical Marijuana Testing Facility.

c. Identification of all non-marijuana derived Ingredients and constituents in the Audited Product at concentrations of 1%, which verification is obtained from one or more of the following:

i. Testing by a Medical Marijuana Testing Facility;

ii. Testing by a laboratory that is ISO 17025 accredited but is not a Medical Marijuana Testing Facility, except that no Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana Product may be Transferred to such a laboratory; and/or

iii. One or more certificate(s) of analysis from the manufacturer of any Ingredient or constituent included in the Audited Product.

E. Additional Production Requirements for Audited Product. In addition to all other requirements applicable to Medical Marijuana Products Manufacturers, a Medical Marijuana Products Manufacturer that manufactures and Transfers Audited Product shall meet the following additional requirements:

1. Personnel Training. All personnel directly involved in the manufacture and handling of Audited Product must be trained, must demonstrate competency, and must undergo annual refresher training, which shall be documented and maintained at the Medical Marijuana Products Manufacturer's Licensed Premises. Personnel directly involved in the manufacture and handling of Audited Product must be trained and demonstrate proficiency in hand hygiene, cleaning and sanitizing, performing necessary calculations, measuring and mixing, and documenting the manufacturing process including master formulation records and batch manufacturing records.

2. Facility Requirements. A Medical Marijuana Products Manufacturer must have a space that is specifically designated for the manufacture of Audited Products that is designed and operated to prevent cross contamination from other areas of the Licensed Premises.

The surfaces, walls, floors, fixtures, shelving, work surfaces, and cabinets in this designated area must be non-porous and cleanable.

3. Cleaning and Sanitizing. A Medical Marijuana Products Manufacturer must clean and sanitize surfaces where Audited Product is manufactured and handled on a regular basis and at a minimum, work surfaces and floors must be cleaned and sanitized daily. All other surfaces must be cleaned and sanitized at least every three months. A Medical Marijuana Products Manufacturer must clean and sanitize all surfaces when a spill occurs and when surfaces, floors, and walls are visibly soiled.

4. Hand Hygiene. Hand hygiene is required when entering and re-entering any area where Audited Product is manufactured and handled. Hand hygiene includes washing hands and forearms up to the elbows with soap and water for at least 30 seconds followed by drying completely with disposable towels. Alcohol hand sanitizers alone are not sufficient.

    a. Gloves are required to be worn for all mixing activities. Other garb such as shoe covers, head and facial hair covers, face masks, and gowns must be worn as appropriate to protect Employee Licensees and/or prevent contamination of the Audited Product.

5. Equipment. Mechanical, electronic, and other types of equipment used in mixing, measuring, or testing of Audited Product must be inspected prior to use and verified for accuracy at the frequency recommended by the manufacturer, and at least annually.

6. Ingredient Quality. All Ingredients used to manufacture Audited Product must be handled and stored in accordance with the manufacturer's instructions. Ingredients that lack a manufacturer's expiration date shall not be used if a reasonable manufacturer would not use the Ingredient or after 1 year from the date of receipt, whichever period is shorter.

7. Master Formulation Record. A master formulation record must be prepared and maintained for each unique Audited Product a Medical Marijuana Products Manufacturer manufactures. A master formulation record must include at least the following information:

    a. Name of the Audited Product;

    b. Ingredient identities and amounts;

    c. Specifications on the delivery device (if applicable);

    d. Complete instructions for preparing the Audited Product, including equipment, supplies, and description of the manufacturing steps;

    e. Quality control procedures; and

    f. Any other information needed to describe the Medical Marijuana Products Manufacturer's production and ensure its repeatability.

8. Batch Manufacturing Records. A batch manufacturing record shall be created for each Production Batch of Audited Product. This record shall include at the least the following information:

    a. Name of the Audited Product;

    b. Master formulation record reference for the Audited Product;

c. Date and time of preparation of the Audited Product;

d. Production Batch number;

e. Signature or initials of individuals involved in each manufacturing step;

f. Name, vendor, or manufacturer, Production Batch number, and expiration date of each Ingredient;

g. Weight or measurement of each Ingredient;

h. Documentation of quality control procedures;

i. Any deviations from the master formulation record, and any problems or errors experienced during the manufacture; and

j. Total quantity of the Audited Product manufactured.

F. Audited Product Testing. For each Production Batch, the Audited Product shall undergo all required testing in the 4-100 Series Rules for Medical Marijuana Product and/or Audited Product. *See also* Rule 4-115 – Regulated Marijuana Testing Program: Sampling and Testing Program.

G. Packaging and Labeling of Audited Product. Audited Product must be packaged and labeled in accordance with all requirements of the 3-1000 Series Rules regarding packaging and labeling for Transfer to a patient prior to any Transfer.

H. Adverse Event Reporting. A Medical Marijuana Products Manufacturer must report Adverse Health Events pursuant to Rule 3-920.

I. Alternative Use Designation – Any Other Method of Consumption or Administration. A Medical Marijuana Products Manufacturer shall not Transfer to a Medical Marijuana Store, to another Medical Marijuana Products Manufacturer, or a Medical Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit any Medical Marijuana Concentrate or Medical Marijuana Product that is not within any intended use identified in Rule 3-1015(B) until it applies for and receives an Alternative Use Designation from the State Licensing Authority in consultation with the Colorado Department of Public Health and Environment. In the process of applying for an Alternative Use Designation, the Medical Marijuana Products Manufacturer shall work with the Division and the Colorado Department of Public Health and Environment to determine whether the proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when particular independent review factors, safeguards, and tests are in place. The following are minimum requirements for any application for an Alternative Use Designation:

1. The Medical Marijuana Products Manufacturer shall identify provisions of this Rule 5-325 that apply to its Alternative Use Product, any proposed additional or alternative requirements, and how any proposed alternatives protect public health and safety. The Medical Marijuana Products Manufacturer shall also provide any additional information as may be requested by the Division, in consultation with the Colorado Department of Public Health and Environment.

2. The Medical Marijuana Products Manufacturer bears the burden of proving its proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when the identified independent review factors, safeguards and tests are in place.

3. A Medical Marijuana Products Manufacturer seeking an Alternative Use Designation shall cooperate with the Division. Failure to cooperate with the Division is grounds for denial of an Alternative Use Designation.

4. The granting of an Alternative Use Designation shall rest in the discretion of the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment. The State Licensing Authority may in his or her discretion deny an Alternative Use Designation where the Medical Marijuana Products Manufacturer does not meet the burden established in this Rule 5-325.

J. Alternative Use Designation – Packaging and Labeling Requirements. If the Division recommends, and the State Licensing Authority grants, an Alternative Use Designation, the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment shall provide the Medical Marijuana Products Manufacturer the appropriate statement of intended use label to be affixed to the Alternative Use Product, and any additional or distinct packaging and labeling requirements applicable to the Alternative Use Product. *See* Rules 3-1010 and 3-1015.

K. Required Records. A Medical Marijuana Products Manufacturer manufacturing or Transferring Audited Product and/or Alternative Use Product shall maintain accurate and comprehensive records on the Licensed Premises regarding the manufacturing process, a list of all active and inactive Ingredients used in the Audited Product and/or Alternative Use Product, and such other documentation as required by this Rule 5-325. *See* Rule 3-905 – Business Records Required.

5-330 – Recall of Medical Marijuana Concentrate or Medical Marijuana Product – Repealed effective January 1, 2021.

Basis and Purpose – 5-335

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-401(2)(a)(III), and 44-10-503, 44-10-503(12)(a)-(b), and 3~~89~~-28.8-~~302(2)(b)~~297, C.R.S. The purpose of this rule is to allow a Medical Marijuana Products Manufacturer to receive Transfers of Retail Marijuana Concentrate from a Retail Marijuana Products Manufacturer in order to change its designation from “Retail” to “Medical.”

5-335 – Medical Marijuana Products Manufacturer: Ability to Change Designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate.

A. Changing Designation: Beginning July 1, 2022, a Medical Marijuana Products Manufacturer may accept Retail Marijuana Concentrate from a Retail Marijuana Products Manufacturer in order to change its designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate pursuant to the following requirements:

1. The Medical Marijuana Products Manufacturer may only accept Retail Marijuana Concentrate that has passed all required testing;

2. The Medical Marijuana Products Manufacturer and the Retail Marijuana Products Manufacturer ~~are co-located~~share a Licensed Premises in accordance with Rule 3-215;

3. The Medical Marijuana Products Manufacturer and Retail Marijuana Products Manufacturer have at least one identical Controlling Beneficial Owner;

4. The Medical Marijuana Products Manufacturer must receive the Transfer and designate the inventory as Medical Marijuana Concentrate in the Inventory Tracking System the same day. The Medical Marijuana Products Manufacturer must assign and attach an

RFID tag reflecting its Medical Marijuana Products Manufacturer license number to the Medical Marijuana Concentrate following completion of the Transfer in the Inventory Tracking System;

5. After the designation change, the Medical Marijuana Concentrate cannot be Transferred to the originating or any other Retail Marijuana Business or otherwise treated as Retail Marijuana. The inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules; and

6. The Transfer and change of designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change of designation.

5-400 Series – Medical Marijuana Testing Facilities

Basis and Purpose – 5-405

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(h), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f)(II), 44-10-203(2)(f)(IV), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-313(8)(a), 44-10-313(14), 44-10-401(2)(a)(IV), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1), and 44-10-504(2), C.R.S. The purpose of this rule is to establish the license privileges of a Medical Marijuana Testing Facility. This Rule 5-405 was previously Rule M 701.5, 1 CCR 212-1.

5-405 - Medical Marijuana Testing Facilities: License Privileges

A. Licensed Premises. A separate License is required for each specific Medical Marijuana Testing Facility and only those privileges granted by the Marijuana Code and any rules promulgated pursuant to it may be exercised on the Licensed Premises. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Medical Marijuana Testing Facility may share and operate at the same Licensed Premises with a Retail Marijuana Testing Facility with identical ownership.

B. Testing of Medical Marijuana Authorized. A Medical Marijuana Testing Facility may accept Samples of Medical Marijuana from Medical Marijuana Businesses for testing and research purposes only, which purposes may include the provision of testing services for Samples submitted by a Medical Marijuana Business for the purpose of product development. The Division may require a Medical Marijuana Business to submit a Sample of Medical Marijuana to a Medical Marijuana Testing Facility upon demand.

C. Testing of Industrial Hemp Product Authorized.

1. A Medical Marijuana Testing Facility may accept and test samples of Industrial Hemp Products.

2. Before a Medical Marijuana Testing Facility accepts a sample of Industrial Hemp Product, the Medical Marijuana Testing Facility shall verify that the Person submitting the sample is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

3. A Medical Marijuana Testing Facility is responsible for entering and tracking samples of Industrial Hemp Product in the inventory tracking system pursuant to the 3-800 Series Rules.

4. A Medical Marijuana Testing Facility shall be permitted to test Industrial Hemp Product only in the category(ies) that the Medical Marijuana Testing Facility is certified to perform

testing in pursuant to Rule 5-415 – Medical Marijuana Testing Facilities: Certification Requirements.

5. A Medical Marijuana Testing Facility may provide the results of any testing performed on Industrial Hemp Product to the Person submitting the sample of Industrial Hemp Product.

6. Nothing in these rules shall be construed to require a Medical Marijuana Testing Facility to accept and/or test samples of Industrial Hemp Product.

D. Testing Medical Marijuana for Patients in Research Project. A Medical Marijuana Testing Facility is authorized to accept Samples of Medical Marijuana from an individual person for testing under only the following conditions:

1. The individual person is:

a. A currently registered patient pursuant to section 25-1.5-106, C.R.S.; and

b. A participant in an approved clinical or observational study conducted by a Marijuana Research and Development Facility.

2. The Medical Marijuana Testing Facility shall require the patient to produce a valid patient registry card and a current and valid photo identification. *See* Rule 3-405(A) – Acceptable Forms of Identification.

3. The Medical Marijuana Testing Facility shall require the patient to produce verification on a form approved by the Division from the Marijuana Research and Development Facility that the patient is a participant in an approved clinical or observational Research Project conducted by the Marijuana Research and Development Facility and that the testing will be in furtherance of the approved Research Project.

4. A primary caregiver may transport Medical Marijuana on behalf of a patient to the Medical Marijuana Testing Facility. A Medical Marijuana Testing Facility shall require the following documentation before accepting Medical Marijuana from a primary caregiver:

a. A copy of the patient registry card and valid photo identification for the patient;

b. A copy of the caregiver's registration with the State Department of Health pursuant to section 25-1.5-106, C.R.S. and a current and valid photo identification, *see* Rule 3-405 – Acceptable Forms of Identification; and

c. A copy of the Marijuana Research and Development Facility's verification on a form approved by the Division that the patient is participating in an approved clinical or observational Research Project being conducted by the Marijuana Research and Development Facility and that the testing will be in furtherance of the approved Research Project.

5. The Medical Marijuana Testing Facility shall report all results of testing performed pursuant to this Paragraph (C.5) to the Marijuana Research and Development Facility identified in the verification form submitted pursuant to Paragraph (D)(3) or (4)(c), or as otherwise directed by the approved Research Project being conducted by the Marijuana Research and Development Facility. Testing result reporting shall conform with the requirements under these Rules.

E. Product Development Authorized. A Medical Marijuana Testing Facility may develop Medical Marijuana Product, but is not authorized to engage in the manufacturing privileges described in

section 44-10-503, C.R.S. and Rule 5-305 – Medical Marijuana Products Manufacturer: License Privileges.

F. Transferring Samples to Another Licensed and Certified Medical Marijuana Testing Facility. A Medical Marijuana Testing Facility may Transfer Samples to another Medical Marijuana Testing Facility for testing. All laboratory reports provided to or by a Medical Marijuana Business, or to a patient or primary caregiver must identify the Medical Marijuana Testing Facility that actually conducted the test.

G. Authorized Medical Marijuana Transport. A Medical Marijuana Testing Facility is authorized to utilize a licensed Medical Marijuana Transporter to transport Samples of Medical Marijuana for testing, in accordance with the Marijuana Code and the rules adopted pursuant thereto, between the originating Medical Marijuana Business requesting testing services and the destination Medical Marijuana Testing Facility performing testing services. Nothing in this Rule requires a Medical Marijuana Business to utilize a Medical Marijuana Transporter to transport Samples of Medical Marijuana for testing.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-410

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(h), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f)(II), 44-10-203(2)(f)(IV), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-313(8)(a), 44-10-401(2)(a)(IV), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1), and 44-10-504(2), 44-10-701, and 35-61-105.5, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Medical Marijuana Testing Facility. This Rule 5-410 was previously Rule M 702, 1 CCR 212-1.

5-410 – Medical Marijuana Testing Facilities: General Limitations or Prohibited Acts

A. Prohibited Financial Interest. A Person who is a Controlling Beneficial Owner or Passive Beneficial Owner of a Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturing Facility, Medical Marijuana Store, Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, or a Retail Marijuana Store shall not be a Controlling Beneficial Owner or Passive Beneficial Owner of a Medical Marijuana Testing Facility.

B. Conflicts of Interest. The Medical Marijuana Testing Facility shall establish policies to prevent the existence of or appearance of undue commercial, financial, or other influences that may diminish the competency, impartiality, and integrity of the Medical Marijuana Testing Facility's testing processes or results, or that may diminish public confidence in the competency, impartiality, and integrity of the Medical Marijuana Testing Facility's testing processes or results. At a minimum, employees, owners or agents of a Medical Marijuana Testing Facility who participate in any aspect of the analysis and results of a Sample are prohibited from improperly influencing the testing process, improperly manipulating data, or improperly benefiting from any on-going financial, employment, personal or business relationship with the Medical Marijuana Business that provided the Sample.

C. Transfer of Medical Marijuana Prohibited. A Medical Marijuana Testing Facility shall not Transfer Medical Marijuana to a Medical Marijuana Business, a consumer, a patient, or primary caregiver, except that a Medical Marijuana Testing Facility may Transfer a Sample to another Medical Marijuana Testing Facility.

D. Destruction of Received Samples. A Medical Marijuana Testing Facility shall properly dispose of all Samples it receives, that are not Transferred to another Medical Marijuana Testing Facility,

after all necessary tests have been conducted and any required period of storage. *See* Rule 3-230 – Waste Disposal.

E. Sample Rejection. A Medical Marijuana Testing Facility shall reject any Sample where the condition of the Sample at receipt indicates that that the Sample may have been tampered with.

F. Medical Marijuana Business Requirements Applicable. A Medical Marijuana Testing Facility shall be considered a Licensed Premises. A Medical Marijuana Testing Facility shall be subject to all requirements applicable to Medical Marijuana Businesses.

G. Medical Marijuana Testing Facility – Inventory Tracking System Required. A Medical Marijuana Testing Facility must use the Inventory Tracking System to ensure all Test Batches or Samples containing Medical Marijuana are identified and tracked from the point they are Transferred from a Medical Marijuana Business, a patient, or a patient's primary caregiver through the point of Transfer, destruction, or disposal. The Inventory Tracking System reporting shall include the results of any tests that are conducted on Medical Marijuana. *See* Rule 3-805 – Regulated Marijuana Business: Inventory Tracking System, Rule 3-825 – Reporting and Inventory Tracking System, and Rule 5-405(D)(5). The Medical Marijuana Testing Facility must have the ability to reconcile its Sample records with the Inventory Tracking System and the associated transaction history. *See* Rule 3-905 – Business Records Required and Rule 3-825 Reporting and Inventory Tracking

H. Industrial Hemp Testing Prohibited. A Medical Marijuana Testing Facility shall not perform testing on Industrial Hemp.

I. Testing of Unregistered or Untracked Industrial Hemp Products Prohibited. A Medical Marijuana Testing Facility is authorized to accept or test Industrial Hemp Product only if (1) the entity providing the Samples of Industrial Hemp Product is registered and regulated pursuant to Article 4 or Title 25, C.R.S., and (2) the Industrial Hemp Product being submitted for testing is tracked in the Inventory Tracking System.

J. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-415

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(h), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f)(II), 44-10-203(2)(f)(IV), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-313(8)(a), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish a frame work for certification for Medical Marijuana Testing Facilities. This Rule 5-415 was previously Rule M 703, 1 CCR 212-1.

5-415 – Medical Marijuana Testing Facilities: Certification Requirements

A. Certification Types. If certification in a testing category is required by the Division, then the Medical Marijuana Testing Facility must be certified in the category in order to perform that type of testing.

1. Microbials;

2. Mycotoxins;

3. Residual solvents;

4. Pesticides;

5. THC and other Cannabinoid potency;

6. Elemental Impurities; and

7. Water Activity.

B. In order to obtain certification for Pesticide testing, a Medical Marijuana Testing Facility must also obtain certification for mycotoxin testing.

C. Certification Procedures. The Medical Marijuana Testing Facility certification program is contingent upon successful on-site inspection, successful participation in Proficiency Testing, and ongoing compliance with the applicable requirements in this Rule.

1. Certification Inspection. A Medical Marijuana Testing Facility must be inspected prior to initial certification and annually thereafter by an inspector approved by the Division.

2. Standards for Certification. A Medical Marijuana Testing Facility must meet standards of performance, as established by these rules, in order to obtain and maintain certification. Standards of performance include but are not limited to: personnel qualifications, standard operating procedure manual, analytical processes, Proficiency Testing, quality control, quality assurance, security, chain of custody, Sample retention, space, records, and results reporting. In addition, a Medical Marijuana Testing Facility must be accredited under the International Organization for Standardization/International Electrotechnical Commission 17025:2005 Standard, or any subsequent superseding ISO/IEC 17025 standard. In order to obtain certification in a testing category from the Division, the Medical Marijuana Testing Facility's scope of accreditation must specify that particular testing category.

   a. Subsequent to initial approval of a Medical Marijuana Testing Facility License, the Division may grant provisional certification if the Applicant has not yet obtained ISO/IEC 17025:2005 accreditation, but meets all other Division requirements. Such provisional certification shall be for a period not to exceed twelve months.

3. Personnel Qualifications.

   a. Laboratory Director. A Medical Marijuana Testing Facility must employ, at a minimum, a laboratory director with sufficient education and experience in a regulated laboratory environment in order to obtain and maintain certification. *See* Rule 5-420 – Medical Marijuana Testing Facilities: Personnel.

   b. Employee Competency. A Medical Marijuana Testing Facility must have a written and documented system to evaluate and document the competency in performing authorized tests for employees. Prior to independently analyzing Samples, testing personnel must demonstrate acceptable performance on precision, accuracy, specificity, reportable ranges, blanks, and unknown challenge samples (proficiency samples or internally generated quality controls).

4. Standard Operating Procedure Manual. A Medical Marijuana Testing Facility must have a written standard operating procedure manual meeting the minimum standards set forth in these rules detailing the performance of all methods employed by the facility used to test the analytes it reports and made available for testing analysts to follow at all times.

   a. The current laboratory director must approve, sign and date each procedure. If any modifications are made to those procedures, the laboratory director must approve, sign and date the revised version prior to use.

b. A Medical Marijuana Testing Facility must maintain a copy of all standard operating procedures to include any revised copies for a minimum of three years. *See* Rule 5-450 – Medical Marijuana Testing Facilities: Records Retention and Rule 3-905 – Business Records Required.

5. Analytical Processes. A Medical Marijuana Testing Facility must maintain a listing of all analytical methods used and all analytes tested and reported. The Medical Marijuana Testing Facility must provide this listing to the Division upon request.

6. Proficiency Testing. A Medical Marijuana Testing Facility must successfully participate in a Division approved Proficiency Testing program in order to obtain and maintain certification.

7. Quality Assurance and Quality Control. A Medical Marijuana Testing Facility must establish and follow a quality assurance and quality control program to ensure sufficient monitoring of laboratory processes and quality of results reported.

8. Security. A Medical Marijuana Testing Facility must be located in a secure setting as to prevent unauthorized persons from gaining access to the testing and storage areas of the laboratory.

9. Chain of Custody. A Medical Marijuana Testing Facility must establish a system to document the complete chain of custody for Samples from receipt through disposal.

10. Space. A Medical Marijuana Testing Facility must be located in a fixed structure that provides adequate infrastructure to perform analysis in a safe and compliant manner consistent with federal, state and local requirements.

11. Records. A Medical Marijuana Testing Facility must establish a system to retain and maintain all required records. *See* Rule 5-450 – Medical Marijuana Testing Facilities: Records Retention and Rule 3-905 – Business Records Required.

12. Results Reporting. A Medical Marijuana Testing Facility must establish processes to ensure results are reported in a timely and accurate manner. *See* Rule 3-825 – Reporting and Inventory Tracking System. A Medical Marijuana Testing Facility's process may require that the Regulated Marijuana Business remit payment for any test conducted by the Testing Facility prior to entry of the results of that test into the Inventory Tracking System. A Medical Marijuana Testing Facility's process established under this subparagraph (12) must be maintained on the Licensed Premises of the Medical Marijuana Testing Facility.

13. Conduct While Seeking Certification. A Medical Marijuana Testing Facility, and its agents and employees, shall provide all documents and information required or requested by the Colorado Department of Public Health and Environment and its employees, and the Division and its employees in a full, faithful, truthful, and fair manner.

D. Violation Affecting Public Safety. A violation of this Rule may be considered a license violation affecting public safety.

Basis and Purpose – 5-420

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(h), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f)(II), 44-10-203(2)(f)(IV), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-313(8)(a), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The

purpose of this rule is to establish personnel standards for the operation of a Medical Marijuana Testing Facility. This Rule 5-420 was previously Rule M 704, 1 CCR 212-1.

5-420 – Medical Marijuana Testing Facilities: Personnel

A. Laboratory Director. The laboratory director is responsible for the overall analytical operation and quality of the results reported by the Medical Marijuana Testing Facility, including the employment of personnel who are competent to perform test procedures, and record and report test results promptly, accurately, and proficiently and for assuring compliance with the standards set forth in this Rule.

1. The laboratory director may also serve as a supervisory analyst or testing analyst, or both, for a Medical Marijuana Testing Facility.

2. The laboratory director for a Medical Marijuana Testing Facility must meet one of the following qualification requirements:

a. The laboratory director must be a Medical Doctor (M.D.) licensed to practice medicine in Colorado and have at least three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body;

b. The laboratory director must hold a doctoral degree in one of the natural sciences and have at least three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body;

c. The laboratory director must hold a master's degree in one of the natural sciences and have at least five years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body; or

d. The laboratory director must hold a bachelor's degree in one of the natural sciences and have at least seven years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body.

B. What the Laboratory Director May Delegate. The laboratory director may delegate the responsibilities assigned under this Rule to a qualified supervisory analyst, provided that such delegation is made in writing and a record of the delegation is maintained. *See* Rule 3-905 – Business Records Required. Despite the designation of a responsibility, the laboratory director remains responsible for ensuring that all duties are properly performed.

C. Responsibilities of the Laboratory Director. The laboratory director must:

1. Ensure that the Medical Marijuana Testing Facility has adequate space, equipment, materials, and controls available to perform the tests reported;

2. Establish and adhere to a written standard operating procedure used to perform the tests reported;

3. Ensure that testing systems developed and used for each of the tests performed in the laboratory provide quality laboratory services for all aspects of test performance, which includes the preanalytic, analytic, and postanalytic phases of testing;

4. Ensure that the physical location and environmental conditions of the laboratory are appropriate for the testing performed and provide a safe environment in which employees are protected from physical, chemical, and biological hazards;

5. Ensure that the test methodologies selected have the capability of providing the quality of results required for the level of testing the laboratory is certified to perform;

6. Ensure that validation and verification test methods used are adequate to determine the accuracy, precision, and other pertinent performance characteristics of the method;

7. Ensure that testing analysts perform the test methods as required for accurate and reliable results;

8. Ensure that the laboratory is enrolled in and successfully participates in a Division approved Proficiency Testing program;

9. Ensure that the quality control and quality assessment programs are established and maintained to assure the quality of laboratory services provided and to identify failures in quality as they occur;

10. Ensure the establishment and maintenance of acceptable levels of analytical performance for each test system;

11. Ensure that all necessary remedial actions are taken and documented whenever significant deviations from the laboratory's established performance specifications are identified, and that test results are reported only when the system is functioning properly;

12. Ensure that reports of test results include pertinent information required for interpretation;

13. Ensure that consultation is available to the laboratory's clients on matters relating to the quality of the test results reported and their interpretation of said results;

14. Employ a sufficient number of laboratory personnel who meet the qualification requirements and provide appropriate consultation, properly supervise, and ensure accurate performance of tests and reporting of test results;

15. Ensure that prior to testing any samples, all testing analysts receive the appropriate training for the type and complexity of tests performed, and have demonstrated and documented that they can perform all testing operations reliably to provide and report accurate results;

16. Ensure that policies and procedures are established for monitoring individuals who conduct preanalytical, analytical, and postanalytical phases of testing to assure that they are competent and maintain their competency to process Samples, perform test procedures and report test results promptly and proficiently, avoid actual and apparent conflicts of interest, and whenever necessary, identify needs for remedial training or continuing education to improve skills;

17. Ensure that an approved standard operating procedure manual is available to all personnel responsible for any aspect of the testing process; and

18. Specify, in writing, the responsibilities and duties of each person engaged in the performance of the preanalytic, analytic, and postanalytic phases of testing, that identifies which examinations and procedures each individual is authorized to perform, whether

supervision is required for Sample processing, test performance or results reporting, and whether consultant or laboratory director review is required prior to reporting test results.

D. Change in Laboratory Director. In the event that the laboratory director leaves employment at the Medical Marijuana Testing Facility, the Medical Marijuana Testing Facility shall:

1. Provide written notice to the Colorado Department of Public Health and Environment and the Division within seven days of the laboratory director's departure; and

2. Designate an interim laboratory director within seven days of the laboratory director's departure. At a minimum, the interim laboratory director must meet the qualifications of a supervisory analyst.

3. The Medical Marijuana Testing Facility must hire a permanent laboratory director within 60 days from the date of the previous laboratory director's departure.

4. Notwithstanding the requirement of subparagraph (D)(3), the Medical Marijuana Testing Facility may submit a waiver request to the Division Director to receive an additional 60 days to hire a permanent laboratory director provided that the Medical Marijuana Testing Facility submits a detailed oversight plan along with the waiver request.

E. Supervisory Analyst. Supervisory analysts must meet one of the qualifications for a laboratory director or have at least a bachelor's degree in one of the natural sciences and ~~three~~ two years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body. A combination of education and experience may substitute for the ~~three~~ two years of full-time laboratory experience.

F. Laboratory Testing Analyst.

1. Educational Requirements. An individual designated as a testing analyst must meet one of the qualifications for a laboratory director or supervisory analyst or:

a. ~~h~~Have at least a bachelor's degree in one of the natural sciences and one year of full-time experience in laboratory testing;

a. Have a least a bachelor's degree in one of the natural sciences;

b. Have earned an associated degree in a laboratory science from an accredited institution; or

c. Have education and training equivalent to that specified in subparagraph (F)(1) of this Rule that includes at least 60 semester hours, or equivalent, from an accredited institution that, at a minimum, include:

i. 24 semester hours of science courses that include six semester hours of chemistry, six semester hours of biology, and twelve semester hours of chemistry, biology, or cannabis laboratory sciences in any combination; and

ii. Have a laboratory training that includes at least three months documented laboratory training each testing category in which the individual performs testing; or

d. Have at least five years of full time experience in laboratory testing and have laboratory training that includes at least three months documented laboratory training in each testing category in which the individual performs testing.

2. Responsibilities. In order to independently perform any test for a Medical Marijuana Testing Facility, an individual must at least meet the educational requirements for a testing analyst.

G. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-425

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish standard operating procedures manual standards for the operation of a Medical Marijuana Testing Facility. This Rule 5-425 was previously Rule M 705, 1 CCR 212-1.

5-425 – Medical Marijuana Testing Facilities: Standard Operating Procedure Manual

A. A standard operating procedure manual must include, but need not be limited to, procedures for:

1. ~~Sample~~ Test Batch receiving;

2. Test Batch ~~Sample~~ accessioning;

3. Test Batch ~~Sample~~ storage;

4. Identifying, ~~and~~ rejecting, and reporting unacceptable Test Batches~~Samples~~;

5. Recording and reporting discrepancies during Test Batch receiving and accessioning;

6. Security of Test Batches~~Samples~~, aliquots and extracts and records;

7. Validating a new or revised method prior to testing of Test Batches ~~Samples~~ to include: accuracy, precision, analytical sensitivity, analytical specificity (interferences), LOD, LOQ, and verification of the reportable range;

8. Test Batch preparation, including but not limited to, sub-sampling for testing, homogenization, and ~~A~~aliquoting ~~Samples~~ Test Batches to avoid contamination and carry-over;

9. ~~Sample~~ Test Batch archive retention to assure stability, as follows:

a. For ~~Samples~~ Test Batches~~that comprise Test Batches~~ submitted for testing other than Pesticide contaminant testing, ~~Sample~~ Test Batch archive retention for 14 days;

b. For ~~Samples~~ Test Batches~~that comprise Test Batches~~ submitted for Pesticide contaminant testing, ~~Sample~~ Test Batch retention for 90 days.

10. Disposal of ~~Samples~~Test Batches;

11. The theory and principles behind each assay;

12. Preparation and identification of reagents, standards, calibrators and controls and ensure all standards are traceable to National Institute of Standards of Technology ("NIST");

13. Special requirements and safety precautions involved in performing assays;

14. Frequency and number of control and calibration materials;

15. Recording and reporting assay results;

16. Protocol and criteria for accepting or rejecting analytical procedure to verify the accuracy of the final report;

17. Pertinent literature references for each method;

18. Current step-by-step instructions with sufficient detail to perform the assay to include equipment operation and any abbreviated versions used by a testing analyst;

19. Acceptability criteria for the results of calibration standards and controls as well as between two aliquots or columns;

20. A documented system for reviewing the results of testing calibrators, controls, standards, and ~~subject tests~~Test Batch results, as well as reviewing for clerical errors, analytical errors and any unusual analytical results and are corrective actions implemented and documented, and does the laboratory contact the requesting entity; ~~and~~

21. Policies and procedures to follow when ~~Samples~~ Test Batches are requested for referral and testing by another certified Medical Marijuana Testing Facility or an approved local state agency's laboratory;

22. Investigating and documenting existing or potential Nonconformances and implementing Corrective Actions and/or Preventive Actions;

23. Contacting the requesting entity about existing Nonconformances; and

24. Retesting or additional analyses of Test Batches, including but ne not be limited to, when it is appropriate to retest or perform an additional analysis of the Test Batch, when it is appropriate for the requesting entity to request retesting (e.g., after failing Pesticide testing or elemental impurity testing on Regulated Marijuana flower, trim, shake, or wet whole plant as permitted by Rule 4-135(D) and 4-135(D.1)).

B. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-430

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish analytical processes standards for the operation of a Medical Marijuana Testing Facility. This Rule 5-430 was previously Rule M 706, 1 CCR 212-1.

5-430 – Medical Marijuana Testing Facilities: Analytical Processes

A. Gas Chromatography ("GC"). A Medical Marijuana Testing Facility using GC must:

1. Document the conditions of the gas chromatograph, including the detector response;

2. Perform and document preventive maintenance as required by the manufacturer;

3. Ensure that records are maintained and readily available to the staff operating the equipment;

4. Document the performance of new columns before use;

5. Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified;

6. Establish criteria of acceptability for variances between different aliquots and different columns; and

7. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.

B. Gas Chromatography Mass Spectrometry ("GC/MS"). A Medical Marijuana Testing Facility using GC/MS must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Document the changes of septa as specified in the standard operating procedure;

3. Document liners being cleaned or replaced as specified in the standard operating procedure;

4. Ensure that records are maintained and readily available to the staff operating the equipment;

5. Maintain records of mass spectrometric tuning;

6. Establish written criteria for an acceptable mass-spectrometric tune;

7. Document corrective actions if a mass-spectrometric tune is unacceptable;

8. Monitor analytic analyses to check for contamination and carry-over;

9. Use selected ion monitoring within each run to assure that the laboratory compares ion ratios and retention times between calibrators, controls and sSamples for identification of an analyte;

10. Use an internal standard for qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified and is isotopically labeled when available or appropriate for the assay;

11. Document the monitoring of the response (area or peak height) for the internal standard to ensure consistency overtime of the analytical system;

12. Define the criteria for designating qualitative results as positive;

13. When a library is used to qualitatively identify an analyte, the identity of the analyte must be confirmed before reporting results by comparing the relative retention time and mass spectrum to that of a known standard or control run on the same system; and

14. Evaluate the performance of the instrument after routine and preventive maintenance (*e.g.* clipping or replacing the column or cleaning the source) prior to analyzing subject Samples.

C. Immunoassays. A Medical Marijuana Testing Facility using Immunoassays must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Validate any changes or modifications to a manufacturer's approved assays or testing methods when a sSample is not included within the types of sSamples approved by the manufacturer; and

4. Define acceptable separation or measurement units (absorbance intensity or counts per minute) for each assay, which must be consistent with manufacturer's instructions.

D. Thin Layer Chromatography ("TLC"). A Medical Marijuana Testing Facility using TLC must:

1. Apply unextracted standards to each thin layer chromatographic plate;

2. Include in their written procedure the preparation of mixed solvent systems, spray reagents and designation of lifetime;

3. Include in their written procedure the storage of unused thin layer chromatographic plates;

4. Evaluate, establish, and document acceptable performance for new thin layer chromatographic plates before placing them into service;

5. Verify that the spotting technique used precludes the possibility of contamination and carry-over;

6. Measure all appropriate RF values for qualitative identification purposes;

7. Use and record sequential color reactions, when applicable;

8. Maintain records of thin layer chromatographic plates; and

9. Analyze an appropriate matrix blank with each batch of sSamples analyzed.

E. High Performance Liquid Chromatography ("HPLC"). A Medical Marijuana Testing Facility using HPLC must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Monitor and document the performance of the HPLC instrument each day of testing;

4. Evaluate the performance of new columns before use;

5. Create written standards for acceptability when eluting solvents are recycled;

6. Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified when available or appropriate for the assay; and

7. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.

F. Liquid Chromatography Mass Spectroscopy ("LC/MS"). A Medical Marijuana Testing Facility using LC/MS must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Maintain records of mass spectrometric tuning;

4. Document corrective actions if a mass-spectrometric tune is unacceptable;

5. Use an internal standard with each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified and is isotopically labeled when available or appropriate for the assay;

6. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system;

7. Compare two transitions and retention times between calibrators, controls and sSamples within each run;

8. Document and maintain records when changes in source, source conditions, eluent, or column are made to the instrument; and

9. Evaluate the performance of the instrument when changes in: source, source conditions, eluent, or column are made prior to reporting test results.

G. Microbial Assays. A Medical Marijuana Testing Facility using microbial assays must:

1. Perform and document preventive maintenance as required by the manufacturer and standard operating procedures;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Validate any changes or modifications to a manufacturer's approved assays or testing methods when a test sample submitted for testing is not included within the types of Test Batches approved by the manufacturer;

4. Verify the method at the action levels for each analyte. Verification at the qualitative presence/absence limit shall include a fractional recovery study unless otherwise completed by the manufacturer and approved by an independent scientific body.

5. Include controls for each batch of test samples. Quantitative microbial methods shall use controls of a specific known value or set of values that lies within the quantifiable range of the method;

6. For molecular methods, the Medical Marijuana Testing Facility shall include controls for each individual analytical run. Quantitative molecular methods shall use controls of a specific known value or set of values that lies within the quantifiable range of the method;

7. PCR-based and qPCR-based methods must include validated internal amplification controls;

8. Microbial methods must include steps to confirm presumptive positive results; confirmation methods may be molecular or cultural or both. Confirmation methods must include quality controls that match the organism which is being confirmed.

H. Water Activity. A Medical Marijuana Testing Facility analyzing water activity must:

1. Perform and document preventive maintenance as required by the manufacturer and standard operating procedures;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Specify all unique method parameters, such as temperature, test sample surface area, volatile compound interferences, including but not limited to temperature;

4. Evaluate the performance of the method after routine and preventive maintenance prior to analyzing the Test Batch;

5. Establish criteria for acceptable instrument performance.

I. ~~Other~~ Analytical Methodology. A Medical Marijuana Testing Facility must validate new ~~using other~~ methodology and revalidate any changes to approved~~or new~~ methodology prior to testing Test Batches. A Medical Marijuana Testing Facility must:

1. Implement a performance based measurement system for the selected methodology and validate the method following good laboratory practices prior to reporting results. Validation of other or new methodology must include when applicable, but is not limited to:

   a. Verification of Accuracy

   b. Verification of Precision

   c. Verification of Analytical Sensitivity

   d. Verification of Analytical Specificity

   e. Verification of the LOD

   f. Verification of the LOQ

   g. Verification of the Reportable Range

   h. Identification of Interfering Substances

2. Validation of the other or new methodology must be documented.

3. Prior to use, other or new methodology must have a standard operating procedure approved and signed by the laboratory director.

4. Testing analysts must have documentation of competency assessment prior to testing sSamples.

5. Any changes to the approved other or new methodology must be revalidated and documented prior to testing sSamples.

J. Testing and Validation of Complex Matrices. A Medical Marijuana Testing Facility must include a variety of matrices as part of the validation/verification process. During method validation/verification, a Medical Marijuana Testing Facility must:

1. Select matrices which best represent each category of products to be tested as listed in Rule 4-115(D). The laboratory shall independently determine the category of matrix a product falls within; properties to consider include fat content, cannabinoid content, pH, salt content, sugar content, water activity, the presence of know chemical compounds, microbial flora and antimicrobial compounds.

2. Perform a new matrix validation, prior to reporting results, on matrices which are either a new category of matrix or are considerably different from the original matrix validated within the category.

a. For example, the Medical Marijuana Testing Facility intends to receive the topical product “bath bombs” for testing, but previous validation studies for topical product included lotion and massage oil. A new validation should be performed for the product prior to testing since salt content and other properties differ vastly from the original matrices validated.

3. Perform a matrix verification (a client matrix spike or similar consisting of the target analyte(s) at the time of analysis) on matrices submitted for testing which differ slightly from those initially validated but which fall within a category already validated.

a. For example, the Medical Marijuana Testing Facility laboratory receives a new edible type matrix for testing (snickerdoodle cookies) but previous validation included gummies and hard candy. A spike of a portion of the submitted material must be analyzed prior to, or at the time of, sample analysis.

K. All Test Batches and Industrial Hemp Product must be tested as received, must not be manipulated, and tested in a manner that ensures results are representative of sample as received.

L. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-435

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish a proficiency testing program for Medical Marijuana Testing Facilities. This Rule 5-435 was previously Rule M 707, 1 CCR 212-1.

5-435 – Medical Marijuana Testing Facilities: Proficiency Testing

A. Proficiency Testing Required. A Medical Marijuana Testing Facility must participate in a Proficiency Testing Program for each approved category in which it seeks certification under Rule 5-415 – Medical Marijuana Testing Facilities: Certification Requirements.

B. Participation in Designated Proficiency Testing Event. If required by the Division as part of certification, the Medical Marijuana Testing Facility must have successfully participated in a proficiency test in the category for which it seeks certification, within the preceding 12 months.

C. Continued Certification. To maintain continued certification, a Medical Marijuana Testing Facility must participate in the designated proficiency testing program with continued satisfactory performance as determined by the Division as part of certification. The Division may designate a local agency, state agency, or independent third-party to provide Proficiency Testing.

D. Analyzing Proficiency Testing Samples. A Medical Marijuana Testing Facility must analyze Proficiency Testing Samples using the same procedures with the same number of replicate analyses, standards, testing analysts, and equipment as used in its standard operating procedures.

E. Proficiency Testing Attestation. The laboratory director and all testing analysts that participated in a Proficiency Testing must sign corresponding attestation statements.

F. Laboratory Director Must Review Results. The laboratory director must review and evaluate all Proficiency Testing results.

G. Remedial Action. A Medical Marijuana Testing Facility must take and document remedial action when a score of less than 100% is achieved on any test during a Proficiency Test. Remedial action documentation must include a review of Samples tested and results reported since the last successful proficiency testing event. A requirement to take remedial action does not necessarily indicate unsatisfactory participation in a Proficiency Testing event.

H. Unsatisfactory Participation in Proficiency Testing Event. Unless the Medical Marijuana Testing Facility positively identifies at least 80% of the target analytes tested, participation in the Proficiency Testing will be considered unsatisfactory. A positive identification must include accurate quantitative and qualitative results as applicable. Any false positive results reported will be considered an unsatisfactory score for the proficiency testing event.

I. Consequence of Unsatisfactory Participation in Proficiency Testing Event. Unsuccessful participation in a Proficiency Testing event may result in limitation, suspension or revocation of Rule 5-415 certification.

J. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-440

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish quality assurance and quality assurance standards for a Medical Marijuana Testing Facility. This Rule 5-440 was previously Rule M 708, 1 CCR 212-1.

5-440 – Medical Marijuana Testing Facilities: Quality Assurance and Quality Control

A. Quality Assurance Program Required. A Medical Marijuana Testing Facility must establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to

identify problems in the laboratory preanalytic, analytic and postanalytic systems when they occur and must include, but is not limited to:

1. Review of instrument preventive maintenance, repair, troubleshooting and corrective actions documentation must be performed by the laboratory director or designated supervisory analyst on an ongoing basis to ensure the effectiveness of actions taken over time;

2. Review by the laboratory director or designated supervisory analyst of all ongoing quality assurance; and

3. Review of the performance of validated methods used by the Medical Marijuana Testing Facility to include calibration standards, controls and the standard operating procedures used for analysis on an ongoing basis to ensure quality improvements are made when problems are identified or as needed.

B. Quality Control Measures Required. A Medical Marijuana Testing Facility must establish, monitor, and document on an ongoing basis the quality control measures taken by the laboratory to ensure the proper functioning of equipment, validity of standard operating procedures and accuracy of results reported. Such quality control measures must include, but shall not be limited to:

1. Documentation of instrument preventive maintenance, repair, troubleshooting and corrective actions taken when performance does not meet established levels of quality;

2. Review and documentation of the accuracy of automatic and adjustable pipettes and other measuring devices when placed into service and annually thereafter;

3. Cleaning, maintaining and calibrating as needed the analytical balances and in addition, verifying the performance of the balance annually using certified weights to include three or more weights bracketing the ranges of measurement used by the laboratory;

4. Annually verifying and documenting the accuracy of thermometers using a NIST traceable reference thermometer;

5. Recording temperatures on all equipment when in use where temperature control is specified in the standard operating procedures manual, such as water baths, heating blocks, incubators, ovens, refrigerators, and freezers;

6. Properly labeling reagents as to the identity, the concentration, date of preparation, storage conditions, lot number tracking, expiration date and the identity of the preparer;

7. Avoiding mixing different lots of reagents in the same analytical run;

8. Performing and documenting a calibration curve with each analysis using at minimum three calibrators throughout the reporting range;

9. For qualitative analyses, analyzing, at minimum, a negative and a positive control with each batch of samples analyzed;

10. For quantitative analyses, analyzing, at minimum, a negative and two levels of controls that challenge the linearity of the entire curve;

11. Using a control material or materials that differ in either source or, lot number, or concentration from the calibration material used with each analytical run;

12. For multi-analyte assays, performing and documenting calibration curves and controls specific to each analyte, or at minimum, one with similar chemical properties as reported in the analytical run;

13. Analyzing an appropriate matrix blank and control with each analytical run, when available;

14. Analyzing calibrators and controls in the same manner as unknowns;

15. Documenting the performance of calibration standards and controls for each analytical run to ensure the acceptability criteria as defined in the Standard Operating Procedure is met;

16. Documenting all corrective actions taken when unacceptable calibration, control, and standard or instrument performance does not meet acceptability criteria as defined in the Standard Operating Procedure;

17. Maintaining records of validation data for any new or modified methods to include; accuracy, precision, analytical specificity (interferences), LOD, LOQ, and verification of the linear range; and

18. Performing testing analysts that follow the current standard operating procedures manual for the test or tests to be performed.

C. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-445

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish chain of custody standards for a Medical Marijuana Testing Facility. In addition, it establishes the requirement that a Medical Marijuana Testing Facility follow an adequate chain of custody for Samples it maintains. This Rule 5-445 was previously Rule M 709, 1 CCR 212-1.

5-445 – Medical Marijuana Testing Facilities: Chain of Custody

A. General Requirements. A Medical Marijuana Testing Facility must establish an adequate chain of custody and ~~Sample~~ Test Batch requirement instructions that must include, but not be limited to;

1. Issue instructions for the minimum Test Batch ~~Sample~~ requirements and storage requirements;

2. Document the condition of the external package and integrity seals utilized to prevent contamination of, or tampering with, the Test Batch~~Sample~~;

3. Document the condition and amount of Test Batch ~~Sample~~ provided at the time of receipt;

4. Document all persons handling the original Test Batches~~Samples~~, aliquots, and extracts;

5. Document all Transfers of Test Batches~~Samples~~, aliquots, and extracts referred to another certified Medical Marijuana Testing Facility Licensee for additional testing or whenever requested by a client;

6. Maintain a current list of authorized personnel and restrict entry to the laboratory to only those authorized;

7. Secure the Laboratory during non-working hours;

8. Secure short and long-term storage areas when not in use;

9. Utilize a secured area to log-in and aliquot Test Batches~~Samples~~;

10. Ensure Test Batches~~Samples~~ are stored appropriately; ~~and~~

11. Document the disposal of Test Batches~~Samples~~, aliquots, and extracts; and~~.~~

12. Document the License number, Inventory Tracking System number, photograph(s), and the reason for rejection of Test Batches that were rejected to the Division within 7 days of Test Batch submission.

B. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-450

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish records retention standards for a Medical Marijuana Testing Facility. This Rule 5-450 was previously Rule M 710, 1 CCR 212-1.

5-450 – Medical Marijuana Testing Facilities: Records Retention

A. General Requirement. A Medical Marijuana Testing Facility must maintain all required business records. *See* Rule 3-905 - Business Records Required.

B. Specific Business Records Required: Records Retention. A Medical Marijuana Testing Facility must establish processes to preserve records in accordance with Rule 3-905 that includes, but is not limited to;

1. Test Results, including final and amended reports, and identification of analyst and date of analysis;

2. Quality Control and Quality Assurance Records, including accession numbers, ~~Sample~~ Test Batch type, and acceptable reference range parameters;

3. Standard Operating Procedures;

4. Personnel Records;

5. Chain of Custody Records, including documentation of rejected Test Batches;

6. Proficiency Testing Records; and

7. Analytical Data to include data generated by the instrumentation, raw data calibration standards, and curves.

C. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-455

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(h), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f)(II), 44-10-203(2)(f)(IV), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-313(8)(a), 44-10-401(2)(a)(IV), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1), and 44-10-504(2), C.R.S. The purpose of this rule is to require Medical Marijuana Testing Facilities to provide failed test results to the Medical Marijuana Business or Person submitting the sample and to report any failed test result in the inventory tracking system. This Rule 5-455 was previously Rule M 712(D), 1 CCR 212-1.

5-455 – Notification of Medical Marijuana Business

If Medical Marijuana failed a contaminant test, then the Medical Marijuana Testing Facility must immediately (1) notify the Medical Marijuana Business that submitted the Test Batch or Sample for testing and any Person as directed by an approved Research Project being conducted by a Marijuana Research and Development Facility; and (2) report the failure in accordance with the Inventory Tracking System reporting requirements in Rule 3-825(C).

Basis and Purpose – 5-460

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(4), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(3)(c), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish a framework for suspending and reinstating a testing category certification for Medical Marijuana Testing Facilities. This rule also provides the ability for a Medical Marijuana Testing Facility to request a hearing following suspension of a testing category certification.

5-460 – Medical Marijuana Testing Facilities: Certification Suspension, Recertification, and Request for Hearing

A. Certification Suspension. When the Division has objective and reasonable grounds to believe and finds that a Medical Marijuana Testing Facility has been guilty of deliberate and willful violation(s) or that the public health, safety, or welfare imperatively require emergency action, the Division may immediately suspend the Medical Marijuana Testing Facility's testing category certification in accordance with section 24-4-104, C.R.S., and the 8-200 Series Rules.

B. Re-certification. A Medical Marijuana Testing Facility must provide evidence of corrective actions taken to resolve the certification suspension and may request that the Division re-certify the Medical Marijuana Testing Facility for a particular testing category in accordance with the requirements in Rule 5-415, if the Medical Marijuana Testing Facility provides documentation requested by the Division and/or the CDPHE demonstrating such corrective actions.

5-500 Series – Medical Marijuana Transporters

Basis and Purpose – 5-505

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-313(14), 44-10-401(2)(a)(V), 44-10-505, C.R.S. The purpose of this rule is to establish the license privileges of Medical Marijuana Transporter licensees. This Rule 5-505 was previously Rule M 1601, 1 CCR 212-1.

5-505 – Medical Marijuana Transporter: License Privileges

A. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. To the extent authorized by Rule 3-215 – Regulated Marijuana

Businesses: Shared Licensed Premises and Operational Separation, ~~A~~a Medical Marijuana Transporter may share a location with an identically owned Retail Marijuana Transporter. However, a separate license is required for each specific business or business entity, regardless of geographical location.

B. Transportation of Medical Marijuana and Medical Marijuana Product Authorized. A Medical Marijuana Transporter may take transportation orders, receive, transport, temporarily store, and deliver Medical Marijuana to a Medical Marijuana Business, a Retail Marijuana Cultivation Facility or Accelerator Cultivator in accordance with Rules 5-235, 6-230, and 6-730, or to a Pesticide Manufacturer. A Medical Marijuana Transporter may not sell, give away, buy, or receive complimentary Medical Marijuana under any circumstances. A Medical Marijuana Transporter does not include a Licensee that transports its own Medical Marijuana.

C. Authorized Sources of Medical Marijuana. A Medical Marijuana Transporter may only transport and store Medical Marijuana that it receive~~d~~s directly from ~~the a~~originating Medical Marijuana Business in accordance with the 3-600 Series Rules.

D. Authorized On-Premises Storage. A Medical Marijuana Transporter is authorized to store transported Medical Marijuana on its Licensed Premises or permitted off-premises storage facility. All transported Medical Marijuana must be secured in a Limited Access Area, and tracked consistently with the inventory tracking rules.

E. Delivery to Patients Pursuant to Delivery Permit.

1. Prior to January 2, 2021, all Medical Marijuana Transporters are prohibited from delivering Regulated Marijuana to patients.

2. After January 2, 2021, only Medical Marijuana Transporters that possess a valid delivery permit may deliver Medical Marijuana pursuant to contracts with Medical Marijuana Stores that also possess valid delivery permits. All deliveries of Medical Marijuana to patients must comply with all requirements of Rule 3-615.

3. License Violation Affecting Public Safety. Any violation of subparagraph E of this Rule is a license violation affecting public safety.

Basis and Purpose – 5-510

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-401(2)(a)(V), 44-10-505, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion or prohibited by a Medical Marijuana Transporter. This Rule 5-510 was previously Rule M 1602, 1 CCR 212-1.

5-510 – Medical Marijuana Transporter: General Limitations or Prohibited Acts

A. Sales, Liens, and Secured Interests Prohibited. A Medical Marijuana Transporter is prohibited from buying, selling, or giving away Medical Marijuana or from receiving complimentary Medical Marijuana. A Medical Marijuana Transporter shall not place or hold a lien or secured interest on Medical Marijuana.

B. Licensed Premises Permitted. A Medical Marijuana Transporter shall maintain a Licensed Premises if it: (1) temporarily stores any Medical Marijuana, or (2) modifies any information in the Inventory Tracking System generated transport manifest. The Licensed Premises shall be in a local jurisdiction that authorizes the operation of Medical Marijuana Stores. If a Medical Marijuana Transporter Licensed Premises is shared with a Retail Marijuana Transporter Licensed Premises,

then the combined Licensed Premises shall be in a local jurisdiction that authorizes the operation of both Medical Marijuana Stores and Retail Marijuana Stores.

C. Off-Premises Storage Permit. A Medical Marijuana Transporter may maintain one or more permitted off-premises storage facilities. *See* Rule 3-610 – Off-Premises Storage of Regulated Marijuana and Regulated Marijuana Product: All Regulated Marijuana Businesses.

D. Storage Duration. A Medical Marijuana Transporter shall not store Medical Marijuana for longer than seven days from receiving it at its Licensed Premises or off-premises storage facility. The total allowable seven day storage duration begins and applies regardless of which of the Medical Marijuana Transporter's premises receives the Medical Marijuana first, (i.e. the Medical Marijuana Transporter's Licensed Premises, or any of its off-premises storage facilities). A Medical Marijuana Transporter with a valid delivery permit may store Medical Marijuana for delivery to patients pursuant to the delivery permit for no longer than seven days from receipt at its Licensed Premises or off-premises storage facility.

E. Control of Medical Marijuana. A Medical Marijuana Transporter is responsible for the Medical Marijuana once it takes control of the Medical Marijuana and until the Medical Marijuana Transporter delivers it to ~~the receiving~~ another Medical Marijuana Business, Retail Marijuana Cultivation Facility or Accelerator Cultivator in accordance with Rules 5-235, 6-230, and 6-730, Pesticide Manufacturer, or deliveries to a patient, parent, or guardian pursuant to a valid delivery permit. For purposes of this Rule, taking control of the Medical Marijuana means removing it from the ~~originating~~ Medical Marijuana Business's Licensed Premises and placing the Medical Marijuana in the transport vehicle or the Delivery Motor Vehicle.

F. Location of Orders Taken and Delivered. A Medical Marijuana Transporter is permitted to take orders on the Licensed Premises of any Medical Marijuana Business to transport Medical Marijuana between Medical Marijuana Businesses. The Medical Marijuana Transporter shall deliver the Medical Marijuana to the Licensed Premises of a licensed Medical Marijuana Business, or Pesticide Manufacturer. A Medical Marijuana Transporter may also deliver Medical Marijuana to patients, parents, or guardians pursuant to a contract with a Medical Marijuana Store if it possesses a valid delivery permit.

G. A Medical Marijuana Transporter shall receive Medical Marijuana from the originating Licensee packaged in the way that it is intended to be delivered to the final destination Licensee, or Pesticide Manufacturer. The Medical Marijuana Transporter shall deliver the Medical Marijuana in the same, unaltered packaging to the final destination Licensee.

H. A Medical Marijuana Transporter with a valid delivery permit shall receive Medical Marijuana that has been weighed, packaged, prepared, and labeled for delivery on the Licensed Premises of a Medical Marijuana Store or at the Medical Marijuana Store's off-premises storage facility after receipt of a delivery order. Medical Marijuana cannot be placed into a Delivery Motor Vehicle until after an order has been received and the Medical Marijuana has been packaged and labeled for delivery to the patient, parent, or guardian as required by the 3-1000 Series Rules.

I. A Medical Marijuana Transporter must not deliver Medical Marijuana to patients, parents, or guardians while also transporting Regulated Marijuana between Licensed Premises in the Delivery Motor Vehicle.

J. Opening of Sealed Packages or Containers and Re-Packaging Prohibited. A Medical Marijuana Transporter shall not open Containers of Medical Marijuana. Medical Marijuana Transporters are prohibited from re-packaging Medical Marijuana.

K. Temperature-Controlled Transport Vehicles. A Medical Marijuana Transporter shall utilize temperature-controlled transport vehicles when necessary to prevent spoilage of the transported Medical Marijuana.

L. Damaged, Refused, or Undeliverable Medical Marijuana. Any damaged Medical Marijuana that is undeliverable to the final destination Medical Marijuana Business, or any Medical Marijuana that is refused by the final destination Medical Marijuana Business shall be transported back to the originating Medical Marijuana Business. Any Medical Marijuana that cannot be delivered to the patient, parent, or guardian pursuant to a valid delivery permit shall be returned to the originating Medical Marijuana Store or the Medical Marijuana Store's off-premises storage facility within the same business day or pursuant to paragraph D of this Rule.

M. Transport of Medical Marijuana Vegetative Plants Authorized. Medical Marijuana Vegetative plants may only be transported between Licensed Premises and such transport shall only be permitted due to an approved change of location pursuant to Rule 2-255 or due to a one-time Transfer pursuant to Rule 3-805. Transportation of Vegetative plants to a permitted off-premises storage facility shall not be allowed. This restriction shall not apply to Immature plants.

5-600 Series – Medical Marijuana Business Operators

Basis and Purpose – 5-605

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(o), 44-10-401(2)(a)(VI), and 44-10-506, C.R.S. The purpose of this rule is to establish the license privileges of a Medical Marijuana Business Operator license. This Rule 5-605 was previously Rule M 1701, 1 CCR 212-1.

5-605 – Medical Marijuana Business Operator: License Privileges

A. Privileges Granted. A Medical Marijuana Business Operator shall only exercise those privileges granted to it by the Marijuana Code, the rules promulgated pursuant thereto and the State Licensing Authority. A Medical Marijuana Business Operator may exercise those privileges only on behalf of the Medical Marijuana Business(es) it operates. A Medical Marijuana Business shall not contract to have more than one Medical Marijuana Business Operator providing services to the Medical Marijuana Business at any given time. A Medical Marijuana Business Operator may not provide any operational services to a Marijuana Research and Development Facility.

B. Licensed Premises of the Medical Marijuana Business(es) Operated. A separate license is required for each specific Medical Marijuana Business Operator, and each licensed or registered Medical Marijuana Business Operator may operate one or more other Medical Marijuana Business(es). A Medical Marijuana Business Operator shall not have its own Licensed Premises, but shall maintain its own place of business, and may exercise the privileges of a Medical Marijuana Business Operator at the Licensed Premises of the Medical Marijuana Business(es) it operates.

C. Entities Eligible to Hold Medical Marijuana Business Operator License or Registration. A Medical Marijuana Business Operator license may be held only by a business entity, including, but not limited to, a corporation, limited liability company, partnership, or sole proprietorship.

D. Separate Place of Business. A Medical Marijuana Business Operator shall designate and maintain a place of business separate from the Licensed Premises of any Medical Marijuana Business(es) it operates. A Medical Marijuana Business Operator's separate place of business shall not be considered a Licensed Premises, and shall not be subject to the requirements applicable to the Licensed Premises of other Medical Marijuana Businesses, except as set forth in Rules 5-610 and 5-620. Possession, storage, use, cultivation, manufacture, sale, distribution,

or testing of Medical Marijuana or Medical Marijuana Product is prohibited at a Medical Marijuana Business Operator's separate place of business.

E. Agency Relationship and Discipline for Violations. A Medical Marijuana Business Operator and each of its Controlling Beneficial Owners required to hold an Owner License, as well as the agents and employees of the Medical Marijuana Business Operator, shall be agents of the Medical Marijuana Business(es) the Medical Marijuana Business Operator is contracted to operate, when engaged in activities related, directly or indirectly, to the operation of such Medical Marijuana Business(es), including for purposes of taking administrative action against the Medical Marijuana Business being operated. *See* § 44-10-901(1), C.R.S. Similarly, a Medical Marijuana Business Operator and its Controlling Beneficial Owners required to hold an Owner License, as well as the officers, agents and employees of the Medical Marijuana Business Operator, may be disciplined for violations committed by the Controlling Beneficial Owners, agents or employees of the Medical Marijuana Business acting under their direction or control. A Medical Marijuana Business Operator may also be disciplined for violations not directly related to a Medical Marijuana Business it is operating.

F. Compliance with Applicable State and Local Law, Ordinances, Rules, and Regulations. A Medical Marijuana Business Operator, and each of its Controlling Beneficial Owners, agents and employees engaged, directly or indirectly, in the operation of the Medical Marijuana Business(es) it operates, shall comply with all state and local laws, ordinances, rules, and regulations applicable to the Medical Marijuana Business(es) being operated.

Basis and Purpose – 5-610

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(o), 44-10-401(2)(a)(VI), and 44-10-506, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Medical Marijuana Business Operator. This Rule 5-610 was previously Rule M 1702, 1 CCR 212-1.

5-610 – Medical Marijuana Business Operators: General Limitations or Prohibited Acts

A. Financial Interest. A Person who holds an Owner's Interest in a Medical Marijuana Business Operator may also hold an Owner's Interest in another Medical Marijuana Business. A Medical Marijuana Business may be operated by a Medical Marijuana Business Operator where each has one or more Controlling Beneficial Owners or Passive Beneficial Owners in common. A Person may receive compensation for services provided by a Medical Marijuana Business Operator in accordance with these rules.

B. Sale of Marijuana Prohibited. A Medical Marijuana Business Operator is prohibited from selling, distributing, or Transferring Medical Marijuana to another Medical Marijuana Business, a patient, or a consumer, except when acting as an agent of a Medical Marijuana Business(es) operated by the Medical Marijuana Business Operator.

C. Consumption Prohibited. A Medical Marijuana Business Operator, and its Controlling Beneficial Owners, Passive Beneficial Owners, agents and employees, shall not permit the consumption of marijuana or marijuana products at its separate place of business.

D. Inventory Tracking System. A Medical Marijuana Business Operator, and any of its Controlling Beneficial Owners, agents, or employees engaged in the operation of the Medical Marijuana Business(es) it operates, must use the Inventory Tracking System account of the Medical Marijuana Business(es) it operates, in accordance with all requirements, limitations, and prohibitions applicable to the Medical Marijuana Business(es) it operates.

E. Compliance with Requirements and Limitations Applicable to the Medical Marijuana Business(es) Operated. In operating any other Medical Marijuana Business(es), a Medical Marijuana Business Operator, and its Controlling Beneficial Owners, agents and employees, shall comply with all requirements, limitations and prohibitions applicable to the type(s) of Medical Marijuana Business(es) being operated, under state and local laws, ordinances, rules, and regulations, and may be disciplined for violation of the same.

F. Inventory Tracking System Access. A Medical Marijuana Business may grant access to its Inventory Tracking System account to the Controlling Beneficial Owners who are required to hold Owner Licenses, as well as the licensed agents and employees of a Medical Marijuana Business Operator having duties related to Inventory Tracking System activities of the Medical Marijuana Business(s) being operated.

1. The Controlling Beneficial Owners, agents, and employees of a Medical Marijuana Business Operator granted access to a Medical Marijuana Business's Inventory Tracking System account, shall comply with all Inventory Tracking System rules.

2. At least one Controlling Beneficial Owner of a Medical Marijuana Business being operated by a Medical Marijuana Business Operator must be an Inventory Tracking System Trained Administrator for the Medical Marijuana Business's Inventory Tracking System account. That Inventory Tracking System Trained Administrator shall control access to its Inventory Tracking System account, and shall promptly terminate the access of the Medical Marijuana Business Operator's Controlling Beneficial Owners, agents, and employees:

    a. When its contract with the Medical Marijuana Business Operator expires by its terms;

    b. When its contract with the Medical Marijuana Business Operator is terminated by any party; or

    c. When it is notified that the license of the Medical Marijuana Business Operator, or a specific Controlling Beneficial Owner, agent or employee of the Medical Marijuana Business Operator, has expired, or has been suspended or revoked.

G. Limitations on Use of Documents and Information Obtained from Medical Marijuana Businesses. A Medical Marijuana Business Operator, and its agents and employees, shall maintain the confidentiality of documents and information obtained from the other Medical Marijuana Business(es) it operates, and shall not use or disseminate documents or information obtained from a Medical Marijuana Business it operates for any purpose not authorized by the Marijuana Code and the rules promulgated pursuant thereto, and shall not engage in data mining or other use of the information obtained from a Medical Marijuana Business to promote the interests of the Medical Marijuana Business Operator or its Controlling Beneficial Owners, Passive Beneficial Owners, Indirect Financial Interest Holders, agents or employees, or any Person other than the Medical Marijuana Business it operates.

H. Form and Structure of Allowable Agreement(s) Between Operators and Owners. Any agreement between a Medical Marijuana Business and a Medical Marijuana Business Operator:

1. Must acknowledge that the Medical Marijuana Business Operator, and its Controlling Beneficial Owners, agents and employees who are engaged, directly or indirectly, in operating the Medical Marijuana Business, are agents of the Medical Marijuana Business being operated, and must not disclaim an agency relationship;

2. May provide for the Medical Marijuana Business Operator to receive direct remuneration from the Medical Marijuana Business, including a portion of the profits of the Medical Marijuana Business being operated, subject to the following limitations:

    a. The portion of the profits to be paid to the Medical Marijuana Business Operator shall be commercially reasonable, and in any event shall not exceed the portion of the net profits to be retained by the Medical Marijuana Business being operated;

    b. The Medical Marijuana Business Operator shall not be granted, and may not accept:

        i. A security interest in the Medical Marijuana Business being operated, or in any assets of the Medical Marijuana Business;

        ii. An ownership or membership interest, shares, or shares of stock, or any right to obtain any direct or indirect beneficial ownership interest in the Medical Marijuana Business being operated, or a future or contingent right to the same, including but not limited to options or warrants;

    c. The Medical Marijuana Business Operator shall not guarantee the Medical Marijuana Business's debts or production levels.

3. Shall permit the Medical Marijuana Business being operated to terminate the contract with the Medical Marijuana Business Operator at any time, with or without cause.

I. A Medical Marijuana Business Operator may engage in dual operation of a Medical Marijuana Business and a Retail Marijuana Business at a single location, to the extent the Medical Marijuana Business being operated is permitted to do so pursuant to subsection 44-10-501(2)(a), C.R.S., and the Medical Marijuana Business Operator shall comply with the rules promulgated pursuant to the Marijuana Code, including the requirement of obtaining a valid license as a Retail Marijuana Business Operator.

J. Any Medical Marijuana Business Operators and the Medical Marijuana Business Operator's Owner Licensee(s) that are appointed by a court to serve as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person and take possession of, operate, manage, or control a Medical Marijuana Business must comply with Rule 2-275(F).

Basis and Purpose – 5-615

The statutory authority for this rule includes but is not limited to sections, 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(o), 44-10-401(2)(a)(VI), and 44-10-506, C.R.S. The purpose of this rule is to establish license requirements for the Medical Marijuana Business Operator's Controlling Beneficial Owners, agents and employees, including those directly or indirectly engaged in the operation of other Medical Marijuana Business(es). This Rule 5-615 was previously Rule M 1703, 1 CCR 212-1.

5-615 – Medical Marijuana Business Operators: Employee Licenses for Personnel

A. Required Licenses.

1. Owner Licenses. All natural persons who are Controlling Beneficial Owners in a Medical Marijuana Business Operator must have a valid Owner License, associated with the Medical Marijuana Business Operator license. Such an Owner License shall satisfy all licensing requirements for work related to the business of the Medical Marijuana

Business Operator and for work performed on behalf of, or at the Licensed Premises of, the Medical Marijuana Business(es) operated by the Medical Marijuana Business Operator.

2. Employee Licenses. All natural persons who are agents or employees of a Medical Marijuana Business Operator that are actively engaged, directly or indirectly, in the management, supervision, or operation of one or more other Medical Marijuana Businesses, including but not limited to all agents or employees who will come into contact with Medical Marijuana, who will have access to Limited Access Areas, or who will have access to the Inventory Tracking System account of the Medical Marijuana Business(es) being operated, must hold a valid Employee License. The Employee License shall satisfy all licensing requirements for work related to the business of the Medical Marijuana Business Operator and for work at the Licensed Premises of, or on behalf of, the Medical Marijuana Business(es) operated by the Medical Marijuana Business Operator.

B. Employee Licenses Not Required. Employee Licenses are not required for Passive Beneficial Owners of a Medical Marijuana Business Operator or for natural persons who will not come into contact with Medical Marijuana, will not have access to Limited Access Area(s) of the Medical Marijuana Business(es) being operated, and will not have access to the Inventory Tracking System account of the Medical Marijuana Business(es) being operated.

C. Designation of Management Personnel of a Medical Marijuana Business Operated by a Medical Marijuana Business Operator. If a Medical Marijuana Business Operator is contracted to manage the overall operations of a Medical Marijuana Business's Licensed Premises, the Medical Marijuana Business shall designate separate and distinct management personnel on the Licensed Premises who is an officer, agent, or employee of the Medical Marijuana Business Operator, which shall be a natural person with a valid Owner License or Employee License, as set forth in paragraph A of this Rule, and the Medical Marijuana Business shall comply with the reporting provisions of subsection 44-10-313, C.R.S.

Basis and Purpose – 5-620

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(o), 44-10-401(2)(a)(VI), and 44-10-506, C.R.S. The purpose of this rule is to establish records retention standards for a Medical Marijuana Business Operators. This Rule 5-620 was previously Rule M 1704, 1 CCR 212-1.

5-620 – Medical Marijuana Business Operators: Business Records Required

A. General Requirement. A Medical Marijuana Business Operator must maintain all required business records as set forth in Rule 3-905 - Business Records Required, except that:

1. A Medical Marijuana Business Operator is not required to maintain secure facility information, diagrams of its designated place of business, or a visitor log for its separate place of business, because a Medical Marijuana Business Operator will not come into contact with Medical Marijuana at its separate place of business; and

2. A Medical Marijuana Business Operator is not required to maintain records related to inventory tracking, or transport, because a Medical Marijuana Business Operator is prohibited from engaging in activities on its own behalf that would require inventory tracking or transport. All records relating to inventory tracking activities and records related to transport pertaining to the Medical Marijuana Business(es) operated by the Medical Marijuana Business Operator shall be maintained at the Licensed Premises of such Medical Marijuana Business(es).

B. All records required to be maintained shall be maintained ~~at the Medical Marijuana Business Operator's separate place of business, and not~~ at the Licensed Premises of the Medical Marijuana Business(es) it operates.

5-700 Series – Marijuana Research and Development Facilities

Basis and Purpose – 5-705

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(j), 44-10-203(1)(k), 44-10-203(2)(s), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule is to establish and clarify the distinct license privilege granted to Marijuana Research and Development Facilities by the State Licensing Authority. This Rule 5-705 was previously Rule M 1901, 1 CCR 212-1.

5-705 – Marijuana Research and Development Facilities: License Privileges

A. License Privileges.

1. Licensed Premises. A Marijuana Research and Development Facility may share a Licensed Premises with a commonly owned Medical Marijuana Testing Facility. Additionally, a Marijuana Research and Development Facility with an R&D Co-Location Permit may share a Licensed Premises with a commonly owned Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Retail Marijuana Cultivation Facility.

    a. If a Marijuana Research and Development Facility shares its Licensed Premises with a commonly owned Medical Marijuana Testing Facility, the Licensees shall physically segregate all Medical Marijuana used for research purposes in order to prevent contamination or any other effect on Medical Marijuana submitted to the Medical Marijuana Testing Facility for testing.

    b. If a Marijuana Research and Development Facility shares its Licensed Premises with a commonly owned Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Retail Marijuana Cultivation Facility, the Marijuana Research and Development Facility must first obtain an R&D Co Location Permit for that Licensed Premises and must comply with all terms and conditions of the R&D Co-Location Permit.

2. Authorized Sources of Medical Marijuana. A Medical Marijuana Cultivation Facility and Medical Marijuana Products Manufacturer may Transfer Medical Marijuana to a Marijuana Research and Development Facility.

    a. A Marijuana Research and Development Facility may also accept and possess Regulated Marijuana obtained in accordance with an approved Research Project.

    b. Upon receipt of Regulated Marijuana pursuant to Rule 5-705(A)(2)(a), a Marijuana Research and Development Facility shall immediately enter the Regulated Marijuana as Medical Marijuana in its Inventory Tracking System and shall follow all requirements of the Marijuana Code and these Rules including but not limited to inventory tracking and packaging and labeling. As part of and in compliance with the conditions of an approved Research Project, a Marijuana Research and Development Facility may Transfer the Medical Marijuana to another Marijuana Research and Development Facility or to a Medical or Retail Marijuana Testing Facility. In no event shall any marijuana obtained or

Transferred pursuant to this Rule be consumed by humans or utilized in human subject research.

3. Cultivation of Marijuana Authorized. A Marijuana Research and Development Facility may grow, cultivate, possess, and Transfer Medical Marijuana for use in research only.

4. Production of Marijuana Concentrate. A Marijuana Research and Development Facility and a Medical Marijuana Cultivation Facility are subject to the same restrictions concerning Medical Marijuana Concentrate production. Therefore, a Marijuana Research and Development Facility may produce Medical Marijuana Concentrate only as allowed by, and in conformance with, Rule 5-220(A)-(B).

5. Production of Marijuana Products. A Marijuana Research and Development Facility and a Medical Marijuana Products Manufacturer are subject to the same restrictions concerning Medical Marijuana Product manufacturing. Therefore, a Marijuana Research and Development Facility may manufacture Medical Marijuana Product only as allowed by, and in conformance with, Rule 5-305.

6. Authorized Marijuana Transport. A Marijuana Research and Development Facility is authorized to utilize a licensed Medical Marijuana Transporter for transportation of Medical Marijuana to other Marijuana Research and Development Facility Licensees so long as the place where transportation orders are taken and delivered is a Marijuana Research and Development Facility. Nothing in this Rule prevents a Marijuana Research and Development Facility from transporting its own Medical Marijuana to other Marijuana Research and Development Facilities.

B. R&D Co-Location Permit. A Marijuana Research and Development Facility may obtain an R&D Co-Location Permit to operate at the same Licensed Premises as a commonly owned Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Retail Marijuana Cultivation Facility under the following circumstances:

1. The Marijuana Research and Development Facility must apply on current Division forms and pay any applicable fees.

2. A Marijuana Research and Development Facility may only apply for and hold an R&D Co-Location Permit if the Local Licensing Authority or Local Jurisdiction allow for Marijuana Research and Development Facility to operate at the same location as the specified Regulated Marijuana Business. Any R&D Co-Location Permit issued by the Division is conditioned upon the Marijuana Research and Development Facility's receipt of all required Local Licensing Authority or Local Jurisdiction approvals or acknowledgements.

3. The Marijuana Research and Development Facility and the specified Regulated Marijuana Business shall be commonly owned.

4. Prior to operating in the same Licensed Premises pursuant to an R&D Co-Location Permit, the Marijuana Research and Development Facility shall submit a co-location plan and standard operating procedures to the Division. The co-location plan and standard operating procedures shall demonstrate protocols to prevent cross-contamination and protect public health and safety, including but not limited to:

a. Standards and controls for maintaining physical separation between the Marijuana Research and Development Facility's research activities and the cultivating or manufacturing activities of the co-located Regulated Marijuana Business; and

b. Standards and controls for maintaining physical separation between the Marijuana Research and Development Facility's Medical Marijuana and the co-located Regulated Marijuana Business's Regulated Marijuana.

5. The Division may request the assistance of the Colorado Department of Public Health and Environment or any other state or local agency in reviewing the co-location plan and standard operating procedures, and in determining whether the co-location plan and standard operating procedures demonstrate protocols to prevent cross-contamination and protect public health and safety.

6. Modifying the co-location plan and standard operating procedures shall be considered a significant change to the Licensed Premises. *See* Rule 2-260 – Changing, Altering, or Modifying the Licensed Premises.

7. Record keeping, inventory tracking, packaging and labeling for the Marijuana Research and Development Facility and co-located Regulated Marijuana Business must enable the Division, Local Licensing Authority, or Local Jurisdiction to clearly distinguish the inventory, transactions, and activities of the Marijuana Research and Development Facility from the inventory, transactions, and activities of the co-located Regulated Marijuana Business.

Basis and Purpose - 5-710

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(1)(i), 44-10-203(2)(s), 44-10-313(7), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule is to clarify those acts that are prohibited, or limited in some fashion, by a Marijuana Research and Development Facility. This Rule 5-710 was previously Rule M 1902, 1 CCR 212-1.

5-710 – Marijuana Research and Development Facility: General Limitations or Prohibited Acts

A. Restrictions Applicable to Any Marijuana Research and Development Facility.

1. Packaging and Labeling Standards Required. A Marijuana Research and Development Facility is prohibited from Transferring to a Licensee or any other Person Medical Marijuana that is not packaged and labeled in accordance with these rules. *See* 3-1000 ~~Rule~~ Series Rules – Labeling, Packaging, and Product Safety.

a. Unless the Medical Marijuana was subject to contaminant testing required by the Marijuana Code and these rules, a Marijuana Research and Development Facility shall disclose to any individual receiving Medical Marijuana as part of an approved Research Project that the Medical Marijuana has not been subject to mandatory contaminant testing.

2. Transfers to Individuals. A Marijuana Research and Development Facility is prohibited from Transferring Medical Marijuana to any individual, unless as part of an approved Research Project.

3. Consumption Prohibited. A Marijuana Research and Development Facility shall not permit the consumption of Medical Marijuana on its Licensed Premises, unless the consumption is part of an approved Research Project and the Marijuana Research and Development Facility does not share a Licensed Premises with a Regulated Marijuana Business.

4. Worker Health and Safety. A Marijuana Research and Development Facility shall comply with all applicable federal, state, and local laws regarding worker health and safety.

5. Performance Incentives. A Marijuana Research and Development Facility may not use performance-based incentives to compensate its employees, agents, or contractors who will conduct research, development, or testing.

6. Licensure and Research Projects. A Marijuana Research and Development Facility shall not engage in any research activities until the State Licensing Authority or its delegate approves both (1) its business license application, pursuant to Rule 2-215, and (2) one or more Research Project(s), pursuant to Rule 5-715.

   a. A Marijuana Research and Development Facility may submit its business license application prior to or in conjunction with its Research Project proposal. Except that the Marijuana Research and Development Facility may not engage in any research activities except in conjunction with an approved Research Project.

   b. If a Marijuana Research and Development Facility's license expires or is suspended or revoked, the Licensee shall immediately cease all activities associated with the privileges of licensure, including but not limited to research.

B. Restrictions Applicable to Marijuana Research and Development Facilities.

1. Transfer Restriction. A Marijuana Research and Development Facility may only Transfer Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana Product to:

   a. A Medical Marijuana Testing Facility for testing;

   b. A natural person as part of and in compliance with the conditions of an approved Research Project;

   c. In the case of Medical Marijuana cultivated at the Licensed Premises of the Marijuana Research and Development Facility, to another Marijuana Research and Development Facility; or

   d. In the case of an Immature Plant that has not been exposed to a chemical prohibited by Rule 3-325, to another Medical Marijuana Business.

Basis and Purpose – 5-715

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(1)(i), 44-10-203(2)(s), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule is to ensure that any research or development conducted by a Marijuana Research and Development Facility shall be in furtherance of a Research Project approved by the Division. The purpose of this rule is also to establish the applicable requirements necessary for Marijuana Research and Development Facilities to seek and receive Division approval for all proposed Research Projects. This Rule 5-715 was previously Rule M 1904, 1 CCR 212-1.

5-715 – Marijuana Research and Development Facility: Project Approval

A. Project Approval. Prior to engaging in any research activities, a Marijuana Research and Development Facility shall obtain approval from the Division for a Research Project by submitting a Research Project proposal. Any research or development conducted by a Marijuana Research and Development Facility shall be in furtherance of an approved Research Project.

1. General. A Marijuana Research and Development Facility Applicant or Licensee shall seek approval of the Division by submitting its Research Project proposal.

a. A Research Project proposal shall include a description of the Research Project's defined protocol, clearly articulated goal(s), defined methods and outputs, and a defined start and end date.

i. The description of the proposed Research Project proposal shall include the quantity of Medical Marijuana, Medical Marijuana Concentrate, and/or Medical Marijuana Product reasonably required to conduct the proposed Research Project, the total quantity of which is subject to approval by the Division as part an approved Research Project.

b. A Marijuana Research and Development Facility may enter into contracts or agreements with a public higher education research institution or another Marijuana Research and Development Facility to conduct the proposed Research Project. A Marijuana Research and Development Facility Applicant or Licensee shall disclose all contracts or agreements with a public higher education research institution or a Marijuana Research and Development Facility.

i. If a Marijuana Research and Development Facility enters into a contract or agreement to conduct a Research Project with a public higher education research institution, all research activities involving possession of Medical Marijuana shall occur at the Marijuana Research and Development Facility's Licensed Premises. Employees, agents, or contractors of the public higher education research institution may not work at or conduct research activities at the Marijuana Research and Development Facility's Licensed Premises unless they hold an Employee License issued by the State Licensing Authority.

c. A Marijuana Research and Development Facility may submit additional Research Project proposals at any time during which its license is current and valid.

2. Private Research. Unless the proposed Research Project is being conducted in whole or in part by a Public Institution or with Public Money, the Marijuana Research and Development Facility Applicant or Licensee shall obtain a review of its proposed Research Project by one or more independent reviewers. The Division, in its discretion, may require a Marijuana Research and Development Facility Applicant or Licensee to nominate multiple independent reviewers. The Division must approve each nominated independent reviewer.

a. Fees and Costs. The Applicant or Licensee shall be solely responsible for any fees or costs associated with all aspects and all stages of the independent reviewer's services.

b. Qualifications of an Independent Reviewer. Each independent reviewer nominated by a Marijuana Research and Development Facility Applicant or Licensee must be a qualified researcher within the field of study that relates to proposed Research Project.

i. The Division may consult with the Colorado Department of Public Health and Environment and/or the Colorado Department of Agriculture in reviewing whether a nominated independent reviewer is qualified to review the Marijuana Research and Development Facility's Research Project.

ii. The Division, in its discretion, may require a nominated independent reviewer or the Marijuana Research and Development Facility to provide additional information or analysis that the Division deems pertinent to its review of whether to approve the Licensee's nomination of the independent reviewer.

c. Conflicts of Interest. A Marijuana Research and Development Facility Applicant or Licensee must disclose all pre-existing financial, employment, business, or personal relationships between the Marijuana Research and Development Facility or any of its Owner Licensees and each independent reviewer. In determining whether to approve an independent reviewer, the Division may consider whether a pre-existing relationship exists that could affect the independent reviewer's independence or appearance of independence.

d. Independent Reviewer Approval Required. If a Marijuana Research and Development Facility Applicant or Licensee nominates an independent reviewer who is not approved by the Division, the State Licensing Authority may deny a Research Project on that ground unless the Marijuana Research and Development Facility Applicant or Licensee nominates another independent reviewer who is approved by the Division.

e. Independent Reviewer Report. After an independent reviewer has been approved by the Division, the Marijuana Research and Development Facility Applicant or Licensee shall submit a report by the independent reviewer to the Division as part of its Research Project proposal. The independent reviewer's report shall address the following criteria as described in the Research Project's description:

i. The identity of the independent reviewer and his/her employer;

ii. Any compensation paid by the Marijuana Research and Development Facility Applicant or Licensee for the review and report;

iii. A description of the review conducted by the independent reviewer, including but not limited to an identification of all documents that were reviewed;

iv. An analysis by the independent reviewer as to whether the proposed Research Project constitutes a type of approved research pursuant to Rule 5-720(A) and the reason(s) supporting the reviewer's analysis;

v. An assessment of the total quantity of Medical Marijuana reasonably required to conduct the proposed Research Project;

vi. An assessment of whether the proposed Research Project presents any type of danger to the public health and/or safety, and/or whether the proposed Research Project presents any health or safety risks;

vii. An assessment of whether the proposed Research Project has a strong scientific basis, appropriate study design, and technically sound scientific methodology;

viii. An assessment of whether the Marijuana Research and Development Facility Applicant or Licensee is qualified to perform the proposed Research Project, including whether Marijuana Research and

Development Facility Applicant or Licensee's employees are qualified to perform the proposed Research Project;

ix. An assessment of whether the Marijuana Research and Development Facility Applicant or Licensee has the appropriate resources and protocols to conduct the proposed Research Project;

x. An assessment of whether the Marijuana Research and Development Facility Applicant or Licensee has the appropriate personnel, expertise, facilities, infrastructure, funding, and other human, animal, or other approvals in place to successfully conduct the Research Project, including but not limited to the requirements in Rule 5-720(C) and (D);

xi. The following certification by the independent reviewer: "I hereby certify and affirm that I do not have any financial, employment, business, or personal relationship with [INSERT MARIJUANA RESEARCH AND DEVELOPMENT FACILITY NAME] ("Licensee") that would influence or affect my review of the Licensee's proposed Research Project activity. Other than the fees disclosed herein, neither the Licensee nor any other person has given me anything of value or made any promises to me that would influence or affect my review of the Licensee's proposed research activity. I further certify and affirm that this report was drafted by me, and that the information, analysis, and conclusions herein represent solely my work and conclusions."; and

xii. The signature of the independent reviewer.

f. The Marijuana Research and Development Facility shall maintain copies of all documents and correspondence sent to or from the independent reviewer. *See* Rule 3-905 – Business Records Required.

g. The Division, in its discretion, may require the independent reviewer and/or the Marijuana Research and Development Facility Applicant or Licensee to provide additional information or analysis that the Division deems pertinent to its review of the Applicant or Licensee's Research Project proposal.

h. The State Licensing Authority may decline to approve a Research Project proposal if an independent reviewer or the Division through further investigation concludes that:

i. The description of the Research Project does not meet the requirements of section 44-10-507, C.R.S., and these rules;

ii. The proposed Research Project presents a danger to the public health and/or safety, and/or the research to be conducted pursuant to the Research Project presents any health or safety risks;

iii. The proposed Research Project lacks scientific value or validity;

iv. The Marijuana Research and Development Facility Applicant or Licensee is not qualified to perform the proposed research;

v. The Marijuana Research and Development Facility Applicant or Licensee does not have the appropriate resources and/or protocols to conduct the proposed research;

vi. The Marijuana Research and Development Facility Applicant or Licensee lacks the appropriate personnel, expertise, facilities, infrastructure, funding, or human, animal, or other approvals in place to successfully conduct the Research Project, including but not limited to the requirements in Rule 5-720(C) and (D);

vii. The independent reviewer(s) cannot meet the certification requirements in this Rule; or

viii The Marijuana Research and Development Facility Applicant or Licensee or the proposed Research Project is otherwise not in compliance with the Marijuana Code or these rules.

3. Projects with Public Institutions or Money. If a Marijuana Research and Development Facility Applicant or Licensee's proposed Research Project will be conducted in whole or in part with a Public Institution or Public Money, the Division shall refer the Licensee's Research Project proposal to the Scientific Advisory Council established by section 25-1.5-106.5(3), C.R.S., for review.

a. The Marijuana Research and Development Facility Applicant or Licensee shall supply the Scientific Advisory Council with any information and/or documents requested by the Scientific Advisory Council within the deadline imposed by the Scientific Advisory Council. A Marijuana Research and Development Facility Applicant or Licensee's failure to supply information and/or documents requested by the Scientific Advisory Council within the deadline set by the Scientific Advisory Council shall be grounds for denial of the Research Project proposal.

b. The Scientific Advisory Council shall review the proposed Research Project to ensure that the proposed Research Project meets the requirements of Rule 5-720(A).

c. The Scientific Advisory Council shall also assess the adequacy of the following:

i. The proposed Research Project's quality, study design, value, or impact;

ii. Whether the Marijuana Research and Development Facility Applicant or Licensee has the appropriate personnel, expertise, facilities, infrastructure, funding, and human, animal, or other approvals in place to successfully conduct the Research Project, including but not limited to the requirements in Rule 5-720(C) and (D); and

iii. Whether the amount of Medical Marijuana the Marijuana Research and Development Facility Applicant or Licensee proposes to grow or possess is consistent with the proposed Research Project's scope and goals.

d. The Scientific Advisory Council shall communicate the results of its review of the proposed Research Project to the Division. If the Scientific Advisory Council determines that the requirements of either Paragraph (b) or (c) of this Rule are not satisfied, then the proposed Research Project shall be denied.

e. The Marijuana Research and Development Facility shall maintain copies of all documents and correspondence sent to or from the Scientific Advisory Council. *See* Rule 3-905 – Business Records Required.

Basis and Purpose – 5-720

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(1)(i), 44-10-203(2)(s), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule to establish the limited research purposes authorized for Marijuana Research and Development Facilities. The purpose of this rule is also to establish additional requirements for Research Projects involving human subjects and animal subjects, as well as restrictions on the use of Pesticides. The rule also establishes reporting requirements and explains when the State Licensing Authority may require a Marijuana Research and Development Facility to undergo an audit of its research activities. This Rule 5-720 was previously Rule M 1905, 1 CCR 212-1.

5-720 – Marijuana Research and Development Facility: Authorized Research Activities

A. Authorized Research. A Marijuana Research and Development Facility is authorized to engage in the following research at its Licensed Premises:

1. Chemical Potency and Composition Levels.

2. Clinical Investigations of Marijuana-Derived Products.

3. Efficacy and Safety of Administering Marijuana as Part of Medical Treatment.

4. Genomic Research.

5. Horticultural Research.

6. Agricultural Research.

7. Marijuana-Affiliated Products or Systems. A marijuana-affiliated product or system includes products or systems such as marijuana delivery systems and cultivation or processing equipment.

B. Pesticide Research. A Marijuana Research and Development Facility shall not engage in any research activities involving Pesticides unless the Marijuana Research and Development Facility has applied for and received any necessary license, registration, certification, or permit from the Colorado Department of Agriculture pursuant to the Pesticide Act, sections 35-9-101 *et seq.,* C.R.S., and/or the Pesticide Applicators' Act, sections 35-10-101 *et seq.*, C.R.S.

1. A Marijuana Research and Development Facility engaged in research activities involving Pesticide shall at all times comply with the Pesticide Act, sections 35-9-101 *et seq.*, C.R.S., Pesticide Applicators' Act, sections 35-10-101 *et seq.*, C.R.S., and all rules promulgated pursuant thereto.

C. Research Involving Human Subjects. A Marijuana Research and Development Facility shall not conduct any research involving human subjects unless all aspects of its proposed Research Project have been reviewed and approved by an Institutional Review Board that is registered and in good standing with Office for Human Research Protections, U.S. Department of Health and Human Services.

1. A Marijuana Research and Development Facility shall include proof of approval and ongoing oversight and review by an Institutional Review Board as part of its Research Project proposal. A Research Project may be approved conditioned upon subsequent Institutional Review Board approval. A Licensee shall not engage in any Research Project involving human subjects until it receives approval by the Institutional Review Board and its Research Project is approved. A Marijuana Research and Development Facility conducting research involving human subjects shall also comply with any ongoing monitoring required by the Institutional Review Board.

2. A Marijuana Research and Development Facility conducting research involving human subjects shall at all times comply with the U.S. Department of Health and Human Services' requirements for protection of human research subjects, including additional safeguards necessary for vulnerable populations, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons, 45 C.F.R. part 46, and all other relevant federal and/or state laws and regulations regarding research on human subjects, as well as all prevailing ethical standards and requirements for research involving human subjects.

3. A Marijuana Research and Development Facility conducting research involving human subjects shall obtain informed consent from any individual participating in such research prior to the individual's participation in the research. A Marijuana Research and Development Facility shall comply with U.S. Food and Drug Administration requirements for informed consent and additional safeguards for children in clinical investigations, 21 C.F.R. part 50, as part of approval and ongoing oversight and review by an Institutional Review Board.

D. Research Involving Animal Subjects. A Marijuana Research and Development Facility shall not conduct any research involving animal subjects as defined in the Animal Welfare Act, 7 U.S.C. § 2132(g) unless the Marijuana Research and Development Facility is registered with the U.S. Department of Agricultural pursuant to the Animal Welfare Act, 7 U.S.C. §§ 2131 *et seq.*

1. A Marijuana Research and Development Facility shall include proof of its current registration with the U.S. Department of Agriculture as part of its Research Project proposal. Failure to be registered with the U.S. Department of Agriculture shall be grounds for denial of Research Project proposal involving animal subjects.

2. A Marijuana Research and Development Facility shall at all times treat animal subjects as defined in the Animal Welfare Act, 7 U.S.C. § 2132(g) involved in research humanely and consistent with all relevant federal and/or state laws and regulations, as well as all prevailing ethical standards and requirements for research on such animals.

E. Research Involving Testing of Marijuana. A Marijuana Research and Development Facility may only engage in research regarding the testing of Medical Marijuana if the following criteria are met:

1. Testing Qualifications. A Marijuana Research and Development Facility must meet at least one of the following standards:

a. The Marijuana Research and Development Facility also holds a Medical Marijuana Testing Facility license and has been certified pursuant to Rule 5-415;

b. The Marijuana Research and Development Facility is accredited to the International Organization for Standardization/International Electrotechnical Commission 17025:2005 Standard, or any subsequent superseding ISO 17025 standard; or

c. The Marijuana Research and Development Facility is part of an institution of higher education whose protocols have been approved by the Colorado Department of Public Health and Environment.

2. A Marijuana Research and Development Facility proposing to engage in research regarding the testing of Medical Marijuana shall include in its Research Project proposal documentation establishing its testing qualification pursuant to Paragraph (E)(1) of this

Rule. *See* Rule 5-715 – Marijuana Research and Development Facilities: Project Approval.

F. Transfers of Marijuana Used in Research. A Marijuana Research and Development Facility shall not Transfer to any Person any Medical Marijuana unless such Transfer is authorized under Rule 5-710. Otherwise, a Marijuana Research and Development Facility shall at the conclusion of its research destroy all remaining Medical Marijuana subject to the Marijuana Research and Development Facility's approved Research Project. Unless otherwise provided, a Research Project will be deemed concluded on its defined end date as provided in the Marijuana Research and Development Facility's Research Project proposal that was submitted to and approved by the Division. The Marijuana Research and Development Facility shall ensure destruction of such remaining Medical Marijuana is destroyed in conformance with Rule 3-230.

G. Periodic Reporting. A Marijuana Research and Development Facility shall submit to the Division a report regarding the status of approved Research Projects every six months following the Division's approval of its Research Project.

1. The periodic reports shall address the Marijuana Research and Development Facility's compliance and progress with its approved Research Project.

2. The periodic reports shall include any protocol changes or reported protocol deviations, as well as enrollment numbers and adverse events for studies involving human subjects.

3. If the Marijuana Research and Development Facility is conducting its Research Project in whole or in part with a Public Institution or Public Money, the Division shall submit the Marijuana Research and Development Facility's periodic reports to the Scientific Advisory Council for review.

4. If an adverse event occurs, the Marijuana Research and Development Facility shall immediately notify the Division of the adverse event on the form prepared by the Division.

H. Suspension or Revocation of Project Approval. Research Project approval is subject to revocation or suspension if the Marijuana Research and Development Facility's research has materially diverged from the Marijuana Research and Development Facility's approved Research Project, violates the Marijuana Code or the rules promulgated thereto, or presents a risk to public health and safety. *See* 8-200 Series Rules – Discipline.

I. Reporting of Research Results. A Marijuana Research and Development Facility shall supply the Division with copies of all final reports, findings, or documentation regarding the outcomes of approved Research Projects.

J. Independent Research Audit. The State Licensing Authority in its discretion may at any time require that a Marijuana Research and Development Facility undergo an audit of its research activities.

1. Circumstances Justifying Independent Research Audit. The following is a non-exhaustive list of examples that may justify an independent research audit:

a. The Division has reasonable grounds to believe that the Marijuana Research and Development Facility is in violation of one or more of the requirements set forth in these rules or other applicable statutes or regulations;

b. The Division has reasonable grounds to believe that the Marijuana Research and Development Facility's research activities present a danger to the public health and/or safety; or

c. The Division has reasonable grounds to believe that the Marijuana Research and Development Facility has been or is engaged in research activities that have not received prior Division approval.

2. Selection of An Independent Consultant. The Division and the Marijuana Research and Development Facility may attempt to mutually agree upon the selection of an independent consultant to perform a research audit. However, the Division always retains the authority to select the independent consultant regardless of whether mutual agreement can be reached.

3. Costs. The Marijuana Research and Development Facility subject to an independent research audit will be responsible for all costs associated with the independent research audit, including but not limited to the auditor's fees.

4. Compliance Required. A Marijuana Research and Development Facility must pay for and timely cooperate with the State Licensing Authority's requirement that it undergo an independent research audit in conformance with this Rule.

K. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-725

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(1)(i), 44-10-203(2)(s), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule is to permit laboratory testing of Medical Marijuana, Medical Marijuana Concentrate, and Medical Marijuana Products used by Marijuana Research and Development Facilities. The State Licensing Authority intends this rule to help maintain the integrity of Colorado's Marijuana Research and Development Facilities. This Rule 5-725 was previously Rule M 1907, 1 CCR 212-1.

5-725 – Marijuana Research and Development Facility: Testing

A. Samples on Demand. Upon request of the Division, a Marijuana Research and Development Facility shall submit a sufficient quantity of Medical Marijuana to a Medical Marijuana Testing Facility for testing. The Division will notify the Marijuana Research and Development Facility of the results of the analysis. *See* Rule 3-805 – Medical Marijuana Business: Inventory Tracking System; Rule 3-905 – Business Records Required.

B. Samples Provided for Testing. A Marijuana Research and Development Facility may provide Samples of its Medical Marijuana to a Medical Marijuana Testing Facility for testing purposes. The Marijuana Research and Development Facility shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

Basis and Purpose – 5-730

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(1)(i), 44-10-203(2)(s), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule is to establish a Marijuana Research and Development Facility may only possess an amount of Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana Product Medical Marijuana approved in conjunction with the Licensee's approved Research Projects. The purpose of this rule is also to establish additional Inventory Tracking and separation requirements for Medical Marijuana cultivated for Transfer by a Marijuana Research and Development Cultivation. This Rule 5-730 was previously Rule M 1908, 1 CCR 212-1.

5-730 – Marijuana Research and Development Facility: Production Management and Possession Limits

A. Marijuana Authorized for Transfer. A Marijuana Research and Development Facility that is authorized to cultivate Medical Marijuana for Transfer to other Marijuana Research and Development Facilities may not have more than 500 Medical Marijuana plants and 20 pounds of Medical Marijuana in its Limited Access Area at any given time, unless expressly approved by the Division as part of an approved Research Project.

1. A Marijuana Research and Development Facility shall indicate in the Inventory Tracking System whether Medical Marijuana is going to be used by the Licensee in an approved Research Project or Transferred to another Marijuana Research and Development Facility. A Marijuana Research and Development Facility may cultivate Medical Marijuana prior to approval of a Research Project, except the Marijuana Research and Development Facility may only designate such Medical Marijuana as Medical Marijuana to be Transferred to other Marijuana Research and Development Facilities unless the Marijuana Research and Development Facility has an approved Research Project. Upon approval of a Research Project, a Marijuana Research and Development Facility shall indicate in the Inventory Tracking System whether any such Medical Marijuana authorized for Transfer will be subject to the Marijuana Research and Development Facility's research pursuant to the approved Research Project.

B. Marijuana for Research. A Marijuana Research and Development Facility shall only possess for research the amount of Medical Marijuana approved by the Division pursuant to each of the Licensee's approved Research Projects.

C. Separation of Marijuana Used in Research. A Marijuana Research and Development Facility shall physically separate all Medical Marijuana used in the Licensee's own approved Research Project(s) from Medical Marijuana to be Transferred to other Marijuana Research and Development Facilities for approved Research Projects.

Part 6 – Retail Marijuana Business License Types

6-100 Series – Retail Marijuana Stores

Basis and Purpose – 6-105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(dd), 44-10-313(14), 44-10-401(2)(b)(I), 44-10-601, and 44-10-605, C.R.S. The purpose of this rule is to the license privileges of a Retail Marijuana Store licensee. This Rule 6-105 was previously Rule R 401.

6-105 – Retail Marijuana Store: License Privileges

A. Licensed Premises. To the extent authorized by Rule 3-215 – Regulated Marijuana Business–Shared Licensed Premises and Operational Separation, a Retail Marijuana Store may share, and operate at, the same Licensed Premises with a commonly-owned Medical Marijuana Store. However, a separate license is required for each specific business or business entity, regardless of geographical location.

B. Authorized Sources of Retail Marijuana. A Retail Marijuana Store may only Transfer Retail Marijuana that was obtained from another Retail Marijuana Business.

C. Samples Provided for Testing. A Retail Marijuana Store may provide Samples of its products for testing and research purposes to a Retail Marijuana Testing Facility. The Retail Marijuana Store

shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

D. Authorized On-Premises Storage. A Retail Marijuana Store is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.

E. Authorized Marijuana Transport. A Retail Marijuana Store is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents a Retail Marijuana Store from transporting its own Retail Marijuana.

F. Performance-Based Incentives. A Retail Marijuana Store may compensate its employees using performance-based incentives, including sales-based performance-based incentives.

G. Authorized Transfers of Industrial Hemp Products. This rule is effective July 1, 2020. A Retail Marijuana Store may Transfer Industrial Hemp Product to a consumer only after it has confirmed:

1. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Retail Marijuana Testing Facility; and

2. That the Person Transferring the Industrial Hemp Product to the Retail Marijuana Store is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

H. Retail Marijuana Store Delivery Permit.

1. Prior to January 2, 2021, all Retail Marijuana Stores are prohibited from delivering Regulated Marijuana to consumers.

2. After January 2, 2021, a Retail Marijuana Store with a valid delivery permit may accept delivery orders deliver Retail Marijuana to consumers pursuant to Rule 3-615.

3. A Retail Marijuana Store that does not possess a valid delivery permit cannot deliver Retail Marijuana.

I. Automated Dispensing Machines: A Retail Marijuana Store may use an automated machine in the Restricted Access Area of its Licensed Premises to dispense Regulated Marijuana to consumers without interaction with an Owner Licensee or Employee Licensee if the automated machine is reasonably monitored and complies with all requirements of these rules including but not limited to:

1. Health and safety standards,

2. Testing,

3. Packaging and labeling requirements,

4. Inventory tracking,

5. Identification requirements, and

6. Transfer limits to consumers.

J. Walk-up Window or Drive-up Window. A Retail Marijuana Store may serve customers through a walk-up window or drive-up window pursuant to the requirements of this rule.

1. Modification of Premises Required. Before accepting orders for sales of Retail Marijuana to a customer through either a walk-up window or drive-up window, a Retail Marijuana Store shall apply for, and obtain approval of, an application for a modification of its Licensed Premises for the addition of a walk-up window or drive-up window.

2. The area immediately outside the walk-up window or drive-up window must be under the Licensee's possession and control and cannot include any public property such as public streets, public sidewalks, or public parking lots.

3. Order and Identification Requirements.

   a. Prior to accepting an order or Transferring Retail Marijuana to a customer, the Employee Licensee or Owner Licensee must physically view and inspect the consumer's identification and ensure that the consumer is 21 years of age or older.

   b. The Retail Marijuana Store may accept telephone or internet orders or may accept orders from the customer at the walk-up window or drive-up window. Retail Marijuana Stores may not accept payment for Retail Marijuana over the internet.

   c. All orders received through a walk-up window or a drive-up window must be placed by the customer from a menu. The Retail Marijuana Store may not display Retail Marijuana at the walk-up or drive-up window.

4. Payment Requirements. Cash, credit, debit, cashless ATM, or other payment methods are permitted for payments for Retail Marijuana at the walk-up window or drive-up window.

5. Video Surveillance Requirements. For every Transfer of Regulated Marijuana through either a walk-up window or drive-up window, the Retail Marijuana Store's video surveillance must enable the recording of the consumer's identity (and consumer's vehicle in the event of drive-up window), and must enable the recording of the Licensee verifying the consumer's identification and completion of the transaction through the Transfer of Regulated Marijuana.

6. Packaging and Labeling Requirements. A Retail Marijuana Store utilizing a walk-up window or drive-up window must ensure that all Retail Marijuana is packaged and labeled in accordance with Rule 3-1010 and Rule 3-1015 prior to Transfer to the consumer.

7. Local Restrictions. Transfers of Regulated Marijuana using a walk-up window or drive-up window are subject to requirements and restrictions imposed by the relevant Local Jurisdiction.

Basis and Purpose – 6-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(4)(b), 44-10-203(1)(k), 44-10-401(2)(b)(I), 44-10-701(1)(a), 44-10-701(3)(d) and (f), and 44-10-601, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(3)(a), 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a licensed Retail Marijuana Store.

Regarding quantity limitations on sales, equivalencies for Retail Marijuana Concentrate and Retail Marijuana Product to Retail Marijuana flower have been included in this rule pursuant to the mandate of House Bill 14-1361. The establishment of equivalencies also provides information to stakeholders including Licensees, the general public, and law enforcement to aid in the enforcement of and compliance with the lawful personal possession limit of one ounce or less of marijuana. Setting these equivalencies provides Retail Marijuana Stores and their employees with necessary information to avoid being complicit in a patron acquiring more marijuana than is lawful to possess under the Colorado Constitution pursuant to Article XVIII, Subsection 16(3)(a).

This Rule 6-110 was previously Rule R 402, 1 CCR 212-2.

6-110 – Retail Marijuana Sales: General Limitations or Prohibited Acts

A. Sales to Persons Under 21 Years. Licensees are prohibited from Transferring, giving, or distributing Retail Marijuana to persons under 21 years of age. Licensees are prohibited from permitting a person under the age of 21 years of age from entering the Restricted Access Area.

B. Age Verification. Licensees must verify on two separate occasions that a Person is 21 years of age or older. First, prior to permitting a Person to enter the Restricted Access Area, a Licensee must verify that the Person has a valid government-issued photo identification showing that the Person is 21 years of age or older. Second, prior to initiating the Transfer of Retail Marijuana, a Licensee must verify that the purchaser has a valid government-issued photo identification showing that the purchaser is 21 years of age or older.

C. Quantity Limitations On Sales.

1. A Retail Marijuana Store and its employees are prohibited from Transferring more than one ounce of Retail Marijuana flower or its equivalent in Retail Marijuana Concentrate or Retail Marijuana Product to a consumer in a single transaction. A Retail Marijuana Store may also Transfer up to six (6) seeds in addition to the one ounce of Retail Marijuana flower or its equivalent in Retail Marijuana Concentrate or Retail Marijuana Product to a consumer in a single transaction. A single transaction includes multiple Transfers to the same consumer during the same business day where the Retail Marijuana Store employee knows or reasonably should know that such Transfer would result in that consumer possessing more than one ounce of marijuana. In determining the imposition of any penalty for violation of this Rule 6-110(C), the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235(C).

2. Equivalency. Non-edible, non-psychoactive Retail Marijuana Products including ointments, lotions, balms, and other non-transdermal topical products are exempt from the one-ounce quantity limit on Transfers. For all other Retail Marijuana Products or Retail Marijuana Concentrate, the following equivalency applies for the one ounce quantity Transfer limit:

a. One ounce of Retail Marijuana flower shall be equivalent to eight grams of Retail Marijuana Concentrate.

b. One ounce of Retail Marijuana flower shall be equivalent to 80 ten-milligram servings of THC in Retail Marijuana Product.

C.5. Educational Resource. When completing a sale of Retail Marijuana Concentrate, a Retail Marijuana Store shall provide the consumer with the tangible educational resource created by the State Licensing Authority regarding the use of Regulated Marijuana Concentrate.

D. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to Transfer Retail Marijuana to a consumer.

E. Sales over the Internet. ~~A Licensee is prohibited from selling Retail Marijuana over the internet. Any Transfer of Retail Marijuana must occur within the Retail Marijuana Store's Restricted Access Area.~~ Only a ~~Licensee~~ Retail Marijuana Store holding a valid delivery permit taking orders for delivery may make sales over the internet. ~~or deliver~~ Only a Retail Marijuana Store holding a valid delivery permit and/or a Retail Marijuana Transporter holding a valid delivery permit may deliver Retail Marijuana to a private residence. All other Retail Marijuana Store and Retail Marijuana Transporter Licensees are prohibited from selling Retail Marijuana over the internet.

F. Delivery Outside Colorado Prohibited. A Retail Marijuana Store holding a valid delivery permit shall not deliver Retail Marijuana to an address that is outside the state of Colorado.

G. Prohibited Items. A Retail Marijuana Store is prohibited from selling or giving away any consumable product that is not a Retail Marijuana Product or an Industrial Hemp Product including, but not limited to, cigarettes or tobacco products, alcohol beverages, and food products or non-alcohol beverages that are not Retail Marijuana Product.

H. Free Product Prohibited. A Retail Marijuana Store may not give away Retail Marijuana to a consumer for any reason.

I. Nicotine or Alcohol Prohibited. A Retail Marijuana Store is prohibited from Transferring Retail Marijuana that contain nicotine or alcohol, if the sale of the alcohol would require a license pursuant to Articles ~~46 or 47~~3, 4, or 5 of Title ~~12~~44, C.R.S.

J. Storage and Display Limitations.

1. A Retail Marijuana Store shall not display Retail Marijuana outside of a designated Restricted Access Area or in a manner in which Retail Marijuana can be seen from outside the Licensed Premises. Storage of Retail Marijuana shall otherwise be maintained in Limited Access Areas or Restricted Access Area.

2. Any Retail Marijuana Concentrate displayed in a Retail Marijuana Store must include the potency of the concentrate on a sign next to the name of the product.

    a. The font on the sign must be large enough for a consumer to reasonably see from the location where a consumer would usually view the concentrate.

    b. The potency displayed on the sign must be within plus or minus fifteen percent of the concentrate's actual potency.

K. Transfer of Expired Product Prohibited. A Retail Marijuana Store shall not Transfer any expired Retail Marijuana Product to a consumer.

L. Transfer Restriction.

1. Sampling Units. A Retail Marijuana Store may not possess or Transfer Sampling Units.

2. Research Transfers Prohibited. A Retail Marijuana Store shall not Transfer any Retail Marijuana to a Pesticide Manufacturer, or a Marijuana Research and Development Facility.

L.5. Standard Operating Procedures. A Retail Marijuana Store must establish written standard operating procedures for the management and storage of Retail Marijuana inventory and the sale

of Retail Marijuana to consumers. A written copy of the standard operating procedures must be maintained on the Licensed Premises.

1. A Retail Marijuana Store must ~~P~~provide adequate training to every Owner Licensee and Employee Licensee who performs a task or set of tasks that are referenced in the standard operating procedures. Adequate training must include, but need not be limited to, providing a copy of the standard operating procedures for that Licensed Premises detailing at least all of the topics required to be included in the standard operating procedures.

M. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit.

1. The sale of Edible Retail Marijuana Products in the following shapes is prohibited:

   a. The distinct shape of a human, animal, or fruit; or

   b. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

2. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Retail Marijuana Business. Nothing in this subparagraph (M)(2) alters or eliminates a Licensee's obligation to comply with the requirements of the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

3. Edible Retail Marijuana Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and

4. Edible Retail Marijuana Products that are manufactured in the shape of a marijuana leaf are permissible.

N. Adverse Health Event Reporting. A Retail Marijuana Store must report Adverse Health Events pursuant to Rule 3-920.

O. Corrective and Preventive Action. This paragraph O shall be effective January 1, 2021. A Retail Marijuana Store shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

P. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(z), and 44-10-202(3)(h), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to establish that a Retail Marijuana Store must control and safeguard access to certain areas where Retail Marijuana and Retail Marijuana Product will be sold to the general public and prevent the diversion of Retail Marijuana and Retail Marijuana Product to people under 21 years of age. This Rule 6-115 was previously Rule R 403, 1 CCR 212-2.

6-115 – Point of Sale: Restricted Access Area

A. Identification of Restricted Access Area. All areas where Retail Marijuana are sold, possessed for sale, displayed, or dispensed for sale shall be identified as a Restricted Access Area and shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, “Restricted Access Area – No One Under 21 Years of Age Allowed.”

B. Consumers in Restricted Access Area. The Restricted Access Area must be supervised by a Licensee at all times when consumers are present to ensure that only persons who are 21 years of age or older are permitted to enter. When allowing a customer access to a Restricted Access Area, Owner Licensees and Employee Licensees shall make reasonable efforts to limit the number of consumers in relation to the number of Owners Licensees and Employee Licensees in the Restricted Access Area at any time.

C. Display of Retail Marijuana. The display of Retail Marijuana for sale is allowed only in Restricted Access Areas. Any product displays that are readily accessible to the consumer must be supervised by the Owner Licensee or Employee Licensees at all times when consumers are present.

D. Pregnancy Warning. Retail Marijuana Stores must post, at all times and in a prominent place inside the Restricted Access Area, a warning that is at minimum three inches high and six inches wide that reads:

> **WARNING:** Using marijuana, in any form, while you are pregnant or breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of marijuana use during pregnancy or breastfeeding.

6-200 Series – Retail Marijuana Cultivation Facilities

Basis and Purpose – 6-205

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(j), 44-10-203(2)(r), 44-10-203(3)(c), 44-10-313(14), 44-10-401(2)(b)(II), and 44-10-602, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to a Retail Marijuana Cultivation Facility. This Rule 6-205 was previously Rule R 501, 1 CCR 212-2.

6-205 – Retail Marijuana Cultivation Facility: License Privileges

A. Licensed Premises. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Cultivation Facility may share, and operate at, the same Licensed Premises with a commonly owned Medical Marijuana Cultivation Facility. However, a separate license is required for each specific business or business entity, regardless of geographical location. In addition, a Retail Marijuana Cultivation Facility may share, and operate at, the same Licensed Premises as a Marijuana Research and Development Facility so long as:

1. Each business or business entity holds a separate license;

2. The Marijuana Research and Development Facility obtains an R&D Co-Location Permit;

3. Both the Marijuana Research and Development Facility and the Retail Marijuana Cultivation Facility comply with all terms and conditions of the R&D Co-Location Permit; and

4. Both the Marijuana Research and Development Facility and the Retail Marijuana Cultivation Facility comply with all applicable rules. *See* 5-700 Series Rules.

B. Cultivation of Retail Marijuana and Production of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Retail Marijuana Concentrate Authorized. A Retail Marijuana Cultivation Facility may propagate, cultivate, harvest, prepare, cure, package, store, and label Retail Marijuana and Physical Separation-Based Retail Marijuana Concentrate. A Retail Marijuana Cultivation Facility may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Retail Marijuana Concentrate.

C. Authorized Transfers. A Retail Marijuana Cultivation Facility may only Transfer Retail Marijuana and Physical Separation-Based Retail Marijuana Concentrate to another Retail Marijuana Business. A Retail Marijuana Cultivation Facility and an Accelerator Cultivator may also Transfer to a Medical Marijuana Cultivation Facility in compliance with Rules 6-230 and 6-730.

1. A Retail Marijuana Cultivation Facility shall not Transfer Flowering plants. A Retail Marijuana Cultivation Facility may only Transfer Vegetative plants as authorized pursuant to Rule 3-605.

2. A Retail Marijuana Cultivation Facility may Transfer Sampling Units of Retail Marijuana or Retail Marijuana Concentrate to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-602(6), C.R.S., and Rule 6-225.

3. A Retail Marijuana Cultivation Facility may Transfer Retail Marijuana or Retail Marijuana Concentrate to another Retail Marijuana Cultivation Facility prior to testing required by these rules only if such Transfer is in accordance with one of the two options below.

    a. The Retail Marijuana Cultivation Facility may Transfer Retail Marijuana or Retail Marijuana Concentrate to another Retail Marijuana Cultivation Facility prior to testing if such Transfer is for the purpose of Decontamination and only after all other steps outlined in the Retail Marijuana Cultivation Facility's standard

operating procedures have been completed, including but not limited to drying, curing, and trimming; or

b. The Retail Marijuana Cultivation Facility may Transfer Retail Marijuana or Retail Marijuana Concentrate to another Retail Marijuana Cultivation Facility prior to testing, drying, curing, trimming, or completion of any other steps in the Retail Marijuana Cultivation Facility's standard operating procedures, subject to the following additional requirements:

i. The Retail Marijuana Cultivation Facility receiving the Transfer is identified as a centralized processing hub in the Inventory Tracking System and must have identical Controlling Beneficial Owner(s) with the originating Retail Marijuana Cultivation Facility;

ii. An originating Retail Marijuana Cultivation Facility may only Transfer Retail Marijuana to one receiving Retail Marijuana Cultivation Facility that will be serving as a centralized processing hub;

iii. The Retail Marijuana or Retail Marijuana Concentrate is weighed prior to leaving the originating Retail Marijuana Cultivation Facility and immediately upon receipt at the receiving Retail Marijuana Cultivation Facility and in accordance with Rule 3-605;

iv. The Transfer, weighing and entry into the Inventory Tracking System are all completed within 24 hours from initiating the Transfer;

v. The receiving Retail Marijuana Cultivation Facility is responsible for compliance with all testing requirements regardless of any testing performed prior to Transfer. If the receiving Retail Marijuana Cultivation Facility is pursuing a Reduced Testing Allowance, a Reduced Testing Allowance must be achieved separately for marijuana received from each originating Retail Marijuana Cultivation Facility. A Retail Marijuana Cultivation Facility that has achieved a Reduced Testing Allowance must maintain and produce complete testing records that can verify that facility's compliance with testing and Reduced Testing Allowance requirements; and

vi. The standard operating procedures for the originating Retail Marijuana Cultivation Facility and receiving Retail Marijuana Cultivation Facility clearly reflect the steps taken by each facility to Transfer, transport, receive, process, and test Harvest Batches.

4. A Retail Marijuana Cultivation Facility may transfer Retail Marijuana to a Pesticide Manufacturer.

5. A Retail Marijuana Cultivation Facility may Transfer Retail Marijuana to a Medical Marijuana Cultivation Facility in accordance with Rules 5-235 and 6-230.

D. Authorized On-Premises Storage. A Retail Marijuana Cultivation Facility is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area and tracked consistently with the inventory tracking rules.

E. Samples Provided for Testing. A Retail Marijuana Cultivation Facility may provide Samples of its Retail Marijuana to a Retail Marijuana Testing Facility for testing and research purposes. The

Retail Marijuana Cultivation Facility shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

F. Authorized Marijuana Transport. A Retail Marijuana Cultivation Facility is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents a Retail Marijuana Cultivation Facility from transporting its own Retail Marijuana.

G. Performance-Based Incentives. A Retail Marijuana Cultivation Facility may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, a Retail Marijuana Cultivation Facility may not compensate a Sampling Manager using Sampling Units. *See* Rule 6-225 – Sampling Unit Protocols.

H. Authorized Sources of Retail Marijuana, Seeds and Immature Plants. A Retail Marijuana Cultivation Facility shall only obtain Retail Marijuana seeds or Immature Plants from its own Retail Marijuana, properly Transferred Medical Marijuana cultivated at a Medical Marijuana Cultivation Facility with at least one identical Controlling Beneficial Owner, or properly Transferred from another Retail Marijuana Business pursuant to the inventory tracking requirements in the 3-800 Series Rules. A Retail Marijuana Cultivation facility may not bring seeds, Immature Plants, or other marijuana that is not Regulated Marijuana onto the Licensed Premises at any time.

I. Centralized Distribution Permit. A Retail Marijuana Cultivation Facility may apply to the State Licensing Authority for a Centralized Distribution Permit for authorization to temporarily store Retail Marijuana Concentrate and Retail Marijuana Product received from a Retail Marijuana Products Manufacturer for the sole purpose of Transfer to commonly owned Retail Marijuana Stores.

1. For purposes of a Centralized Distribution Permit only, the term “commonly owned” means at least one natural person has a minimum of five percent ownership in both the Retail Marijuana Cultivation Facility possessing a Centralized Distribution Permit and the Retail Marijuana Store to which the Retail Marijuana Concentrate and Retail Marijuana Product will be Transferred.

2. To apply for a Centralized Distribution Permit, a Retail Marijuana Cultivation Facility may submit an addendum to its new or renewal application or a separate addendum prior to a renewal application on forms prepared by the Division to request a Centralized Distribution Permit. The Retail Marijuana Cultivation Facility shall send a copy of its Centralized Distribution Permit addendum to the Local Licensing Authority in the jurisdiction in which the Centralized Distribution Permit is proposed at the same time it submits the addendum to the State Licensing Authority.

3. A Retail Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit and has obtained all required approvals from the local licensing jurisdiction where it is located, if any, may accept Transfers of Retail Marijuana Concentrate and Retail Marijuana Product from a Retail Marijuana Products Manufacturer for the sole purpose of temporary storage and Transfer to commonly owned Retail Marijuana Stores.

    a. A Retail Marijuana Cultivation Facility may only accept Retail Marijuana Concentrate and Retail Marijuana Product that is packaged and labeled for sale to a consumer pursuant to the 3-1000 Series Rules.

    b. A Retail Marijuana Cultivation Facility storing Retail Marijuana Concentrate and Retail Marijuana Product pursuant to a Centralized Distribution Permit shall not store such Retail Marijuana Concentrate or Retail Marijuana Product on the

Retail Marijuana Cultivation Facility's Licensed Premises for more than 90 days from the date of receipt.

c. All Transfers of Retail Marijuana Concentrate and Retail Marijuana Product by a Retail Marijuana Cultivation Facility shall be without consideration.

4. All security and surveillance requirements that apply to a Retail Marijuana Cultivation Facility apply to activities conducted pursuant to the privileges of a Centralized Distribution Permit.

J. Transition Permit. A Retail Marijuana Cultivation Facility may only operate at two geographical locations pursuant to Rule 2-255(D).

Basis and Purpose – 6-210

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(f), 44-10-203(2)(h), 44-10-203(2)(j), 44-10-701(2)(a), 44-10-602, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V). The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Retail Marijuana Cultivation Facility. This Rule 6-210 was previously Rule R 502, 1 CCR 212-2.

6-210 – Retail Marijuana Cultivation Facility: General Limitations or Prohibited Acts

A. Packaging and Labeling Standards Required. A Retail Marijuana Cultivation Facility is prohibited from Transferring Retail Marijuana that is not packaged and labeled in accordance with these rules. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

B. Transfer to Consumer Prohibited. A Retail Marijuana Cultivation Facility is prohibited from Transferring Retail Marijuana to a consumer. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-602(6), C.R.S., and Rule 6-225.

C. Excise Tax Paid. A Retail Marijuana Cultivation Facility shall remit any applicable excise tax due pursuant to Article 28.8 of Title 39, C.R.S.

D. Corrective and Preventive Action. This paragraph D shall be effective January 1, 2021. A Retail Marijuana Cultivation Facility shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

E. Adverse Health Event Reporting. A Retail Marijuana Cultivation Facility must report Adverse Health Events pursuant to Rule 3-920.

Basis and Purpose – 6-215

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(r), 44-10-401(2)(b)(II), and 44-10-602, C.R.S. The purpose of this rule is to establish the categories of Retail Marijuana Concentrate that may be produced at a Retail Marijuana Cultivation Facility and standards for the production of Retail Marijuana Concentrate. This Rule 6-215 was previously Rule R 505, 1 CCR 212-2.

6-215 – Retail Marijuana Cultivation Facilities: Retail Marijuana Concentrate Production

A. Permitted Production of Certain Categories of Retail Marijuana Concentrate. A Retail Marijuana Cultivation Facility may only produce Physical Separation-Based Retail Marijuana Concentrate on its Licensed Premises and only in an area clearly designated as a Limited Access Area. *See* Rule 3-905- Business Records Required. No other method of production or extraction for Retail Marijuana Concentrate may be conducted within the Licensed Premises of a Retail Marijuana Cultivation Facility unless the Controlling Beneficial Owner(s) of the Retail Marijuana Cultivation Facility also has a valid Retail Marijuana Products Manufacturer license and the room in which Retail Marijuana Concentrate is to be produced is physically separated from all cultivation areas and has clear signage identifying the room.

B. Safety and Sanitary Requirements for Concentrate Production. If a Retail Marijuana Cultivation Facility produces Retail Marijuana Concentrate, then all areas in which the Retail Marijuana Concentrate are produced and all Controlling Beneficial Owners and Employee Licensees engaged in the production of the Retail Marijuana Concentrate shall be subject to all of the requirements imposed upon a Retail Marijuana Products Manufacturer that produces Retail Marijuana Concentrate, including all general requirements. *See* 3-300 Series Rules – Health and Safety Regulations and Rule 6-315 – Retail Marijuana Products Manufacturer: Retail Marijuana Concentrate Production.

C. Possession of Other Categories of Retail Marijuana Concentrate.

1. It shall be considered a violation of this Rule if a Retail Marijuana Cultivation Facility possesses a Retail Marijuana Concentrate other than a Physical Separation-Based Retail Marijuana Concentrate on its Licensed Premises unless: the Controlling Beneficial Owner(s) of the Retail Marijuana Cultivation Facility also has a valid Retail Marijuana Products Manufacturer license; or the Retail Marijuana Cultivation Facility has been issued a Centralized Distribution Permit and is in possession of the Retail Marijuana Concentrate in compliance with Rule 6-205(I).

2. Notwithstanding subparagraph (C)(1) of this Rule 6-215, a Retail Marijuana Cultivation Facility shall be permitted to possess Solvent-Based Retail Marijuana Concentrate only

when the possession is due to the Transfer of Retail Marijuana flower or trim that failed microbial testing to a Retail Marijuana Products Manufacturing Facility for processing into a Solvent-Based Retail Marijuana Concentrate, and the Retail Marijuana Products Manufacturer Transfers the resultant Solvent-Based Retail Marijuana Concentrate back to the originating Retail Marijuana Cultivation Facility.

a. The Retail Marijuana Cultivation Facility shall comply with all requirements in Rule 4-135(C) when having Solvent-Based Retail Marijuana Concentrate manufactured out of Retail Marijuana flower or trim that failed microbial testing.

b. The Retail Marijuana Cultivation Facility is responsible for submitting the Solvent-Based Retail Marijuana Concentrate for all required testing for contaminants pursuant to Rule 4-120 – Regulated Marijuana Testing Program – Contaminant Testing, for potency pursuant to Rule 4-125 – Regulated Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Marijuana Rules or the Marijuana Code.

c. Nothing in this Rule removes or alters the responsibility of the Retail Marijuana Cultivation Facility that Transfers the Retail Marijuana that failed microbial testing from complying with the requirement to pay excise tax pursuant to Rule 6-210(C).

D. Production of Alternative Use Product or Audited Product Prohibited. A Retail Marijuana Cultivation Facility shall not produce an Alternative Use Product or Audited Product.

E. Possession of Alternative Use Product or Audited Product. A Retail Marijuana Cultivation Facility is authorized to possess or Transfer Alternative Use Product and/or Audited Product only if the Retail Marijuana Cultivation Facility received the Alternative Use Product and/or Audited Product pursuant to a Centralized Distribution Permit from a Retail Marijuana Products Manufacturer that is manufacturing and Transferring the Alternative Use Product or Audited Product in accordance with Rule 6-325.

Basis and Purpose – 6-220

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(6), 44-10-401(2)(b)(II), and 44-10-602, C.R.S. The rule establishes a means by which to manage the overall production of Retail Marijuana in the state of Colorado. The intent of this rule is to encourage responsible production to meet demand for retail marijuana consumers, while also avoiding overproduction or underproduction. The establishment of production management is necessary to ensure there is not significant under or over production, either of which will increase incentives to engage in diversion and facilitate the continuation of the sale of illegal marijuana.

Existing and prospective licensees should be on notice that the new or revised regulations may impact the production limits provided for in this rule. Additionally, throughout the rulemaking process stakeholders expressed concern over ensuring an adequate amount of licensed Retail Marijuana Stores exist to sell the amount of Retail Marijuana being produced at licensed Retail Marijuana Cultivation Facilities. Scaling the number of interests a Person may hold in Retail Marijuana Cultivation Facility licenses relative to the number of controlling interests the Person has in Retail Marijuana Store(s) has been incorporated in the production management rules as a means to address this production management concern.

The Rule 6-220 was previously Rule R 506, 1 CCR 212-2.

6-220 – Retail Marijuana Cultivation Facility: Production Management

A. One Retail Cultivation License per Licensed Premises.

1. One Retail Marijuana Cultivation License per Licensed Premises. Except as permitted by subparagraph (A)(2) only one Retail Marijuana Cultivation Facility License shall be permitted at each Licensed Premises and each Licensed Premises must be located at a distinct address recognized by the Local Jurisdiction.

2. Collapse after January 1, 2019. After January 1, 2019, collapse of more than one Retail Marijuana Cultivation Facility license at a single Licensed Premises through an approved change of location application shall be permitted if all Retail Marijuana Cultivation Facility licenses for which the collapse is sought meet the following requirements:

    a. All Retail Marijuana Cultivation Facility licenses sought to be collapsed have been continuously operating for at least 180 days prior to the proposed collapse;

    b. All Retail Marijuana Cultivation Facility licenses sought to be collapsed have identical Controlling Beneficial Owners holding identical ownership percentages;

    c. There is no pending administrative action regarding any of the Retail Marijuana Cultivation Facility licenses sought to be collapsed;

    d. The tier for the surviving Retail Marijuana Cultivation Facility license has not been decreased in the 180 days prior to the change of location application.

    e. All Retail Marijuana Cultivation Facility Licensees identify the desired surviving license and agree that all other Retail Marijuana Cultivation Facility licenses will be surrendered at the time of collapse; and

    f. Determining Tier for Surviving License.

        i. Surviving License Tier Will Not Decrease. The tier for the surviving license will not be decreased as a result of any approved change of location application.

        ii. Surrendered License is Tier 1 or Tier 2. For the surviving license to increase one tier or one increment of 3,600 plants if already tier 5 or higher, during the 180 days prior to the change of location application, the surrendered license must have cultivated at least 50% of the maximum authorized plant count and Transferred at least 85% of the inventory it produced during that time.

        iii. Surrendered License is Tier 3 or Higher. For the surviving license to increase by the maximum authorized plant count of the surrendered license, during the 180 days prior to the change of location application the surrendered license must have cultivated at least 50% of the maximum authorized plant count and Transferred at least 85% of the inventory it produced during that time. If during the 180 days prior to the change of location application, the surrendering license did not cultivate at least 50% of the maximum authorized plant count and Transfer at least 85% of the inventory it produced, the surviving license will only increase one tier or one increment of 3,600 plants if already a tier 5 or higher.

        iv. Division Determination of Tier. If a collapse results in a maximum authorized plant count in the middle of a tier, the surviving license's maximum authorized plant count will be rounded up to the top of that tier.

B. Production Management.

1. Production Management Tiers.

    a. Tier 1: 1 - 1,800 plants

    b. Tier 2: 1,801 – 3,600 plants

    c. Tier 3: 3,601 – 6,000 plants

    d. Tier 4: 6,001 – 10,200 plants

    e. Tier 5: 10,201 – 13,800+ plants

        i. Tier 5 shall not have a cap on the maximum authorized plant count.

        ii. The maximum authorized plant count above 10,200 plants shall increase in one or two increments of 3,600 plants. A Retail Marijuana Cultivation Facility Licensee shall be allowed to increase its maximum authorized plant count one or two increments of 3,600 plants at a time upon application and approval by the Division pursuant to the requirements of paragraph (E) of this Rule 6-220.

2. All Retail Marijuana Cultivation Facility licenses granted on or after November 30, 2015 will be issued as a Tier 1 License.

3. Immature Plants. For purposes of calculating the maximum number of authorized plants, Immature Plants are excluded, but must be fully accounted for in the Inventory Tracking System.

4. Ground for Denial. The Division may deny an application for additional plants pursuant to paragraph E of this Rule if the Licensee exceeded the authorized plant count during the relevant time period for production.

5. Violation Affecting Public Safety. It may be considered a license violation affecting public safety for a Licensee to exceed the authorized plant count pursuant to these Rules.

C. Inventory Management.

1. Inventory Management for Retail Cultivation Facilities that Have One or Two Harvest Seasons a Year. Beginning the 721st day from the commencement of its first cultivation activities, a Retail Marijuana Cultivation Facility that has one or two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Retail Marijuana flower and trim the Licensee reported as a package in the Inventory Tracking System that was Transferred to another Retail Marijuana Business in the previous 720 days.

2. Inventory Management for Retail Cultivation Facilities That Have More Than Two Harvest Seasons a Year. Beginning the 181st day from the commencement of its first cultivation activities, a Retail Marijuana Cultivation Facility that has more than two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Retail Marijuana flower and trim the Licensee reported as a package in the Inventory Tracking System that was Transferred to another Retail Marijuana Business in the previous 180 days.

D. Tier Decrease. For Retail Marijuana Cultivation Facilities that are authorized to cultivate more than 1,800 plants, the Division may review the purchases, Transfers, and cultivated plant count of

the Retail Marijuana Cultivation Facility Licensee in connection with the license renewal process or after an investigation. Based on the Division's review, the Division may reduce the Licensee's maximum allowed plant count to a lower production management tier pursuant to subparagraph (C)(1) of this Rule. When determining whether to reduce the maximum authorized plant count, the Division may consider the following non-exhaustive factors including but not limited to:

1. The Licensee sold less than 70% of what the inventory it reported as packaged in the Inventory Tracking System during any 180 day review period;

2. On average during the previous 180 days the Licensee actually cultivated less than 90% of the maximum number of plants authorized by the next lower production management tier;

3. Whether the plants/inventory suffered a catastrophic event during the review period;

4. Excise tax payment history;

5. Existing inventory and inventory history;

6. Sales contracts; and

7. Any other factors relevant to ensuring responsible cultivation, production, and inventory management.

E. Application for Additional Plants.

1. Retail Marijuana Cultivation Facilities That Have One or Two Harvest Seasons Per Year.

a. After accruing at least one harvest season of Transfers, a Retail Marijuana Cultivation Facility Licensee may apply to the Division for a production management tier increase to be authorized to cultivate the number of plants in the next highest production management tier. The Division may consider the following in determining whether to approve the production management tier increase:

i. That during the previous harvest season prior to the tier increase application, it consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count;

ii. That the Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System in the previous 360 days to another Retail Marijuana Business;

iii. The Division may also consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the previous 360 days, if the Licensee cultivated between 75% and 85% of its maximum authorized plant count; and

iv. Any other information requested to aid the Division in its evaluation of the production management tier increase application.

b. If the Division approves the production management tier increase application, the Licensee shall pay the applicable expanded production management tier fee prior to cultivating the additional authorized plants. *See* Rule 2-205 –Fees.

c. For a Licensee with an authorized plant count in tiers 2-5 to continue producing at its expanded authorized plant count, the Licensee shall pay the requisite Retail Marijuana Cultivation Facility license fee and the applicable expanded production management tier fee at license renewal. *See* Rule 2-205 – Fees.

d. After accruing one harvest season during which the Retail Marijuana Cultivation Facility Transferred and consistently cultivated the Licensee may apply to increase its authorized plant count by: (a) two production management tiers or (b) if already authorized to cultivate at a production management tier 5, two increments of 3,600 plants (7,200 plants total), every 360 days. It is within the Division's discretion to determine whether or not to grant the requested two tiers or increments of 3,600 plants (7,200 plants total).

i. The Licensee must demonstrate:

A. That the Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count; and

B. That the Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business.

C. If the Retail Marijuana Cultivation Facility cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a package in the Inventory Tracking System during that time period and/or Transfers into the Retail Marijuana Cultivation Facility or related Retail Marijuana Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Retail Marijuana Cultivation currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two tiers or two 3,600 plant increments;

B. The Retail Marijuana Cultivation Facility cultivated at least 90% of its maximum authorized plant count and during the preceding 360 days the Retail Marijuana Cultivation Facility and/or any commonly owned Retail Marijuana Store Transferred in Retail Marijuana from one or more unrelated Retail Marijuana Cultivation Facility(ies);

C. The Retail Marijuana Cultivation has contracts for the sale of Retail Marijuana in the next 360 days supporting the requested two tiers or two increments of 3,600 plants;

D. An established history of responsible cultivation and Transfer by the Retail Marijuana Cultivation;

E. Any history of noncompliance with the Retail Code, Marijuana Code, and/or Rules by the Retail Marijuana Cultivation Facility,

or any commonly owned Retail Marijuana Business, and/or any investigation of, or administrative action(s) against, the Retail Marijuana Cultivation Facility, or any commonly owned Retail Marijuana Business; or

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

2. Retail Marijuana Cultivation Facilities that have more than two harvest seasons per year.

a. After a 180-day period during which the Retail Marijuana Cultivation Facility Transferred and consistently cultivated, the Licensee may apply to the Division for a production management tier increase to be authorized to cultivate the number of plants in the next highest production management tier. The Division may consider the following in determining whether to approve the production management tier increase:

i. That for 180 days prior to the tier increase application, the Licensee consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count, and

ii. That the Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business.

iii. The Division may also consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the 180-day time period if the Licensee cultivated between 75% and 85% of its maximum authorized plant count.

iv. Any other information requested to aid the Division in its evaluation of the tier increase application.

b. If the Division approves the production management tier increase application, the Licensee shall pay the applicable expanded production management tier fee prior to cultivating the additional authorized plants. *See* Rule 2-205 – Fees.

c. For a Licensee with an authorized plant count in tier 2-5 to continue producing at its expanded authorized plant count, the Licensee shall pay the requisite Retail Marijuana Cultivation Facility license fee and the applicable expanded production management tier fee at license renewal. *See* Rule 2-205 – Fees.

d. After accruing 180 days during which the Retail Marijuana Cultivation Facility Transferred and consistently cultivated the Licensee may apply to increase its authorized plant count by: (a) two production management tiers or (b) if already authorized to cultivate at a tier 5, two increments of 3,600 plants (7,200 plants total) every 180 days. It is within the Division's discretion to determine whether or not to grant the requested two tier or two increments of 3,600 plants (7,200 plants total).

i. The Licensee must demonstrate:

A. That the Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count; and

B. That the Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business;

C. If the Retail Marijuana Cultivation Facility cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a package in the Inventory Tracking system during that time period and/or Transfers into the Retail Marijuana Cultivation Facility or related Retail Marijuana Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Retail Marijuana Cultivation currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two tiers or two increments of 3,600 plants;

B. The Retail Marijuana Cultivation Facility cultivated at least 90% of its maximum authorized plant count and during the preceding 180 days the Retail Marijuana Cultivation Facility and/or any commonly owned Retail Marijuana Store Transferred in Retail Marijuana from one or more unrelated Retail Marijuana Cultivation Facility(ies);

C. The Retail Marijuana Cultivation has entered into a written agreement(s) or contract(s) for the sale of Retail Marijuana in the next 180 days supporting the requested two tiers or two increments of 3,600 plants;

D. An established history of responsible cultivation and Transfer by the Retail Marijuana Cultivation;

E. Any history of noncompliance with the Retail Code, Marijuana Code, and/or Rules by the Retail Marijuana Cultivation Facility or any commonly owned Retail Marijuana Business(es), and/or any investigation of, or administrative action(s) against, the Retail Marijuana Cultivation Facility or any commonly owned Retail Marijuana Business;

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

e. A Retail Marijuana Cultivation Facility that does not have 180 days of cultivating history may apply to increase its plant count to tier 2 or tier 3 pursuant only to this subparagraph (E)(2)(e). A Retail Marijuana Cultivation Facility applying for a tier increase request under this subparagraph (E)(2)(e) must demonstrate all of the following at the time of application:

i. The Retail Marijuana Cultivation Facility making the tier increase request also owns at least three Retail Marijuana Stores with identical Controlling Beneficial Owners;

ii. The Controlling Beneficial Owners of the Retail Marijuana Cultivation Facility and three Retail Marijuana Stores used to support the tier increase request have owned the aforementioned Retail Marijuana Store licenses for at least the preceding 180 days;

iii. The three Retail Marijuana Stores used to support the tier increase request have consistently Transferred Regulated Marijuana to consumers in the preceding 180 days and have a history of wholesale purchases that justify the need for a tier increase above a tier 1;

iv. In the 180 days preceding the Licensee's tier increase request pursuant to this subparagraph (e), the Retail Marijuana Cultivation Facility, three Retail Marijuana Stores, and identical Controlling Beneficial Owners have not been subject to an administrative action issued by the State Licensing Authority;

v. The Retail Marijuana Cultivation Facility making the tier increase request has an established history of responsible cultivation and Transfers of its Regulated Marijuana inventory; and

vi. The Retail Marijuana Cultivation Facility subject to the tier increase request has not previously requested a tier increase pursuant to this subparagraph (e).

3. Application for Tier Increase. Applications for a tier increase that include any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation will be denied. In addition to denial, any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation is a public safety violation that may result in administrative action.

F. Maximum Allowed Retail Marijuana Cultivation Facility Licenses.

1. A Person that is a Controlling Beneficial Owner in Three or More Retail Marijuana Cultivation Facility Licenses. For every multiple of three Retail Marijuana Cultivation Facility licenses in which a Person is a Controlling Beneficial Owner, the Person must also be a Controlling Beneficial Owner in at least one Retail Marijuana Store. For example: (1) a Person that is a Controlling Beneficial Owner in three, four, or five Retail Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least one Retail Marijuana Store; (2) a Person that is a Controlling Beneficial Owner in six, seven, or eight Retail Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least two Retail Marijuana Stores; (3) a Person that is a Controlling Beneficial Owner in nine, ten, or eleven Retail Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least three Retail Marijuana Stores; etc.

2. A Person that is a Controlling Beneficial Owner in Less than Three Retail Marijuana Cultivation Facility Licenses. A Person that is a Controlling Beneficial Owner in less than three Retail Marijuana Cultivation Facility licenses shall not be required to be a Controlling Beneficial Owner in a Retail Marijuana Store.

G. The State Licensing Authority, at its sole discretion, may adjust any of the plant limits described in this Rule on an industry-wide aggregate basis for all Retail Marijuana Cultivation Facility Licensees subject to that limitation.

Basis and Purpose – 6-225

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(II), and 44-10-602(6), C.R.S. The purpose of this rule is to establish the circumstances under which a Retail Marijuana Cultivation Facility may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's Regulated Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting and recordkeeping requirements on a Retail Marijuana Cultivation Facility that Transfer Sampling Units. This Rule 6-225 was previously Rule R 507, 1 CCR 212-2.

6-225 – Retail Marijuana Cultivation Facility: Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, a Retail Marijuana Cultivation Facility may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Retail Marijuana Cultivation Facility who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. A person may be designated as a Sampling Manager by more than one Medical Marijuana Business or Retail Marijuana Business.

3. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

4. A Retail Marijuana Cultivation Facility that wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-602(6), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 6-225. *See also* Rule 3-905 – Business Records Required. A Retail Marijuana Cultivation Facility shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Harvest Batch or Production Batch. A Sampling Unit shall not be designated until the Harvest Batch or Production Batch has satisfied the testing requirements in the 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Retail Marijuana flower or trim shall not exceed one gram.

2. A Sampling Unit of Retail Marijuana Concentrate shall not exceed one-quarter of one gram; except that a Sampling Unit of Retail Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Excise Tax Requirements. A Retail Marijuana Cultivation Facility must pay excise tax on Sampling Units of Retail Marijuana flower or trim, based on the average market rate of the unprocessed Retail Marijuana.

D. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Retail Marijuana Cultivation Facility as a Sampling Manager for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than one ounce of Retail Marijuana or eight grams of Retail Marijuana Concentrate.

4. The monthly limit established in subparagraph (D)(3) applies to each Sampling Manager, regardless of the number of Retail Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (D)(3). Before Transferring any Sampling Units, a Retail Marijuana Cultivation Facility shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limits established in subparagraph (D)(3).

6. A Sampling Manager shall not Transfer any Sampling Unit to any other Person, including but not limited to any other Person designated as a Sampling Manager.

E. Compensation Prohibited. A Retail Marijuana Cultivation Facility may not use Sampling Units to compensate a Sampling Manager.

F. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

G. Acceptable Purposes. Sampling Units shall only be designated and Transferred for the purposes of quality control and product development in accordance with section 44-10-602(6), C.R.S.

H. Record keeping requirements. A Retail Marijuana Cultivation Facility shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, a Retail Marijuana Cultivation Facility shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of quality control or product development. A Retail Marijuana Cultivation Facility shall also maintain copies of the Retail Marijuana Cultivation Facility's standard operating procedures provided to Sampling Managers

I. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-230

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(II), 44-10-602(13)(a)-(c), 44-10-602(13.5), and 3~~98~~-28.8-~~302(2)(b)~~299, C.R.S. The purpose of this rule is to allow a Medical Marijuana Cultivation Facility to receive Transfers of Retail Marijuana from a Retail Marijuana Cultivation Facility in order to change its designation from "Retail" to "Medical."

6-230 – Retail Marijuana Cultivation Facility: Ability to Change Designation ~~from Retail~~of Regulated Marijuana ~~to Medical Marijuana~~

A. Changing Designation from Retail Marijuana to Medical Marijuana: Beginning July 1, 2022, a Retail Marijuana Cultivation Facility may Transfer Retail Marijuana to a Medical Marijuana Cultivation Facility in order to change its designation from Retail Marijuana to Medical Marijuana pursuant to the following requirements:

1. The Retail Marijuana Cultivation Facility may only Transfer Retail Marijuana that has passed all required testing;

2. The Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility ~~are co-located~~share a Licensed Premises in accordance with Rule 3-215;

3. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility have at least one identical Controlling Beneficial Owner;

4. The Retail Marijuana Cultivation Facility must report the Transfer in the Inventory Tracking System the same day that the change in designation from Retail Marijuana to Medical Marijuana occurs;

5. After the designation change, the Medical Marijuana cannot be Transferred to the originating or any other Retail Marijuana Business or otherwise be treated as Retail Marijuana. The Inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules;

6. Both the Retail Marijuana Cultivation Facility and the Medical Marijuana Cultivation Facility must remain at, or under, its respective inventory limit before and after the Retail Marijuana changes its designation to Medical Marijuana; and

7. The Transfer and change of designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change of designation.

B. Changing Designation from Medical Marijuana to Retail Marijuana. Beginning January 1, 2023, a Retail Marijuana Cultivation Facility may accept Medical Marijuana from a Medical Marijuana Cultivation Facility in order to change its designation from Medical Marijuana to Retail Marijuana pursuant to the following requirements:

1. The Retail Marijuana Cultivation Facility may only accept Medical Marijuana that has passed all required testing in accordance with the 4-100 Series Rules – Regulated Marijuana Testing Program;

2. The Retail Marijuana Cultivation Facility and the Medical Marijuana Cultivation Facility share a Licensed Premises in accordance with Rule 3-215, unless:

   a. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility have at least one identical Controlling Beneficial Owner; and

   b. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility cannot share a Licensed Premises because the Local Licensing Authority or Local Jurisdiction prohibits the operation of either a Medical Marijuana Cultivation Facility or a Retail Marijuana Cultivation Facility.

3. The Retail Marijuana Cultivation Facility and the Medical Marijuana Cultivation Facility have at least one identical Controlling Beneficial Owner;

4. The Retail Marijuana Cultivation Facility must receive the Transfer and designate the inventory as Retail Marijuana in the Inventory Tracking System the same day. The Retail Marijuana Cultivation Facility must assign and attach an RFID tag reflecting its Retail Marijuana License number to the Retail Marijuana following completion of the Transfer in the Inventory Tracking System.

5. After the designation change, the Retail Marijuana cannot be Transferred to the originating or any other Medical Marijuana Business or otherwise be treated as Medical Marijuana. The inventory is Retail Marijuana and is subject to all permissions and limitations in these 6-200 Series Rules.

6. Both the Retail Marijuana Cultivation Facility and the Medical Marijuana Cultivation Facility must remain at, or under, its inventory limit before and after the Medical Marijuana changes its designation to Retail Marijuana;

7. The Retail Marijuana Cultivation Facility shall pay any Retail Marijuana excise tax that is imposed pursuant to section 39-28.8-302, C.R.S.;

8. The Retail Marijuana Cultivation Facility shall notify the Local Licensing Authority and Local Jurisdiction where the Retail Marijuana Cultivation Facility and Medical Marijuana Cultivation Facility operate and pay any applicable excise tax on the Retail Marijuana in the manner determine by the Local Licensing Authority or Local Jurisdiction; and

9. Pursuant to the requirements of this subparagraph (B), a Retail Marijuana Cultivation Facility may receive a virtual Transfer of Medical Marijuana that is reflected in the Inventory Tracking System even if the Medical Marijuana is not physically moved prior to the change of designation to Retail Marijuana.

Basis and Purpose – 6-235

The Statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(j.5), 44-10-203(1)(k), 44-10-401(2)(b)(II), and 44-10-502(10)(a)-(c) The purpose of this rule is to allow a Retail Marijuana Cultivation Facility licensees that plan to cultivate Retail Marijuana outdoors to submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event.

6-235 Retail Marijuana Cultivation Facility: Contingency Plan for Outdoor Cultivation

A. Submission of Contingency Plan.

1. Beginning January 1, 2022, Retail Marijuana Cultivation Facility licensees that plan to cultivate Retail Marijuana outdoors may submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event. The Retail Marijuana Cultivation Facility shall also submit a copy of the plan to the Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Retail Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

2. A Retail Marijuana Cultivation Facility may submit a contingency plan at any time, but it must be filed at least 7 days prior to taking action pursuant to the contingency plan and must be approved by the State Licensing Authority prior to taking action pursuant to the contingency plan.

3. After initial submission and approval of a contingency plan, a contingency plan must be submitted with the Retail Marijuana Cultivation Facility's license renewal application. Any significant change to a contingency plan prior to a renewal application must be submitted for review and approval pursuant to subsection (A)(2) above prior to taking action pursuant to the revised contingency plan.

4. The Division shall notify the appropriate Local Licensing Authorities of the approval of the contingency plan.

B. Requirements for Outdoor Contingency Plans.

1. Identification of the type of Adverse Weather Event that the plan applies to, including any deviations based on the type of Adverse Weather Event.

2. Primary contact. A primary contact for the Retail Marijuana Cultivation Facility must be identified on the contingency plan, including the: name, title, phone number, and email address of the primary contact. The Retail Marijuana Cultivation Facility shall notify the Division of any change to the primary contact or required contact information within 48 hours of the change.

3. Transport Manifest. If the contingency plan provides for the Transfer of Retail Marijuana, a Retail Marijuana Cultivation Facility shall submit a standing transport manifest that could be used by a Licensee upon approval during an Adverse Weather Event if creating a transport manifest through the Inventory Tracking System is impracticable. The standing transport manifest shall include: identification and address of the receiving Licensee.

4. Disclosure of Receiving Licensed Premises.

   a. Retail Marijuana may only be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or an off-premises storage facility.

   b. If Retail Marijuana will be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility pursuant to a contingency plan, that plan must include the name, ownership, and address of the receiving Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility, along with a diagram of the proposed receiving Licensed Premises.

   c. The receiving Licensed Premises shall be an existing location that currently holds an approved state and local license or an off-premises storage facility permit. The receiving Licensee is not required to share any Controlling Beneficial Owners with the Transferring Retail Marijuana Cultivation Facility.

   d. A Retail Marijuana Cultivation Facility that cultivates outdoors may identify and Transfer Retail Marijuana to no more than five receiving Licensed Premises' as part of a contingency plan.

5. Disclosure of Modifications to the Premises and Security and Surveillance. Proposed modifications to the Licenses Premises and any anticipated impacts to compliance with security and surveillance requirements pursuant to Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6).

C. License Requirements when Acting Pursuant to a Contingency Plan. To the extent that this subsection (C) conflicts with other rule sections, this subsection shall control during the time that a Licensee is acting pursuant to a contingency plan.

1. Notification.

   a. Notification of action pursuant to an approved contingency plan shall be made to the Division within 24 hours after initiating action pursuant to a contingency plan. A Retail Marijuana Cultivation Facility that cultivates outdoors must also notify the

Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Retail Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

b. Notification of ceasing action pursuant to the approved contingency plan shall be made to the Division within 24 hours of returning to normal business operations. If action will continue more than 7 days after initiating action pursuant to a contingency plan, the Licensee shall contact the Division and explain why it cannot return to normal business operations.

c. Any notification shall be made in writing and can be made by email to the Division.

2. Production Management. Retail Marijuana Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility pursuant to a contingency plan is not included in the receiving Licensed Premises' inventory limit until the Retail Marijuana Cultivation Facility acting pursuant to the contingency plan returns to normal business operations.

3. Modification of Premises. An application for a modification of a Licensed Premises is not required as part of a contingency plan unless the modification or change in premises becomes a permanent modification. If that change becomes a permanent change, a modification of premises application must be submitted within 14 days.

4. Security Requirements. All security and surveillance requirements that apply to a Retail Marijuana Cultivation Facility apply to activities conducted pursuant to the contingency plan. If the contingency plan does not require the Transfer of Regulated Marijuana to another Licensed Premises, but requires plants to be covered or video surveillance to be otherwise temporarily obstructed, exemptions to the video surveillance requirements in Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6) may be approved as part of the contingency plan.

5. Inventory Tracking Requirements. Licensees must use the Inventory Tracking System to ensure Retail Marijuana is identified and tracked during all times that action is being taken pursuant to a contingency plan. If a Retail Marijuana Cultivation Facility harvests, Transfers, or packages Retail Marijuana it must be fully reconciled in the Inventory Tracking System within 48 hours of initiating action pursuant to the contingency plan.

a. Harvest Requirements. If Retail Marijuana is harvested, the weight of Retail Marijuana can be captured on a per harvest level and equally applied to individual plants rather than requiring the initial wet weight of each plant. This initial harvest weight may be captured at a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility upon arrival at the Licensed Premises approved as part of the contingency plan. Harvest Batches and Inventory Tracking System packages must be reported by the Retail Marijuana Cultivation Facility acting pursuant to the contingency plan in the Inventory Tracking System.

b. Transport Manifest. The Retail Marijuana Cultivation Facility acting pursuant to the contingency plan must report all Retail Marijuana that is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility on a transport manifest.

i. A Licensee may use the approved standing transport manifest during an Adverse Weather Event only when using the Inventory Tracking System is not possible.

ii. The Licensee shall manually fill out the dates, times, and individual transporting Retail Marijuana on a copy of the standing transport manifest.

iii. The Licensee shall ensure the standing transport manifest and copy of the approved Contingency plan remain in the Licensee's possession during any transport of Retail Marijuana when it is not possible to use an Inventory Tracking System generated transportation manifest at the time of the Adverse Weather Event.

6. Transfers. If Retail Marijuana is Transferred to another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility it is exempted from the packaging and labeling requirements in Rule 3-1005(B).

7. Virtual and Physical Separation. If Retail Marijuana is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility that inventory must be virtually separated by Harvest Batch and must also be virtually and physically separated from the receiving Licensee's inventory. Harvest Batches must also be clearly identified at the receiving Licensed Premises with the Harvest Batch name and date of harvest.

8. Finishing Product. After Transferring Retail Marijuana to another Licensed Premises, a Retail Marijuana Cultivation Facility may finish that harvest at the receiving Licensed Premises if all Retail Marijuana is accounted for in the Inventory Tracking System and the Licensed Premises is in compliance with all surveillance requirements.

9. Testing. The originating Licensee acting pursuant to a contingency plan is responsible for the submission of Test Batch(es).

a. Each Harvest Batch or Production Batch Transferred pursuant to a contingency plan must be submitted for all required tests and is not eligible for a Reduced Testing Allowance or otherwise exempt from required testing.

b. Any passing or failing tests of a Harvest Batch or Production Batch Transferred pursuant to a contingency plan will not count for or against a Licensee's Reduced Testing Allowance.

6-300 Series – Retail Marijuana Products Manufacturing Facilities

Basis and Purpose – 6-305

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-307(1)(j), 44-10-313(14), 44-10-401(2)(b)(III), and 44-10-603, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to a Retail Marijuana Products Manufacturer. This Rule 6-305 was previously Rule R 601, 1 CCR 212-2.

6-305 – Retail Marijuana Products Manufacturer: License Privileges

A. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. To the extent authorized by Rule 3-215 – Regulated Marijuana

Businesses: Shared Licensed Premises and Operational Separation, ~~A~~a Retail Marijuana Products Manufacturer may share, and operate at, the same Licensed Premises with a commonly owned Medical Marijuana Products Manufacturer. However, a separate license is required for each specific business or business entity, regardless of geographical location. In addition, a Retail Marijuana Products Manufacturer may share, and operate at, the same Licensed Premises as a Marijuana Research and Development Facility so long as:

1. Each business or business entity holds a separate license;

2. The Marijuana Research and Development Facility obtains an R&D Co-Location Permit;

3. Both the Marijuana Research and Development Facility and the Retail Marijuana Products Manufacturer comply with all terms and conditions of the R&D Co-Location Permit; and

4. Both the Marijuana Research and Development Facility and the Retail Marijuana Products Manufacturer comply with all applicable rules. *See* 5-700 Series Rules.

B. Authorized Transfers. A Retail Marijuana Products Manufacturer is authorized to Transfer Retail Marijuana as follows:

1. Retail Marijuana Concentrate and Retail Marijuana Product.

   a. A Retail Marijuana Products Manufacturer may Transfer Retail Marijuana Concentrate or Retail Marijuana Product to Retail Marijuana Stores, other Retail Marijuana Products Manufacturers, Retail Marijuana Testing Facilities, Retail Marijuana Hospitality and Sales Businesses, and Pesticide Manufacturers.

   b. A Retail Marijuana Products Manufacturer may Transfer Retail Marijuana Product and Retail Marijuana Concentrate to a Retail Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit.

      i. Prior to any Transfer pursuant to this Rule 6-305(B)(1)(b), a Retail Marijuana Products Manufacturer shall verify the Retail Marijuana Cultivation Facility possesses a valid Centralized Distribution Permit. *See* Rule 6-205 – Retail Marijuana Cultivation Facility: License Privileges.

      ii. For any Transfer pursuant to this Rule 6-305(B)(1)(b), a Retail Marijuana Products Manufacturer shall only Transfer Retail Marijuana Product and Retail Marijuana Concentrate that is packaged and labeled for Transfer to a consumer. *See* 3-1000 Series Rules.

   c. A Retail Marijuana Products Manufacturer and Accelerator Manufacturer may Transfer Retail Marijuana Concentrate to a Medical Marijuana Products Manufacturer in compliance with Rules 6-335 and 6-830.

2. Retail Marijuana. A Retail Marijuana Products Manufacturer may Transfer Retail Marijuana to other Retail Marijuana Products Manufacturer, Retail Marijuana Testing Facilities, and Retail Marijuana Stores.

3. Sampling Units. A Retail Marijuana Products Manufacturer may also Transfer Sampling Units of its own Retail Marijuana Concentrate or Retail Marijuana Product to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-603(10), C.R.S., and Rule 6-320.

C. Manufacture of Retail Marijuana Concentrate, Retail Marijuana Product, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana Authorized. A Retail Marijuana Products Manufacturer may manufacture, prepare, package, store, and label Retail Marijuana Concentrate and Retail Marijuana Product comprised of Retail Marijuana and other Ingredients intended for use or consumption, such as Edible Retail Marijuana Products, ointments, or tinctures. A Retail Marijuana Products Manufacturer may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana.

1. Industrial Hemp Product Authorized. This subparagraph (C)(1) is effective July 1, 2020. A Retail Marijuana Products Manufacturer that uses Industrial Hemp Product as an Ingredient in the manufacture and preparation of Retail Marijuana Product must comply with this subparagraph (C)(1) of this Rule.

a. Prior to accepting and taking possession of any Industrial Hemp Product for use as an Ingredient in a Retail Marijuana Product the Retail Marijuana Products Manufacturer shall verify the following:

i. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Retail Marijuana Testing Facility; and

ii. That the Person Transferring the Industrial Hemp Product to the Retail Marijuana Products Manufacturer is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

D. Location Prohibited. A Retail Marijuana Products Manufacturer may not manufacture, prepare, package, store, or label Retail Marijuana Concentrate or Retail Marijuana Product in a location that is operating as a retail food establishment.

E. Samples Provided for Testing. A Retail Marijuana Products Manufacturer may provide samples of its Retail Marijuana Concentrate or Retail Marijuana Product to a Retail Marijuana Testing Facility for testing and research purposes. The Retail Marijuana Products Manufacturer shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

F. Authorized Marijuana Transport. A Retail Marijuana Products Manufacturer is authorized to utilize a Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken is a Retail Marijuana Business and the transportation order is delivered to a Retail Marijuana Business, or Pesticide Manufacturer. Nothing in this Rule prevents a Retail Marijuana Products Manufacturer from transporting its own Retail Marijuana.

G. Performance-Based Incentives. A Retail Marijuana Products Manufacturer may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, a Retail Marijuana Products Manufacturer may not compensate a Sampling Manager using Sampling Units. *See* Rule 6-320 – Sampling Unit Protocols.

Basis and Purpose – 6-310

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-203(3)(d), 44-10-401(2)(b)(III), 44-10-603, and 44-10-701(2)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V). The purpose of this rule is to clarify those acts that are limited in some fashion or prohibited by a Retail Marijuana Products Manufacturer. This Rule 6-310 was previously Rule R 602, 1 CCR 212-2.

6-310 – Retail Marijuana Products Manufacturer: General Limitations or Prohibited Acts

A. Packaging and Labeling Standards Required. A Retail Marijuana Products Manufacturer is prohibited from Transferring Retail Marijuana Concentrate or Retail Marijuana Product that are not properly packaged and labeled. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

B. THC Content Container Restriction. Each individually packaged Edible Retail Marijuana Product, even if comprised of multiple servings, may include no more than a total of 100 milligrams of active THC. *See* Rule 3-1010 – Packaging and Labeling – General Requirements Prior to Transfer to a Consumer.

1. Exception for Bulk Transfers to Retail Marijuana Hospitality and Sales Businesses. An individually packaged Edible Retail Marijuana Product compromised of multiple servings that is Transferred in bulk to a Retail Marijuana Hospitality and Sales Establishment may include more than a total of 100 milligrams of active THC.

i. A Retail Marijuana Products Manufacturer shall develop and maintain standard operating procedures, and any additional equipment necessary, to ensure that a Retail Marijuana Hospitality and Sales Business receiving bulk Transfers of Edible Retail Marijuana Product can measure accurately the Edible Retail Marijuana Product in single serving sizes equal to or less than 10 milligrams of active THC per serving.

C. Transfer to Consumer Prohibited. A Retail Marijuana Products Manufacturer is prohibited from Transferring Retail Marijuana to a consumer. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-603(10), C.R.S., and Rule 6-320.

D. Adequate Care of Perishable Product. A Retail Marijuana Products Manufacturer must provide adequate refrigeration for perishable Retail Marijuana Product that will be consumed and shall utilize adequate storage facilities and transport methods.

E. Homogeneity of Edible Retail Marijuana Product. A Retail Marijuana Products Manufacturer must ensure that its manufacturing processes are designed so that the Cannabinoid content of any Edible Retail Marijuana Product is homogenous.

F. Use of Ingredients. A Retail Marijuana Products Manufacturer must obtain and maintain certificates of analysis or other records demonstrating the full composition of each Ingredient used in the manufacture of Vaporizer Delivery Devices or Pressurized Metered Dose Inhalers.

G. Corrective and Preventive Action. This paragraph G shall be effective January 1, 2021. A Retail Marijuana Products Manufacturer shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation.

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

H. Adverse Health Event Reporting. A Retail Marijuana Products Manufacturer must report Adverse Health Events pursuant to Rule 3-920.

Basis and Purpose – 6-315

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-401(2)(b)(III), and 44-10-603, C.R.S. The purpose of this rule is to establish the categories of Retail Marijuana Concentrate that may be produced at a Retail Marijuana Products Manufacturer and establish standards for the production of Retail Marijuana Concentrate. Nothing in this rule authorizes the unlicensed practice of engineering under Article 25 of Title 12, C.R.S. This Rule 6-315 was previously Rule R 605, 1 CR 212-2.

6-315 – Retail Marijuana Products Manufacturer: Retail Marijuana Concentrate Production.

A. Permitted Categories of Retail Marijuana Concentrate Production.

1. A Retail Marijuana Products Manufacturer may produce Physical Separation-Based Retail Marijuana Concentrate, Food-Based Retail Marijuana Concentrate and Heat/Pressure-Based Retail Marijuana Concentrate.

2. A Retail Marijuana Products Manufacturer may also produce Solvent-Based Retail Marijuana Concentrate using only the following solvents: butane, propane, CO_2, ethanol, isopropanol, acetone, heptane, ethyl acetate, and pentane. The use of any other solvent is expressly prohibited unless it is approved by the Division.

3. A Retail Marijuana Products Manufacturer may submit a request to the Division to consider the approval of solvents not permitted for use under this Rule during the next formal rulemaking.

B. General Applicability. A Retail Marijuana Products Manufacturer that engages in the production of Retail Marijuana Concentrate, regardless of the method of extraction or category of concentrate being produced, must:

1. Ensure that the space in which any Retail Marijuana Concentrate is to be produced is a fully enclosed room and clearly designated on the current diagram of the Licensed Premises. *See* Rule 3-905- Business Records Required.

2. Ensure that all applicable sanitary rules are followed. *See* 3-300 Series Rules.

3. Ensure that the standard operating procedure for each method used to produce a Retail Marijuana Concentrate includes, but need not be limited to, step-by-step instructions on how to safely and appropriately:

    a. Conduct all necessary safety checks prior to commencing production;

    b. Prepare Retail Marijuana for processing;

    c. Extract Cannabinoids and other essential components of Retail Marijuana;

    d. Purge any solvent or other unwanted components from a Retail Marijuana Concentrate,

    e. Clean all equipment, counters and surfaces thoroughly; and

    f. Dispose of any waste produced during the processing of Retail Marijuana in accordance with all applicable local, state and federal laws, rules and regulations. *See* Rule 3-230 – Waste Disposal.

4. Establish written and documentable quality control procedures designed to maximize safety for Owner Licensees and Employee Licensees and minimize potential product contamination.

5. Establish written emergency procedures to be followed by Owner Licensees or Employee Licensees in case of a fire, chemical spill or other emergency.

6. Have a comprehensive training manual that provides step-by-step instructions for each method used to produce a Retail Marijuana Concentrate. The training manual must include, but need not be limited to, the following topics:

    a. All standard operating procedures for each method of concentrate production used;

    b. The Retail Marijuana Products Manufacturer's quality control procedures;

    c. The emergency procedures;

    d. The appropriate use of any necessary safety or sanitary equipment;

    e. The hazards presented by all solvents used as described in the safety data sheet for each solvent;

    f. Clear instructions on the safe use of all equipment involved in each process and in accordance with manufacturer's instructions, where applicable; and

    g. Any additional periodic cleaning required to comply with all applicable sanitary rules.

7. Provide adequate training to every Owner Licensee or Employee Licensee prior to that individual undertaking any step in the process of producing a Retail Marijuana Concentrate.

    a. Adequate training must include, but need not be limited to, providing a copy of the training manual for that Licensed Premises and live, in-person instruction detailing at least all of the topics required to be included in the training manual.

b. The individual training an Owner Licensee or Employee Licensee must sign and date a document attesting that all required aspects of training were conducted and that he or she is confident that the Owner Licensee or Employee Licensee can safely produce a Retail Marijuana Concentrate. *See* Rule 3-905 – Business Records Required.

c. The Owner Licensee or Employee Licensee that received the training must sign and date a document attesting that he or she can safely implement all standard operating procedures, quality control procedures, and emergency procedures, operate all closed-loop extraction systems, use all safety, sanitary and other equipment and understands all hazards presented by the solvents to be used within the Licensed Premises and any additional periodic cleaning required to maintain compliance with all applicable sanitary rules. *See* Rule 3-905 – Business Records Required.

8. Maintain clear and comprehensive records of the name, signature and Owner Licensee or Employee License number of every individual who engaged in any step related to the creation of a Production Batch of Retail Marijuana Concentrate and the step that individual performed. *See* Rule 3-905 – Business Records Required.

C. Physical Separation-Based Retail Marijuana Concentrate, Food-Based Retail Marijuana Concentrate and Heat/Pressure-Based Retail Marijuana Concentrate. A Retail Marijuana Products Manufacturer that engages in the production of a Retail Marijuana Concentrate must:

1. Ensure that all equipment, counters and surfaces used in the production of Retail Marijuana Concentrate is food-grade including ensuring that all counters and surface areas were constructed in such a manner that it reduces the potential for the development of microbials, molds and fungi and can be easily cleaned.

2. Ensure that all equipment, counters, and surfaces used in the production of a Retail Marijuana Concentrate are thoroughly cleaned after the completion of each Production Batch.

3. Ensure that any room in which dry ice is stored or used in processing Retail Marijuana into a Retail Marijuana Concentrate is well ventilated to prevent against the accumulation of dangerous levels of CO_2.

4. Ensure that the appropriate safety or sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Retail Marijuana Concentrate.

5. Ensure that only finished drinking water and ice made from finished drinking water is used in the production of a Physical Separation-Based Retail Marijuana Concentrate.

6. Ensure that if propylene glycol or glycerin is used in the production of a Food-Based Retail Marijuana Concentrate, then the propylene glycol or glycerin to be used is food-grade.

7. Follow all of the rules related to the production of a Solvent-Based Retail Marijuana Concentrate if a pressurized system is used in the production of a Retail Marijuana Concentrate.

D. Solvent-Based Retail Marijuana Concentrate. A Retail Marijuana Products Manufacturer that engages in the production of Solvent-Based Retail Marijuana Concentrate must:

1. Obtain a report from an Industrial Hygienist or a Professional Engineer that certifies that the equipment, Licensed Premises and standard operating procedures comply with these rules and all applicable local and state building codes, fire codes, electrical codes and other laws. If a Local Jurisdiction has not adopted a local building code or fire code or if local regulations do not address a specific issue, then the Industrial Hygienist or Professional Engineer shall certify compliance with the International Building Code of 2012 (http://www.iccsafe.org), the International Fire Code of 2012 (http://www.iccsafe.org) or the National Electric Code of 2014 (http://www.nfpa.org), as appropriate. Note that this Rule does not include any later amendments or editions to each Code. The Division has maintained a copy of each code, each of which is available to the public;

    a. Flammable Solvent Determinations. If a Flammable Solvent is to be used in the processing of Retail Marijuana into a Retail Marijuana Concentrate, then the Industrial Hygienist or Professional Engineer must:

        i. Establish a maximum amount of Flammable Solvents and other flammable materials that may be stored within that Licensed Premises in accordance with applicable laws, rules and regulations;

        ii. Determine what type of electrical equipment, which may include but need not be limited to outlets, lights and junction boxes, must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored in accordance with applicable laws, rules and regulations;

        iii. Determine whether a gas monitoring system must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations; and

        iv. Determine whether fire suppression system must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

    b. CO_2 Solvent Determination. If CO_2 is used as solvent at the Licensed Premises, then the Industrial Hygienist or Professional Engineer must determine whether a CO_2 gas monitoring system must be installed within the room in which Retail Marijuana Concentrate is to be produced or CO_2 is stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

    c. Exhaust System Determination. The Industrial Hygienist or Professional Engineer must determine whether a fume vent hood or exhaust system must be installed within the room in which Retail Marijuana Concentrate is to be produced, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

    d. Material Change. If a Retail Marijuana Products Manufacturer makes a Material Change to its equipment or a concentrate production procedure, in addition to all other requirements, it must obtain a report from an Industrial Hygienist or Professional Engineer re-certifying its standard operating procedures and, if changed, its equipment as well.

e. Manufacturer's Instructions. The Industrial Hygienist or Professional Engineer may review and consider any information provided to the Retail Marijuana Products Manufacturer by the designer or manufacturer of any equipment used in the processing of Retail Marijuana into a Retail Marijuana Concentrate.

f. Records Retention. A Retail Marijuana Products Manufacturer must maintain copy of all reports received from an Industrial Hygienist and Professional Engineer on its Licensed Premises. Notwithstanding any other law, rule, or regulation, compliance with this Rule is not satisfied by storing these reports outside of the Licensed Premises. Instead the reports must be maintained on the Licensed Premises until the Licensee ceases production of Retail Marijuana Concentrate on the Licensed Premises.

2. Ensure that all equipment, counters and surfaces used in the production of a Solvent-Based Retail Marijuana Concentrate are food-grade and do not react adversely with any of the solvents to be used in the Licensed Premises. Additionally, all counters and surface areas must be constructed in a manner that reduces the potential development of microbials, molds and fungi and can be easily cleaned;

3. Ensure that the room in which Solvent-Based Retail Marijuana Concentrate shall be produced must contain an emergency eye-wash station;

4. Ensure that only a professional grade, closed-loop extraction system capable of recovering the solvent is used to produce Solvent-Based Retail Marijuana Concentrate;

a. UL or ETL Listing.

i. If the system is UL or ETL listed, then a Retail Marijuana Products Manufacturer may use the system in accordance with the manufacturer's instructions.

ii. If the system is UL or ETL listed but the Retail Marijuana Products Manufacturer intends to use a solvent in the system that is not listed in the manufacturer's instructions for use in the system, then, prior to using the unlisted solvent within the system, the Retail Marijuana Products Manufacturer must obtain written approval for use of the non-listed solvent in the system from either the system's manufacturer or a Professional Engineer after the Professional Engineer has conducted a peer review of the system. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

iii. If the system is not UL or ETL listed, then there must a designer of record. If the designer of record is not a Professional Engineer, then the system must be peer reviewed by a Professional Engineer. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

b. Ethanol or Isopropanol. A Retail Marijuana Products Manufacturer need not use a professional grade, closed-loop system extraction system capable of recovering the solvent for the production of a Solvent-Based Retail Marijuana Concentrate if ethanol or isopropanol are the only solvents being used in the production process.

5. Ensure that all solvents used in the extraction process are food-grade or at least 99% pure;

    a. A Retail Marijuana Products Manufacturer must obtain a safety data sheet for each solvent used or stored on the Licensed Premises. A Retail Marijuana Products Manufacturer must maintain a current copy of the safety data sheet and a receipt of purchase for all solvents used or to be used in an extraction process. *See* Rule 3-905 – Business Records Required.

    b. A Retail Marijuana Products Manufacturer is prohibited from using denatured alcohol to produce a Retail Marijuana Concentrate, unless the denaturant is an approved solvent listed in Rule 6-315(A)(2) and the alcohol and the denaturant meet all other requirements set forth in this Rule.

6. Ensure that all Flammable Solvents or other flammable materials, chemicals and waste are stored in accordance with all applicable laws, rules and regulations. At no time may a Retail Marijuana Products Manufacturer store more Flammable Solvent on its Licensed Premises than the maximum amount established for that Licensed Premises by the Industrial Hygienist or Professional Engineer;

7. Ensure that the appropriate safety and sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Solvent-Based Retail Marijuana Concentrate; and

8. Ensure that a trained Owner Licensee or Employee Licensee is present at all times during the production of a Solvent-Based Retail Marijuana Concentrate whenever an extraction process requires the use of pressurized equipment.

9. Retail Marijuana Products Manufacturers Engaged in the Remediation of Retail Marijuana for elemental impurities. Retail Marijuana Products Manufacturers engaged in the Remediation of Retail Marijuana for elemental impurities shall:

    a. Implement effective cleaning procedures, additional testing plans, and other measures that will be performed to prevent cross contamination.

        i. If potentially contaminated equipment, ingredients, or solvents used in the Remediation process are used for processing other ‘non remediated’ material, the subsequent Production Batch made using the equipment, ingredients, or solvent must then be tested for elemental impurities, and the Production Batch made using that equipment, ingredients, or solvents is not eligible for a Reduced Testing Allowance or otherwise exempt from required testing.

        ii. Manufacturers must document the equipment and lots of ingredients/solvents used in Remediation to ensure this requirement is met.

    b. Register as a hazardous waste generator, obtain a U.S. Environmental Protection Agency ID number for manifesting hazardous waste, and must have a disposal contract in place with a hazardous waste management company prior to attempting Remediation.

c. Have a staff member who has received basic training in hazardous waste identification, storage, and disposal procedures, or hire a consultant who satisfies this criteria.

d. Regardless of which type of analyte, if the Retail Marijuana flower, wet whole plant, or trim has failed elemental impurities, the Licensee must implement Standard Operating Procedures to ensure:

i. That contaminated material is stored in a labelled container identifying the material as potentially hazardous, and that the container seals in such a way to prevent the risk of cross contamination or inhalation of dusts.

ii. That when material is removed from the sealed container and handled in any fashion (preparation, the extraction or other Remediation process, wasting, etc.), any workers exposed to dusts or particulates generated from the material must wear appropriate personal protective equipment (PPE), including at minimum: gloves, American National Standards Institute (ANSI) Z87.1 safety glasses, and a respirator rated to protect them from airborne dusts or particulates that may contain elemental impurities. Respirators should utilize National Institute for Occupational Safety and Health rated particulate filters of sufficient grade to prevent exposure to airborne dusts that could contain elemental impurities.

A. Workers utilizing a respirator must comply with applicable Occupational Safety and Health Administration regulations regarding respirator use before handling contaminated material. This includes receiving respirator clearance from a qualified professional and passing a respirator fit test before using a respirator.

e. Additional forms of environmental airborne particulate control, such as industrial air filtration systems, handling material inside of enclosures, etc. must be implemented by the Licensee to minimize the risk of exposure or cross contamination of contaminated dusts.

f. These steps must be documented in the Licensee's respiratory protection program that all employees exposed to plant material or waste products contaminated with the elemental impurities must be trained on.

g. The Licensee must establish and train employees on SOPs designed to safely handle this contaminated material and prevent cross contamination.

h. Mercury poses additional workplaces hazards since it is easily volatilized and since mercury vapor is highly toxic. Before attempting to remediate any Regulated Marijuana flower, wet whole plant, or trim that has failed elemental impurities testing and contains mercury, Licensees must additionally:

i. Work with a certified industrial hygienist to develop and implement some form of monitoring program that is capable of detecting mercury vapor concentrations in the areas where material contaminated with mercury will be processed and can be used to generate time weighted average exposures to mercury vapor. The monitoring system must be sufficient to ensure airborne concentrations of mercury do not exceed Occupational

Safety and Health Administration Permissible Exposure Limits for Airborne Contaminants.

ii. Have a certified industrial hygienist approve the Licensee's air handling system for managing mercury vapors in a fashion that is compliant with the Occupational Safety and Health Administration, and other applicable federal, state, and local regulations.

iii. Utilize a National Institute for Occupational Safety and Health rated half mask respirator with cartridges rated specifically for mercury vapor.

i. A Licensee must ensure their processes and safety practices comply with applicable federal, state, and local environmental health and safety regulations.

10. Retail Marijuana Products Manufacturer Engaged in the Remediation of Retail Marijuana for Microbial Contamination. Retail Marijuana Products Manufacturers engaged in the Remediation of Retail Marijuana for microbial contamination shall:

a. Implement effective cleaning procedures, additional testing plans, and other measures that will be performed to prevent cross contamination.

b. Ensure that contaminated material is stored in a labeled container identifying the material as potentially hazardous, and that the container seals in such a way to prevent the risk of cross contamination or inhalation of dusts.

c. Ensure that when material is removed from the sealed container and handled in any fashion (preparation, the extraction or other Remediation process, wasting, etc.), any workers exposed to dusts or particulates generated from the material must wear appropriate personal protective equipment (PPE), including at minimum: gloves, American National Standards (ANSI) Z87.1 safety glasses, and a respirator rated to protect them from airborne dusts or particulates that may contain elemental impurities. Respirators should utilize National Institute for Occupational Safety and Health rated particulate filters of sufficient grade to prevent exposure to airborne dusts that could contain elemental impurities.

i. Workers utilizing a respirator must comply with applicable Occupational Safety and Health Administration regulations regarding respirator use before handling contaminated material. This includes receiving respirator clearance from a qualified professional and passing a respirator fit test before using a respirator.

d. Implement additional forms of environmental airborne particulate control, such as industrial air filtration systems, handling material inside of enclosures, etc. must be implemented by the Licensee to minimize the risk of exposure or cross contamination of contaminated dusts.

e. These steps must be documented in the Licensee's respiratory protection program that all employees exposed to plant material or waste products contaminated with elemental impurities must be trained on.

f. The Licensee must establish and train employees on standard operating procedures designed to safely handle this contaminated material and prevent cross contamination.

g. The Licensee must ensure their processes and safety practices comply with applicable federal, state, and local environmental health and safety regulations.

E. Ethanol and Isopropanol. If a Retail Marijuana Products Manufacturer only produces Solvent-Based Retail Marijuana Concentrate using ethanol or isopropanol at its Licensed Premises and no other solvent, then it shall be considered exempt from paragraph D of this Rule and instead must follow the requirements in paragraph C of this Rule. Regardless of which rule is followed, the ethanol or isopropanol must be food grade or at least 99% pure and denatured alcohol cannot be used. The Retail Marijuana Products Manufacturer shall comply with contaminant testing required in Rule 4-120(C)(4).

F. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-320

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(2)(d), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-401(2)(b)(III), and 44-10-603(10), C.R.S. The purpose of this rule is to establish the circumstances under which a Retail Marijuana Products Manufacturer may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's regulated Retail Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting and recordkeeping requirements on a Retail Marijuana Products Manufacturer that Transfer Sampling Units. This Rule 6-320 was previously Rule R 606, 1 CCR 212-2.

6-320 – Retail Marijuana Products Manufacturer: Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, a Retail Marijuana Products Manufacturer may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Retail Marijuana Products Manufacturer who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. An individual may be designated as a Sampling Manager by more than one Retail Marijuana Business.

3. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

4. A Retail Marijuana Products Manufacturer who wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-603(10), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 6-320. *See also* Rule 3-905 – Business Records Required. A Retail Marijuana Products Manufacturer shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Production Batch. A Sampling Unit shall not be designated until the Production Batch has satisfied the testing requirements in the 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Retail Marijuana Product shall not exceed one Standardized Serving of Marijuana.

2. A Sampling Unit of Retail Marijuana Concentrate shall not exceed one quarter of one gram; except that a Sampling Unit of Retail Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Retail Marijuana Products Manufacturer as a Sampling Manger for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than:

a. With respect to Retail Marijuana Product, fourteen Standardized Servings of Marijuana; and

b. Eight grams of Retail Marijuana Concentrate.

4. The monthly limit established in subparagraph (C)(3) applies to each Sampling Manager, regardless of the number of Retail Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (C)(3). Before Transferring any Sampling Units, a Retail Marijuana Products Manufacturer shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limit established in subparagraph (C)(3).

6. A Sampling Manager shall not Transfer any Sampling Unit to any other Person, including but not limited to any other Person designated as a Sampling Manager.

D. Compensation Prohibited. A Retail Marijuana Products Manufacturer may not use Sampling Units to compensate a Sampling Manager.

E. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

F. Acceptable Purposes. Sampling Units shall only be designated and Transferred for purposes of quality control and product development in accordance with section 44-10-603(10), C.R.S.

G. Record keeping requirements. A Retail Marijuana Products Manufacturer shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, a Retail Marijuana Products Manufacturer shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of either quality control or product development. A Retail Marijuana Products

Manufacturer shall also maintain copies of the Retail Marijuana Products Manufacturer's standard operating procedures provided to Sampling Managers.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-325

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-203(3)(b), 44-10-203(3)(e), 44-10-401(2)(b)(III), 44-10-603, and 44-10-701(3)(c), C.R.S. The purpose of this rule is to define requirements for manufacture of Audited Product for administration by: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration which may raise public health concerns. This rule defines audit, insurance, minimum product requirements, minimum production process requirements, and pre-production testing requirements for Retail Marijuana Products Manufacturers that manufacture Audited Products. The purpose of this rule further recognizes that Alternative Use Product not within an intended use identified in Rule 3-1015 may raise public health concerns that outweigh its manufacture or Transfer entirely or that require additional safeguards to protect public health and safety prior to manufacturer or Transfer. This rule identifies general requirements for Retail Marijuana Products Manufacturer to seek an Alternative Use Designation from the State Licensing Authority to manufacture any type of Retail Marijuana Product that is not within an intended use identified in Rule 3-1015. This Rule 6-325 was previously Rule R 607, 1 CCR 212-2.

6-325 – Retail Marijuana Products Manufacturing Facility: Audited Product and Alternative Use Product

A. General Rule. A Retail Marijuana Products Manufacturer shall not Transfer Audited Product to a Retail Marijuana Store, another Retail Marijuana Products Manufacturer, or a Retail Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit except in accordance with all requirements of this Rule 6-325. The requirements of this Rule 6-325 are in addition to all other Rules that apply to Retail Marijuana Products Manufacturers; except where the context otherwise clearly requires this Rule 6-325 controls.

B. Audited Products – Mandatory Audit Prior to Transfer. Following submission of an independent third-party audit to the Division and, if applicable, to the Local Jurisdiction as required by this Rule, a Retail Marijuana Products Manufacturer may Transfer Audited Product with an intended use of: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration.

1. A written audit report from an independent third-party auditor that was completed within the last 24 months shall be submitted to the Division and, if applicable to the Local Licensing Authority: (i) before the first Transfer of Audited Product to any Retail Marijuana Store, (ii) prior to Transfer of any Audited Product following a Material Change to any standard operating procedure or master formulation record regarding the Audited Product, and (iii) with the Retail Marijuana Products Manufacturer's renewal application if the Retail Marijuana Products Manufacturer will Transfer Audited Product after renewal.

2. The independent third-party audit shall be performed by either a certified quality auditor or a certified GMP auditor. The Retail Marijuana Products Manufacturer shall be responsible for all costs associated with obtaining the independent third-party audit.

3. The independent third-party written audit report shall include the following minimum requirements:

    a. The independent third-party auditor's qualifications and an attestation that the certified quality auditor or certified GMP auditor has no conflict of interest;

b. Establish that the Retail Marijuana Products Manufacturer and the Audited Product meet all requirements of this Rule 6-325, including but not limited to the specific requirements of this Rule 6-325(C), 6-325(D), 6-325(E), 6-325(G), and 6-325(H);

c. Verify the written standard operating procedure(s) for Audited Product include sufficient and detailed step-by-step instructions on how to produce the Audited Product in a manner that prevents contamination and protects the public health and safety;

d. Verify, based upon a physical inspection, the manufacture of Audited Product by the Retail Marijuana Products Manufacturer adheres to all applicable standard operating procedures;

e. Verify, based upon a physical inspection, of any Licensed Premises that such Licensed Premises complies with the requirements of this Rule 6-325(E), including any Limited Access Area where the Audited Product is to be manufactured;

f. Include the independent third-party auditor's findings;

g. Include the plan of correction identifying any corrective actions and/or preventative actions implemented as a result of the findings of the independent third-party audit; and

h. Include the independent third-party auditor's assessment that the Retail Marijuana Products Manufacturer demonstrated compliance with all requirements of Rule 6-325 and with the requirements of all standard operating procedures, master formulation records, and Batch manufacturing records that apply to the Audited Product.

C. Products Liability Insurance. Any Retail Marijuana Products Manufacturer that intends to Transfer Audited Product shall first obtain products liability insurance providing coverage for liability arising from manufacture or Transfer of Audited Product and shall provide an unredacted certificate of product liability insurance to the Division and the independent third-party auditor.

D. Audited Product Requirements. Audited Product shall meet the following minimum product requirements:

1. Inactive Ingredients. Audited Product must meet the requirements in Rule 3-335 – Production of Regulated Marijuana Products.

a. If the Audited Product contains a fungicidal or bactericidal Ingredient listed in, and with a concentration that is at or below the maximum concentration permitted in, the Federal Food and Drug Administration Inactive Ingredients Database, https://www.accessdata.fda.gov/scripts/cder/iig/index.cfm, the Audited Product is not required to undergo microbial contaminant testing required by Rules 4-115 and 4-120.

2. Required Product Development Testing. The Retail Marijuana Products Manufacturer must establish the Audited Product meets the following through independent third-party testing:

a. The Audited Product must deliver the amount of each cannabinoid identified on the label throughout the entire volume of the Audited Product using the intended

delivery device and in accordance with the instructions provided by the Retail Marijuana Products Manufacturer, as demonstrated by testing at a Retail Marijuana Testing Facility.

i. For Audited Product with an intended use of metered dose nasal spray, compliance with this requirement shall be established by test results verifying the delivered dose of each cannabinoid identified on the label using the methods described in The United States Pharmacopeia Physical Test and Determination Chapter 601, *Aerosols, Nasal Sprays, Metered-Dose Inhalers, and Dry Powder Inhalers*.

ii. For Audited Product with an intended use of either vaginal administration or rectal administration, compliance with this testing requirement shall be established by test results demonstrating that each cannabinoid identified on the label is within +/- 15% of the amount identified on the label.

b. The expiration date identified on the label of the Audited Product is appropriate when the Audited Product is stored at room temperature, as demonstrated by testing from a Retail Marijuana Testing Facility.

c. Identification of all non-cannabis derived Ingredients and constituents in the Audited Product at concentrations of 1%, which verification is obtained from one or more of the following:

i. Testing by a Retail Marijuana Testing Facility;

ii. Testing by a laboratory that is ISO 17025 accredited but is not a Retail Marijuana Testing Facility, except that no Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product may be Transferred to such a laboratory; and/or

iii. One or more certificate(s) of analysis from the manufacturer of any Ingredient or constituent included in the Audited Product.

E. Additional Production Requirements for Audited Product. In addition to all other requirements applicable to Retail Marijuana Products Manufacturer, a Retail Marijuana Products Manufacturer that manufactures and Transfers Audited Product shall meet the following additional requirements:

1. Personnel Training. All personnel directly involved in the manufacture and handling of Audited Product must be trained, must demonstrate competency, and must undergo annual refresher training, which shall be documented and maintained at the Retail Marijuana Products Manufacturer's Licensed Premises. Personnel directly involved in the manufacture and handling of Audited Product must be trained and demonstrate proficiency in hand hygiene, cleaning and sanitizing, performing necessary calculations, measuring and mixing, and documenting the manufacturing process including master formulation records and batch manufacturing records.

2. Facility Requirements. A Retail Marijuana Products Manufacturer must have a space that is specifically designated for the manufacture of Audited Products that is designed and operated to prevent cross contamination from other areas of the Licensed Premises. The surfaces, walls, floors, fixtures, shelving, work surfaces, and cabinets in this designated area must be non-porous and cleanable.

3. Cleaning and Sanitizing. A Retail Marijuana Products Manufacturer must clean and sanitize surfaces where Audited Product is manufactured and handled on a regular basis and at a minimum, work surfaces and floors must be cleaned and sanitized daily. All other surfaces must be cleaned and sanitized at least every three months. A Retail Marijuana Products Manufacturer must clean and sanitize all surfaces when a spill occurs and when surfaces, floors, and walls are visibly soiled.

4. Hand Hygiene. Hand hygiene is required when entering and re-entering any area where Audited Product is manufactured and handled. Hand hygiene includes washing hands and forearms up to the elbows with soap and water for at least 30 seconds followed by drying completely with disposable towels. Alcohol hand sanitizers alone are not sufficient.

    a. Gloves are required to be worn for all mixing activities. Other garb such as shoe covers, head and facial hair covers, face masks, and gowns must be worn as appropriate to protect Licensees and/or prevent contamination of the Audited Product.

5. Equipment. Mechanical, electronic, and other types of equipment used in mixing, measuring, or testing of Audited Product must be inspected prior to use and verified for accuracy at the frequency recommended by the manufacturer, and at least annually.

6. Ingredient Quality. All Ingredients used to manufacture Audited Product must be handled and stored in accordance with the manufacturer's instructions. Ingredients that lack a manufacturer's expiration date shall not be used if a reasonable manufacturer would not use the Ingredient or after 1 year from the date of receipt, whichever period is shorter.

7. Master Formulation Record. A master formulation record must be prepared and maintained for each unique Audited Product a Retail Marijuana Products Manufacturer manufactures. A master formulation record must include at least the following information:

    a. Name of the Audited Product;

    b. Ingredient identities and amounts;

    c. Specifications on the delivery device (if applicable);

    d. Complete instructions for preparing the Audited Product, including equipment, supplies, and description of the manufacturing steps;

    e. Quality control procedures; and

    f. Any other information needed to describe the Retail Marijuana Products Manufacturer's production and ensure its repeatability.

8. Batch Manufacturing Records. A batch manufacturing record shall be created for each Production Batch of Audited Product. This record shall include at the least the following information:

    a. Name of the Audited Product;

    b. Master formulation record reference for the Audited Product;

    c. Date and time of preparation of the Audited Product;

    d. Production Batch number;

e. Signature or initials of individuals involved in each manufacturing step;

f. Name, vendor, or manufacturer, Production Batch number, and expiration date of each Ingredient;

g. Weight or measurement of each Ingredient;

h. Documentation of quality control procedures;

i. Any deviations from the master formulation record, and any problems or errors experienced during the manufacture; and

j. Total quantity of the Audited Product manufactured.

F. Audited Product Testing. For each Production Batch, the Audited Product shall undergo all required testing in the 4-100 Series Rules for Retail Marijuana Product and/or Audited Product. *See also* Rule 4-115 – Regulated Marijuana Testing Program: Sampling and Testing Program.

G. Packaging and Labeling of Audited Product. Audited Product must be packaged and labeled in accordance with all requirements of the 3-1000 Series Rules regarding packaging and labeling for Transfer to a consumer prior to any Transfer.

H. Adverse Health Event Reporting. A Retail Marijuana Products Manufacturer must report Adverse Health Events pursuant to Rule 3-920.

I. Alternative Use Designation – Any Other Method of Consumption or Administration. A Retail Marijuana Products Manufacturer shall not Transfer to a Retail Marijuana Store, another Retail Marijuana Products Manufacturer, or Retail Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit any Retail Marijuana Concentrate or Retail Marijuana Product that is not within any intended use identified in Rule 3-1015(B) until it applies for and receives an Alternative Use Designation from the State Licensing Authority in consultation with the Colorado Department of Public Health and Environment. In the process of applying for an Alternative Use Designation, the Retail Marijuana Products Manufacturer shall work with the Division and the Colorado Department of Public Health and Environment to determine whether the proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when particular independent review factors, safeguards, and tests are in place. The following are minimum requirements for any application for an Alternative Use Designation:

1. The Retail Marijuana Products Manufacturer shall identify provisions of this Rule 6-325 that apply to its Alternative Use Product, any proposed additional or alternative requirements, and how any proposed alternatives protect public health and safety. The Retail Marijuana Products Manufacturer shall also provide any additional information as may be requested by the Division, in consultation with the Colorado Department of Public Health and Environment.

2. The Retail Marijuana Products Manufacturer bears the burden of proving its proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when the identified independent review factors, safeguards, and tests are in place.

3. A Retail Marijuana Products Manufacturer seeking an Alternative Use Designation shall cooperate with the Division. Failure to cooperate with the Division is grounds for denial of an Alternative Use Designation.

4. The granting of an Alternative Use Designation shall rest in the discretion of the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment. The State Licensing Authority may in his or her discretion deny an Alternative Use Designation where the Retail Marijuana Products Manufacturer does not meet the burden established in this Rule 6-325.

J. Alternative Use Designation – Packaging and Labeling Requirements. If the Division recommends, and the State Licensing Authority grants, an Alternative Use Designation, the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment shall provide the Retail Marijuana Products Manufacturer the appropriate statement of intended use label to be affixed to the Alternative Use Product, and any additional or distinct packaging and labeling requirements applicable to the Alternative Use Product. *See* Rules 3-1010 and 3-1015.

K. Required Records. A Retail Marijuana Products Manufacturer manufacturing or Transferring Audited Product and/or Alternative Use Product shall maintain accurate and comprehensive records on the Licensed Premises regarding the manufacturing process, a list of all active and inactive Ingredients used in the Audited Product and/or Alternative Use Product, and such other documentation as required by this Rule 6-325. *See* Rule 3-905 – Business Records Required.

6-330 – Recall of Retail Marijuana Concentrate and Retail Marijuana Product – Repealed effective January 1, 2021.

Basis and Purpose – 6-335

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(III), and 44-10-603, 44-10-603(15)(a)-(b), and 3~~9~~8-28.8-30~~2(2)(b)~~0 C.R.S. The purpose of this rule is to allow a Medical Marijuana Products Manufacturer to receive Transfers of Retail Marijuana Concentrate from a Retail Marijuana Products Manufacturer in order to change its designation from "Retail" to "Medical."

6-335 – Retail Marijuana Products Manufacturer: Ability to Change Designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate.

A. Changing Designation: Beginning July 1, 2022, a Retail Marijuana Products Manufacturer may Transfer Retail Marijuana Concentrate to a Medical Marijuana Products Manufacturer in order to change its designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate pursuant to the following requirements:

1. The Retail Marijuana Products Manufacturer may only Transfer Retail Marijuana Concentrate that has passed all required testing;

2. The Medical Marijuana Products Manufacturer and the Retail Marijuana Products Manufacturer ~~are co-located~~share a Licensed Premises in accordance with Rule 3-215;

3. The Medical Marijuana Products Manufacturer and Retail Marijuana Products Manufacturer have at least one identical Controlling Beneficial Owner;

4. The Retail Marijuana Products Manufacturer must report the Transfer in the Inventory Tracking System the same day that the change in designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate occurs;

5. After the designation change, the Medical Marijuana Concentrate cannot be Transferred to the originating or any other Retail Marijuana Business or otherwise be treated as Retail

Marijuana. The inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules; and

6. The Transfer and change in designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change in designation.

6-400 Series – Retail Marijuana Testing Facilities

Basis and Purpose – 6-405

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(4), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(c), 44-10-203(2)(d), 44-10-203(2)(h), 44-10-203(2)(y), 44-10-203(3)(c), 44-10-203(3)(d), 44-10-313(8)(a), 44-10-313(14), 44-10-401(2)(b)(IV), 44-10-604, 35-61-104, and 35-61-105.5, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to Retail Marijuana Testing Facilities. This Rule 6-405 was previously Rule R 701.

6-405 – Retail Marijuana Testing Facilities: License Privileges

A. Licensed Premises. A separate License is required for each specific Retail Marijuana Testing Facility and only those privileges granted by the Marijuana Code and any rules promulgated pursuant to it may be exercised on the Licensed Premises. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Testing Facility may share and operate at the same Licensed Premises with a Medical Marijuana Testing Facility with identical ownership.

B. Testing of Retail Marijuana Authorized. A Retail Marijuana Testing Facility may accept Samples of Retail Marijuana from Retail Marijuana Businesses for testing and research purposes only. The Division may require a Retail Marijuana Business to submit a Sample of Retail Marijuana to a Retail Marijuana Testing Facility upon demand.

C. Product Development Authorized. A Retail Marijuana Testing Facility may develop Retail Marijuana Product, but is not authorized to engage in the manufacturing privileges described in section 44-10-603, C.R.S., and Rule 6-305 – Retail Marijuana Manufacturing Facilities: License Privileges.

D. Transferring Samples to Another Licensed and Certified Retail Marijuana Testing Facility. A Retail Marijuana Testing Facility may Transfer Samples to another Retail Marijuana Testing Facility for testing. All laboratory reports provided to or by a Retail Marijuana Business must identify the Retail Marijuana Testing Facility that actually conducted the test.

E. Testing of Registered and Tracked Industrial Hemp Authorized.

1. A Retail Marijuana Testing Facility may accept and test Industrial Hemp as regulated by Article 61 of Title 35, C.R.S.

2. Before a Retail Marijuana Testing Facility accepts a sample of Industrial Hemp, the Retail Marijuana Testing Facility shall verify that the Person submitting the sample is registered with the Commissioner of the Colorado Department of Agriculture, pursuant to section 35-61-104, C.R.S.

3. A Retail Marijuana Testing Facility ~~may only accept samples that are tracked through the radio frequency identification-based inventory tracking system approved by the Commissioner of the Colorado Department of Agriculture, pursuant to section 35-61-~~

~~105.5, C.R.S.~~is responsible for entering tracking samples of Industrial Hemp in the Inventory Tracking System pursuant to the 3-800 Series Rules.

4. A Retail Marijuana Testing Facility shall be permitted to test Industrial Hemp only in the category(ies) that the Retail Marijuana Testing Facility is certified to perform testing in pursuant to Rule 6-415 – Retail Marijuana Testing Facilities: Certification Requirements.

5. In accordance with section 35-61-105.5, C.R.S., a Retail Marijuana Testing Facility shall provide the results of any testing performed on Industrial Hemp to the Person submitting the sample of Industrial Hemp and to the Colorado Department of Agriculture.

6. Nothing in these rules shall be construed to require a Retail Marijuana Testing Facility to accept and/or test Samples of Industrial Hemp.

F. Testing of Industrial Hemp Product Authorized.

1. A Retail Marijuana Testing Facility may accept and test samples of Industrial Hemp Products.

2. Before a Retail Marijuana Testing Facility accepts a sample of Industrial Hemp Product, the Retail Marijuana Testing Facility shall verify that the Person submitting the sample is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

3. A Retail Marijuana Testing Facility is responsible for entering and tracking samples of Industrial Hemp Product in the inventory tracking system pursuant to the 3-800 Series Rules.

4. A Retail Marijuana Testing Facility shall be permitted to test Industrial Hemp Product only in the category(ies) that the Retail Marijuana Testing Facility is certified to perform testing in pursuant to Rule 6-415 – Retail Marijuana Testing Facilities: Certification Requirements.

5. A Retail Marijuana Testing Facility may provide the results of any testing performed on Industrial Hemp Product to the Person submitting the sample of Industrial Hemp Product.

6. Nothing in these rules shall be construed to require a Retail Marijuana Testing Facility to accept and/or test samples of Industrial Hemp Product.

G. Authorized Retail Marijuana Transport. A Retail Marijuana Testing Facility is authorized to utilize a licensed Retail Marijuana Transporter to transport Samples of Retail Marijuana for testing, in accordance with the Marijuana Code and Marijuana Rules, between the originating Retail Marijuana Business requesting testing services and the destination Retail Marijuana Testing Facility performing testing services. Nothing in this Rule requires a Retail Marijuana Business to utilize a Retail Marijuana Transporter to transport Samples of Retail Marijuana for testing.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-410

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(c), 44-10-203(2)(d), 44-10-202(4), 44-10-203(2)(h), 44-10-203(2)(y), 44-10-203(3)(c), 44-10-203(2)(d), 44-10-401(2)(b)(IV), 44-10-604, 44-10-701, 35-61-104, and 35-61-105.5, C.R.S. The purpose of this rule is to clarify those acts

that are limited in some fashion, or prohibited, by a Retail Marijuana Testing Facility. This Rule 6-410 was previously Rule R 702, 1 CCR 212-2.

6-410 – Retail Marijuana Testing Facilities: General Limitations or Prohibited Acts

A. Prohibited Financial Interest. A Person who is Controlling Beneficial Owner or Passive Beneficial of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, Retail Marijuana Store, Medical Marijuana Store, Medical Marijuana Cultivation Facility, or a Medical Marijuana Products Manufacturer shall not be a Controlling Beneficial Owner or Passive Beneficial Owner of a Retail Marijuana Testing Facility.

B. Conflicts of Interest. The Retail Marijuana Testing Facility shall establish policies to prevent the existence of or appearance of undue commercial, financial, or other influences that may diminish the competency, impartiality, and integrity of the Retail Marijuana Testing Facility's testing processes or results, or that may diminish public confidence in the competency, impartiality and integrity of the Retail Marijuana Testing Facility's testing processes or results. At a minimum, employees, owners or agents of a Retail Marijuana Testing Facility who participate in any aspect of the analysis and results of a Sample or Test Batch are prohibited from improperly influencing the testing process, improperly manipulating data, or improperly benefiting from any on-going financial, employment, personal or business relationship with the Retail Marijuana Business that provided the Sample.

C. Transfer of Retail Marijuana Prohibited. A Retail Marijuana Testing Facility shall not Transfer Retail Marijuana to another Retail Marijuana Business or a consumer, except that a Retail Marijuana Testing Facility may Transfer a Sample to another Retail Marijuana Testing Facility.

D. Destruction of Received Samples. A Retail Marijuana Testing Facility shall properly dispose of all Samples it receives, that are not Transferred to another Retail Marijuana Testing Facility, after all necessary tests have been conducted and any required period of storage. *See* Rule 3-230 – Waste Disposal.

E. Sample Rejection. A Retail Marijuana Testing Facility shall reject any Sample where the condition of the Sample at receipt indicates that the Sample may have been tampered with.

F. Retail Marijuana Business Requirements Applicable. A Retail Marijuana Testing Facility shall be considered a Licensed Premises. A Retail Marijuana Testing Facility shall be subject to all requirements applicable to Retail Marijuana Businesses.

G. Retail Marijuana Testing Facility – Inventory Tracking System Required. A Retail Marijuana Testing Facility must use the Inventory Tracking System to ensure all Test Batches or Samples containing Retail Marijuana are identified and tracked from the point they are Transferred from a Retail Marijuana Business through the point of Transfer or destruction or disposal. A Retail Marijuana Testing Facility that performs testing on Industrial Hemp must use the Inventory Tracking System to ensure all samples of Industrial Hemp are identified and tracked from the point they are Transferred from a cultivator registered with the Commissioner of the Colorado Department of Agriculture, pursuant to section 35-61-104, C.R.S., to the point of Transfer or destruction or disposal. The Inventory Tracking System reporting shall include the results of any tests that are conducted on Retail Marijuana or Industrial Hemp. *See also* Rule 3-805 – Regulated Marijuana Businesses: Inventory Tracking System and Rule 3-825 – Reporting and Inventory Tracking System. The Retail Marijuana Testing Facility must have the ability to reconcile its Sample records with the Inventory Tracking System and the associated transaction history. *See also* Rule 3-905 – Business Records Required and Rule 3-825.

H. Testing of Unregistered or Untracked Industrial Hemp or Industrial Hemp Products Prohibited.

1. A Retail Marijuana Testing Facility is authorized to accept or test Industrial Hemp only if (1) the entity providing the Samples of Industrial Hemp is regulated by Article 61 of Title 35, C.R.S., (2) the Industrial Hemp is submitted by a registered cultivator, and (3) the Industrial Hemp is tracked ~~through the radio frequency identification-based inventory tracking system approved by the Commissioner of the Colorado Department of Agriculture, pursuant to section 35-61-105.5, C.R.S~~in the Inventory Tracking System.

2. A Retail Marijuana Testing Facility is authorized to accept or test Industrial Hemp Product only if (1) the entity providing the Samples of Industrial Hemp Product is registered and regulated pursuant to Article 4 or Title 25, C.R.S., and (2) the Industrial Hemp Product being submitted for testing is tracked in the Inventory Tracking System.

I. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-415

The statutory authority for this rule includes but is not limited to section 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(4), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(c), 44-10-203(2)(d), 44-10-203(2)(h), 44-10-203(2)(y), 44-10-203(3)(c), 44-10-203(3)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish a frame work for certification for Retail Marijuana Testing Facilities. This Rule 6-415 was previously Rule R 703, 1 CCR 212-2.

6-415 – Retail Marijuana Testing Facilities: Certification Requirements

A. Certification Types. If certification in a testing category is required by the Division, then the Retail Marijuana Testing Facility must be certified in the category in order to perform that type of testing.

1. Residual solvents;

2. Microbials;

3. Mycotoxins;

4. Pesticides;

5. THC and other Cannabinoid potency;

6. Elemental Impurities; and

7. Water Activity.

B. In order to obtain a certification for Pesticide testing, a Retail Marijuana Testing Facility must also obtain certification for mycotoxin testing.

C. Certification Procedures. The Retail Marijuana Testing Facility certification program is contingent upon successful on-site inspection, successful participation in proficiency testing, and ongoing compliance with the applicable requirements in this Rule.

1. Certification Inspection. A Retail Marijuana Testing Facility must be inspected prior to initial certification and annually thereafter by an inspector approved by the Division.

2. Standards for Certification. A Retail Marijuana Testing Facility must meet standards of performance, as established by these rules, in order to obtain and maintain certification. Standards of performance include but are not limited to: personnel qualifications,

standard operating procedure manual, analytical processes, Proficiency Testing, quality control, quality assurance, security, chain of custody, Sample retention, space, records, and results reporting. In addition, a Retail Marijuana Testing Facility must be accredited under the International Organization for Standardization/International Electrotechnical Commission 17025:2005 Standard, or any subsequent superseding ISO/IEC 17025 standard. In order to obtain certification in a testing category from the Division, the Retail Marijuana Testing Facility's scope of accreditation must specify that particular testing category.

a. Subsequent to initial approval of a Retail Marijuana Testing Facility License, the Division may grant provisional certification if the Applicant has not yet obtained ISO/IEC 17025:2005 accreditation, but meets all other requirements. Such provisional certification shall be for a period not to exceed twelve months.

3. Personnel Qualifications.

a. Laboratory Director. A Retail Marijuana Testing Facility must employ, at a minimum, a laboratory director with sufficient education and experience in a regulated laboratory environment in order to obtain and maintain certification. *See* Rule 6-420 – Retail Marijuana Testing Facilities: Personnel.

b. Employee Competency. A Retail Marijuana Testing Facility must have a written and documented system to evaluate and document the competency in performing authorized tests for employees. Prior to independently analyzing Samples, testing personnel must demonstrate acceptable performance on precision, accuracy, specificity, reportable ranges, blanks, and unknown challenge samples (proficiency samples or internally generated quality controls).

4. Standard Operating Procedure Manual. A Retail Marijuana Testing Facility must have a written standard operating procedure manual meeting the minimum standards set forth in these rules detailing the performance of all methods employed by the facility used to test the analytes it reports and made available for testing analysts to follow at all times.

a. The current laboratory director must approve, sign and date each procedure. If any modifications are made to those procedures, the laboratory director must approve, sign, and date the revised version prior to use.

b. A Retail Marijuana Testing Facility must maintain a copy of all standard operating procedures to include any revised copies for a minimum of three years. *See* Rule 6-450 – Retail Marijuana Testing Facilities: Records Retention, and Rule 3-905 – Business Records Required.

5. Analytical Processes. A Retail Marijuana Testing Facility must maintain a listing of all analytical methods used and all analytes tested and reported. The Retail Marijuana Testing Facility must provide this listing to the Division upon request.

6. Proficiency Testing. A Retail Marijuana Testing Facility must successfully participate in a Division approved Proficiency Testing program in order to obtain and maintain certification.

7. Quality Assurance and Quality Control. A Retail Marijuana Testing Facility must establish and follow a quality assurance and quality control program to ensure sufficient monitoring of laboratory processes and quality of results reported.

8. Security. A Retail Marijuana Testing Facility must be located in a secure setting as to prevent unauthorized persons from gaining access to the testing and storage areas of the laboratory.

9. Chain of Custody. A Retail Marijuana Testing Facility must establish a system to document the complete chain of custody for samples from receipt through disposal.

10. Space. A Retail Marijuana Testing Facility must be located in a fixed structure that provides adequate infrastructure to perform analysis in a safe and compliant manner consistent with federal, state, and local requirements.

11. Records. A Retail Marijuana Testing Facility must establish a system to retain and maintain records for a period not less than three years. *See* Rules 6-450 – Retail Marijuana Testing Facilities - Records Retention and Rule 3-905 – Business Records Required.

12. Results Reporting. A Retail Marijuana Testing Facility must establish processes to ensure results are reported in a timely and accurate manner. *See* Rule 3-825 – Reporting and Inventory Tracking System. A Retail Marijuana Testing Facility's process may require that the Regulated Marijuana Business remit payment for any test conducted by the Testing Facility prior to entry of the results of that test into the Inventory Tracking System. A Retail Marijuana Testing Facility's process established under this subparagraph (12) must be maintained on the Licensed Premises of the Retail Marijuana Testing Facility.

13. Conduct While Seeking Certification. A Retail Marijuana Testing Facility, and its agents and employees, shall provide all documents and information required or requested by the Colorado Department of Public Health and Environment and its employees, and the Division and its employees in a full, faithful, truthful, and fair manner.

D. Violation Affecting Public Safety. A violation of this Rule may be considered a license violation affecting public safety.

Basis and Purpose - 6-420

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(c), 44-10-203(2)(d), 44-10-203(3)(c), 44-10-203(3)(d), 44-10-401(2)(b)(IV), 44-10-604, C.R.S. The purpose of this rule is to establish personnel standards for the operation of a Retail Marijuana Testing Facility. This Rule 6-420 was previously Rule R 704, 1 CCR 212-2.

6-420 – Retail Marijuana Testing Facilities: Personnel

A. Laboratory Director. The laboratory director is responsible for the overall analytical operation and quality of the results reported by the Retail Marijuana Testing Facility, including the employment of personnel who are competent to perform test procedures, and record and report test results promptly, accurately, and proficiently and for assuring compliance with the standards set forth in this Rule.

1. The laboratory director may also serve as a supervisory analyst or testing analyst, or both, for a Retail Marijuana Testing Facility.

2. The laboratory director for a Retail Marijuana Testing Facility must meet one of the following qualification requirements:

a. The laboratory director must be a Medical Doctor (M.D.) licensed to practice medicine in Colorado and have at least three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body; or

b. The laboratory director must hold a doctoral degree in one of the natural sciences and have at least three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body;

c. The laboratory director must hold a master's degree in one of the natural sciences and have at least five years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body; or

d. The laboratory director must hold a bachelor's degree in one of the natural sciences and have at least seven years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body.

B. What the Laboratory Director May Delegate. The laboratory director may delegate the responsibilities assigned under this Rule to a qualified supervisory analyst, provided that such delegation is made in writing and a record of the delegation is maintained. *See* Rule 3-905 – Business Records Required. Despite the designation of a responsibility, the laboratory director remains responsible for ensuring that all duties are properly performed.

C. Responsibilities of the Laboratory Director. The laboratory director must:

1. Ensure that the Retail Marijuana Testing Facility has adequate space, equipment, materials, and controls available to perform the tests reported;

2. Establish and adhere to a written standard operating procedure used to perform the tests reported;

3. Ensure that testing systems developed and used for each of the tests performed in the laboratory provide quality laboratory services for all aspects of test performance, which includes the preanalytic, analytic, and postanalytic phases of testing;

4. Ensure that the physical location and environmental conditions of the laboratory are appropriate for the testing performed and provide a safe environment in which employees are protected from physical, chemical, and biological hazards;

5. Ensure that the test methodologies selected have the capability of providing the quality of results required for the level of testing the laboratory is certified to perform;

6. Ensure that validation and verification test methods used are adequate to determine the accuracy, precision, and other pertinent performance characteristics of the method;

7. Ensure that testing analysts perform the test methods as required for accurate and reliable results;

8. Ensure that the laboratory is enrolled in and successfully participates in a Division approved Proficiency Testing program;

9. Ensure that the quality control and quality assessment programs are established and maintained to assure the quality of laboratory services provided and to identify failures in quality as they occur;

10. Ensure the establishment and maintenance of acceptable levels of analytical performance for each test system;

11. Ensure that all necessary remedial actions are taken and documented whenever significant deviations from the laboratory's established performance specifications are identified, and that test results are reported only when the system is functioning properly;

12. Ensure that reports of test results include pertinent information required for interpretation;

13. Ensure that consultation is available to the laboratory's clients on matters relating to the quality of the test results reported and their interpretation of said results;

14. Employ a sufficient number of laboratory personnel who meet the qualification requirements and provide appropriate consultation, properly supervise, and ensure accurate performance of tests and reporting of test results;

15. Ensure that prior to testing any samples, all testing analysts receive the appropriate training for the type and complexity of tests performed, and have demonstrated and documented that they can perform all testing operations reliably to provide and report accurate results;

16. Ensure that policies and procedures are established for monitoring individuals who conduct preanalytical, analytical, and postanalytical phases of testing to assure that they are competent and maintain their competency to process Samples, perform test procedures and report test results promptly and proficiently, avoid actual and apparent conflicts of interests, and whenever necessary, identify needs for remedial training or continuing education to improve skills;

17. Ensure that an approved standard operating procedure manual is available to all personnel responsible for any aspect of the testing process; and

18. Specify, in writing, the responsibilities and duties of each person engaged in the performance of the preanalytic, analytic, and postanalytic phases of testing, that identifies which examinations and procedures each individual is authorized to perform, whether supervision is required for Sample processing, test performance or results reporting, and whether consultant or laboratory director review is required prior to reporting test results.

D. Change in Laboratory Director. In the event that the laboratory director leaves employment at the Retail Marijuana Testing Facility, the Retail Marijuana Testing Facility shall:

1. Provide written notice to the Colorado Department of Public Health and Environment and the Division within seven days of the laboratory director’s departure; and

2. Designate an interim laboratory director within seven days of the laboratory director’s departure. At a minimum, the interim laboratory director must meet the qualifications of a supervisory analyst.

3. The Retail Marijuana Testing Facility must hire a permanent laboratory director within 60 days from the date of the previous laboratory director’s departure.

4. Notwithstanding the requirement of subparagraph (D)(3), the Retail Marijuana Testing Facility may submit a waiver request to the Division Director to receive an additional 60 days to hire a permanent laboratory director provided that the Retail Marijuana Testing Facility submits a detailed oversight plan along with the waiver request.

E. Supervisory Analyst. Supervisory analysts must meet one of the qualifications for a laboratory director or have at least a bachelor's degree in one of the natural sciences and ~~three~~ two years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body. A combination of education and experience may substitute for the ~~three~~ two years of full-time laboratory experience.

F. Laboratory Testing Analyst.

1. Educational Requirements. An individual designated as a testing analyst must meet one of the qualifications for a laboratory director or supervisory analyst or:

a. ~~h~~Have at least a bachelor's degree in one of the natural sciences and one year of full-time experience in laboratory testing;

b. Have at least a bachelor's degree in one of the natural sciences;

c. Have earned an associated degree in a laboratory science from an accredited institution; or

d. Have education and training equivalent to that specified in subparagraph (F)(1) of this Rule that includes at least 60 semester hours, or equivalent, from an accredited institution that, at a minimum, include:

i. 24 semester hours of science courses that include six semester hours of chemistry, six semester hours of biology, and twelve semester hours of chemistry, biology, or cannabis laboratory sciences in any combination; and

ii. Have a laboratory training that includes at least three months documented laboratory training each testing category in which the individual performs testing; or

e. Have at least five years of full time experience in laboratory testing and have laboratory training that includes at least three months documented laboratory training in each testing category in which the individual performs testing.

2. Responsibilities. In order to independently perform any test for a Retail Marijuana Testing Facility, an individual must at least meet the educational requirements for a testing analyst.

G. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-425

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-202(4), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish standard operating procedure manual standards for the operation of a Retail Marijuana Testing Facility. This Rule 6-425 was previously Rule R 705, 1 CCR 212-2.

6-425 –Retail Marijuana Testing Facilities: Standard Operating Procedure Manual

A. A standard operating procedure manual must include, but need not be limited to, procedures for:

1. ~~Sample~~ Test Batch receiving;

2. Test Batch ~~Sample~~ accessioning;

3. Test Batch ~~Sample~~ storage;

4. Identifying, ~~and~~ rejecting, and reporting unacceptable Test Batches~~Samples~~;

5. Recording and reporting discrepancies during Test Batch receiving an accessioning;

6. Security of Test Batches~~Samples~~, aliquots and extracts and records;

7. Validating a new or revised method prior to testing of Test Batches ~~Samples~~ to include: accuracy, precision, analytical sensitivity, analytical specificity (interferences), LOD, LOQ, and verification of the reportable range;

8. Test Batch preparation, including but not limited to, sub-sampling for testing, homogenization, and ~~A~~aliquoting Test Batches ~~Samples~~ to avoid contamination and carry-over;

9. Test Batch archive~~Sample~~ retention to assure stability, as follows:

   a. For Test Batches ~~Samples that comprise Test Batches~~ submitted for testing other than Pesticide contaminant testing, Test Batch ~~Sample~~ retention for 14 days;

   b. For Test Batch ~~Samples that comprise Test Batches~~ submitted for Pesticide contaminant testing, Test Batch ~~Sample~~ retention for 90 days.

10. Disposal of Test Batches~~Samples~~;

11. The theory and principles behind each assay;

12. Preparation and identification of reagents, standards, calibrators and controls and ensure all standards are traceable to National Institute of Standards of Technology (“NIST”);

13. Special requirements and safety precautions involved in performing assays;

14. Frequency and number of control and calibration materials;

15. Recording and reporting assay results;

16. Protocol and criteria for accepting or rejecting analytical Procedure to verify the accuracy of the final report;

17. Pertinent literature references for each method;

18. Current step-by-step instructions with sufficient detail to perform the assay to include equipment operation and any abbreviated versions used by a testing analyst;

19. Acceptability criteria for the results of calibration standards and controls as well as between two aliquots or columns;

20. A documented system for reviewing the results of testing calibrators, controls, standards, and Test Batch ~~subject tests~~ results, as well as reviewing for clerical errors, analytical errors and any unusual analytical results and are corrective actions implemented and documented, and does the laboratory contact the requesting entity~~; and~~

21. Policies and procedures to follow when Test Batch ~~Samples~~ are requested for referral and testing by another certified Retail Marijuana Testing Facility or an approved local or state agency's laboratory~~;~~.

22. Testing Industrial Hemp, if the Retail Marijuana Testing Facility tests Industrial Hemp~~;~~.

23. Investigating and documenting existing or potential Nonconformances and implementing Corrective Actions and/or Preventive Actions;

24. Contacting the requesting entity about existing Nonconformances; and

25. Retesting or additional analyses of Test Batches, including but need not be limited to, when it is appropriate to retest or perform an additional analysis of the Test Batch, when it is appropriate to request a new Test Batch from the requesting entity, and when it is appropriate for the requesting entity to request retesting (e.g., after failing Pesticide testing or elemental impurity testing on Regulated Marijuana flower, trim, shake, or wet whole plant as permitted by Rule 4-135(d) and 4-135(D.1));

B. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-430

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-202(4), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish analytical processes standards for the operation of a Retail Marijuana Testing Facility. This Rule 6-430 was previously Rule R 706, 1 CCR 212-2.

6-430 –Retail Marijuana Testing Facilities: Analytical Processes

A. Gas Chromatography ("GC"). A Retail Marijuana Testing Facility using GC must:

1. Document the conditions of the gas chromatograph, including the detector response;

2. Perform and document preventive maintenance as required by the manufacturer;

3. Ensure that records are maintained and readily available to the staff operating the equipment;

4. Document the performance of new columns before use;

5. Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified;

6. Establish criteria of acceptability for variances between different aliquots and different columns; and

7. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.

B. Gas Chromatography Mass Spectrometry ("GC/MS"). A Retail Marijuana Testing Facility using GC/MS must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Document the changes of septa as specified in the standard operating procedure;

3. Document liners being cleaned or replaced as specified in the standard operating procedure;

4. Ensure that records are maintained and readily available to the staff operating the equipment;

5. Maintain records of mass spectrometric tuning;

6. Establish written criteria for an acceptable mass-spectrometric tune;

7. Document corrective actions if a mass-spectrometric tune is unacceptable;

8. Monitor analytic analyses to check for contamination and carry-over;

9. Use selected ion monitoring within each run to assure that the laboratory compares ion ratios and retention times between calibrators, controls and sSamples for identification of an analyte;

10. Use an internal standard for qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified and is isotopically labeled when available or appropriate for the assay;

11. Document the monitoring of the response (area or peak height) for the internal standard to ensure consistency overtime of the analytical system;

12. Define the criteria for designating qualitative results as positive;

13. When a library is used to qualitatively identify an analyte, the identity of the analyte must be confirmed before reporting results by comparing the relative retention time and mass spectrum to that of a known standard or control run on the same system; and

14. Evaluate the performance of the instrument after routine and preventive maintenance (*e.g.* clipping or replacing the column or cleaning the source) prior to analyzing subject sSamples.

C. Immunoassays. A Retail Marijuana Testing Facility using Immunoassays must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Validate any changes or modifications to a manufacturer's approved assays or testing methods when a sSample is not included within the types of sSamples approved by the manufacturer; and

4. Define acceptable separation or measurement units (absorbance intensity or counts per minute) for each assay, which must be consistent with manufacturer's instructions.

D. Thin Layer Chromatography ("TLC"). A Retail Marijuana Testing Facility using TLC must:

1. Apply unextracted standards to each thin layer chromatographic plate;

2. Include in their written procedure the preparation of mixed solvent systems, spray reagents and designation of lifetime;

3. Include in their written procedure the storage of unused thin layer chromatographic plates;

4. Evaluate, establish, and document acceptable performance for new thin layer chromatographic plates before placing them into service;

5. Verify that the spotting technique used precludes the possibility of contamination and carry-over;

6. Measure all appropriate RF values for qualitative identification purposes;

7. Use and record sequential color reactions, when applicable;

8. Maintain records of thin layer chromatographic plates; and

9. Analyze an appropriate matrix blank with each batch of Samples analyzed.

E. High Performance Liquid Chromatography ("HPLC"). A Retail Marijuana Testing Facility using HPLC must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Monitor and document the performance of the HPLC instrument each day of testing;

4. Evaluate the performance of new columns before use;

5. Create written standards for acceptability when eluting solvents are recycled;

6. Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified when available or appropriate for the assay; and

7. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.

F. Liquid Chromatography Mass Spectroscopy ("LC/MS"). A Retail Marijuana Testing Facility using LC/MS must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Maintain records of mass spectrometric tuning;

4. Document corrective actions if a mass-spectrometric tune is unacceptable;

5. Use an internal standard with each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified and is isotopically labeled when available or appropriate for the assay;

6. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system;

7. Compare two transitions and retention times between calibrators, controls and sSamples within each run;

8. Document and maintain records when changes in source, source conditions, eluent, or column are made to the instrument; and

9. Evaluate the performance of the instrument when changes in: source, source conditions, eluent, or column are made prior to reporting test results.

G. Microbial Assays. A Retail Marijuana Testing Facility using microbial assays must:

1. Perform and document preventive maintenance as required by the manufacturer and standard operating procedures;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Validate any changes or modifications to a manufacturer's approved assays or testing methods when a test sample is not included within the types of Test Batches approved by the manufacturer;

4. Verify the method at the action levels for each analyte. Verification at the qualitative presence/absence limit shall include a fractional recovery study unless otherwise completed by the manufacturer and approved by an independent scientific body.

5. Include controls for each batch of test samples. Quantitative microbial methods shall use controls of a specific known value or set of values that lies within the quantifiable range of the method;

6. For molecular methods, the Retail Marijuana Testing Facility shall include controls for each individual analytical run. Quantitative molecular methods shall use controls of a specific known value or set of values that lies within the quantifiable range of the method;

7. PCR-based and qPCR-based methods must include validated internal amplification controls;

8. Microbial methods must include steps to confirm presumptive positive results; confirmation methods may be molecular or cultural or both. Confirmation methods must include quality controls that match the organism which is being confirmed.

H. Water Activity. A Retail Marijuana Testing Facility analyzing water activity must:

1. Perform and document preventive maintenance as required by the manufacturer and standard operating procedures;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Specify all unique method parameters, such as temperature, sample surface area, volatile compound interferences, including but not limited to temperature;

4. Evaluate the performance of the method after routine and preventive maintenance prior to analyzing the Test Batch;

5. Establish criteria for acceptable instrument performance.

I. ~~Other~~ Analytical Methodology. A Retail Marijuana Testing Facility ~~using other~~must validate new methodology ~~or new~~and revalidate any changes to approved methodology prior to testing Test Batches. A Retail Marijuana Testing Facility must:

1. Implement a performance based measurement system for the selected methodology and validate the method following good laboratory practices prior to reporting results. Validation of other or new methodology must include when applicable, but is not limited to:

   a. Verification of Accuracy

   b. Verification of Precision

   c. Verification of Analytical Sensitivity

   d. Verification of Analytical Specificity

   e. Verification of the LOD

   f. Verification of the LOQ

   g. Verification of the Reportable Range

   h. Identification of Interfering Substances

2. Validation of the other or new methodology must be documented.

3. Prior to use, other or new methodology must have a standard operating procedure approved and signed by the laboratory director.

4. Testing analysts must have documentation of competency assessment prior to testing Samples.

5. Any changes to the approved other or new methodology must be revalidated and documented prior to testing Samples.

J. Testing Validation of Complex Matrices. A Retail Marijuana Testing Facility must include a variety of matrices as part of the validation/verification process. During method validation/verification, a Retail Marijuana Testing Facility must:

1. Select matrices which best represent each category of products to be tested as listed in Rule 4-115(D). The laboratory shall independently determine the category of matrix a product falls within; properties to consider include fat content, cannabinoid content, pH,

salt content, sugar content, water activity, the presence of know chemical compounds, microbial flora and antimicrobial compounds.

2. Perform a new matrix validation, prior to reporting results, on matrices which are either A) a new category of matrix or B) considerably different from the original matrix validated within the category.

a. For example, the Retail Marijuana Testing Facility intends to receive the topical product “bath bombs” for testing, but previous validation studies for topical product included lotion and massage oil. A new validation should be performed for the product prior to testing since salt content and other properties differ vastly from the original matrices validated.

3. Perform a matrix verification (a client matrix spike or similar consisting of the target analyte(s) at the time of analysis) on matrices submitted for testing which differ slightly from those initially validated but which fall within a category already validated.

a. For example, the Retail Marijuana Testing Facility receives a new edible type matrix for testing (snickerdoodle cookies) but previous validation included gummies and hard candy. A spike of a portion of the submitted material must be analyzed prior to, or at the time of, sample analysis.

K. All Test Batches and Industrial Hemp Product must be tested as received, must not be manipulated, and tested in a manner that ensures results are representative of sample as received.

L. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose - 6-435

The statutory authority for this rule includes but is not limited to sections 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish a proficiency testing program for Retail Marijuana Testing Facilities. This Rule 6-435 was previously Rule R 707, 1 CCR 212-2.

6-435 – Retail Marijuana Testing Facilities: Proficiency Testing

A. Proficiency Testing Required. A Retail Marijuana Testing Facility must participate in a Proficiency Testing program for each approved category in which it seeks certification under Rule 6-415 – Retail Marijuana Testing Facilities: Certification Requirements.

B. Participation in Designated Proficiency Testing Event. If required by the Division as part of certification, the Retail Marijuana Testing Facility must have successfully participated in Proficiency Testing in the category for which it seeks certification, within the preceding 12 months.

C. Continued Certification. To maintain continued certification, a Retail Marijuana Testing Facility must participate in the designated Proficiency Testing program with continued satisfactory performance as determined by the Division as part of certification. The Division may designate a local agency, state agency, or independent third-party to provide Proficiency Testing.

D. Analyzing Proficiency Testing Samples. A Retail Marijuana Testing Facility must analyze Proficiency Test Samples using the same procedures with the same number of replicate analyses, standards, testing analysts and equipment as used in its standard operating procedures.

E. Proficiency Testing Attestation. The laboratory director and all testing analysts who participated in Proficiency Testing must sign corresponding attestation statements.

F. Laboratory Director Must Review Results. The laboratory director must review and evaluate all Proficiency Testing results.

G. Remedial Action. A Retail Marijuana Testing Facility must take and document remedial action when a score of less than 100% is achieved on any test during Proficiency Testing. Remedial action documentation must include a review of Samples tested and results reported since the last successful Proficiency Testing event. A requirement to take remedial action does not necessarily indicate unsatisfactory participation in a Proficiency Testing event.

H. Unsatisfactory Participation in a Proficiency Testing Event. Unless the Retail Marijuana Testing Facility positively identifies at least 80% of the target analytes tested, participation in the Proficiency Testing event will be considered unsatisfactory. A positive identification must include accurate quantitative and qualitative results as applicable. Any false positive result reported will be considered unsatisfactory participation in the Proficiency Testing event.

I. Consequence of Unsatisfactory Participation in Proficiency Testing Event. Unsatisfactory participation in a Proficiency Testing event may result in limitation, suspension or revocation of Rule 6-415 certification.

J. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-440

The statutory authority for this rule includes but is not limited to sections 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish quality assurance and quality assurance standards for a Retail Marijuana Testing Facility. This Rule 6-440 was previously Rule R 708, 1 CCR 212-2.

6-440 – Retail Marijuana Testing Facilities: Quality Assurance and Quality Control

A. Quality Assurance Program Required. A Retail Marijuana Testing Facility must establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory preanalytic, analytic and postanalytic systems when they occur and must include, but is not limited to:

1. Review of instrument preventive maintenance, repair, troubleshooting and corrective actions documentation must be performed by the laboratory director or designated supervisory analyst on an ongoing basis to ensure the effectiveness of actions taken over time;

2. Review by the laboratory director or designated supervisory analyst of all ongoing quality assurance; and

3. Review of the performance of validated methods used by the Retail Marijuana Testing Facility to include calibration standards, controls and the standard operating procedures used for analysis on an ongoing basis to ensure quality improvements are made when problems are identified or as needed.

B. Quality Control Measures Required. A Retail Marijuana Testing Facility must establish, monitor and document on an ongoing basis the quality control measures taken by the laboratory to ensure the proper functioning of equipment, validity of standard operating procedures and

accuracy of results reported. Such quality control measures must include, but shall not be limited to:

1. Documentation of instrument preventive maintenance, repair, troubleshooting and corrective actions taken when performance does not meet established levels of quality;

2. Review and documentation of the accuracy of automatic and adjustable pipettes and other measuring devices when placed into service and annually thereafter;

3. Cleaning, maintaining and calibrating as needed the analytical balances and in addition, verifying the performance of the balance annually using certified weights to include three or more weights bracketing the ranges of measurement used by the laboratory;

4. Annually verifying and documenting the accuracy of thermometers using a NIST traceable reference thermometer;

5. Recording temperatures on all equipment when in use where temperature control is specified in the standard operating procedures manual, such as water baths, heating blocks, incubators, ovens, refrigerators, and freezers;

6. Properly labeling reagents as to the identity, the concentration, date of preparation, storage conditions, lot number tracking, expiration date and the identity of the preparer;

7. Avoiding mixing different lots of reagents in the same analytical run;

8. Performing and documenting a calibration curve with each analysis using at minimum three calibrators throughout the reporting range;

9. For qualitative analyses, analyzing, at minimum, a negative and a positive control with each batch of Samples analyzed;

10. For quantitative analyses, analyzing, at minimum, a negative and two levels of controls that challenge the linearity of the entire curve;

11. Using a control material or materials that differ in either source or, lot number, or concentration from the calibration material used with each analytical run;

12. For multi-analyte assays, performing and documenting calibration curves and controls specific to each analyte, or at minimum, one with similar chemical properties as reported in the analytical run;

13. Analyzing an appropriate matrix blank and control with each analytical run, when available;

14. Analyzing calibrators and controls in the same manner as unknowns;

15. Documenting the performance of calibration standards and controls for each analytical run to ensure the acceptability criteria as defined in the standard operating procedure is met;

16. Documenting all corrective actions taken when unacceptable calibration, control, and standard or instrument performance does not meet acceptability criteria as defined in the standard operating procedure;

17. Maintaining records of validation data for any new or modified methods to include; accuracy, precision, analytical specificity (interferences), LOD, LOQ, and verification of the linear range; and

18. Performing testing analysts that follow the current Standard Operating Procedures Manual for the test or tests to be performed.

C. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-445

The statutory authority for this rule includes but is not limited to sections 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish chain of custody standards for a Retail Marijuana Testing Facility. In addition, it establishes the requirement that a Retail Marijuana Testing Facility follow an adequate chain of custody for Samples it maintains. This Rule 6-445 was previously Rule R 709, 1 CCR 212-2.

6-445 –Retail Marijuana Testing Facilities: Chain of Custody

A. General Requirements. A Retail Marijuana Testing Facility must establish an adequate chain of custody and Test Batch ~~Sample~~ requirement instructions that must include, but not limited to:

1. Issue instructions for the minimum Test Batch ~~Sample~~ requirements and storage requirements;

2. Document the condition of the external package and integrity seals utilized to prevent contamination of, or tampering with, the Test Batch~~Sample~~;

3. Document the condition and amount of Test Batch ~~Sample~~ provided at the time of receipt;

4. Document all persons handling the original Test Batches~~Samples~~, aliquots, and extracts;

5. Document all Transfers of Test Batches~~Samples~~, aliquots, and extracts referred to another certified Retail Marijuana Testing Facility Licensee for additional testing or whenever requested by a client;

6. Maintain a current list of authorized personnel and restrict entry to the laboratory to only those authorized;

7. Secure the Laboratory during non-working hours;

8. Secure short and long-term storage areas when not in use;

9. Utilize a secured area to log-in and aliquot Test Batches~~Samples~~;

10. Ensure Test Batches~~Samples~~ are stored appropriately; ~~and~~

11. Document the disposal of Test Batches~~Samples~~, aliquots, and extracts; and

12. Document the License number, Inventory Tracking System number, photograph(s), and the reason for rejection of Test Batches that were rejected to the Division within 7 days of Test Batch submission~~.~~

B. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-450

The statutory authority for this rule includes but is not limited to sections 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish records retention standards for a Retail Marijuana Testing Facility. This Rule 6-450 was previously Rule R 710, 1 CCR 212-2.

6-450 –Retail Marijuana Testing Facilities: Records Retention

A. General Requirement. A Retail Marijuana Testing Facility must maintain all required business records. *See* Rule 3-905 - Business Records Required.

B. Specific Business Records Required: Record Retention. A Retail Marijuana Testing Facility must establish processes to preserve records in accordance with Rule 3-905 that includes, but is not limited to;

1. Test Results, including final and amended reports, and identification of analyst and date of analysis;

2. Quality Control and Quality Assurance Records, including accession numbers, ~~Sample~~ Test Batch type, and acceptable reference range parameters;

3. Standard Operating Procedures;

4. Personnel Records;

5. Chain of Custody Records, including documentation of rejected Test Batches;

6. Proficiency Testing Records; and

7. Analytical Data to include data generated by the instrumentation, raw data of calibration standards and curves.

C. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-455

The statutory authority for this rule includes but is not limited to sections 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to clarify a Retail Marijuana Testing Facility's responsibility to notify the Retail Marijuana Business and accurately report in the inventory tracking system any failed contaminant test result. This Rule 6-455 was previously Rule R 712(D), 1 CCR 212-2.

6-455 – Notification of Retail Marijuana Business

If Retail Marijuana failed a contaminant test, then the Retail Marijuana Testing Facility must immediately (1) notify the Retail Marijuana Business that submitted the Test Batch or Sample for testing and any Person as directed by an approved Research Project (2) report the failure in accordance with the Inventory Tracking System reporting requirements in Rule 3-825(B).

Basis and Purpose – 6-460

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(4), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(3)(c), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish a framework for suspending and reinstating a testing category certification for Retail Marijuana Testing Facilities. This rule also provides the ability for a Retail Marijuana Testing Facility to request a hearing following suspension of a testing category certification.

6-460 – Retail Marijuana Testing Facilities: Certification Suspension, Recertification, and Request for Hearing

A. Certification Suspension. When the Division has objective and reasonable grounds to believe and finds that a Retail Marijuana Testing Facility has been guilty of deliberate and willful violation(s) or that the public health, safety, or welfare imperatively requires emergency action, the Division may immediately suspend the Retail Marijuana Testing Facility's testing category certification in accordance with section 24-4-104, C.R.S., and the 8-200 Series Rules.

B. Re-certification. A Retail Marijuana Testing Facility must provide evidence of corrective actions taken to attempt to resolve the certification suspension and may request that the Division re-certify the Retail Marijuana Testing Facility for a particular testing category in accordance with the requirements in Rule 5-415, if the Retail Marijuana Testing Facility provides documentation requested by the Division and/or the CDPHE demonstrating such corrective actions.

6-500 Series – Retail Marijuana Transporters

Basis and Purpose – 6-505

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-313(14), 44-10-401(2)(b)(V), and 44-10-605, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to Retail Marijuana Transporters. This Rule 6-505 was previously Rule R 1601, 1 CCR 212-2.

6-505 – Retail Marijuana Transporter: License Privileges

A. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, ~~A~~a Retail Marijuana Transporter may share a location with an identically owned Medical Marijuana Transporter. However, a separate license is required for each specific business or business entity, regardless of geographical location.

B. Transportation of Retail Marijuana and Retail Marijuana Product Authorized. A Retail Marijuana Transporter may take transportation orders, receive, transport, temporarily store, and deliver Retail Marijuana to Retail Marijuana Businesses.

C. Authorized Sources of Retail Marijuana and Retail Marijuana Product. A Retail Marijuana Transporter may only transport and store Retail Marijuana that it receive~~d~~s directly from ~~the originating~~a Retail Marijuana Business in accordance with the 3-600 Series Rules.

D. Authorized On-Premises Storage. A Retail Marijuana Transporter is authorized to store transported Retail Marijuana on its Licensed Premises or permitted off-premises storage facility. All transported Retail Marijuana must be secured in a Limited Access Area, and tracked consistently with the inventory tracking rules.

E. Delivery to Consumers Pursuant to Delivery Permit.

1. Prior to January 2, 2021, all Retail Marijuana Transporters are prohibited from delivering Regulated Marijuana to consumers.

2. After January 2, 2021, only Retail Marijuana Transporters that possess a valid delivery permit may delivery Retail Marijuana pursuant to contracts with Retail Marijuana Stores that also possess valid delivery permits. All deliveries of Retail Marijuana consumers must also comply with all requirements of Rule 3-615.

3. Violation affecting Public Safety. Any violation of paragraph E of this Rule is a license violation affecting public safety.

Basis and Purpose – 6-510

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-401(2)(b)(V), and 44-10-605, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion or prohibited by a Retail Marijuana Transporter. This Rule 6-510 was previously Rule R 1602, 1 CCR 212-2.

6-510 – Retail Marijuana Transporter: General Limitations or Prohibited Acts

A. Sales, Liens, and Secured Interests Prohibited. A Retail Marijuana Transporter is prohibited from buying, selling, or giving away Retail Marijuana or from receiving complimentary Retail Marijuana. A Retail Marijuana Transporter shall not place or hold a lien or secured interest on Retail Marijuana.

B. Licensed Premises Permitted. A Retail Marijuana Transporter shall maintain a Licensed Premises if it: (1) temporarily stores any Retail Marijuana or (2) modifies any information in the Inventory Tracking System generated transport manifest. The Licensed Premises shall be in a Local Jurisdiction that authorizes the operation of Retail Marijuana Stores. If a Retail Marijuana Transporter Licensed Premises ~~is co-located~~shares a Licensed Premises in accordance with Rule 3-215 with a Medical Marijuana Transporter Licensed Premises, then the combined Licensed Premises shall be in a Local Jurisdiction that authorizes the operation of both Retail Marijuana Stores and Medical Marijuana Stores.

C. Off-Premises Storage Permit. A Retail Marijuana Transporter may maintain one or more permitted off-premises storage facilities. *See* Rule 3-610 – Off-Premises Storage of Regulated Marijuana: All Regulated Marijuana Businesses.

D. Storage Duration. A Retail Marijuana Transporter shall not store Retail Marijuana for longer than seven days from receiving it at its Licensed Premises or off-premises storage facility. The total allowable seven day storage duration begins and applies regardless of which of the Retail Marijuana Transporter's premises receives the Retail Marijuana first, i.e. the Retail Marijuana Transporter's Licensed Premises, or any of its off-premises storage facilities. A Retail Marijuana Transporter with a valid delivery permit may store Retail Marijuana for delivery to consumers pursuant to the delivery permit for no longer than seven days from receipt at its Licensed Premises or off-premises storage facility.

E. Control of Retail Marijuana. A Retail Marijuana Transporter is responsible for the Retail Marijuana once it takes control of the Retail Marijuana and until the Retail Marijuana Transporter delivers it to ~~the receiving~~another Retail Marijuana Business, Accelerator Cultivator, Medical Marijuana Cultivation Facility in accordance with Rules 5-235, 6-230, and 6-730, Pesticide Manufacturer, or to a consumer pursuant to a valid delivery permit. For purposes of this Rule, taking control of the Retail Marijuana means removing it from the ~~originating~~ Retail Marijuana Business's Licensed Premises and placing the Retail Marijuana in the transport vehicle or the Delivery Motor Vehicle.

F. Location of Orders Taken and Delivered. A Retail Marijuana Transporter is permitted to take orders on the Licensed Premises of any Retail Marijuana Business to transport Retail Marijuana between Retail Marijuana Businesses. The Retail Marijuana Transporter shall deliver the Retail Marijuana to the Licensed Premises of a licensed Retail Marijuana Business, or a Pesticide Manufacturer. A Retail Marijuana Transporter may also delivery Retail Marijuana to consumers pursuant to a contract with a Retail Marijuana Store if it possesses a valid delivery permit.

G. A Retail Marijuana Transporter shall receive Retail Marijuana from the originating Licensee packaged in the way that it is intended to be delivered to the final destination Licensee or Pesticide Manufacturer. The Retail Marijuana Transporter shall deliver the Retail Marijuana in the same, unaltered packaging to the final destination Licensee.

H. A Retail Marijuana Transporter with a valid delivery permit shall receive Retail Marijuana that has been weighed, packaged, prepared, and labeled for delivery on the Licensed Premises of a Retail Marijuana Store or at the Retail Marijuana Store's off-premises storage facility or at the Accelerator Store or the Accelerator Store's off-premises storage facility after receipt of a delivery order. Retail Marijuana cannot be placed into a Delivery Motor Vehicle until after an order has been received and the Retail Marijuana has been packaged and labeled for delivery to the consumer as required by the 3-1000 Series Rules.

I. A Retail Marijuana Transporter must not deliver Retail Marijuana to consumers while also transporting Regulated Marijuana between Licensed Premises in the Delivery Motor Vehicle.

J. Opening of Bulk Packages or Containers and Re-Packaging Prohibited. A Retail Marijuana Transporter shall not open Containers of Retail Marijuana. Retail Marijuana Transporters are prohibited from re-packaging Retail Marijuana.

K. Temperature-Controlled Transport Vehicles. A Retail Marijuana Transporter shall utilize temperature-controlled transport vehicles when necessary to prevent spoilage of the transported Retail Marijuana.

L. Damaged, Refused, or Undeliverable Retail Marijuana. Any damaged Retail Marijuana that is undeliverable to the final destination Retail Marijuana Business, or any Retail Marijuana that is refused by the final destination Retail Marijuana Business shall be transported back to the originating Retail Marijuana Business. Any Retail Marijuana that cannot be delivered to a consumer pursuant to a valid delivery permit shall be returned to the originating Retail Marijuana Store or the Retail Marijuana Store's off-premises storage facility within the same business day or pursuant to paragraph D of this Rule.

M. Transport of Retail Marijuana Vegetative Plants Authorized. Retail Marijuana Vegetative plants may only be transported between Licensed Premises and such transport shall only be permitted due to an approved change of location pursuant to Rule 2-255. Transportation of Vegetative plants to a permitted off-premises storage facility shall not be allowed.

6-600 Series – Retail Marijuana Business Operators

Basis and Purpose – 6-605

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(o), 44-10-401(2)(b)(VI), and 44-10-606, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to Retail Marijuana Business Operators. This Rule 6-605 was previously Rule R 1701, 1 CCR 212-2.

6-605 – Retail Marijuana Business Operator: License Privileges

A. Privileges Granted. A Retail Marijuana Business Operator shall only exercise those privileges granted to it by the Marijuana Code, the rules promulgated pursuant thereto and the State Licensing Authority. A Retail Marijuana Business Operator may exercise those privileges only on behalf of the Retail Marijuana Business(es) it operates. A Retail Marijuana Business shall not contract to have more than one Retail Marijuana Business Operator providing services to the Retail Marijuana Business at any given time.

B. Licensed Premises of the Retail Marijuana Business(es) Operated. A separate License is required for each specific Retail Marijuana Business Operator, and each such licensed Retail Marijuana Business Operator may operate one or more other Retail Marijuana Business(es). A Retail Marijuana Business Operator will not have its own Licensed Premises, but shall maintain its own place of business, and may exercise the privileges of a Retail Marijuana Business Operator at the Licensed Premises of the Retail Marijuana Business(es) it operates.

C. Entities Eligible to Hold Retail Marijuana Business Operator License. A Retail Marijuana Business Operator License may be held only by a business entity, including, but not limited to, a corporation, limited liability company, partnership, or sole proprietorship.

D. Separate Place of Business. A Retail Marijuana Business Operator shall designate and maintain a place of business separate from the Licensed Premises of any Retail Marijuana Business(es) it operates. A Retail Marijuana Business Operator's separate place of business shall not be considered a Licensed Premises, and shall not be subject to the requirements applicable to the Licensed Premises of other Retail Marijuana Businesses, except as set forth in Rules 6-610 and 6-620. Possession, storage, use, cultivation, manufacture, sale, distribution, or testing of Retail Marijuana is prohibited at a Retail Marijuana Business Operator's separate place of business.

E. Agency Relationship and Discipline for Violations. A Retail Marijuana Business Operator and each of its Controlling Beneficial Owners required to hold an Owner License, as well as the agents and employees of the Retail Marijuana Business Operator, shall be agents of the Retail Marijuana Business(es) the Retail Marijuana Business Operator is contracted to operate, when engaged in activities related, directly, or indirectly, to the operation of such Retail Marijuana Business(es), including for purposes of taking administrative action against the Retail Marijuana Business being operated. *See* § 44-10-901(1), C.R.S. Similarly, a Retail Marijuana Business Operator and its Controlling Beneficial Owners required to hold an Owner License, as well as the officers, agents and employees of the Retail Marijuana Business Operator, may be disciplined for violations committed by the Controlling Beneficial Owners, agents or employees of the Retail Marijuana Business acting under their direction or control. A Retail Marijuana Business Operator may also be disciplined for violations not directly related to a Retail Marijuana Business it is operating.

F. Compliance with Applicable State and Local Law, Ordinances, Rules, and Regulations. A Retail Marijuana Business Operator, and each of its Controlling Beneficial Owners, agents and employees engaged, directly or indirectly in the operation of the Retail Marijuana Business it operates, shall comply with all state and local laws, ordinances, rules and regulations applicable to the Retail Marijuana Business(es) being operated.

Basis and Purpose – 6-610

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(o), 44-10-401(2)(b)(VI), and 44-10-606, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Retail Marijuana Business Operator. This Rule 6-610 was previously Rule R 1702, 1 CCR 212-2.

6-610 – Retail Marijuana Business Operators: General Limitations or Prohibited Acts

A. Financial Interest. A Person who holds an Owner's Interest in a Retail Marijuana Business Operator may hold an Owner's Interest in another Retail Marijuana Business. A Retail Marijuana Business may be operated by a Retail Marijuana Business Operator where each has one or more Controlling Beneficial Owners or Passive Beneficial Owners in common. A Person may receive compensation for services provided by a Retail Marijuana Business Operator in accordance with these rules.

B. Sale of Marijuana Prohibited. A Retail Marijuana Business Operator is prohibited from selling, distributing, or Transferring Retail Marijuana to another Retail Marijuana Business or a consumer, except when acting as an agent of a Retail Marijuana Business (s) operated by the Retail Marijuana Business Operator.

C. Consumption Prohibited. A Retail Marijuana Business Operator, and its Controlling Beneficial Owners, Passive Beneficial Owners, agents and employees, shall not permit the consumption of marijuana or marijuana products at its separate place of business.

D. Inventory Tracking System. A Retail Marijuana Business Operator, and any of its Controlling Beneficial Owners, agents or employees engaged in the operation of the Retail Marijuana Business(es) it operates, must use the Inventory Tracking System account of the Retail Marijuana Business(es) it operates, in accordance with all requirements, limitations and prohibitions applicable to the Retail Marijuana Business(es) it operates.

E. Compliance with Requirements and Limitations Applicable to the Retail Marijuana Business(es) Operated. In operating any other Retail Marijuana Business, a Retail Marijuana Business Operator, and its Controlling Beneficial Owners who are required to hold Owner Licenses, as well as the agents and employees of the Retail Marijuana Business Operator, shall comply with all requirements, limitations and prohibitions applicable to the type(s) of Retail Marijuana Business(es) being operated, under state and local laws, ordinances, rules, and regulations, and may be disciplined for violation of the same.

F. Inventory Tracking System Access. A Retail Marijuana Business may grant access to its Inventory Tracking System account to the Controlling Beneficial Owners, agents and employees of a Retail Marijuana Business Operator having duties related to Inventory Tracking System activities of the Retail Marijuana Business(es) being operated.

1. The Controlling Beneficial Owners, agents and employees of a Retail Marijuana Business Operator granted access to a Retail Marijuana Business's Inventory Tracking System account, shall comply with all Inventory Tracking System rules.

2. At least one Controlling Beneficial Owner of a Retail Marijuana Business being operated by a Retail Marijuana Business Operator must be an Inventory Tracking System Trained Administrator for the Retail Marijuana Business's Inventory Tracking System account. That Inventory Tracking System Trained Administrator shall control access to its Inventory Tracking System account, and shall promptly terminate the access of the Retail Marijuana Business Operator's Controlling Beneficial Owners, agents and employees:

    a. When its contract with the Retail Marijuana Business Operator expires by its terms;

    b. When its contract with the Retail Marijuana Business Operator is terminated by any party; or

    c. When it is notified that the License of the Retail Marijuana Business Operator, or a specific Controlling Beneficial Owner, agent or employee of the Retail Marijuana Business Operator, has expired, or has been suspended or revoked.

G. Limitations on Use of Documents and Information Obtained from Retail Marijuana Businesses. A Retail Marijuana Business Operator, and its agents and employees, shall maintain the confidentiality of documents and information obtained from the other Retail Marijuana Business(es) it operates, and shall not use or disseminate documents or information obtained from a Retail Marijuana Business it operates for any purpose not authorized by the Marijuana Code and the rules promulgated pursuant thereto, and shall not engage in data mining or other use of the information obtained from a Retail Marijuana Business to promote the interests of the Retail Marijuana Business Operator or its Controlling Beneficial Owners, Passive Beneficial Owners, agents or employees, or any Person other than the Retail Marijuana Business it operates.

H. Form and Structure of Allowable Agreement(s) Between Operators and Owners. Any agreement between a Retail Marijuana Business and a Retail Marijuana Business Operator:

1. Must acknowledge that the Retail Marijuana Business Operator, and its Controlling Beneficial Owners, agents and employees who are engaged, directly or indirectly, in operating the Retail Marijuana Business, are agents of the Retail Marijuana Business being operated, and must not disclaim an agency relationship;

2. May provide for the Retail Marijuana Business Operator to receive direct remuneration from the Retail Marijuana Business, including a portion of the profits of the Retail Marijuana Business being operated, subject to the following limitations:

    a. The portion of the profits to be paid to the Retail Marijuana Business Operator shall be commercially reasonable, and in any event shall not exceed the portion of the net profits to be retained by the Retail Marijuana Business being operated;

    b. The Retail Marijuana Business Operator shall not be granted, and may not accept:

        i. A security interest in the Retail Marijuana Business being operated, or in any assets of the Retail Marijuana Business;

        ii. An ownership or membership interest, shares, or shares of stock, or any right to obtain any direct or indirect beneficial ownership interest in the Retail Marijuana Business being operated, or a future or contingent right to the same, including but not limited to options or warrants;

    c. The Retail Marijuana Business Operator shall not guarantee the Retail Marijuana Business's debts or production levels.

3. Shall permit the Retail Marijuana Business being operated to terminate the contract with the Retail Marijuana Business Operator at any time, with or without cause.

I. A Retail Marijuana Business Operator may engage in dual operation of a Retail Marijuana Business and a Medical Marijuana Business at a single location, to the extent the Retail Marijuana Business being operated is permitted to do so, the Retail Marijuana Business Operator shall comply with the rules promulgated pursuant to the Marijuana Code, including the requirement of obtaining a valid registration as a Medical Marijuana Business Operator.

J. Any Retail Marijuana Business Operators and the Retail Marijuana Business Operator's Owner Licensee(s) that are appointed by a court to serve as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person and take possession of, operate, manage, or control a Retail Marijuana Business must comply with Rule 2-275(F).

Basis and Purpose – 6-615

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(o), 44-10-313(12), 44-10-401(2)(b)(VI), and 44-10-401(2)(c) C.R.S. The purpose of this rule is to establish employee license requirements for the Retail Marijuana Business Operator's Controlling Beneficial Owners, agents and employees, including those directly or indirectly engaged in the operation of other Retail Marijuana Business(es). This Rule 6-615 was previously Rule R 1703, 1 CCR 212-2.

6-615 – Retail Marijuana Business Operators: Employee Licenses for Personnel

A. Required Licenses.

1. Owner Licenses. All natural persons who are Controlling Beneficial Owners in a Retail Marijuana Business Operator must have a valid Owner License, associated with the Retail Marijuana Business Operator License. Such an Owner License shall satisfy all licensing requirements for work related to the business of the Retail Marijuana Business Operator and for work performed on behalf of, or at the Licensed Premises of, the Retail Marijuana Business(es) operated by the Retail Marijuana Business Operator.

2. Employee Licenses. All other natural persons who are agents or employees of a Retail Marijuana Business Operator that are actively engaged, directly or indirectly, in the management, supervision, or operation of one or more other Retail Marijuana Businesses, including but not limited to all agents or employees who will come into contact with Retail Marijuana, who will have access to Limited Access Areas, or who will have access to the Inventory Tracking System account of the Retail Marijuana Business(es) being operated, must hold a valid Employee License. The Employee License shall satisfy all licensing requirements for work related to the business of the Retail Marijuana Business Operator and for work at the Licensed Premises of, or on behalf of, the Retail Marijuana Business(es) operated by the Retail Marijuana Business Operator.

B. Employee Licenses Not Required. Employee Licenses are not required for Passive Beneficial Owners of a Retail Marijuana Business Operator, or for natural persons who will not come into contact with Retail Marijuana, will not have access Limited Access Area(s) of the Retail Marijuana Business(es) being operated, and will not have access to the Inventory Tracking System account of the Retail Marijuana Business(es) being operated.

C. Designation of Management Personnel of a Retail Marijuana Business Operated by a Retail Marijuana Business Operator. If a Retail Marijuana Business Operator is contracted to manage the overall operations of a Retail Marijuana Business's Licensed Premises, the Retail Marijuana Business shall designate a separate and distinct management personnel on the Licensed Premises who is an officer, agent or employee of the Retail Marijuana Business Operator, which shall be a natural person with a valid Owner License or Employee License, as set forth in paragraph A of this Rule, and the Retail Marijuana Business shall comply with the reporting provisions of subsection 44-10-313(12), C.R.S.

Basis and Purpose – 6-620

The statutory authority for this rule includes but is not limited to 44-10-202(1)(c), 44-10-203(1)(c), and 44-10-203(1)(k), C.R.S. The purpose of this rule is to establish records retention standards for a Retail Marijuana Business Operators. This Rule 6-620 was previously Rule R 1704, 1 CCR 212-2.

6-620 – Retail Marijuana Business Operators: Business Records Required

A. General Requirement. A Retail Marijuana Business Operator must maintain all required business records as set forth in Rule 3-905 - Business Records Required, except that:

1. A Retail Marijuana Business Operator is not required to maintain secure facility information, diagrams of its designated place of business, or a visitor log for its separate place of business, because a Retail Marijuana Business Operator will not come into contact with Retail Marijuana at its separate place of business; and

2. A Retail Marijuana Business Operator is not required to maintain records related to inventory tracking, or transport, because a Retail Marijuana Business Operator is prohibited from engaging in activities on its own behalf that would require inventory tracking or transport. All records relating to inventory tracking activities and records related to transport pertaining to the Retail Marijuana Business(es) operated by the Retail Marijuana Business Operator shall be maintained at the Licensed Premises of such Retail Marijuana Business(es).

B. All records required to be maintained shall be maintained ~~at the Retail Marijuana Business Operator's separate place of business, and not~~ at the Licensed Premises of the Retail Marijuana Business(es) it operates.

6-700 Series – Accelerator Cultivator Licenses

Basis and Purpose – 6-705

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(j), 44-10-203(2)(r), 44-10-203(2)(aa), 44-10-203(3)(c), 44-10-401(2)(b)(VII), 44-10-602, and 44-10-607 C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to an Accelerator Cultivator licensee.

6-705 – Accelerator Cultivator: License Privileges

A. Licensed Premises.

1. Shared Licensed Premises. An Accelerator Cultivator may operate on the same Licensed Premises as a Retail Marijuana Cultivation Facility that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

2. Separate Licensed Premises. An Accelerator Cultivator may operate on a separate premises in the possession of a Retail Marijuana Cultivation Facility that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

3. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Cultivation Facility may share, and operate at, the same Licensed Premises with a commonly owned Medical Marijuana Cultivation Facility. However, a separate license is required for each specific business or business entity, regardless of geographical location. A Regulated Marijuana Business that is operating at the same premises as a commonly owned Medical Marijuana Business may become an Accelerator-Endorsed Licensee. An Accelerator Cultivator may operate at the premises where the Accelerator-Endorsed Licensee operates along with the commonly owned Medical Marijuana Cultivation Facility.

B. Cultivation of Retail Marijuana and Production of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Retail Marijuana Concentrate Authorized. An Accelerator Cultivator may propagate, cultivate, harvest, prepare, cure, package, store, and label

Retail Marijuana and Physical Separation-Based Retail Marijuana Concentrate. An Accelerator Cultivator may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Retail Marijuana Concentrate.

C. Authorized Transfers. An Accelerator Cultivator may only Transfer Retail Marijuana and Physical Separation-Based Retail Marijuana Concentrate to another Retail Marijuana Business ~~and~~ or to a Medical Marijuana Cultivation Facility in compliance with Rule 6-230.

1. An Accelerator Cultivator shall not Transfer Flowering plants. An Accelerator Cultivator may only Transfer Vegetative plants as authorized pursuant to Rule 3-605.

2. An Accelerator Cultivator may Transfer Sampling Units of Retail Marijuana or Retail Marijuana Concentrate to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-602(6), C.R.S., and Rule 6-725.

3. An Accelerator Cultivator may Transfer Retail Marijuana or Retail Marijuana Concentrate to another Accelerator Cultivator or Retail Marijuana Cultivation Facility prior to testing required by these rules for the purpose of Decontamination only after all other steps outlined in the Accelerator Cultivator's standard operating procedures have been completed, including but not limited to drying, curing, and trimming.

D. Authorized On-Premises Storage. An Accelerator Cultivator is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area and tracked consistently with the inventory tracking rules.

E. Samples Provided for Testing. An Accelerator Cultivator may provide Samples of its Retail Marijuana to a Retail Marijuana Testing Facility for testing and research purposes. The Accelerator Cultivator shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

F. Authorized Marijuana Transport. An Accelerator Cultivator is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents an Accelerator Cultivator from transporting its own Retail Marijuana.

G. Performance-Based Incentives. An Accelerator Cultivator may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, an Accelerator Cultivator may not compensate a Sampling Manager using Sampling Units. *See* Rule 6-725 – Sampling Unit Protocols.

H. Authorized Sources of Retail Marijuana, Seeds and Immature Plants. An Accelerator Cultivator shall only obtain Retail Marijuana seeds or Immature Plants from its own Retail Marijuana, properly Transferred Medical Marijuana cultivated at a Medical Marijuana Cultivation Facility with at least one identical Controlling Beneficial Owner, or properly ~~t~~Transferred from another Retail Marijuana Business pursuant to the inventory tracking requirements in the 3-800 Series Rules. An Accelerator Cultivator may not bring seeds, Immature Plants, or other marijuana that is not Regulated Marijuana onto the Licensed Premises at any time.

I. Centralized Distribution Permit. An Accelerator Cultivator may apply to the State Licensing Authority for a Centralized Distribution Permit for authorization to temporarily store Retail Marijuana Concentrate and Retail Marijuana Product received from a Retail Marijuana Products Manufacturer for the sole purpose of Transfer to commonly owned Accelerator Stores.

1. For purposes of a Centralized Distribution Permit only, the term "commonly owned" means at least one natural person has a minimum of five percent ownership in both the

Accelerator Cultivator possessing a Centralized Distribution Permit and the Accelerator Store to which the Retail Marijuana Concentrate and Retail Marijuana Product will be Transferred.

2. To apply for a Centralized Distribution Permit, an Accelerator Cultivator may submit an addendum to its new or renewal application or a separate addendum prior to a renewal application on forms prepared by the Division to request a Centralized Distribution Permit. The Accelerator Cultivator shall send a copy of its Centralized Distribution Permit addendum to the Local Licensing Authority in the jurisdiction in which the Centralized Distribution Permit is proposed at the same time it submits the addendum to the State Licensing Authority.

3. An Accelerator Cultivator that has been issued a Centralized Distribution Permit and has obtained all required approvals from the local licensing jurisdiction where it is located, if any, may accept Transfers of Retail Marijuana Concentrate and Retail Marijuana Product from a Retail Marijuana Products Manufacturer for the sole purpose of temporary storage and Transfer to commonly owned Accelerator Stores.

    a. An Accelerator Cultivator may only accept Retail Marijuana Concentrate and Retail Marijuana Product that is packaged and labeled for sale to a consumer pursuant to the 3-1000 Series Rules.

    b. An Accelerator Cultivator storing Retail Marijuana Concentrate and Retail Marijuana Product pursuant to a Centralized Distribution Permit shall not store such Retail Marijuana Concentrate or Retail Marijuana Product on the Accelerator Cultivator's Licensed Premises for more than 90 days from the date of receipt.

    c. All Transfers of Retail Marijuana Concentrate and Retail Marijuana Product by an Accelerator Cultivator pursuant to a Centralized Distribution Permit shall be without consideration.

4. All security and surveillance requirements that apply to an Accelerator Cultivator apply to activities conducted pursuant to the privileges of a Centralized Distribution Permit.

J. Transition Permit. An Accelerator Cultivator may only operate at two geographical locations pursuant to Rule 2-255(D).

Basis and Purpose – 6-710

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(f), 44-10-203(2)(h), 44-10-203(2)(j), 44-10-602, 44-10-701(2)(a), C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by an Accelerator Cultivator.

6-710 - Accelerator Cultivator: General Limitations or Prohibited Acts

A. Packaging and Labeling Standards Required. An Accelerator Cultivator is prohibited from Transferring Retail Marijuana that is not packaged and labeled in accordance with these rules. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

B. Transfer to Consumer Prohibited. An Accelerator Cultivator is prohibited from Transferring Retail Marijuana to a consumer. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-602(6), C.R.S., and Rule 6-725.

C. Excise Tax Paid. An Accelerator Cultivator shall remit any applicable excise tax due pursuant to Article 28.8 of Title 39, C.R.S.

D. Corrective and Preventive Action. This paragraph D shall be effective January 1, 2021. An Accelerator Cultivator shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

E. Adverse Health Event Reporting. An Accelerator Cultivator must report Adverse Health Events pursuant to Rule 3-920.

Basis and Purpose – 6-715

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(r), 44-10-401(2)(b)(VII), and 44-10-602, C.R.S. The purpose of this rule is to establish the categories of Retail Marijuana Concentrate that may be produced at Accelerator Cultivator and standards for the production of Retail Marijuana Concentrate.

6-715 – Accelerator Cultivator: Retail Marijuana Concentrate Production

A. Permitted Production of Certain Categories of Retail Marijuana Concentrate. An Accelerator Cultivator may only produce Physical Separation-Based Retail Marijuana Concentrate on its Licensed Premises and only in an area clearly designated as a Limited Access Area. *See* Rule 3-905- Business Records Required. No other method of production or extraction for Retail Marijuana Concentrate may be conducted within the Licensed Premises of An Accelerator Cultivator unless the Controlling Beneficial Owner(s) of the Accelerator Cultivator also has a valid

Accelerator Manufacturer license and the room in which Retail Marijuana Concentrate is to be produced is physically separated from all cultivation areas and has clear signage identifying the room.

B. Safety and Sanitary Requirements for Concentrate Production. If An Accelerator Cultivator produces Retail Marijuana Concentrate, then all areas in which the Retail Marijuana Concentrate are produced and all Controlling Beneficial Owners and Employee Licensees engaged in the production of the Retail Marijuana Concentrate shall be subject to all of the requirements imposed upon an Accelerator Manufacturer that produces Retail Marijuana Concentrate, including all general requirements. *See* 3-300 Series Rules – Health and Safety Regulations and Rule 6-815 – Accelerator Manufacturer: Retail Marijuana Concentrate Production.

C. Possession of Other Categories of Retail Marijuana Concentrate.

1. It shall be considered a violation of this Rule if an Accelerator Cultivator possesses a Retail Marijuana Concentrate other than a Physical Separation-Based Retail Marijuana Concentrate on its Licensed Premises unless: the Controlling Beneficial Owner(s) of the Accelerator Cultivator also has a valid Accelerator Manufacturer license; or the Accelerator Cultivator has been issued a Centralized Distribution Permit and is in possession of the Retail Marijuana Concentrate in compliance with Rule 6-705(I).

2. Notwithstanding subparagraph (C)(1) of this Rule 6-715, an Accelerator Cultivator shall be permitted to possess Solvent-Based Retail Marijuana Concentrate only when the possession is due to the Transfer of Retail Marijuana flower or trim that failed microbial testing to an Accelerator Manufacturer for processing into a Solvent-Based Retail Marijuana Concentrate, and the Accelerator Manufacturer Transfers the resultant Solvent-Based Retail Marijuana Concentrate back to the originating Accelerator Cultivator.

a. The Accelerator Cultivator shall comply with all requirements in Rule 4-135(C) when having Solvent-Based Retail Marijuana Concentrate manufactured out of Retail Marijuana flower or trim that failed microbial testing.

b. The Accelerator Cultivator is responsible for submitting the Solvent-Based Retail Marijuana Concentrate for all required testing for contaminants pursuant to Rule 4-120 – Regulated Marijuana Testing Program – Contaminant Testing, for potency pursuant to Rule 4-125 – Regulated Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Marijuana Rules or the Marijuana Code.

c. Nothing in this Rule removes or alters the responsibility of the Accelerator Cultivator that Transfers the Retail Marijuana that failed microbial testing from complying with the requirement to pay excise tax pursuant to Rule 6-210(C).

D. Production of Alternative Use Product or Audited Product Prohibited. An Accelerator Cultivator shall not produce an Alternative Use Product or Audited Product.

E. Possession of Alternative Use Product or Audited Product. An Accelerator Cultivator is authorized to possess or Transfer Alternative Use Product and/or Audited Product only if the Accelerator Cultivator received the Alternative Use Product and/or Audited Product pursuant to a Centralized Distribution Permit from an Accelerator Manufacturer that is manufacturing and Transferring the Alternative Use Product or Audited Product in accordance with Rule 6-325.

Basis and Purpose – 6-720

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(6), 44-10-401(2)(b)(VII), 44-10-602 and 44-10-607 C.R.S. The rule establishes a means by which to manage the overall production of Retail Marijuana in the state of Colorado. The intent of this rule is to encourage responsible production to meet demand for Retail Marijuana consumers, while also avoiding overproduction or underproduction. The establishment of production management is necessary to ensure there is not significant under or over production, either of which will increase incentives to engage in diversion and facilitate the continuation of the sale of illegal marijuana. Existing and prospective licensees should be on notice that the new or revised regulations may impact the production limits provided for in this rule.

6-720 - Accelerator Cultivator: Production Management

A. Number of Accelerator Cultivators per Licensed Premises

1. An Accelerator Cultivator may only own and operate a single Accelerator Cultivation per Licensed Premises.

2 A Retail Marijuana Cultivation Facility Licensee that is an Accelerator-Endorsed Licensee may host more than one Accelerator Cultivation owned by different Social Equity Licensees at a single Licensed Premises.

B. Production Management.

1. Production Management Tiers.

a. Tier 1: 1 - 1,800 plants

b. Tier 2: 1,801 – 3,600 plants

c. Tier 3: 3,601 – 6,000 plants

d. Tier 4: 6,001 – 10,200 plants

e. Tier 5: 10,201 – 13,800+ plants

i. Tier 5 shall not have a cap on the maximum authorized plant count.

ii. The maximum authorized plant count above 10,200 plants shall increase in one or two increments of 3,600 plants. An Accelerator Cultivator shall be allowed to increase its maximum authorized plant count one or two increments of 3,600 plants at a time upon application and approval by the Division pursuant to the requirements of paragraph (E) of this Rule 6-720.

2. All Accelerator Cultivator licenses granted on or after January 1, 2020, will be issued as a Tier 1 License.

3. Immature Plants. For purposes of calculating the maximum number of authorized plants, Immature Plants are excluded.

4. Ground for Denial. The Division may deny an application for additional plants pursuant to paragraph E of this Rule if the Licensee exceeded the authorized plant count during the relevant time period for production.

5. Violation Affecting Public Safety. It may be considered a license violation affecting public safety for a Licensee to exceed the authorized plant count pursuant to these Rules.

C. Inventory Management.

1. Inventory Management for Accelerator Cultivators that Have One or Two Harvest Seasons a Year. Beginning the 721st day from the commencement of its first cultivation activities, an Accelerator Cultivator that has one or two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Retail Marijuana flower and trim the Licensee reported as a package in the Inventory Tracking System that was Transferred to another Retail Marijuana Business in the previous 720 days.

2. Inventory Management for Accelerator Cultivators That Have More Than Two Harvest Seasons a Year. Beginning the 181st day from the commencement of its first cultivation activities, an Accelerator Cultivator that has more than two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Retail Marijuana flower and trim the Licensee reported as a package in the Inventory Tracking System that was Transferred to another Retail Marijuana Business in the previous 180 days.

D. Tier Decrease. For Accelerator Cultivators that are authorized to cultivate more than 1,800 plants, the Division may review the purchases, Transfers, and cultivated plant count of the Accelerator Cultivator in connection with the license renewal process or after an investigation. Based on the Division's review, the Division may reduce the Accelerator Cultivator's maximum allowed plant count to a lower production management tier pursuant to subparagraph (C)(1) of this Rule. When determining whether to reduce the maximum authorized plant count, the Division may consider the following non-exhaustive factors including but not limited to:

1. The Accelerator Licensee sold less than 70% of what the inventory it reported as packaged in the Inventory Tracking System during any 180 day review period;

2. On average during the previous 180 days the Accelerator Licensee actually cultivated less than 90% of the maximum number of plants authorized by the next lower production management tier;

3. Whether the plants/inventory suffered a catastrophic event during the review period;

4. Excise tax payment history;

5. Existing inventory and inventory history;

6. Sales contracts; and

7. Any other factors relevant to ensuring responsible cultivation, production, and inventory management.

E. Application for Additional Plants.

1. Accelerator Cultivators That Have One or Two Harvest Seasons Per Year.

a. After accruing at least one harvest season of Transfers, an Accelerator Cultivator may apply to the Division for a production management tier increase to be authorized to cultivate the number of plants in the next highest production management tier. The Division may consider the following in determining whether to approve the production management tier increase:

i. That during the previous harvest season prior to the tier increase application, it consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count;

ii. That the Accelerator Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System in the previous 360 days to another Retail Marijuana Business;

iii. The Division may also consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the previous 360 days, if the Licensee cultivated between 75% and 85% of its maximum authorized plant count; and

iv. Any other information requested to aid the Division in its evaluation of the production management tier increase application.

b. If the Division approves the production management tier increase application, the Accelerator Licensee shall pay the applicable expanded production management tier fee prior to cultivating the additional authorized plants.

c. For an Accelerator Licensee with an authorized plant count in tiers 2-5 to continue producing at its expanded authorized plant count, the Accelerator Licensee shall pay the requisite Accelerator Cultivator license fee and the expanded production management tier fee, if applicable, at license renewal.

d. After accruing one harvest season during which the Accelerator Cultivator Transferred and consistently cultivated the Accelerator Licensee may apply to increase its authorized plant count by: (a) two production management tiers or (b) if already authorized to cultivate at a production management Tier 5, two increments of 3,600 plants (7,200 plants total), every 360 days. It is within the Division's discretion to determine whether or not to grant the requested two tiers or increments of 3,600 plants (7,200 plants total).

i. The Accelerator Licensee must demonstrate:

A. That the Accelerator Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count; and

B. That the Accelerator Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business.

C. If the Accelerator Cultivator cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a package in the Inventory Tracking System during that time period and/or Transfers into the Accelerator Cultivator or related Accelerator Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Accelerator Cultivator currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two tiers or two 3,600 plant increments;

B. The Accelerator Cultivator cultivated at least 90% of its maximum authorized plant count and during the preceding 360 days the Accelerator Cultivator and/or any commonly owned Accelerator Store Transferred in Retail Marijuana from one or more unrelated Accelerator Cultivator(s) or Retail Marijuana Cultivation Facility(ies);

C. The Accelerator Cultivator has contracts for the sale of Retail Marijuana in the next 360 days supporting the requested two tiers or two increments of 3,600 plants;

D. An established history of responsible cultivation and Transfer by the Accelerator Cultivator;

E. Any history of noncompliance with the Marijuana Code and/or Rules by the Accelerator Cultivator, or any commonly owned Retail Marijuana Business, and/or any investigation of, or administrative action(s) against, the Accelerator Cultivator, or any commonly owned Retail Marijuana Business; or

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

2. Accelerator Cultivators that have more than two harvest seasons per year.

a. After a 180-day period during which the Accelerator Cultivator Transferred and consistently cultivated, the Accelerator Licensee may apply to the Division for a production management tier increase to be authorized to cultivate the number of plants in the next highest production management tier. The Division may consider the following in determining whether to approve the production management tier increase:

i. That for 180 days prior to the tier increase application, the Accelerator Licensee consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count, and

ii. That the Accelerator Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business.

iii. The Division may also consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the 180-day time period if the Licensee cultivated between 75% and 85% of its maximum authorized plant count.

iv. Any other information requested to aid the Division in its evaluation of the tier increase application.

b. If the Division approves the production management tier increase application, the Accelerator Licensee shall pay the applicable expanded production management tier fee, if applicable, prior to cultivating the additional authorized plants.

c. For an Accelerator Licensee with an authorized plant count in tier 2-5 to continue producing at its expanded authorized plant count, the Accelerator Licensee shall pay the requisite Accelerator Cultivator license fee and the applicable expanded production management tier fee, if applicable, at license renewal.

d. After accruing 180 days during which the Accelerator Cultivator Transferred and consistently cultivated the Accelerator Licensee may apply to increase its authorized plant count by: (a) two production management tiers or (b) if already authorized to cultivate at a tier 5, two increments of 3,600 plants (7,200 plants total) every 180 days. It is within the Division's discretion to determine whether or not to grant the requested two tier or two increments of 3,600 plants (7,200 plants total).

i. The Accelerator Licensee must demonstrate:

A. That the Accelerator Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count; and

B. That the Accelerator Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business;

C. If the Accelerator Cultivator cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a package in the Inventory Tracking system during that time period and/or Transfers into the Accelerator Cultivator or related Accelerator Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Accelerator Cultivator currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two tiers or two increments of 3,600 plants;

B. The Accelerator Cultivator cultivated at least 90% of its maximum authorized plant count and during the preceding 180 days the Accelerator Cultivator and/or any commonly owned Accelerator Store Transferred in Retail Marijuana from one or more unrelated Accelerator Cultivator(s) or Retail Marijuana Cultivation Facility(ies);

C. The Accelerator Cultivator has entered into a written agreement(s) or contract(s) for the sale of Retail Marijuana in the next 180 days supporting the requested two tiers or two increments of 3,600 plants;

D. An established history of responsible cultivation and Transfer by the Accelerator Cultivator;

E. Any history of noncompliance with the Marijuana Code and/or Rules by the Accelerator Cultivator or any commonly owned Retail Marijuana Business(es), and/or any investigation of, or administrative action(s) against, the Accelerator Cultivator or any commonly owned Retail Marijuana Business;

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

3. Application for Tier Increase. Applications for a tier increase that include any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation will be denied. In addition to denial, any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation is a public safety violation that may result in administrative action.

Basis and Purpose – 6-725

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(VII), 44-10-602(6) and 44-10-607, C.R.S. The purpose of this rule is to establish the circumstances under which an Accelerator Cultivator may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's Regulated Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting and recordkeeping requirements on an Accelerator Cultivator that Transfer Sampling Units.

6-725 – Accelerator Cultivator - Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, an Accelerator Cultivator may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Accelerator Cultivator who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. A person may be designated as a Sampling Manager by more than one Medical Marijuana Business or Retail Marijuana Business.

3. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

4. An Accelerator Cultivator that wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-602(6), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 6-225. *See also* Rule 3-905 – Business Records Required. An Accelerator Cultivator shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Harvest Batch or Production Batch. A Sampling Unit shall not be designated until the Harvest Batch or Production

Batch has satisfied the testing requirements in the 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Retail Marijuana flower or trim shall not exceed one gram.

2. A Sampling Unit of Retail Marijuana Concentrate shall not exceed one-quarter of one gram; except that a Sampling Unit of Retail Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Excise Tax Requirements. An Accelerator Cultivator must pay excise tax on Sampling Units of Retail Marijuana flower or trim, based on the average market rate of the unprocessed Retail Marijuana.

D. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Accelerator Cultivator as a Sampling Manager for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than one ounce of Retail Marijuana or eight grams of Retail Marijuana Concentrate.

4. The monthly limit established in subparagraph (D)(3) applies to each Sampling Manager, regardless of the number of Retail Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (D)(3). Before Transferring any Sampling Units, an Accelerator Cultivator shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limits established in subparagraph (D)(3).

6. A Sampling Manager shall not Transfer any Sampling Unit to any other Person, including but not limited to any other Person designated as a Sampling Manager.

E. Compensation Prohibited. An Accelerator Cultivator may not use Sampling Units to compensate a Sampling Manager.

F. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

G. Acceptable Purposes. Sampling Units shall only be designated and Transferred for the purposes of quality control and product development in accordance with section 44-10-602(6), C.R.S.

H. Record keeping requirements. An Accelerator Cultivator shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, an Accelerator Cultivator shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of quality control or product development. An Accelerator Cultivator shall also maintain copies of the Accelerator Cultivator standard operating procedures provided to Sampling Managers.

I. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-730

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(II), 44-10-602(13)(a)-(c), 44-10-602(13.5), 44-10-607, and 398-28.8-3012(2)(b), C.R.S. The purpose of this rule is to allow a Medical Marijuana Cultivation Facility to receive Transfers of Retail Marijuana from a Retail Marijuana Cultivation Facility in order to change its designation from "Retail" to "Medical."

6-730 – Accelerator Cultivator: Ability to Change Designation ~~from Retail~~of Regulated Marijuana ~~to Medical Marijuana~~

A. Changing Designation from Retail Marijuana to Medical Marijuana.: Beginning July 1, 2022, an Accelerator Cultivator may Transfer Retail Marijuana to a Medical Marijuana Cultivation Facility in order to change its designation from Retail Marijuana to Medical Marijuana pursuant to the following requirements:

1. The Accelerator Cultivator may only Transfer Retail Marijuana that has passed all required testing;

2. The Medical Marijuana Cultivation Facility and the Accelerator Cultivator ~~are co-located~~share a Licensed Premises in accordance with Rule 3-215;

3. The Medical Marijuana Cultivation Facility and Accelerator Cultivator have at least one identical Controlling Beneficial Owner;

4. The Accelerator Cultivator must report the Transfer in the Inventory Tracking System the same day that the change in designation from Retail Marijuana to Medical Marijuana occurs;

5. After the designation change, the Medical Marijuana cannot be Transferred to the originating Accelerator Cultivator or any other Retail Marijuana Business or otherwise be treated as Retail Marijuana. The Inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules;

6. Both the Accelerator Cultivator and the Medical Marijuana Cultivation Facility must remain at, or under, its respective inventory limit before and after the Retail Marijuana changes its designation to Medical Marijuana; and

7. The Transfer and change of designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change of designation.

B. Changing Designation from Medical Marijuana to Retail Marijuana. Beginning January 1, 2023, an Accelerator Cultivator may accept Medical Marijuana from a Medical Marijuana Cultivation Facility in order to change its designation from Medical Marijuana to Retail Marijuana pursuant to the following requirements:

1. The Accelerator Cultivator may only accept Medical Marijuana that has passed all required testing in accordance with the 4-100 Series Rules – Regulated Marijuana Testing Program;

2. The Accelerator Cultivator and the Medical Marijuana Cultivation Facility share a Licensed Premises in accordance with Rule 3-215, unless:

a. The Accelerator Cultivator and Medical Marijuana Cultivation Facility have at least one identical Controlling Beneficial Owner; and

b. The Accelerator Cultivator and the Medical Marijuana Cultivation Facility cannot share a Licensed Premises because the Local Licensing Authority or Local Jurisdiction prohibits the operation of either a Retail Marijuana Cultivation Facility or a Medical Marijuana Cultivation Facility.

3. The Accelerator Cultivator and Medical Marijuana Cultivation Facility have at least one identical Controlling Beneficial Owner;

4. The Accelerator Cultivator must receive the Transfer and designate the inventory as Retail Marijuana in the Inventory Tracking System the same day. The Accelerator Cultivator must assign and attach an RFID tag reflecting its Accelerator Cultivator License number to the Retail Marijuana following completion of the Transfer in the Inventory Tracking System;

5. After the designation change, the Retail Marijuana cannot be Transferred to the originating or any other Medical Marijuana Business or otherwise be treated as Medical Marijuana. The inventory is Retail Marijuana and is subject to all permissions and limitations in the 6-200 Series Rules and these 6-700 Series Rules;

6. Both the Accelerator Cultivator and the Medical Marijuana Cultivation Facility must remain at, or under, its inventory limit before and after the Medical Marijuana changes its designation to Retail Marijuana;

7. The Accelerator Cultivator shall pay any Retail Marijuana excise tax that is imposed pursuant to section 39-28.8-302, C.R.S.;

8. The Accelerator Cultivator shall notify the Local Licensing Authority and Local Jurisdiction where the Accelerator Cultivator and the Medical Marijuana Cultivation Facility operate and pay any applicable excise tax on the Retail Marijuana in the manner determined by the Local Licensing Authority and Local Jurisdiction; and

9. Pursuant to the requirements of this subparagraph (B), an Accelerator Cultivator may receive a virtual Transfer of Medical Marijuana that is reflected in the Inventory Tracking System even if the Medical Marijuana is not physically moved prior to the change of designation to Retail Marijuana.

Basis and Purpose – 6-735

The Statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(j.5), 44-10-203(1)(k), 44-10-401(2)(b)(II), and 44-10-502(10)(a)-(c) The purpose of this rule is to allow an Accelerator Cultivator licensees that plan to cultivate Retail Marijuana outdoors to submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event.

6-735 Accelerator Cultivator: Contingency Plan for Outdoor Cultivation

A. Submission of Contingency Plan.

1. Beginning January 1, 2022, Accelerator Cultivator Licensees that plan to cultivate Retail Marijuana outdoors may submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event. The Accelerator Cultivator shall also submit a copy of the plan to the Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Retail Marijuana to the Licensed Premises of a

Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

2. An Accelerator Cultivator may submit a contingency plan at any time, but it must be filed at least 7 days prior to taking action pursuant to the contingency plan and must be approved by the State Licensing Authority prior to taking action pursuant to the contingency plan.

3. After initial submission and approval of a contingency plan, a contingency plan must be submitted with the Accelerator Cultivator's license renewal application. Any significant change to a contingency plan prior to a renewal application must be submitted for review and approval pursuant to subsection (A)(2) above prior to taking action pursuant to the revised contingency plan.

4. The Division shall notify the appropriate Local Licensing Authorities of the approval of the contingency plan.

B. Requirements for Outdoor Contingency Plans.

1. Identification of the type of Adverse Weather Event that the plan applies to, including any deviations based on the type of Adverse Weather Event.

2. Primary contact. A primary contact for the Accelerator Cultivator must be identified on the contingency plan, including the: name, title, phone number, and email address of the primary contact. The Accelerator Cultivator shall notify the Division of any change to the primary contact or required contact information within 48 hours of the change.

3. Transport Manifest. If the contingency plan provides for the Transfer of Retail Marijuana, an Accelerator Cultivator shall submit a standing transport manifest that could be used by a Licensee upon approval during an Adverse Weather Event if creating a transport manifest through the Inventory Tracking System is impracticable. The standing transport manifest shall include: identification and address of the receiving Licensee.

4. Disclosure of Receiving Licensed Premises.

a. Retail Marijuana may only be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or an off-premises storage facility.

b. If Retail Marijuana will be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility pursuant to a contingency plan, that plan must include the name, ownership, and address of the receiving Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility, along with a diagram of the proposed receiving Licensed Premises.

c. The receiving Licensed Premises shall be an existing location that currently holds an approved state and local license or an off-premises storage facility permit. The receiving Licensee is not required to share any Controlling Beneficial Owners with the Transferring Retail Marijuana Cultivation Facility.

d. An Accelerator Cultivator that cultivates outdoors may identify and Transfer Retail Marijuana to no more than five receiving Licensed Premises' as part of a contingency plan.

5. Disclosure of Modifications to the Premises and Security and Surveillance. Proposed modifications to the Licenses Premises and any anticipated impacts to compliance with security and surveillance requirements pursuant to Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6).

C. License Requirements when Acting Pursuant to a Contingency Plan. To the extent that this subsection (C) conflicts with other rule sections, this subsection shall control during the time that a Licensee is acting pursuant to a contingency plan.

1. Notification.

a. Notification of action pursuant to an approved contingency plan shall be made to the Division within 24 hours after initiating action pursuant to a contingency plan. An Accelerator Cultivator that cultivates outdoors must also notify the Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Retail Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

b. Notification of ceasing action pursuant to the approved contingency plan shall be made to the Division within 24 hours of returning to normal business operations. If action will continue more than 7 days after initiating action pursuant to a contingency plan, the Licensee shall contact the Division and explain why it cannot return to normal business operations.

c. Any notification shall be made in writing and can be made by email to the Division.

2. Production Management. Retail Marijuana Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility pursuant to a contingency plan is not included in the receiving Licensed Premises' inventory limit until the Accelerator Cultivator acting pursuant to the contingency plan returns to normal business operations.

3. Modification of Premises. An application for a modification of a Licensed Premises is not required as part of a contingency plan unless the modification or change in premises becomes a permanent modification. If that change becomes a permanent change, a modification of premises application must be submitted within 14 days.

4. Security Requirements. All security and surveillance requirements that apply to an Accelerator Cultivator apply to activities conducted pursuant to the contingency plan. If the contingency plan does not require the Transfer of Regulated Marijuana to another Licensed Premises, but requires plants to be covered or video surveillance to be otherwise temporarily obstructed, exemptions to the video surveillance requirements in Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6) may be approved as part of the contingency plan.

5. Inventory Tracking Requirements. Licensees must use the Inventory Tracking System to ensure Retail Marijuana is identified and tracked during all times that action is being taken pursuant to a contingency plan. If an Accelerator Cultivator harvests, Transfers, or

packages Retail Marijuana it must be fully reconciled in the Inventory Tracking System within 48 hours of initiating action pursuant to the contingency plan.

a. Harvest Requirements. If Retail Marijuana is harvested, the weight of Retail Marijuana can be captured on a per harvest level and equally applied to individual plants rather than requiring the initial wet weight of each plant. This initial harvest weight may be captured at a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility upon arrival at the Licensed Premises approved as part of the contingency plan. Harvest Batches and Inventory Tracking System packages must be reported by the Retail Marijuana Cultivation Facility acting pursuant to the contingency plan in the Inventory Tracking System.

b. Transport Manifest. The Accelerator Cultivator acting pursuant to the contingency plan must report all Retail Marijuana that is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility on a transport manifest.

i. A Licensee may use the approved standing transport manifest during an Adverse Weather Event only when using the Inventory Tracking System is not possible.

ii. The Licensee shall manually fill out the dates, times, and individual transporting Retail Marijuana on a copy of the standing transport manifest.

iii. The Licensee shall ensure the standing transport manifest and copy of the approved Contingency plan remain in the Licensee's possession during any transport of Retail Marijuana when it is not possible to use an Inventory Tracking System generated transportation manifest at the time of the Adverse Weather Event.

6. Transfers. If Retail Marijuana is Transferred to another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility it is exempted from the packaging and labeling requirements in Rule 3-1005(B).

7. Virtual and Physical Separation. If Retail Marijuana is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility that inventory must be virtually separated by Harvest Batch and must also be virtually and physically separated from the receiving Licensee's inventory. Harvest Batches must also be clearly identified at the receiving Licensed Premises with the Harvest Batch name and date of harvest.

8. Finishing Product. After Transferring Retail Marijuana to another Licensed Premises, an Accelerator Cultivator may finish that harvest at the receiving Licensed Premises if all Retail Marijuana is accounted for in the Inventory Tracking System and the Licensed Premises is in compliance with all surveillance requirements.

9. Testing. The originating Licensee acting pursuant to a contingency plan is responsible for the submission of Test Batch(es).

a. Each Harvest Batch or Production Batch Transferred pursuant to a contingency plan must be submitted for all required tests and is not eligible for a Reduced Testing Allowance or otherwise exempt from required testing.

b. Any passing or failing tests of a Harvest Batch or Production Batch Transferred pursuant to a contingency plan will not count for or against a Licensee's Reduced Testing Allowance.

6-800 Series – Accelerator Manufacturer Licenses

Basis and Purpose – 6-805

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-203(2)(aa), 44-10-307(1)(j), 44-10-401(2)(b)(VIII), 44-10-603 and 44-10-608, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to an Accelerator Manufacturer.

6-805 – Accelerator Manufacturer: License Privileges

A. Licensed Premises.

1. Shared Licensed Premises. An Accelerator Manufacturer may operate on the same Licensed Premises as a Retail Marijuana Products Manufacturer that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

2. Separate Licensed Premises. An Accelerator Manufacturer may operate on a separate premises in the possession of a Retail Marijuana Products Manufacturer that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

3. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Products Manufacturer may share, and operate at, the same Licensed Premises with a commonly owned Medical Marijuana Products Manufacturer Facility. However, a separate license is required for each specific business or business entity, regardless of geographical location. A Regulated Marijuana Business that is operating at the same premises as a commonly owned Medical Marijuana Business may become an Accelerator-Endorsed Licensee. An Accelerator Manufacturer may operate at the premises where the Accelerator-Endorsed Licensee operates along with the commonly owned Medical Marijuana Products Manufacturer.

B. Authorized Transfers. An Accelerator Manufacturer is authorized to Transfer Retail Marijuana as follows:

1. Retail Marijuana Concentrate and Retail Marijuana Product.

a. An Accelerator Manufacturer may Transfer Retail Marijuana Concentrate or Retail Marijuana Product to Retail Marijuana Stores, Accelerator Stores, other Accelerator Manufacturers, Retail Marijuana Products Manufacturers, Retail Marijuana Testing Facilities, Retail Marijuana Hospitality and Sales Businesses, and Pesticide Manufacturers.

b. An Accelerator Manufacturer may Transfer Retail Marijuana Product and Retail Marijuana Concentrate to a Retail Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit.

i. Prior to any Transfer pursuant to this Rule 6-805(B)(1)(b), an Accelerator Manufacturer shall verify the Retail Marijuana Cultivation Facility possesses a valid Centralized Distribution Permit. *See* Rule 6-205 – Retail Marijuana Cultivation Facility: License Privileges.

ii. For any Transfer pursuant to this Rule 6-805(B)(1)(b), an Accelerator Manufacturer shall only Transfer Retail Marijuana Product and Retail Marijuana Concentrate that is packaged and labeled for Transfer to a consumer. *See* 3-1000 Series Rules.

c. An Accelerator Manufacturer may Transfer Retail Marijuana Concentrate to a Medical Marijuana Products Manufacturer in compliance with Rule 6-335.

2. Retail Marijuana. An Accelerator Manufacturer may Transfer Retail Marijuana to other Accelerator Manufacturers, Retail Marijuana Products Manufacturer, Retail Marijuana Testing Facilities, Accelerator Stores, and Retail Marijuana Stores.

3. Sampling Units. An Accelerator Manufacturer may also Transfer Sampling Units of its own Retail Marijuana Concentrate or Retail Marijuana Product to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-603(10), C.R.S., and Rule 6-820.

C. Manufacture of Retail Marijuana Concentrate and Retail Marijuana Product and Production of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana Authorized. An Accelerator Manufacturer may manufacture, prepare, package, store, and label Retail Marijuana Concentrate and Retail Marijuana Product comprised of Retail Marijuana and other Ingredients intended for use or consumption, such as Edible Retail Marijuana Products, ointments, or tinctures. An Accelerator Manufacturer may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana.

1. Industrial Hemp Product Authorized. An Accelerator Manufacturer that uses Industrial Hemp Product as an Ingredient in the manufacture and preparation of Retail Marijuana Product must comply with this subparagraph (C)(1) of this Rule.

a. Prior to accepting and taking possession of any Industrial Hemp Product for use as an Ingredient in a Retail Marijuana Product the Accelerator Manufacturer shall verify the following:

i. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Retail Marijuana Testing Facility; and

ii. That the Person Transferring the Industrial Hemp Product to the Accelerator Manufacturer is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

D. Location Prohibited. An Accelerator Manufacturer may not manufacture, prepare, package, store, or label Retail Marijuana Concentrate or Retail Marijuana Product in a location that is operating as a retail food establishment.

E. Samples Provided for Testing. An Accelerator Manufacturer may provide samples of its Retail Marijuana Concentrate or Retail Marijuana Product to a Retail Marijuana Testing Facility for testing and research purposes. The Accelerator Manufacturer shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

F. Authorized Marijuana Transport. An Accelerator Manufacturer is authorized to utilize a Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken is a Retail Marijuana Business and the transportation order is delivered to a Retail Marijuana Business or Pesticide Manufacturer. Nothing in this Rule prevents an Accelerator Manufacturer from transporting its own Retail Marijuana.

G. Performance-Based Incentives An Accelerator Manufacturer may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, an Accelerator Manufacturer may not compensate a Sampling Manager using Sampling Units. *See* Rule 6-820 – Sampling Unit Protocols.

Basis and Purpose – 6-810

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-203(2)(aa), 44-10-203(3)(d), 44-10-401(2)(b)(VIII), 44-10-603, 44-10-608 and 44-10-701(2)(a), C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion or prohibited by an Accelerator Manufacturer.

6-810 – Accelerator Manufacturer: General Limitations or Prohibited Acts

A. Packaging and Labeling Standards Required. An Accelerator Manufacturer is prohibited from Transferring Retail Marijuana Concentrate or Retail Marijuana Product that are not properly packaged and labeled. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

B. THC Content Container Restriction. Each individually packaged Edible Retail Marijuana Product, even if comprised of multiple servings, may include no more than a total of 100 milligrams of active THC. *See* Rule 3-1010 – Packaging and Labeling – General Requirements Prior to Transfer to a Consumer.

1. Exception for Bulk Transfers to Retail Marijuana Hospitality and Sales Businesses. An individually packaged Edible Retail Marijuana Product comprised of multiple servings that is Transferred in bulk to a Retail Marijuana Hospitality and Sales Establishment may include more than a total of 100 milligrams of active THC.

i. An Accelerator Manufacturer shall develop and maintain standard operating procedures, and any additional equipment necessary, to ensure that a Retail Marijuana Hospitality and Sales Business receiving bulk Transfers of Edible Retail Marijuana Product can measure accurately the Edible Retail Marijuana Product in single serving sizes equal to or less than 10 milligrams of active THC per serving.

C. Transfer to Consumer Prohibited. An Accelerator Manufacturer is prohibited from Transferring Retail Marijuana to a consumer. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-603(10), C.R.S., and Rule 6-820.

D. Adequate Care of Perishable Product. An Accelerator Manufacturer must provide adequate refrigeration for perishable Retail Marijuana Product that will be consumed and shall utilize adequate storage facilities and transport methods.

E. Homogeneity of Edible Retail Marijuana Product. An Accelerator Manufacturer must ensure that its manufacturing processes are designed so that the Cannabinoid content of any Edible Retail Marijuana Product is homogenous.

F. Use of Ingredients. An Accelerator Manufacturer must obtain and maintain certificates of analysis or other records demonstrating the full composition of each Ingredient used in the manufacture of Vaporizer Delivery Devices or Pressurized Metered Dose Inhalers.

G. Corrective and Preventive Action. This paragraph G shall be effective January 1, 2021. An Accelerator Manufacturer shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements

listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation.

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

H. Adverse Health Event Reporting. An Accelerator Manufacturer must report Adverse Health Events pursuant to Rule 3-920.

Basis and Purpose – 6-815

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-401(2)(b)(VIII), 44-10-203(2)(aa), 44-10-603, and 44-10-608, C.R.S. The purpose of this rule is to establish the categories of Retail Marijuana Concentrate that may be produced at an Accelerator Manufacturer and establish standards for the production of Retail Marijuana Concentrate. Nothing in this rule authorizes the unlicensed practice of engineering under Article 25 of Title 12, C.R.S.

6-815 – Accelerator Manufacturer: Retail Marijuana Concentrate Production

A. Permitted Categories of Retail Marijuana Concentrate Production.

1. An Accelerator Manufacturer may produce Physical Separation-Based Retail Marijuana Concentrate, Food-Based Retail Marijuana Concentrate and Heat/Pressure-Based Retail Marijuana Concentrate.

2. An Accelerator Manufacturer may also produce Solvent-Based Retail Marijuana Concentrate using only the following solvents: butane, propane, CO_2, ethanol, isopropanol, acetone, heptane, ethyl acetate, and pentane. The use of any other solvent is expressly prohibited unless it is approved by the Division.

3. An Accelerator Manufacturer may submit a request to the Division to consider the approval of solvents not permitted for use under this Rule during the next permanent rulemaking.

B. General Applicability. An Accelerator Manufacturer that engages in the production of Retail Marijuana Concentrate, regardless of the method of extraction or category of concentrate being produced, must:

1. Ensure that the space in which any Retail Marijuana Concentrate is to be produced is a fully enclosed room and clearly designated on the current diagram of the Licensed Premises. *See* Rule 3-905- Business Records Required.

2. Ensure that all applicable sanitary rules are followed. *See* 3-300 Series Rules.

3. Ensure that the standard operating procedure for each method used to produce a Retail Marijuana Concentrate includes, but need not be limited to, step-by-step instructions on how to safely and appropriately:

a. Conduct all necessary safety checks prior to commencing production;

b. Prepare Retail Marijuana for processing;

c. Extract Cannabinoids and other essential components of Retail Marijuana;

d. Purge any solvent or other unwanted components from a Retail Marijuana Concentrate,

e. Clean all equipment, counters and surfaces thoroughly; and

f. Dispose of any waste produced during the processing of Retail Marijuana in accordance with all applicable local, state and federal laws, rules and regulations. *See* Rule 3-230 – Waste Disposal.

4. Establish written and documentable quality control procedures designed to maximize safety for Owner Licensees and Employee Licensees and minimize potential product contamination.

5. Establish written emergency procedures to be followed by Owner Licensees or Employee Licensees in case of a fire, chemical spill or other emergency.

6. Have a comprehensive training manual that provides step-by-step instructions for each method used to produce a Retail Marijuana Concentrate. The training manual must include, but need not be limited to, the following topics:

a. All standard operating procedures for each method of concentrate production used;

b. The Accelerator Manufacturer’s quality control procedures;

c. The emergency procedures;

d. The appropriate use of any necessary safety or sanitary equipment;

e. The hazards presented by all solvents used as described in the safety data sheet for each solvent;

f. Clear instructions on the safe use of all equipment involved in each process and in accordance with manufacturer's instructions, where applicable; and

g. Any additional periodic cleaning required to comply with all applicable sanitary rules.

7. Provide adequate training to every Owner Licensee or Employee Licensee prior to that individual undertaking any step in the process of producing a Retail Marijuana Concentrate.

a. Adequate training must include, but need not be limited to, providing a copy of the training manual for that Licensed Premises and live, in-person instruction detailing at least all of the topics required to be included in the training manual.

b. The individual training an Owner Licensee or Employee Licensee must sign and date a document attesting that all required aspects of training were conducted and that he or she is confident that the Owner Licensee or Employee Licensee can safely produce a Retail Marijuana Concentrate. *See* Rule 3-905 – Business Records Required.

c. The Owner Licensee or Employee Licensee that received the training must sign and date a document attesting that he or she can safely implement all standard operating procedures, quality control procedures, and emergency procedures, operate all closed-loop extraction systems, use all safety, sanitary and other equipment and understands all hazards presented by the solvents to be used within the Licensed Premises and any additional periodic cleaning required to maintain compliance with all applicable sanitary rules. *See* Rule 3-905 – Business Records Required.

8. Maintain clear and comprehensive records of the name, signature and Owner Licensee or Employee License number of every individual who engaged in any step related to the creation of a Production Batch of Retail Marijuana Concentrate and the step that individual performed. *See* Rule 3-905 – Business Records Required.

9. Accelerator Manufacturers Engaged in the Remediation of Retail Marijuana for elemental impurities. Retail Marijuana Products Manufacturers engaged in the Remediation of Retail Marijuana for elemental impurities shall:

a. Implement effective cleaning procedures, additional testing plans, and other measures that will be performed to prevent cross contamination.

i. If potentially contaminated equipment, ingredients, or solvents used in the Remediation process are used for processing other 'non remediated' material, the subsequent Production Batch made using the equipment, ingredients, or solvent must then be tested for elemental impurities, and the Production Batch made using that equipment, ingredients, or solvents is not eligible for a Reduced Testing Allowance or otherwise exempt from required testing.

ii. Manufacturers must document the equipment and lots of ingredients/solvents used in Remediation to ensure this requirement is met.

b. Register as a hazardous waste generator, obtain a U.S. Environmental Protection Agency ID number for manifesting hazardous waste, and must have a

disposal contract in place with a hazardous waste management company prior to attempting Remediation.

c. Have a staff member who has received basic training in hazardous waste identification, storage, and disposal procedures, or hire a consultant who satisfies this criteria.

d. Regardless of which type of analyte, if the Retail Marijuana flower, wet whole plant, or trim has failed testing for elemental impurities, the Licensee must implement Standard Operating Procedures to ensure:

i. That contaminated material is stored in a labelled container identifying the material as potentially hazardous, and that the container seals in such a way to prevent the risk of cross contamination or inhalation of dusts.

ii. That when material is removed from the sealed container and handled in any fashion (preparation, the extraction or other Remediation process, wasting, etc.), any workers exposed to dusts or particulates generated from the material must wear appropriate personal protective equipment (PPE), including at minimum: gloves, American National Standards Institute (ANSI) Z87.1 safety glasses, and a respirator rated to protect them from airborne dusts or particulates that may contain elemental impurities. Respirators should utilize National Institute for Occupational Safety and Health rated particulate filters of sufficient grade to prevent exposure to airborne dusts that could contain elemental impurities.

A. Workers utilizing a respirator must comply with applicable Occupational Safety and Health Administration regulations regarding respirator use before handling contaminated material. This includes receiving respirator clearance from a qualified professional and passing a respirator fit test before using a respirator.

e. Additional forms of environmental airborne particulate control, such as industrial air filtration systems, handling material inside of enclosures, etc. must be implemented by the licensee to minimize the risk of exposure or cross contamination of contaminated dusts.

f. These steps must be documented in the licensee's respiratory protection program that all employees exposed to elemental impurities contaminated plant material and waste products must be trained on.

g. The Licensee must establish and train employees on SOPs designed to safely handle this contaminated material and prevent cross contamination.

h. Mercury poses additional workplaces hazards since it is easily volatilized and since mercury vapor is highly toxic. Before attempting to remediate any Regulated Marijuana flower, wet whole plant, or trim that has failed elemental impurities testing and contains mercury, Licensees must additionally:

i. Work with a certified industrial hygienist to develop and implement some form of monitoring program that is capable of detecting mercury vapor concentrations in the areas where material contaminated with mercury will be processed and can be used to generate time weighted average

exposures to mercury vapor. The monitoring system must be sufficient to ensure airborne concentrations of mercury do not exceed Occupational Safety and Health Administration Permissible Exposure Limits for Airborne Contaminants.

ii. Have a certified industrial hygienist approve the licensee's air handling system for managing mercury vapors in a fashion that is compliant with the Occupational Safety and Health Administration, and other applicable federal, state, and local regulations.

iii. Utilize a National Institute for Occupational Safety and Health rated half mask respirator with cartridges rated specifically for mercury vapor.

i. A Licensee must ensure their processes and safety practices comply with applicable federal, state, and local environmental health and safety regulations.

C. Physical Separation-Based Retail Marijuana Concentrate, Food-Based Retail Marijuana Concentrate and Heat/Pressure-Based Retail Marijuana Concentrate. An Accelerator Manufacturer that engages in the production of a Retail Marijuana Concentrate must:

1. Ensure that all equipment, counters and surfaces used in the production of Retail Marijuana Concentrate is food-grade including ensuring that all counters and surface areas were constructed in such a manner that it reduces the potential for the development of microbials, molds and fungi and can be easily cleaned.

2. Ensure that all equipment, counters, and surfaces used in the production of a Retail Marijuana Concentrate are thoroughly cleaned after the completion of each Production Batch.

3. Ensure that any room in which dry ice is stored or used in processing Retail Marijuana into a Retail Marijuana Concentrate is well ventilated to prevent against the accumulation of dangerous levels of CO_2.

4. Ensure that the appropriate safety or sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Retail Marijuana Concentrate.

5. Ensure that only finished drinking water and ice made from finished drinking water is used in the production of a Physical Separation-Based Retail Marijuana Concentrate.

6. Ensure that if propylene glycol or glycerin is used in the production of a Food-Based Retail Marijuana Concentrate, then the propylene glycol or glycerin to be used is food-grade.

7. Follow all of the rules related to the production of a Solvent-Based Retail Marijuana Concentrate if a pressurized system is used in the production of a Retail Marijuana Concentrate.

D. Solvent-Based Retail Marijuana Concentrate. An Accelerator Manufacturer that engages in the production of Solvent-Based Retail Marijuana Concentrate must:

1. Obtain a report from an Industrial Hygienist or a Professional Engineer that certifies that the equipment, Licensed Premises and standard operating procedures comply with these rules and all applicable local and state building codes, fire codes, electrical codes and other laws. If a Local Jurisdiction has not adopted a local building code or fire code or if

local regulations do not address a specific issue, then the Industrial Hygienist or Professional Engineer shall certify compliance with the International Building Code of 2012 (http://www.iccsafe.org), the International Fire Code of 2012 (http://www.iccsafe.org) or the National Electric Code of 2014 (http://www.nfpa.org), as appropriate. Note that this Rule does not include any later amendments or editions to each Code. The Division has maintained a copy of each code, each of which is available to the public;

a. Flammable Solvent Determinations. If a Flammable Solvent is to be used in the processing of Retail Marijuana into a Retail Marijuana Concentrate, then the Industrial Hygienist or Professional Engineer must:

i. Establish a maximum amount of Flammable Solvents and other flammable materials that may be stored within that Licensed Premises in accordance with applicable laws, rules and regulations;

ii. Determine what type of electrical equipment, which may include but need not be limited to outlets, lights and junction boxes, must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored in accordance with applicable laws, rules and regulations;

iii. Determine whether a gas monitoring system must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations; and

iv. Determine whether fire suppression system must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

b. CO_2 Solvent Determination. If CO_2 is used as solvent at the Licensed Premises, then the Industrial Hygienist or Professional Engineer must determine whether a CO_2 gas monitoring system must be installed within the room in which Retail Marijuana Concentrate is to be produced or CO_2 is stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

c. Exhaust System Determination. The Industrial Hygienist or Professional Engineer must determine whether a fume vent hood or exhaust system must be installed within the room in which Retail Marijuana Concentrate is to be produced, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

d. Material Change. If an Accelerator Manufacturer makes a Material Change to its equipment or a concentrate production procedure, in addition to all other requirements, it must obtain a report from an Industrial Hygienist or Professional Engineer re-certifying its standard operating procedures and, if changed, its equipment as well.

e. Manufacturer's Instructions. The Industrial Hygienist or Professional Engineer may review and consider any information provided to the Accelerator Manufacturer by the designer or manufacturer of any equipment used in the processing of Retail Marijuana into a Retail Marijuana Concentrate.

f. Records Retention. An Accelerator Manufacturer must maintain copy of all reports received from an Industrial Hygienist and Professional Engineer on its Licensed Premises. Notwithstanding any other law, rule, or regulation, compliance with this Rule is not satisfied by storing these reports outside of the Licensed Premises. Instead the reports must be maintained on the Licensed Premises until the Licensee ceases production of Retail Marijuana Concentrate on the Licensed Premises.

2. Ensure that all equipment, counters and surfaces used in the production of a Solvent-Based Retail Marijuana Concentrate are food-grade and do not react adversely with any of the solvents to be used in the Licensed Premises. Additionally, all counters and surface areas must be constructed in a manner that reduces the potential development of microbials, molds and fungi and can be easily cleaned;

3. Ensure that the room in which Solvent-Based Retail Marijuana Concentrate shall be produced must contain an emergency eye-wash station;

4. Ensure that only a professional grade, closed-loop extraction system capable of recovering the solvent is used to produce Solvent-Based Retail Marijuana Concentrate;

   a. UL or ETL Listing.

      i. If the system is UL or ETL listed, then an Accelerator Manufacturer may use the system in accordance with the manufacturer's instructions.

      ii. If the system is UL or ETL listed but the Accelerator Manufacturer intends to use a solvent in the system that is not listed in the manufacturer's instructions for use in the system, then, prior to using the unlisted solvent within the system, the Accelerator Manufacturer must obtain written approval for use of the non-listed solvent in the system from either the system's manufacturer or a Professional Engineer after the Professional Engineer has conducted a peer review of the system. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

      iii. If the system is not UL or ETL listed, then there must a designer of record. If the designer of record is not a Professional Engineer, then the system must be peer reviewed by a Professional Engineer. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

   b. Ethanol or Isopropanol. An Accelerator Manufacturer need not use a professional grade, closed-loop system extraction system capable of recovering the solvent for the production of a Solvent-Based Retail Marijuana Concentrate if ethanol or isopropanol are the only solvents being used in the production process.

5. Ensure that all solvents used in the extraction process are food-grade or at least 99% pure;

   a. An Accelerator Manufacturer must obtain a safety data sheet for each solvent used or stored on the Licensed Premises. An Accelerator Manufacturer must maintain a current copy of the safety data sheet and a receipt of purchase for all solvents used or to be used in an extraction process. *See* Rule 3-905 – Business Records Required.

b. An Accelerator Manufacturer is prohibited from using denatured alcohol to produce a Retail Marijuana Concentrate, unless the denaturant is an approved solvent listed in Rule 6-815(A)(2) and the alcohol and the denaturant meet all other requirements set forth in this Rule.

6. Ensure that all Flammable Solvents or other flammable materials, chemicals and waste are stored in accordance with all applicable laws, rules and regulations. At no time may an Accelerator Manufacturer store more Flammable Solvent on its Licensed Premises than the maximum amount established for that Licensed Premises by the Industrial Hygienist or Professional Engineer;

7. Ensure that the appropriate safety and sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Solvent-Based Retail Marijuana Concentrate; and

8. Ensure that a trained Owner Licensee or Employee Licensee is present at all times during the production of a Solvent-Based Retail Marijuana Concentrate whenever an extraction process requires the use of pressurized equipment.

E. Ethanol and Isopropanol. If an Accelerator Manufacturer only produces Solvent-Based Retail Marijuana Concentrate using ethanol or isopropanol at its Licensed Premises and no other solvent, then it shall be considered exempt from paragraph D of this Rule and instead must follow the requirements in paragraph C of this Rule. Regardless of which rule is followed, the ethanol or isopropanol must be food grade or at least 99% pure and denatured alcohol cannot be used. The Accelerator Manufacturer shall comply with contaminant testing required in Rule 4-120(C)(4).

F. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-820

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(2)(d), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-401(2)(b)(VIII), 44-10-603(10), and 44-10-608 C.R.S. The purpose of this rule is to establish the circumstances under which an Accelerator Manufacturer may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's regulated Retail Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting and recordkeeping requirements on an Accelerator Manufacturer that Transfer Sampling Units.

6-820 – Accelerator Manufacturer: Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, an Accelerator Manufacturer may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Accelerator Manufacturer who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. An individual may be designated as a Sampling Manager by more than one Retail Marijuana Business.

3. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and

makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

4. An Accelerator Manufacturer who wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-603(10), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 6-820. *See also* Rule 3-905 – Business Records Required. An Accelerator Marijuana Products Manufacturer shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Production Batch. A Sampling Unit shall not be designated until the Production Batch has satisfied the testing requirements in the 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Retail Marijuana Product shall not exceed one Standardized Serving of Marijuana.

2. A Sampling Unit of Retail Marijuana Concentrate shall not exceed one quarter of one gram; except that a Sampling Unit of Retail Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Accelerator Manufacturer as a Sampling Manger for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than:

   a. With respect to Retail Marijuana Product, fourteen Standardized Servings of Marijuana; and

   b. Eight grams of Retail Marijuana Concentrate.

4. The monthly limit established in subparagraph (C)(3) applies to each Sampling Manager, regardless of the number of Retail Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (C)(3). Before Transferring any Sampling Units, an Accelerator Manufacturer shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limit established in subparagraph (C)(3).

6. A Sampling Manager shall not Transfer any Sampling Unit to any other Person, including but not limited to any other Person designated as a Sampling Manager.

D. Compensation Prohibited. An Accelerator Manufacturer may not use Sampling Units to compensate a Sampling Manager.

E. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

F. Acceptable Purposes. Sampling Units shall only be designated and Transferred for purposes of quality control and product development in accordance with section 44-10-603(10), C.R.S.

G. Record keeping requirements. An Accelerator Manufacturer shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, an Accelerator Manufacturer shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of either quality control or product development. An Accelerator Manufacturer shall also maintain copies of the Accelerator Manufacturer's standard operating procedures provided to Sampling Managers.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-825

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-203(3)(b), 44-10-203(3)(e), 44-10-401(2)(b)(VIII), 44-10-603, 44-10-701(3)(c) and 44-10-608, C.R.S. The purpose of this rule is to define requirements for manufacture of Audited Product for administration by: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration which may raise public health concerns. This rule defines audit, insurance, minimum product requirements, minimum production process requirements, and pre-production testing requirements for Accelerator Manufacturers that manufacture Audited Products. The purpose of this rule further recognizes that Alternative Use Product not within an intended use identified in Rule 3-1015 may raise public health concerns that outweigh its manufacture or Transfer entirely or that require additional safeguards to protect public health and safety prior to manufacturer or Transfer. This rule identifies general requirements for an Accelerator Manufacturer to seek an Alternative Use Designation from the State Licensing Authority to manufacture any type of Retail Marijuana Product that is not within an intended use identified in Rule 3-1015.

6-825 – Accelerator Manufacturer: Audited Product and Alternative Use Product

A. General Rule. An Accelerator Manufacturer shall not Transfer Audited Product to a Retail Marijuana Store, an Accelerator Store, a Retail Marijuana Products Manufacturer, another Accelerator Manufacturer, a Retail Marijuana Cultivation Facility, or an Accelerator Cultivator that has obtained a Centralized Distribution Permit except in accordance with all requirements of this Rule 6-825. The requirements of this Rule 6-825 are in addition to all other Rules that apply to Accelerator Manufacturers; except where the context otherwise clearly requires this Rule 6-825 controls.

B. Audited Products – Mandatory Audit Prior to Transfer. Following submission of an independent third-party audit to the Division and, if applicable, to the Local Jurisdiction as required by this Rule, an Accelerator Manufacturer may Transfer Audited Product with an intended use of: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration.

1. A written audit report from an independent third-party auditor that was completed within the last 24 months shall be submitted to the Division and, if applicable to the Local Licensing Authority: (i) before the first Transfer of Audited Product to any Retail Marijuana

Store, (ii) prior to Transfer of any Audited Product following a Material Change to any standard operating procedure or master formulation record regarding the Audited Product, and (iii) with the Accelerator Manufacturer's renewal application if the Accelerator Manufacturer will Transfer Audited Product after renewal.

2. The independent third-party audit shall be performed by either a certified quality auditor or a certified GMP auditor. The Accelerator Manufacturer shall be responsible for all costs associated with obtaining the independent third-party audit.

3. The independent third-party written audit report shall include the following minimum requirements:

    a. The independent third-party auditor's qualifications and an attestation that the certified quality auditor or certified GMP auditor has no conflict of interest;

    b. Establish that the Accelerator Manufacturer and the Audited Product meet all requirements of this Rule 6-825, including but not limited to the specific requirements of this Rule 6-825(C), 6-825(D), 6-825(E), 6-825(G), and 6-825(H);

    c. Verify the written standard operating procedure(s) for Audited Product include sufficient and detailed step-by-step instructions on how to produce the Audited Product in a manner that prevents contamination and protects the public health and safety;

    d. Verify, based upon a physical inspection, the manufacture of Audited Product by the Accelerator Manufacturer adheres to all applicable standard operating procedures;

    e. Verify, based upon a physical inspection, of any Licensed Premises that such Licensed Premises complies with the requirements of this Rule 6-825(E), including any Limited Access Area where the Audited Product is to be manufactured;

    f. Include the independent third-party auditor's findings;

    g. Include the plan of correction identifying any corrective actions and/or preventative actions implemented as a result of the findings of the independent third-party audit; and

    h. Include the independent third-party auditor's assessment that the Accelerator Manufacturer demonstrated compliance with all requirements of Rule 6-825 and with the requirements of all standard operating procedures, master formulation records, and Batch manufacturing records that apply to the Audited Product.

C. Products Liability Insurance. Any Accelerator Manufacturer that intends to Transfer Audited Product shall first obtain products liability insurance providing coverage for liability arising from manufacture or Transfer of Audited Product and shall provide an unredacted certificate of product liability insurance to the Division and the independent third-party auditor.

D. Audited Product Requirements. Audited Product shall meet the following minimum product requirements:

1. Inactive Ingredients. Audited Product must meet the requirements in Rule 3-335 – Production of Regulated Marijuana Products.

a. If the Audited Product contains a fungicidal or bactericidal Ingredient listed in, and with a concentration that is at or below the maximum concentration permitted in, the Federal Food and Drug Administration Inactive Ingredients Database, https://www.accessdata.fda.gov/scripts/cder/iig/index.cfm, the Audited Product is not required to undergo microbial contaminant testing required by Rules 4-115 and 4-120.

2. Required Product Development Testing. The Accelerator Manufacturer must establish the Audited Product meets the following through independent third-party testing:

a. The Audited Product must deliver the amount of each cannabinoid identified on the label throughout the entire volume of the Audited Product using the intended delivery device and in accordance with the instructions provided by the Accelerator Manufacturer, as demonstrated by testing at a Retail Marijuana Testing Facility.

i. For Audited Product with an intended use of metered dose nasal spray, compliance with this requirement shall be established by test results verifying the delivered dose of each cannabinoid identified on the label using the methods described in The United States Pharmacopeia Physical Test and Determination Chapter 601, *Aerosols, Nasal Sprays, Metered-Dose Inhalers, and Dry Powder Inhalers*.

ii. For Audited Product with an intended use of either vaginal administration or rectal administration, compliance with this testing requirement shall be established by test results demonstrating that each cannabinoid identified on the label is within +/- 15% of the amount identified on the label.

b. The expiration date identified on the label of the Audited Product is appropriate when the Audited Product is stored at room temperature, as demonstrated by testing from a Retail Marijuana Testing Facility.

c. Identification of all non-cannabis derived Ingredients and constituents in the Audited Product at concentrations of 1%, which verification is obtained from one or more of the following:

i. Testing by a Retail Marijuana Testing Facility;

ii. Testing by a laboratory that is ISO 17025 accredited but is not a Retail Marijuana Testing Facility, except that no Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product may be Transferred to such a laboratory; and/or

iii. One or more certificate(s) of analysis from the manufacturer of any Ingredient or constituent included in the Audited Product.

E. Additional Production Requirements for Audited Product. In addition to all other requirements applicable to Accelerator Manufacturer, an Accelerator Manufacturer that manufactures and Transfers Audited Product shall meet the following additional requirements:

1. Personnel Training. All personnel directly involved in the manufacture and handling of Audited Product must be trained, must demonstrate competency, and must undergo annual refresher training, which shall be documented and maintained at the Accelerator Marijuana Products Manufacturer's Licensed Premises. Personnel directly involved in the

manufacture and handling of Audited Product must be trained and demonstrate proficiency in hand hygiene, cleaning and sanitizing, performing necessary calculations, measuring and mixing, and documenting the manufacturing process including master formulation records and batch manufacturing records.

2. Facility Requirements. An Accelerator Manufacturer must have a space that is specifically designated for the manufacture of Audited Products that is designed and operated to prevent cross contamination from other areas of the Licensed Premises. The surfaces, walls, floors, fixtures, shelving, work surfaces, and cabinets in this designated area must be non-porous and cleanable.

3. Cleaning and Sanitizing. An Accelerator Manufacturer must clean and sanitize surfaces where Audited Product is manufactured and handled on a regular basis and at a minimum, work surfaces and floors must be cleaned and sanitized daily. All other surfaces must be cleaned and sanitized at least every three months. An Accelerator Manufacturer must clean and sanitize all surfaces when a spill occurs and when surfaces, floors, and walls are visibly soiled.

4. Hand Hygiene. Hand hygiene is required when entering and re-entering any area where Audited Product is manufactured and handled. Hand hygiene includes washing hands and forearms up to the elbows with soap and water for at least 30 seconds followed by drying completely with disposable towels. Alcohol hand sanitizers alone are not sufficient.

    a. Gloves are required to be worn for all mixing activities. Other garb such as shoe covers, head and facial hair covers, face masks, and gowns must be worn as appropriate to protect Licensees and/or prevent contamination of the Audited Product.

5. Equipment. Mechanical, electronic, and other types of equipment used in mixing, measuring, or testing of Audited Product must be inspected prior to use and verified for accuracy at the frequency recommended by the manufacturer, and at least annually.

6. Ingredient Quality. All Ingredients used to manufacture Audited Product must be handled and stored in accordance with the manufacturer's instructions. Ingredients that lack a manufacturer's expiration date shall not be used if a reasonable manufacturer would not use the Ingredient or after 1 year from the date of receipt, whichever period is shorter.

7. Master Formulation Record. A master formulation record must be prepared and maintained for each unique Audited Product an Accelerator Manufacturer manufactures. A master formulation record must include at least the following information:

    a. Name of the Audited Product;

    b. Ingredient identities and amounts;

    c. Specifications on the delivery device (if applicable);

    d. Complete instructions for preparing the Audited Product, including equipment, supplies, and description of the manufacturing steps;

    e. Quality control procedures; and

    f. Any other information needed to describe the Retail Marijuana Products Manufacturer's production and ensure its repeatability.

8. Batch Manufacturing Records. A batch manufacturing record shall be created for each Production Batch of Audited Product. This record shall include at the least the following information:

    a. Name of the Audited Product;

    b. Master formulation record reference for the Audited Product;

    c. Date and time of preparation of the Audited Product;

    d. Production Batch number;

    e. Signature or initials of individuals involved in each manufacturing step;

    f. Name, vendor, or manufacturer, Production Batch number, and expiration date of each Ingredient;

    g. Weight or measurement of each Ingredient;

    h. Documentation of quality control procedures;

    i. Any deviations from the master formulation record, and any problems or errors experienced during the manufacture; and

    j. Total quantity of the Audited Product manufactured.

F. Audited Product Testing. For each Production Batch, the Audited Product shall undergo all required testing in the 4-100 Series Rules for Retail Marijuana Product and/or Audited Product. *See also* Rule 4-115 – Regulated Marijuana Testing Program: Sampling and Testing Program.

G. Packaging and Labeling of Audited Product. Audited Product must be packaged and labeled in accordance with all requirements of the 3-1000 Series Rules regarding packaging and labeling for Transfer to a consumer prior to any Transfer.

H. Adverse Event Reporting. An Accelerator Manufacturer must report Adverse Health Events pursuant to Rule 3-920.

I. Alternative Use Designation – Any Other Method of Consumption or Administration. An Accelerator Manufacturer shall not Transfer to a Retail Marijuana Store, an Accelerator Store, a Retail Marijuana Products Manufacturer, another Accelerator Manufacturer, a Retail Marijuana Cultivation Facility, or an Accelerator Cultivator that has obtained a Centralized Distribution Permit any Retail Marijuana Concentrate or Retail Marijuana Product that is not within any intended use identified in Rule 3-1015(B) until it applies for and receives an Alternative Use Designation from the State Licensing Authority in consultation with the Colorado Department of Public Health and Environment. In the process of applying for an Alternative Use Designation, the Accelerator Manufacturer shall work with the Division and the Colorado Department of Public Health and Environment to determine whether the proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when particular independent review factors, safeguards, and tests are in place. The following are minimum requirements for any application for an Alternative Use Designation:

1. The Accelerator Manufacturer shall identify provisions of this Rule 6-825 that apply to its Alternative Use Product, any proposed additional or alternative requirements, and how any proposed alternatives protect public health and safety. The Accelerator Manufacturer

shall also provide any additional information as may be requested by the Division, in consultation with the Colorado Department of Public Health and Environment.

2. The Accelerator Manufacturer bears the burden of proving its proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when the identified independent review factors, safeguards, and tests are in place.

3. An Accelerator Manufacturer seeking an Alternative Use Designation shall cooperate with the Division. Failure to cooperate with the Division is grounds for denial of an Alternative Use Designation.

4. The granting of an Alternative Use Designation shall rest in the discretion of the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment. The State Licensing Authority may in his or her discretion deny an Alternative Use Designation where the Accelerator Manufacturer does not meet the burden established in this Rule 6-825.

J. Alternative Use Designation – Packaging and Labeling Requirements. If the Division recommends, and the State Licensing Authority grants, an Alternative Use Designation, the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment shall provide the Accelerator Manufacturer the appropriate statement of intended use label to be affixed to the Alternative Use Product, and any additional or distinct packaging and labeling requirements applicable to the Alternative Use Product. *See* Rules 3-1010 and 3-1015.

K. Required Records. An Accelerator Manufacturer manufacturing or Transferring Audited Product and/or Alternative Use Product shall maintain accurate and comprehensive records on the Licensed Premises regarding the manufacturing process, a list of all active and inactive Ingredients used in the Audited Product and/or Alternative Use Product, and such other documentation as required by this Rule 6-825. *See* Rule 3-905 – Business Records Required.

Basis and Purpose – 6-830

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(III), and 44-10-603, 44-10-603(15)(a)-(b), 44-10-608, and 3~~8~~9-28.8-302~~.(2)(b)~~ C.R.S. The purpose of this rule is to allow a Medical Marijuana Products Manufacturer to receive Transfers of Retail Marijuana Concentrate from a Retail Marijuana Products Manufacturer in order to change its designation from “Retail” to “Medical.”

6-830 – Accelerator Manufacturer: Ability to Change Designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate.

A. Changing Designation: Beginning July 1, 2022, an Accelerator Manufacturer may Transfer Retail Marijuana Concentrate to a Medical Marijuana Products Manufacturer in order to change its designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate pursuant to the following requirements:

1. The Accelerator Manufacturer may only Transfer Retail Marijuana Concentrate that has passed all required testing;

2. The Medical Marijuana Products Manufacturer and the Accelerator Manufacturer ~~are co-located~~share a Licensed Premises in accordance with Rule 3-215;

3. The Medical Marijuana Products Manufacturer and Accelerator Manufacturer have at least one identical Controlling Beneficial Owner;

4. The Accelerator Manufacturer must report the Transfer in the Inventory Tracking System the same day that the change in designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate occurs;

5. After the designation change, the Medical Marijuana Concentrate cannot be Transferred to the originating Accelerator Manufacturer or any other Retail Marijuana Business or otherwise be treated as Retail Marijuana. The inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules; and

6. The Transfer and change in designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change in designation.

6-900 Series – Licensed Hospitality Businesses

Basis and Purpose – 6-905

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish general provisions for Licensed Hospitality Businesses.

6-905 – Licensed Hospitality Businesses: General Provisions

A. Privileges Granted. A Licensed Hospitality Business shall only exercise those privileges granted pursuant to the Marijuana Code and these Rules.

B. Local Approval Required. No Licensed Hospitality Business may operate in a Local Jurisdiction that does not have an ordinance or resolution authorizing the operation of that type of Licensed Hospitality Business within the Local Jurisdiction. A Licensed Hospitality Business must comply with any requirements or restrictions on its operations imposed by the Local Jurisdiction's ordinance or resolution.

C. Liability Insurance Required. Licensed Hospitality Businesses are required to carry general liability insurance. If a Licensed Hospitality Business has not obtained general liability insurance at the time of its initial license application, it must obtain general liability insurance prior to submitting the Licensee's first renewal application.

D. Responsible Vendor Training Required. All Controlling Beneficial Owners and employees of a Licensed Hospitality Business shall have a valid~~complete annual~~ responsible vendor ~~training that satisfies the requirements of the responsible vendor program established~~designation as required in section 44-10-609, C.R.S., and described in the 3-500 Series Rules.

E. No Visible Consumption of Regulated Marijuana. A Licensed Hospitality Business shall ensure that the display and consumption of any marijuana is not visible from outside of its Licensed Premises. The requirement in this paragraph (E) also applies to Licensed Hospitality Businesses that operate in an isolated portion of a Retail Food Establishment. *See* Rule 6-915 – Licensed Hospitality Businesses: Operation Within A Retail Food Establishment.

1. Outdoor Consumption Areas Permitted. A Licensed Hospitality Business may have a Consumption Area outdoors under the following conditions:

a. The Licensed Hospitality Business shall ensure that all marijuana is kept out of plain sight and is not visible from a public place without the use of optical aids, such as telescopes or binoculars, or aircraft; and

b. The Licensed Hospitality Business shall ensure that the Consumption Area is surrounded by a sight-obscuring wall, fence, hedge, or other opaque or translucent barrier.

F. Required Signage.

1. Identification of Consumption Area. A Licensed Hospitality Business shall ensure all areas ingress and egress to the Consumption Area(s) be clearly identified by the posting of a sign which shall not be less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Consumption Area – No One Under 21 Years of Age Allowed."

2. Required Warning. Licensed Hospitality Businesses must post, at all times and in a prominent place inside the Consumption Area, a warning that is at minimum twelve inches high and twelve inches wide that reads as follows:

"Must be 21 or older to enter

Marijuana may only be consumed in designated areas out of public view

No consumption of alcohol or tobacco products on site

We reserve the right to refuse entry or service for reasons including visible intoxication

It is against the law to drive while impaired by marijuana"

G. Entry By A Person Under 21 Years Prohibited. A Licensed Hospitality Business shall not allow any individual under 21 years of age to enter its Licensed Premises. A Licensed Hospitality Business shall verify that every individual entering the Licensed Premises has a valid government-issued photo identification showing that the individual is 21 years of age or older. *See* Rule 3-405 – Acceptable Forms of Identification.

H. Customers in Consumption Area. The Consumption Area must be supervised by a Licensee at all times when consumers are present to ensure that only persons who are 21 years of age or older are permitted to enter. A Licensed Hospitality Business shall reasonably monitor consumers in the Consumption Area to ensure compliance with these 6-900 Series Rules.

I. Conduct on the Licensed Premises.

1. Consumption By Intoxicated Patrons Prohibited. A Licensed Hospitality Business shall not permit the use or consumption of marijuana by any person displaying any visible signs of intoxication.

2. Alcohol Consumption Prohibited. No consumption of alcohol is permitted in a Licensed Hospitality Business. A Licensed Hospitality Business is responsible for preventing the consumption of alcohol within its Licensed Premises.

3. Tobacco Consumption Prohibited. No smoking of tobacco or tobacco products is permitted in a Licensed Hospitality Business. A Licensed Hospitality Business is responsible for preventing the smoking of tobacco and tobacco products within its Licensed Premises.

4. Employee Consumption Prohibited. No employee of a Licensed Hospitality Business who is on duty may use or consume marijuana. A Licensed Hospitality Business is responsible for preventing the use or consumption of marijuana by on-duty employees within its Licensed Premises.

5. Flammable Instrument Restrictions. A Licensed Hospitality Business shall not allow the use of the following devices in the Licensed Premises if prohibited by a local ordinance or resolution:

   a. Any device using liquid petroleum gas;

   b. A butane torch;

   c. A butane lighter; or

   d. Matches.

6. Orderliness. A Licensed Hospitality Business shall operate the business in a decent, orderly, and respectable manner. A Licensed Hospitality Business shall not knowingly permit any activity or acts of disorderly conduct as defined by and provided for in section 18-9-106, C.R.S., nor shall a Licensed Hospitality Business permit rowdiness, undue noise, or other disturbances or activity offensive to the senses of the average citizen, or to the residents of the neighborhood in which the Licensed Hospitality Business is located.

J. Free Marijuana Prohibited. A Licensed Hospitality Business may not give away marijuana to a consumer for any reason.

K. Food Products Permitted. A Licensed Hospitality Business is permitted to sell or give away consumable products that do not contain marijuana under the following circumstances:

1. The Licensed Hospitality Business operates in an isolated portion of a Retail Food Establishment;

2. A Licensed Hospitality Business that is not a Retail Food Establishment may prepare and serve hot coffee, hot tea, instant hot beverages, and nonpotentially hazardous doughnuts or pastries obtained from sources complying with all laws related to food and food labeling; or

3. A Licensed Hospitality Business that is not a Retail Food Establishment may sell or give away nonpotentially hazardous prepackaged food and commercially prepared, prepackaged foods requiring no preparation other than the heating of food within its original container or package.

L. Emergency Entry by Public Safety Personnel. If an emergency requires law enforcement, firefighters, emergency medical service providers, or other public safety personnel to enter the Licensed Premises of a Licensed Hospitality Business, the Licensed Hospitality Business is responsible for ensuring that all consumption and other activities, including sales, if applicable, cease until such personnel have completed their investigation or services and have left the Licensed Premises.

M. Criminal Activity Reporting Requirements. In addition to other reporting requirements set forth in these Rules, a Licensed Hospitality Business must report directly to the Division any criminal activity requiring an in-person response from law enforcement. Any report required under this

Rule must be submitted within 48 hours after an Owner Licensee or Employee Licensee of the Licensed Hospitality Business learns of the event.

N. Removal of Persons from the Licensed Premises. A Licensed Hospitality Business may remove a person from the Licensed Premises for any reason, including but not limited to, any consumer showing any visible signs of intoxication.

O. Control and Disposal of Marijuana Left by a Consumer. A Licensed Hospitality Business is responsible for the collection and disposal of any marijuana left on the Licensed Premises by a consumer. When a consumer leaves any marijuana on the Licensed Premises, a Licensed Hospitality Business must promptly collect and remove the marijuana from the Restricted Access Area or Consumption Area and either immediately destroy or store and secure the marijuana in a Limited Access Area or an area inaccessible to consumers in accordance with Rule 6-920(A).

1. Marijuana Consumer Waste. In conjunction with the collecting and securing of any remaining marijuana, a Licensed Hospitality Business may segregate any Marijuana Consumer Waste in order to Transfer the Marijuana Consumer Waste for purposes of recycling in accordance with Rule 3-240 – Collection of Marijuana Consumer Waste.

2. Destruction Required. At, or before, the end of each business day, a Licensed Hospitality Business shall destroy any marijuana left on its Licensed Premises by a consumer in conformance with Rule 3-230 – Waste Disposal. The Licensed Hospitality Business shall document any destruction of Regulated Marijuana in a waste log. *See* Rule 3-905 – Business Records Required.

P. Consumer Education Materials. A Licensed Hospitality Business must provide Consumer Education Materials regarding the safe consumption of marijuana. Consumer Education Materials may be made available in print or digital form, may never make claims regarding health or physical benefits of marijuana, and must be prominently displayed. Consumer Education Materials shall at a minimum include the following statement:

> **"WARNING**: Using marijuana, in any form, while you are pregnant or breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of marijuana use during pregnancy or breastfeeding.
>
> Create a transportation plan ahead of time. Don't operate a vehicle impaired.
>
> Impairing effects of marijuana may be delayed."

Basis and Purpose – 6-910

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish additional health and safety regulations for Licensed Hospitality Businesses.

6-910 – Licensed Hospitality Businesses: Additional Health and Safety Regulations

A. Local Safety Requirements and Inspections. A Licensed Hospitality Business must comply with any safety requirements or required inspections imposed by the Local Jurisdiction's ordinance or resolution which authorizes the Licensed Hospitality Business's operation.

B. Sanitation of Consumption Equipment. If a Licensed Hospitality Business provides consumers with reusable equipment or devices to aid in the use or consumption of marijuana, the Licensed Hospitality Business shall ensure the equipment or device is sanitized properly. A Licensed Hospitality Business shall maintain standard operating procedures regarding reusable equipment

and device sanitation practices. Failure to maintain records and/or sanitize reusable equipment may constitute a license violation affecting public safety.

Basis and Purpose – 6-915

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish requirements for Licensed Hospitality Businesses operating within a Retail Food Establishment or on the Licensed Premises of any establishment with a license issued pursuant to articles 3, 4, or 5 of Title 44.

6-915 – Licensed Hospitality Businesses: Operation Within a Retail Food Establishment

A. Alcohol Beverage License Prohibited. A Licensed Hospitality Business shall not operate within a Retail Food Establishment that holds a license or permit issued pursuant to article 3, 4, or 5 of title 44.

1. The Licensed Premises of a Licensed Hospitality Business must be completely separate from, and shall not overlap with, the licensed premises of any license issued pursuant to articles 3, 4, or 5 of Title 44. To be considered completely separate:

a. The Licensed Premises of a Licensed Hospitality Business shall not overlap with or share any physical space with, at any time, the licensed premises of a license issued pursuant to articles 3, 4, or 5 of Title 44. Alternating use of the same location at different times by a license issued pursuant to article 10 of Title 44 and a license or permit issued pursuant to article 3, 4, or 5 of Title 44 is prohibited.

b. The Licensed Premises of a Licensed Hospitality Business may be adjacent to the licensed premises of any license issued pursuant to article 3, 4, or 5 of Title 44, so long as all of the following conditions are met:

i. Each has a separate address, which may be separate units within a street address so long as each unit has separate entrances and exits from the other, and consumers may not pass through the licensed premises of one to reach the licensed premises of the other;

ii. There is no door, hallway, or passageway by or through which a consumer may pass between the Licensed Premises of a Licensed Hospitality Business and the adjacent licensed premises of any license issued pursuant to articles 3, 4, or 5 of Title 44; and

iii. Any window on a shared wall is covered, or rendered opaque or translucent, to ensure the display or consumption of marijuana within a Licensed Hospitality Business is not visible to any person outside the Licensed Premises, including by a person within the adjacent licensed premises of a license issued pursuant to articles 3, 4, or 5 of Title 44.

B. Isolation From Unlicensed Portions of the Retail Food Establishment. A Licensed Hospitality Business that operates within a Retail Food Establishment shall ensure that its Licensed Premises are isolated from the rest of the Retail Food Establishment.

1. Consumers may enter the Licensed Premises from the unlicensed portion of the Retail Food Establishment. However, in order to be isolated from the rest of the Retail Food Establishment, the Licensed Premises shall:

a. Not overlap with the operations of the Retail Food Establishment; and

b. Be separated by a sight-obscuring wall, or other opaque or translucent barrier, and a secure door to ensure only consumers 21 years of age or older are permitted into the Licensed Premises.

2. Segregation of Marijuana. A Licensed Hospitality Business shall not store marijuana—either for purposes of sale or destruction—in any location containing other inventory of the Retail Food Establishment.

C. Manufacturing of Regulated Marijuana Products Prohibited. A Licensed Hospitality Business shall ensure that the Retail Food Establishment is not used to manufacture Regulated Marijuana Products or to add marijuana to foods produced or provided at the Retail Food Establishment.

D. Food Service Permitted. Nothing in this Rule 6-915 prohibits employees of the Retail Food Establishment from taking orders for, or serving, foods, produced or provided at the Retail Food Establishment within the Licensed Premises of the Licensed Hospitality Business. Any employee of the Retail Food Establishment who has unescorted access to the Limited Access Area or Restricted Access Area of a Licensed Hospitality Business, or who may handle marijuana for destruction, or any other purpose, shall first obtain an Employee License and Identification Badge.

Basis and Purpose – 6-920

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), and 44-10-610, C.R.S. The purpose of this rule is to establish requirements for the display of Retail Marijuana on the Licensed Premises of a Retail Marijuana Hospitality and Sales Business, and to establish that a Retail Marijuana Hospitality and Sales Business must control and safeguard access to certain areas where Retail Marijuana will be sold.

6-920 – Retail Marijuana Hospitality and Sales Businesses Point of Sale: Restricted Access Area

A. Display of Retail Marijuana. The display of Retail Marijuana for sale is allowed only in Restricted Access Areas. Any product displays that are readily accessible to the consumer must be supervised by the Owner Licensee or Employee Licensees at all times when consumers are present.

Basis and Purpose – 6-925

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to clarify additional license privileges and restrictions for Retail Marijuana Hospitality and Sales Businesses that do not apply to Marijuana Hospitality Businesses.

6-925 – Retail Marijuana Hospitality and Sales Businesses: Additional License Privileges and Restrictions

A. Authorized Sources of Retail Marijuana. A Retail Marijuana Hospitality and Sales Business may only Transfer Retail Marijuana that it obtained from another Retail Marijuana Business.

B. Restriction on Transfers to Consumers. A Retail Marijuana Hospitality and Sales Business and its employees are prohibited from Transferring Retail Marijuana to a consumer if the Retail Marijuana Hospitality and Sales Business' employee knows or reasonably should know that the consumer does not intend to consume the Retail Marijuana on the Licensed Premises of the Retail Marijuana Hospitality and Sales Business or previously during the same business day the

consumer already received the relevant quantity limitation in this Rule. In determining the imposition of any penalty for violation of this Rule 6-925, the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235.

C. Inventory Tracking System Requirements. A Retail Marijuana Hospitality and Sales Business must use the Inventory Tracking System in accordance with the requirements of the 3-800 Series Rules.

D. Samples Provided for Testing. A Retail Marijuana Hospitality and Sales Business may provide Samples of Retail Marijuana for testing purposes to a Retail Marijuana Testing Facility. The Retail Marijuana Hospitality and Sales Business shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

E. Authorized On-Premises Storage. A Retail Marijuana Hospitality and Sales Business may store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules. *See* Rule 3-800 Series Rules – Regulated Marijuana Business: Inventory Tracking System.

F. Authorized Marijuana Transport. A Retail Marijuana Hospitality and Sales Business is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where the transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents a Retail Marijuana Hospitality and Sales Business from transporting its own Retail Marijuana to the Licensed Premises of its Retail Marijuana Hospitality and Sales Business.

G. Quantity Limitations on Sales. All Transfers of Retail Marijuana by a Retail Marijuana Hospitality and Sales Business to a consumer shall not exceed the following sales limits:

1. More than two grams of Retail Marijuana flower;

2. More than one-half of one gram of Retail Marijuana Concentrate; or

3. A Retail Marijuana Product containing more than 20 milligrams of active THC. For any Transfer of Retail Marijuana Product containing more than 10 milligrams of active THC, the Retail Marijuana Product must be Transferred to a consumer in separate serving sizes containing no more than 10 milligrams of active THC per serving.

H. Measurement Procedures and Equipment.

1. A Retail Marijuana Hospitality and Sales Business shall develop and maintain standard operating procedures, and any additional equipment necessary, to ensure any Retail Marijuana Product Transferred to a consumer does not exceed the quantity limitation set forth in subparagraph G(3).

2. A Retail Marijuana Hospitality and Sales Business Transferring Multiple-Serving Edible Retail Marijuana Product or Multiple-Serving Liquid Edible Retail Marijuana Product to a consumer shall provide a measurement device necessary for the consumer to achieve accurate measurements of each serving in increments equal to or less than 10 milligrams of active THC per serving.

I. Packaging and Labeling.

1. Packaging and Labeling Not Required at Time of Transfer. A Retail Marijuana Hospitality and Sales Business may Transfer Retail Marijuana to a consumer without packaging and

labeling so long as the Retail Marijuana Hospitality and Sales Business complies with the requirements of Rule 3-1020. *See* Rule 3-1020 – Packaging and Labeling: Requirements Prior to Transfer to a Consumer at a Retail Marijuana Hospitality and Sales Business.

2. Packaging and Labeling Required Before Retail Marijuana Removed from Licensed Premises. A Retail Marijuana Hospitality and Sales Business shall not permit a consumer to leave the Licensed Premises with any unconsumed marijuana unless the Retail Marijuana Hospitality and Sales Business has ensured unconsumed marijuana is packaged and labeled in accordance with the requirements of Rule 3-1020. *See* Rule 3-1020 – Packaging and Labeling: Requirements Prior to Transfer to a Consumer at a Retail Marijuana Hospitality and Sales Business.

J. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to Transfer Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product to a consumer.

Basis and Purpose – 6-930

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish general limitations and prohibited acts for Retail Marijuana Hospitality and Sales Businesses.

6-930 – Retail Marijuana Hospitality and Sales Businesses: General Limitations and Prohibited Acts

A. Age Verification. Prior to Initiating the Transfer of Retail Marijuana a Licensee must verify that the purchaser has a valid government-issued photo identification showing that the purchaser is 21 years of age or older. *See* Rule 3-405 – Acceptable Forms of Identification.

B. Purchases Only Within Restricted Access Area. A consumer must be physically present within the Restricted Access Area of the Retail Marijuana Hospitality and Sales Business's Licensed Premises to purchase Retail Marijuana. The consumer must consume or use the Retail Marijuana purchased in the Retail Marijuana Hospitality and Sales Business in that Businesses' Restricted Access Area.

1. Application to Retail Marijuana Hospitality and Sales Businesses Operating in a Retail Food Establishment. The requirement of paragraph (B) also applies to all Retail Marijuana Hospitality and Sales Businesses operating in an isolated portion of the Retail Food Establishment. All Transfers of Retail Marijuana may occur only in the Retail Marijuana Hospitality and Sales Business' Restricted Access Area, and not in any other area of the Retail Food Establishment.

C. Prohibited Sales and Activity.

1. Sales to Persons Under 21 Years. A Retail Marijuana Hospitality and Sales Business is prohibited from Transferring, giving, or distributing Regulated Marijuana to persons under 21 years of age.

2. Alternative Use Products. A Retail Marijuana Hospitality and Sales Business shall not Transfer, or permit the use or consumption of, any Alternative Use Product.

3. Marijuana Not Transferred by the Retail Marijuana Hospitality and Sales Business. A Retail Marijuana Hospitality and Sales Business shall not permit the purchase, use or consumption of any marijuana other than the Retail Marijuana it Transfers pursuant to these rules.

4. Nicotine or Alcohol. A Retail Marijuana Hospitality and Sales Business is prohibited from Transferring Retail Marijuana that contain nicotine or alcohol, if the sale of alcohol would require a license pursuant to articles 3, 4, or 5 of Title 44, C.R.S.

5. Transfer of Expired Product. A Retail Marijuana Hospitality and Sales Business shall not Transfer any expired Retail Marijuana Product to a consumer.

6. Transporter Transfer Restrictions. A Retail Marijuana Hospitality and Sales Business shall not Transfer Retail Marijuana to a Retail Marijuana Transporter, and shall not buy or receive complimentary Retail Marijuana from a Retail Marijuana Transporter.

7. Possession and Transfer of Sampling Units. A Retail Marijuana Hospitality and Sales Business may not possess or Transfer Sampling Units.

8. Research Transfers. A Retail Marijuana Hospitality and Sales Business shall not Transfer any Retail Marijuana to a Pesticide Manufacturer or a Marijuana Research and Development Facility.

D. Storage and Display Limitations.

1. A Retail Marijuana Hospitality and Sales Business shall not display Retail Marijuana outside of a designated Restricted Access Area or in a manner in which Retail Marijuana can be seen from outside the Licensed Premises. Storage of Retail Marijuana shall otherwise be maintained in Limited Access Area or Restricted Access Area.

2. Any product displays that are readily accessible to the customer must be supervised by the Owner Licensee or Employee Licensee at all times when consumers are present.

E. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

F. Adverse Health Event Reporting. A Retail Hospitality and Sales Business must report Adverse Health Events pursuant to Rule 3-920.

Basis and Purpose – 6-935

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish Limited Access Area and security exemptions and requirements for Marijuana Hospitality Businesses.

6-935 – Marijuana Hospitality Business: Limited Access Areas and Security Standards

A. Limited Access Area Permitted But Not Required. A Marijuana Hospitality Business is not required to maintain a Limited Access Area as part of the Licensed Premises so long as the Marijuana Hospitality Business demonstrates the following:

1. It has established policies, procedures, and methods to ensure marijuana collected pursuant to Rule 6-905(O) will be secured in an area inaccessible to patrons of the Marijuana Hospitality Business prior to destruction; and

2. Its surveillance recording equipment is housed in a designated, locked, and secured room or other enclosure with access limited to authorized employees, agents of the Division, and the relevant Local Licensing Authority or Local Jurisdiction, state or local law enforcement agencies for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose, and service personnel or contractors.

B. Security Standards. A Marijuana Hospitality Business shall comply with Rule 3-220 Security Alarm Systems and Lock Standards and Rule 3-225 Video Surveillance, except that its Licensed Premises need only be monitored when consumers are on the Licensed Premises or during periods when marijuana collected pursuant to Rule 6-905(O) remains on the Licensed Premises prior to destruction.

Basis and Purpose – 6-940

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), and 44-10-609, C.R.S. The purpose of this rule is to establish requirements for Marijuana Hospitality Businesses with a Mobile Premises.

6-940 – Marijuana Hospitality Business: Requirements for Mobile Premises

A. Separate License Required for Each Mobile Premises. Each Mobile Premises requires a separate Marijuana Hospitality Business License.

B. Consumption Area of the Mobile Premises. The Consumption Area of the Mobile Premises shall exclude the area designed to seat the driver and front seat passenger.

C. Requirements for Motor Vehicles Designated as Mobile Premises. A Marijuana Hospitality Business must ensure that the motor vehicle serving as the Mobile Premises of a Marijuana Hospitality Business complies with all state and local registration and permitting requirements. At each initial and renewal application, a Marijuana Hospitality Business must provide the Division with the following information regarding its Mobile Premises:

a. Documentation that the Mobile Premises is owned or leased by the Marijuana Hospitality Business;

b. The vehicle manufacturer/make, model, and model year associated with the Mobile Premises;

c. The vehicle identification number (VIN) associated with the Mobile Premises;

d. The Colorado license plate number and copy of the registration associated with the Mobile Premises;

e. If applicable, the automatic vehicle identification tag associated with the Mobile Premises; and

f. A copy of a valid permit issued by the Public Utilities Commission to the Marijuana Hospitality Business.

D. Local Approval Required. A Marijuana Hospitality Business with a Mobile Premises may only operate in Local Jurisdictions that have an ordinance or resolution authorizing the operation of Mobile Premises and for which it holds any required valid local license(s). A Mobile Premises' operation includes, but is not limited to, allowing passengers to consume marijuana and boarding or disembarking the Mobile Premises.

E. Additional Requirements for Mobile Premises. Before receiving a License for a Mobile Premises, a Marijuana Hospitality Business must establish that the Mobile Premises will be able to meet the following requirements:

1. Global position system tracking of the Mobile Premises;

2. Written standard operating procedures that address the logging of the route(s) of each Mobile Premises;

3. Video surveillance inside of the Mobile Premises, including the entry and exit points to the Mobile Premises and driver's area of the vehicle;

4. Proper ventilation within the vehicle, which includes, if marijuana is smoked or vaped in the Licensed Premises, that air is not circulated into the driver's area of the Licensed Premises;

5. Policies and procedures to ensure that no marijuana is possessed or consumed in the area designed to seat the driver and front seat passenger in a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation;

6. Methods to ensure consumption activity is not visible outside the vehicle;

7. Policies, procedures or other measures to ensure that consumers are prohibited from entering the driver's area of the Mobile Premises; and

8. Display of the Marijuana Hospitality Business license on the dashboard of the Mobile Premises.

F. Separate Place of Business. A Marijuana Hospitality Business with a Mobile Premises shall designate and maintain a fixed place of business in Colorado that is separate from the Mobile Premises. The fixed place of business does not need to be a Licensed Premises. However, if the Marijuana Hospitality Business will transport any marijuana to the separate place of business for purposes of destruction, the separate place of business shall also be a Licensed Premises and is subject to any applicable state and local licensing requirements or restrictions.

1. Shared Places of Business. Multiple Marijuana Hospitality Business Licensees with Mobile Premises may share a single separate place of business so long as the Marijuana Hospitality Businesses are identically owned.

2. Shared Premises with Another Licensed Hospitality Business. A Marijuana Hospitality Business with a Mobile Premises may designate the location of another Marijuana Hospitality Business's Licensed Premises as its separate place of business subject to the following conditions:

a. The relevant Local Licensing Authority or Local Jurisdiction permit a Marijuana Hospitality Business with a Mobile Premises to designate the location of another Marijuana Hospitality Business's Licensed Premises as its separate place of business;

b. The Marijuana Hospitality Businesses are identically owned; and

c. Record-keeping shall enable the Division and the Local Licensing Authority or Local Jurisdiction to distinguish clearly the business transactions and operations of each Marijuana Hospitality Business.

G. Business Records. All records required to be maintained by these rules must be maintained at the Marijuana Hospitality Business's separate place of business, and not at the Mobile Premises, except that when the Mobile Premises is in operation it must maintain its current route log on the Mobile Premises.

1. A Marijuana Hospitality Business is not required to maintain records related to inventory tracking because a Marijuana Hospitality Business is prohibited from engaging in Transfers of marijuana.

H. Health and Safety Requirements. A Marijuana Hospitality Business' Mobile Premises shall comply with all relevant requirements in the 3-300 Series Rules. Hand-washing facilities, however, need not be in the Mobile Premises, but may be located in the Marijuana Hospitality Business's separate place of business.

I. Operating Restrictions. A Marijuana Hospitality Business shall ensure that its Mobile Premises does not operate outside of the state of Colorado.

J. Change of Mobile Premises. A Marijuana Hospitality Business may change its Mobile Premises in accordance with the change of Mobile Premises application requirements in Rule 2-260(D).

6-1100 Series – Accelerator Store Licenses

Basis and Purpose – 6-1105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(aa), 44-10-203(2)(dd), 44-10-401(2)(b)(I), 44-10-601, 44-10-605, and 44-10-611, C.R.S. The purpose of this rule is to establish the license privileges of an Accelerator Store.

6-1105 – Accelerator Store: License Privileges

A. Licensed Premises.

1. Shared Licensed Premises. An Accelerator Store may operate on the same Licensed Premises as a Retail Marijuana Store that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

2. Separate Licensed Premises. An Accelerator Store may operate on a separate premises in the possession of a Retail Marijuana Store that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

3. To the extent authorized by Rule 3-215 – Regulated Marijuana Business– Shared Licensed Premises and Operational Separation, an Accelerator Store may share, and operate at, the same Licensed Premises as an Accelerator-Endorsed Licensee's Retail Marijuana Store that shares a Licensed Premises with a Medical Marijuana Store.

B. Authorized Sources of Retail Marijuana. An Accelerator Store may only Transfer Retail Marijuana that was obtained from another Retail Marijuana Business.

C. Samples Provided for Testing. An Accelerator Store may provide Samples of its products for testing and research purposes to a Retail Marijuana Testing Facility. The Accelerator Store shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

D. Authorized On-Premises Storage. An Accelerator Store is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.

E. Authorized Marijuana Transport. An Accelerator Store is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where

transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents an Accelerator Store from transporting its own Retail Marijuana.

F. Performance-Based Incentives. An Accelerator Store may compensate its employees using performance-based incentives, including sales-based performance-based incentives.

G. Authorized Transfers of Industrial Hemp Products. An Accelerator Store may Transfer Industrial Hemp Product to a consumer only after it has confirmed:

1. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Retail Marijuana Testing Facility; and

2. That the Person Transferring the Industrial Hemp Product to the Retail Marijuana Store is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

H. Automated Vending Machine. An Accelerator Store may use an automated machine in the Restricted Access Area of its Licensed Premises to dispense Regulated Marijuana to consumers without interaction with an Owner Licensee or Employee Licensee if the automated machine is reasonably monitored and complies with all requirements of these rules including but not limited to:

1. Health and safety standards,

2. Testing,

3. Packaging and labeling requirements,

4. Inventory tracking,

5. Identification requirements, and

6. Transfer limits to consumers.

I. Walk-up Window or Drive-up Window. An Accelerator Store may serve customers through a walk-up window or drive-up window pursuant to the requirements of this rule.

1. Modification of Premises Required. Before accepting orders for sales of Retail Marijuana to a customer through either a walk-up window or drive-up window, an Accelerator Store shall apply for, and obtain approval of, an application for a modification of its Licensed Premises for the addition of a walk-up window or drive-up window.

2. The area immediately outside the walk-up window or drive-up window must be under the Licensee's possession and control and cannot include any public property such as public streets, public sidewalks, or public parking lots.

3. Order and Identification Requirements.

a. Prior to accepting an order or Transferring Retail Marijuana to a customer, the Employee Licensee or Owner Licensee must physically view and inspect the consumer's identification and ensure that the consumer is 21 years of age or older.

b. The Accelerator Store may accept telephone orders or may accept orders from the customer at the walk-up window or drive-up window. Accelerator Stores may not accept orders or payment for Retail Marijuana over the internet.

c. All orders received through a walk-up window or a drive-up window must be placed by the customer from a menu. The Accelerator Store may not display Retail Marijuana at the walk-up or drive-up window.

4. Payment Requirements. Cash, credit, debit, cashless ATM, or other payment methods are permitted for payments for Retail Marijuana at the walk-up window or drive-up window.

5. Video Surveillance Requirements. For every Transfer of Regulated Marijuana through either a walk-up window or drive-up window, the Accelerator Store's video surveillance must enable the recording of the consumer's identity (and consumer's vehicle in the event of drive-up window), and must enable the recording of the Licensee verifying the consumer's identification and completion of the transaction through the Transfer of Regulated Marijuana.

6. Packaging and Labeling Requirements. An Accelerator Store utilizing a walk-up window or drive-up window must ensure that all Retail Marijuana is packaged and labeled in accordance with Rule 3-1010 and Rule 3-1015 prior to Transfer to the consumer.

7. Local Restrictions. Transfers of Regulated Marijuana using a walk-up window or drive-up window are subject to requirements and restrictions imposed by the relevant Local Jurisdiction.

Basis and Purpose – 6-1110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(4)(b), 44-10-203(1)(k), 44-10-203(2)(aa), 44-10-401(2)(b)(I), 44-10-601, 44-10-611, 44-10-701(1)(a), and 44-10-701(3)(d) and (f), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(3)(a), 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by an Accelerator Store. Such limitations include, but are not limited to, quantity limitations on sales and equivalencies for Retail Marijuana Concentrate and Retail Marijuana Product to Retail Marijuana flower. The establishment of equivalencies also provides information to stakeholders including Licensees, the general public, and law enforcement to aid in the enforcement of and compliance with the lawful personal possession limit of one ounce or less of marijuana. Setting these equivalencies provides Accelerator Stores and their employees with necessary information to avoid being complicit in a patron acquiring more marijuana than is lawful to possess under the Colorado Constitution pursuant to Article XVIII, Subsection 16(3)(a).

6-1110 – Accelerator Store: General Limitations or Prohibited Acts

A. Sales to Persons Under 21 Years. Licensees are prohibited from Transferring, giving, or distributing Retail Marijuana to persons under 21 years of age. Licensees are prohibited from permitting a person under the age of 21 years of age from entering the Restricted Access Area.

B. Age Verification. Prior to initiating the Transfer of Retail Marijuana, a Licensee must verify that the purchaser has a valid government-issued photo identification showing that the purchaser is 21 years of age or older.

C. Quantity Limitations On Sales.

1. An Accelerator Store and its employees are prohibited from Transferring more than one ounce of Retail Marijuana flower or its equivalent in Retail Marijuana Concentrate or Retail Marijuana Product or more than six Retail Marijuana seeds in a single transaction to a consumer. A single transaction includes multiple Transfers to the same consumer during the same business day where the Accelerator Store employee knows or reasonably should know that such Transfer would result in that consumer possessing more than one ounce of marijuana. In determining the imposition of any penalty for violation of this Rule 6-1110(C), the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235(C).

2. Equivalency. Non-edible, non-psychoactive Retail Marijuana Products including ointments, lotions, balms, and other non-transdermal topical products are exempt from the one-ounce quantity limit on Transfers. For all other Retail Marijuana Products or Retail Marijuana Concentrate, the following equivalency applies for the one ounce quantity Transfer limit:

    a. One ounce of Retail Marijuana flower shall be equivalent to eight grams of Retail Marijuana Concentrate.

    b. One ounce of Retail Marijuana flower shall be equivalent to 80 ten-milligram servings of THC in Retail Marijuana Product.

C.5. Educational Resource. When completing a sale of Retail Marijuana Concentrate, an Accelerator Store shall provide the consumer with the tangible educational resource created by the State Licensing Authority regarding the use of Regulated Marijuana Concentrate.

D. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to Transfer Retail Marijuana to a consumer.

E. Sales over the Internet. ~~A Licensee is prohibited from selling Retail Marijuana over the internet. Any Transfer of Retail Marijuana must occur within the Accelerator Store's Restricted Access Area.~~ Only an ~~Licensee~~ Accelerator Store holding a valid delivery permit taking orders for delivery may make sales over the internet. ~~or deliver~~ Only a Retail Marijuana Store holding a valid delivery permit and/or a Retail Marijuana Transporter holding a valid delivery permit may deliver Retail Marijuana to a private residence. All other Retail Marijuana Store and Retail Marijuana Transporter Licensees are prohibited from selling Retail Marijuana over the internet.

F. Delivery Outside Colorado Prohibited. An Accelerator Store holding a valid delivery permit shall not deliver Retail Marijuana to an address that is outside the state of Colorado.

G. Prohibited Items. An Accelerator Store is prohibited from selling or giving away any consumable product that is not a Retail Marijuana Product or an Industrial Hemp Product including, but not limited to, cigarettes or tobacco products, alcohol beverages, and food products or non-alcohol beverages that are not Retail Marijuana Product.

H. Free Product Prohibited. An Accelerator Store may not give away Retail Marijuana to a consumer for any reason.

I. Nicotine or Alcohol Prohibited. An Accelerator Store is prohibited from Transferring Retail Marijuana that contain nicotine or alcohol, if the sale of the alcohol would require a license pursuant to Articles ~~46 or 47~~ 3, 4, or 5 of Title ~~12~~44, C.R.S.

J. Storage and Display Limitations.

1. An Accelerator Store shall not display Retail Marijuana outside of a designated Restricted Access Area or in a manner in which Retail Marijuana can be seen from outside the Licensed Premises. Storage of Retail Marijuana shall otherwise be maintained in Limited Access Areas or Restricted Access Area.

2. Any Retail Marijuana Concentrate displayed in an Accelerator Store must include the potency of the concentrate on a sign next to the name of the product.

    a. The font on the sign must be large enough for a consumer to reasonably see from the location where a consumer would usually view the concentrate.

    b. The potency displayed on the sign must be within plus or minus fifteen percent of the concentrate's actual potency.

K. Transfer of Expired Product Prohibited. An Accelerator Store shall not Transfer any expired Retail Marijuana Product to a consumer.

L. Transfer Restriction.

1. Sampling Units. An Accelerator Store may not possess or Transfer Sampling Units.

2. Research Transfers Prohibited. An Accelerator Store shall not Transfer any Retail Marijuana to a Pesticide Manufacturer or a Marijuana Research and Development Facility.

L.5. Standard Operating Procedures. An Accelerator Store must establish written standard operating procedures for the management and storage of Retail Marijuana inventory and the sale of Retail Marijuana to consumers. A written copy of the standard operating procedures must be maintained on the Licensed Premises.

1. An Accelerator Store must ~~P~~provide adequate training to every Owner Licensee and Employee Licensee who performs a task or set of tasks that are referenced in the standard operating procedures. Adequate training must include, but need not be limited to, providing a copy of the standard operating procedures for that Licensed Premises detailing at least all of the topics required to be included in the standard operating procedures.

M. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit.

1. The sale of Edible Retail Marijuana Products in the following shapes is prohibited:

    a. The distinct shape of a human, animal, or fruit; or

    b. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

2. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Retail Marijuana Business. Nothing in this subparagraph (M)(2) alters or eliminates a Licensee's obligation to comply with the requirements of the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

3. Edible Retail Marijuana Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and

4. Edible Retail Marijuana Products that are manufactured in the shape of a marijuana leaf are permissible.

N. Adverse Health Event Reporting. An Accelerator Store must report Adverse Health Events pursuant to Rule 3-920.

O. Corrective and Preventive Action. An Accelerator Store shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

P. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-1115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(z), 44-10-203(2)(aa), 44-10-202(3)(h), 44-10-401(2)(b)(I), and 44-10-611, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to establish that an Accelerator Store must control and safeguard access to certain areas where Retail Marijuana and Retail Marijuana Product will be sold to the general public and prevent the diversion of Retail Marijuana and Retail Marijuana Product to people under 21 years of age.

6-1115 – Point of Sale: Restricted Access Area

A. Identification of Restricted Access Area. All areas where Retail Marijuana are sold, possessed for sale, displayed, or dispensed for sale shall be identified as a Restricted Access Area and shall be

clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Restricted Access Area – No One Under 21 Years of Age Allowed."

B. Consumers in Restricted Access Area. The Restricted Access Area must be supervised by a Licensee at all times when consumers are present to ensure that only persons who are 21 years of age or older are permitted to enter. When allowing a customer access to a Restricted Access Area, Owner Licensees and Employee Licensees shall make reasonable efforts to limit the number of consumers in relation to the number of Owners Licensees and Employee Licensees in the Restricted Access Area at any time.

C. Display of Retail Marijuana. The display of Retail Marijuana for sale is allowed only in Restricted Access Areas. Any product displays that are readily accessible to the consumer must be supervised by the Owner Licensee or Employee Licensees at all times when consumers are present.

D. Pregnancy Warning. Accelerator Stores must post, at all times and in a prominent place inside the Restricted Access Area, a warning that is at minimum three inches high and six inches wide that reads:

> **WARNING:** Using marijuana, in any form, while you are pregnant or breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of marijuana use during pregnancy or breastfeeding.

Part 7 – Regulated Marijuana Transfers to Unlicensed Pesticide Manufacturers

7-105 – Medical Marijuana Transfers to Medical Research Facilities – **Repealed effective January 1, 2021.**

7-110 – Retail Marijuana Transfers to Medical Research Facilities – **Repealed effective January 1, 2021.**

Basis and Purpose – 7-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a)(II), 44-10-202(1)(c), 44-10-203(1)(c), and 44-10-203(1)(k), C.R.S. The purpose of this rule is to establish requirements associated with the Transfer of Regulated Marijuana and Regulated Marijuana Product to Pesticide Manufacturers, including requirements for the possession and disposition of Regulated Marijuana and Regulated Marijuana Products by Pesticide Manufacturers. This Rule 7-115 was previously Rules M and R 1802, 1 CCR 212-1 and 1 CCR 212-2.

7-115 – Pesticide Manufacturers

A. Transfers to Pesticide Manufacturers. A Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, Retail Marijuana Cultivation Facility, and Retail Marijuana Products Manufacturer may Transfer Regulated Marijuana to a Pesticide Manufacturer solely for the purpose of conducting research to establish safe and effective protocols, including but not limited to establishing efficacy and toxicity, for the use of Pesticides on Regulated Marijuana. *See* Rules 5-205, 5-305, 6-205, 6-305.

B. Written Documentation Required. A Licensee shall require, and shall not Transfer Regulated Marijuana prior to receiving, written proof under oath, as evidenced by an affidavit entered into by an authorized person on behalf of the Pesticide Manufacturer, affirming that the Pesticide Manufacturer meets the requirements set forth in subparagraph (C)(4) of this Rule. This documentation shall constitute a business record under Rule 3-905 – Business Records Required.

C. Agreement with Pesticide Manufacturer. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer that Transfers Regulated Marijuana to a Pesticide Manufacturer shall enter into a written agreement with the Pesticide Manufacturer prior to Transferring any Regulated Marijuana to the Pesticide Manufacturer. The written agreement, which shall constitute a business record under Rule 3-905, shall include:

1. The identity of the Pesticide Manufacturer;

2. The quantity of Regulated Marijuana that will be Transferred to the Pesticide Manufacturer;

3. The date(s) upon which Transfer of the Regulated Marijuana will occur;

4. An affirmation by the Pesticide Manufacturer that it:

   i. Has an establishment number with the U.S. Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 *et seq.*;

   ii. Is authorized to do business in Colorado;

   iii. Is in possession of a physical location in the State of Colorado where its research activities will occur;

   iv. Has applied for and received any necessary license, registration, certification, or permit from the Colorado Department of Agriculture pursuant to the Pesticide Act, sections 35-9-101 *et seq.*, C.R.S. and/or the Pesticide Applicators' Act, sections 35-10-101 *et seq.*, C.R.S.;

   v. Remains authorized to receive the quantity of Regulated Marijuana that will be Transferred to the Pesticide Manufacturer; and

   vi. Will only use the Transferred Regulated Marijuana for the purpose of research to establish safe and effective protocols for the use of Pesticides on Regulated Marijuana, which protocols may include but not be limited to establishing efficacy and toxicity; and

5. An affirmation by the Licensee that it has received written proof the Pesticide Manufacturer meets the requirements set forth in subparagraph (C)(4) of this Rule.

D. Inventory Tracking Requirements. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, and Retail Marijuana Products Manufacturer shall track all Regulated Marijuana in the Inventory Tracking System until it is delivered to a Pesticide Manufacturer.

1. Transport Manifest. A Licensee shall not deliver or permit the delivery of Regulated Marijuana unless a manifest is generated from the Inventory Tracking System.

2. Complete Manifest. A Licensee shall not relinquish possession or control of Regulated Marijuana to a Pesticide Manufacturer until a natural person authorized by the Pesticide Manufacturer acknowledges receipt of the Regulated Marijuana by signing the transport manifest.

3. No Inventory Tracking Following Delivery. Once Regulated Marijuana has been Transferred by a Licensee to a Pesticide Manufacturer, no further inventory tracking is required.

4. Licensee Delivery Responsibility. The originating Licensee is responsible for confirming delivery of all Regulated Marijuana in the Inventory Tracking System.

E. Packaging, Labeling, and Testing. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer that Transfers Regulated Marijuana to a Pesticide Manufacturer shall package, label, and test all Regulated Marijuana in conformance with these rules prior to Transferring the Regulated Marijuana. *See* – Labeling, Packaging, and Product Safety; – Regulated Marijuana Testing Program.

F. Business Records. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer that Transfers Regulated Marijuana to a Pesticide Manufacturer shall keep all documents concerning the relationship and Transfer of any Regulated Marijuana in accordance with Rules 3-605 and 3-905.

G. Pesticide Manufacturer Authorized Activities. A Pesticide Manufacturer is only authorized to possess Transferred Regulated Marijuana in order to conduct research to establish safe and effective protocols, including but not limited to establishing efficacy and toxicity, for the use of Pesticides on Regulated Marijuana.

H. Quantity Limitations for Pesticide Manufacturer. In no event shall a Pesticide Manufacturer possess at any given time more than (i) 12 Medical Marijuana plants and (ii) four pounds of Medical Marijuana or its equivalency in Medical Marijuana Concentrate (512 grams) or Medical Marijuana Product (5,120 Medical Marijuana Products), and (i) 12 Retail Marijuana plants and (ii) four pounds of Retail Marijuana or its equivalency in Retail Marijuana Concentrate (512 grams) or Retail Marijuana Products (5,120 ten-milligram servings of Retail Marijuana Product).

I. Disposition of Transferred Regulated Marijuana. A Pesticide Manufacturer shall destroy all Transferred Regulated Marijuana received from a Licensee following completion of research activities.

1. A Pesticide Manufacturer shall destroy Transferred Regulated Marijuana in conformance with Rule 3-230 – Waste Disposal.

2. A Pesticide Manufacturer shall document the destruction of Transferred Regulated Marijuana, which documentation shall include:

i. Whether the destroyed material was Transferred Regulated Marijuana;

ii. The date of destruction;

iii. The location of the destruction;

iv. The manner in which the Transferred Regulated Marijuana was rendered unusable and Unrecognizable;

v. The method of final disposition pursuant to Rule 3-230; and

vi. The identity(ies) and contact information of all Person(s) involved in the destruction.

3. A Pesticide Manufacturer shall keep all documentation regarding destruction of Transferred Regulated Marijuana for the current year and three preceding calendar years.

J. No Pesticide on Licensed Premises. Under no circumstance may a Pesticide Manufacturer apply Pesticide(s) for research purposes on the Licensed Premises of a Regulated Marijuana Business.

1. Licensees Shall Not Permit Pesticide on Licensed Premises. Under no circumstance may a Licensee allow or permit the application of Pesticide(s) by a Pesticide Manufacturer for research purposes on the Licensed Premises of a Regulated Marijuana Business.

2. Violation Affecting Public Safety. A violation of this prohibition shall be considered a violation affecting public safety.

K. No Human or Animal Subjects. Under no circumstance shall a Pesticide Manufacturer receiving Regulated Marijuana from a Licensee engage in research involving human subjects. Additionally, under no circumstance shall a Pesticide Manufacturer receiving Regulated Marijuana from a Licensee engage in research involving animal subjects, as defined in the Animal Welfare Act, 7 U.S.C. § 2132(g).

1. Licensees Shall Not Permit Human or Animal Subject Research. If a Licensee knows or reasonably should know that a Pesticide Manufacturer intends to engage in or has engaged in marijuana-related research involving human and/or animal subjects, the Licensee shall not Transfer any Regulated Marijuana to the Pesticide Manufacturer.

2. Violation Affecting Public Safety. A violation of this Rule shall be considered a violation affecting public safety.

L. No Transfer to Licensees. Under no circumstance may a Licensee receive or obtain for any purposes any Transferred Regulated Marijuana from a Pesticide Manufacturer.

Part 8 – Enforcement and Discipline

8-100 Series - Enforcement

Basis and Purpose – 8-105

The statutory authority for this rule includes but is not limited to sections 44-10-201(4), 44-10-202(1)(c), 44-10-203(1)(e), 44-10-203(1)(f), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-204, and 44-10-902, C.R.S. This rule explains that Licensees must cooperate with Division employees when they are acting within the normal scope of their duties and that failure to do so may result in sanctions. It also explains the administrative hold process, the handling of inventory subject to administrative hold and under investigation and the process for voluntary surrender of Regulated Marijuana. This Rule 8-105 was previously Rules M and R 1201, 1 CCR 212-1 and 1 CCR 212-2.

8-105 – Duties of Employees of the State Licensing Authority

A. Duties of Director.

1. The State Licensing Authority may delegate an act required to be performed by the State Licensing Authority related to the day-to-day operation of the Division to the Director.

2. The Director may authorize Division employees to perform tasks delegated from the State Licensing Authority.

3. The Director or his or her authorized Division employees may consult with any state or local agency for the purpose of the proper administration of these rules or the Marijuana Code.

B. Duties of Division Investigators. The State Licensing Authority, the Department's Senior Director of Enforcement, the Director, and Division investigators shall have all the powers of any peace officer to:

1. Investigate violations or suspected violations of the Marijuana Code and any rules promulgated pursuant to it. Make arrests, with or without warrant, for any violation of the Marijuana Code, any rules promulgated pursuant to it, Article 18 of Title 18, C.R.S., any other laws or regulations pertaining to Regulated Marijuana in this state, or any criminal law of this state, if, during an officer's exercise of powers or performance of duties pursuant to the Marijuana Code, probable cause exists that a crime related to such laws has been or is being committed;

2. Serve all warrants, summonses, subpoenas, administrative citations, notices or other processes relating to the enforcement of laws regulating Regulated Marijuana;

3. Assist or aid any law enforcement officer in the performance of his or her duties upon such law enforcement officer's request or the request of other local officials having jurisdiction;

4. Inspect, examine, or investigate any premises where the Licensee's Regulated Marijuana is grown, stored, cultivated, manufactured, tested, distributed, or sold, and any books and records in any way connected with any licensed or unlicensed activity;

5. Require any Licensee, upon demand, to permit an inspection of Licensed Premises during business hours or at any time of apparent operation, marijuana equipment, and marijuana accessories, or books and records; and, to permit the testing of or examination of Regulated Marijuana;

6. Require Applicants to submit complete and current applications and fees and other information the Division deems necessary to make licensing decisions and approve significant changes made by the Applicant or Licensee;

7. Conduct investigations into the character, criminal history, and all other relevant factors related to suitability of all Applicants and Licensees for Regulated Marijuana licenses and such other Persons with a direct or indirect interest in an Applicant or Licensee, as the State Licensing Authority may require; and

8. Exercise any other power or duty authorized by law.

C. Duties of State Licensing Authority and Division Employees.

1. Employees shall maintain the confidentiality of State Licensing Authority and Division records and information. For confidentiality requirements of State Licensing Authority and Division employees who leave the employment of the State Licensing Authority, *see* Rule 8-240 - Confidential Information and Former State Licensing Authority Employees.

2. Pursuant to subsection 44-10-201(3), C.R.S., State Licensing Authority employees with regulatory oversight responsibilities for marijuana businesses licensed by the State Licensing Authority shall not work for, represent, or provide consulting services to or otherwise derive pecuniary gain from a marijuana business licensed by the State Licensing Authority or other business entity established for the primary purpose of

providing services to the marijuana industry for a period of six months following his or her last day of employment with the State Licensing Authority.

3. Pursuant to subsection 44-10-201(4), C.R.S., disclosure of confidential records or information in violation of the provisions of the Marijuana Code constitutes a class 1 misdemeanor.

Basis and Purpose – 8-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(f), 44-10-202(1)(g), 44-10-203(1)(k), and 44-10-902, C.R.S. This rule explains that Licensees must cooperate with Division employees when they are acting within the normal scope of their duties and that failure to do so may result in sanctions. It also explains the administrative hold process, the handling of inventory subject to administrative hold and under investigation and the process for voluntary surrender of Regulated Marijuana. This Rule 8-110 was previously Rules M and R 1202, 1 CCR 212-1 and 1 CCR 212-2.

8-110 – Requirement for Inspections and Investigations, Searches, Administrative Holds, Voluntary Surrenders and Such Additional Activities as May Become Necessary from Time to Time

A. Applicants and Licensees Shall Cooperate with Division Employees.

1. Applicants and Licensees must cooperate with employees of the Division who are conducting inspections or investigations relevant to the enforcement of laws and regulations related to the Marijuana Code.

2. No Applicant or Licensee shall by any means interfere with, obstruct, or impede the State Licensing Authority or any employee of the Division from exercising their duties pursuant to the provisions of the Marijuana Code and all rules promulgated pursuant to it. This would include, but is not limited to:

a. Threatening force or violence against an employee or investigator of the Division, or otherwise endeavoring to intimidate, obstruct, or impede employees or investigator of the Division, their supervisors, or any peace officers from exercising their duties. The term “threatening force” includes the threat of bodily harm to such individual or to a member of his or her family;

b. Denying investigators of the Division access to premises where the Licensee’s Regulated Marijuana are grown, stored, cultivated, manufactured, tested, distributed, or Transferred during business hours or times of apparent activity;

c. Providing false or misleading statements;

d. Providing false or misleading documents and records;

e. Failing to timely produce requested books and records required to be maintained by the Licensee; or

f. Failing to timely respond to any other request for information made by a Division employee or investigator in connection with an investigation of the qualifications, conduct or compliance of an Applicant or Licensee.

3. License Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

B. Administrative Hold.

1. To prevent destruction of evidence, diversion, or other threats to public safety, while permitting a Licensee to retain its inventory pending further investigation, a Division investigator may order an administrative hold of Regulated Marijuana pursuant to the following procedure:

a. If during an investigation or inspection of a Licensee, a Division investigator develops reasonable grounds to believe certain Regulated Marijuana constitute evidence of acts in violation of the Marijuana Code or rules promulgated pursuant to it, or constitute a threat to the public safety, the Division investigator may issue a notice of administrative hold of any such Regulated Marijuana. The notice of administrative hold shall provide a documented description of the Regulated Marijuana to be subject to the administrative hold and a concise statement that is promptly issued and approved by the Director, or his or her designee, regarding the reasons for issuing the administrative hold.

b. Following the issuance of a notice of administrative hold, the Division will identify the Regulated Marijuana subject to the administrative hold in the Inventory Tracking System. The Licensee shall continue to comply with all tracking requirements. *See* Rule 3-805 Regulated Marijuana Businesses: Inventory Tracking System.

c. The Licensee shall completely and physically segregate the Regulated Marijuana subject to the administrative hold in a Limited Access Area of the Licensed Premises under investigation, where it shall be safeguarded by the Licensee.

d. While the administrative hold is in effect, the Licensee is prohibited from, giving away, Transferring, transporting, or destroying the Regulated Marijuana subject to the administrative hold, except as otherwise authorized by these rules.

e. While the administrative hold is in effect, the Licensee must safeguard the Regulated Marijuana subject to the administrative hold, must maintain the Licensed Premises in reasonable condition according to health, safety, and sanitary standards, and must fully comply with all security requirements including but not limited to surveillance, lock and alarm requirements as set forth in the Marijuana Code and the rules of the State Licensing Authority.

f. Nothing herein shall prevent a Licensee from voluntarily surrendering Regulated Marijuana that is subject to an administrative hold, except that the Licensee must follow the procedures set forth in paragraph (C) for voluntary surrender of Regulated Marijuana.

g. Nothing herein shall prevent a Licensee from the continued possession, cultivation or harvesting of the Regulated Marijuana subject to the administrative hold. All Regulated Marijuana subject to an administrative hold must be put into separate Harvest Batches.

h. At any time after the initiation of the administrative hold, the Division may lift the administrative hold, order the continuation of the administrative hold pending the administrative process, or seek other appropriate relief.

C. Voluntary Surrender of Regulated Marijuana.

1. A Licensee, prior to a Final Agency Order and upon mutual agreement with the Division, may elect to voluntarily surrender any Regulated Marijuana to the Division.

    a. Such voluntary surrender may require destruction of any Regulated Marijuana in the presence of a Division investigator and at the Licensee's expense.

    b. The individual signing the Division's voluntary surrender form on behalf of the Licensee must certify that the individual has authority to represent and bind the Licensee.

2. The voluntary surrender form may be utilized in connection with a stipulated agency order through which the Licensee waives the right to hearing and any associated rights.

3. The voluntary surrender form may be utilized even if the Licensee does not waive the right to hearing and any associated rights, with the understanding that the outcome of the hearing does not impact the validity of the voluntary surrender.

4. A Licensee, after a Final Agency Order and upon mutual agreement with the Division, may elect to voluntarily surrender any Regulated Marijuana to the Division.

    a. The Licensee must complete and return the Division's voluntary surrender form within 15 calendar days of the date of the Final Agency Order.

    b. Such voluntary surrender may require destruction of any Regulated Marijuana in the presence of a Division investigator and at the Licensee's expense.

    c. The individual signing the Division's voluntary surrender form on behalf of the Licensee must certify that the individual has authority to represent and bind the Licensee.

Basis and Purpose – 8-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(f), 44-10-203(1)(g), 44-10-203(1)(k), and 44-10-902. The purpose of this rule is to provide guidance following either an agency decision or under any circumstances where the Licensee is ordered to surrender and/or destroy unauthorized Regulated Marijuana. This rule also provides guidance as to the need to preserve evidence during agency investigations or subject to agency order. This Rule 8-115 was previously Rules M and R 1203, 1 CCR 212-1 and 1 CCR 212-2.

8-115 – Disposition of Unauthorized Regulated Marijuana

A. After a Final Agency Order Mandates the Destruction of Regulated Marijuana. If the State Licensing Authority issues a Final Agency Order pursuant to section 44-10-902, C.R.S., that orders the destruction of some or all of the Licensee's unauthorized Regulated, the Licensee may:

    1. Voluntarily Surrender. The Licensee may voluntarily surrender to the Division all of its unauthorized Regulated Marijuana that are described in the Final Agency Order in accordance with the provisions of Rule 8-110(C).

    2. Seek A Stay. The Licensee may file a petition for a stay of the Final Agency Order with the Denver district court within 15 days of the date of the Final Agency Order.

    3. Take No Action. If the Licensee does not either (1) voluntarily surrender its unauthorized Regulated Marijuana as set forth in subparagraph (A)(1) of this Rule; or (2) properly seek

a stay of the Final Agency Order as set forth in subparagraph (A)(2) of this Rule, the Division will enter upon the Licensed Premises and seize and destroy the unauthorized Regulated Marijuana that are the subject of the Final Agency Order.

B. General Requirements Applicable To All Licensees Following Final Agency Order To Destroy Unauthorized Regulated Marijuana. The following requirements apply regardless of whether the Licensee voluntarily surrenders its unauthorized Regulated Marijuana, seeks a stay of agency action, or takes no action:

1. The 15 day period set forth in section 44-10-902(5), C.R.S., and this Rule shall include holidays and weekends.

2. During the period of time between the issuance of the Final Agency Order and the destruction of the unauthorized Regulated Marijuana the Licensee shall not sell, destroy, or otherwise let any unauthorized Regulated Marijuana that are subject to the Final Agency Order leave the Licensed Premises, unless specifically authorized by the State Licensing Authority or Court order.

3. During the period of time between the issuance of the Final Agency Order and the destruction of unauthorized Regulated Marijuana, the Licensee must safeguard any unauthorized Regulated Marijuana in its possession or control and must fully comply with all security requirements including but not limited to surveillance, lock and alarm requirements set forth in the Marijuana Code and the rules of the State Licensing Authority.

4. Unless the State Licensing Authority otherwise orders, the Licensee may cultivate, water, or otherwise care for any unauthorized Regulated Marijuana that are subject to the Final Agency Order during the period of time between the issuance of the Final Agency order and the destruction of the unauthorized Regulated Marijuana.

5. If a district attorney notifies the Division that some or all of the unauthorized Regulated Marijuana is involved in an investigation, the Division shall not destroy the unauthorized Regulated Marijuana until approved by the district attorney.

Basis and Purpose – 8-120

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(f), 44-10-203(1)(g), 44-10-203(1)(k), and 44-10-203(2)(w), C.R.S. This rule explains that Division investigators may exercise discretion in issuing written warning when, during the course of a compliance check or investigation, the Division investigator identifies a violation(s) of the Marijuana Code or the rules promulgated thereunder. This rule also explains that the Director of the Division may exercise discretion to accept an assurance of voluntary compliance. It also explains the evidentiary value of a written warning or an assurance of voluntary compliance. This Rule 8-120 was previously Rules M and R 1204, 1 CCR 212-1 and 1 CCR 212-2.

8-120 – Written Warnings and Assurances of Voluntary Compliance

A. Written Warnings. During an investigation, if a Division investigator identifies a violation(s) of the Marijuana Code or the rules promulgated thereunder, the Division investigator may issue a written warning in lieu of recommending immediate administrative action.

1. The written warning shall identify the alleged violation(s).

2. The written warning shall not constitute an admission of a violation(s) for any purpose or finding of a violation(s) by the State Licensing Authority, and shall not be evidence that Licensee violated the Marijuana Code, or the rules promulgated thereunder.

3. A written warning shall constitute evidence in any subsequent administrative proceeding, if relevant, that the Licensee was previously warned of the violation(s).

4. The Division may in its discretion initiate a subsequent administrative action and prove the violation(s) that was the subject of the written warning

B. Assurances of Voluntary Compliance. The Director of the Division may accept an assurance of voluntary compliance regarding any act or practice alleged to violate the Marijuana Code, or the rules thereunder.

1. The assurance must be in writing and may include a stipulation for the voluntary payment of the cost commensurate with the acts or practices and an amount necessary to restore money or property which may have been acquired by the alleged violator because of the acts or practices.

2. An assurance of voluntary compliance may not be considered an admission of a violation(s) for any purpose or a finding of a violation(s) by the State Licensing Authority; however, the assurance of voluntary compliance shall constitute evidence in any subsequent administrative proceeding that Licensee entered into an agreement to comply with the Marijuana Code, and/or the rules promulgated thereunder.

3. The State Licensing Authority may approve or review an assurance of voluntary compliance.

C. Not a Disciplinary Action. Neither a written warning nor an assurance of voluntary compliance constitutes a disciplinary action.

Basis and Purpose – 8-125

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(5), 44-10-203(1)(e), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(l), C.R.S. The purpose of this rule is to establish the circumstances under which the State Licensing Authority may seek from a district court an investigative subpoena and what reasonable efforts the Division may take prior to seeking an investigative subpoena. The Division has encountered circumstances that would have justified such an investigative subpoena. Establishing the criteria under which the Division may seek an investigative subpoena will provide district courts guidelines under which to evaluate a petition for an investigative subpoena.

8-125 – Investigative Subpoenas

A. Criteria. The State Licensing Authority may petition a district court for an investigative subpoena applicable to a Person who is not licensed pursuant to the Marijuana Code to obtain documents or information necessary to enforce the Marijuana Code and these Rules after the Division has taken reasonable efforts to obtain requested documents or information.

B. Reasonable Efforts. For purposes of this Rule 8-125, “reasonable efforts” may include but shall not be limited to obtaining the documents or information through a request to the unlicensed Person and such unlicensed Person has either declined to provide the documents or information, or failed to respond to the Division within the applicable time frame.

C. Affidavit. When seeking an investigative subpoena, the Division will supply the district court with a sworn affidavit explaining the bases for seeking the subpoena.

Basis and Purpose – 8-130

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(e), 44-10-203(2)(l), 44-10-203(1)(e), 44-10-203(1)(g), and 44-10-203(2)(w), C.R.S. The purpose of this rule is to establish the circumstances under which the Division may seek from a district court an administrative warrant to search and/or seize marijuana and marijuana products, or other evidence indicating a violation of the Marijuana Code or rules. The Division has encountered circumstances that would have justified such a warrant. Establishing the criteria under which the Division may seek an administrative warrant will give fair notice to the regulated community regarding the types of violations that would lead to a request for an administrative warrant. This Rule 8-130 was previously Rules M and R 1309, 1 CCR 212-1 and 1 CCR 212-2.

8-130 – Administrative Warrants

A. Criteria. The Division may seek from a district court an administrative search warrant authorizing search and seizure in circumstances in which the Division makes a proper showing that:

1. A Licensee has refused entry of Division investigators during business hours or times of apparent activity;

2. A Licensee subject to an administrative hold or summary suspension has failed to comply with applicable rules; or

3. A Licensee otherwise has acted in a manner demonstrating disregard for the Marijuana Code and the State Licensing Authority's rules or that threatens the public health, safety, and welfare.

B. Affidavit. When seeking an administrative search warrant, the Division will supply the district court with a sworn affidavit explaining the bases for seeking the warrant.

C. Seized Property. If the Division seizes marijuana, neither the Division nor the State Licensing Authority shall cultivate or care for any seized marijuana or marijuana products. The Division may seek from the district court an order to destroy any such marijuana or marijuana products.

8-200 Series ~~–~~ Discipline and Administrative Hearings

Basis and Purpose – 8-205

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(l), 44-10-701, 44-10-901, and 24-4-105 C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to clarify how the disciplinary process for non-summary license suspensions and license revocations is initiated. This Rule 8-205 was previously Rules M and R 1301, 1 CCR 212-1 and 1 CCR 212-2.

8-205 – ~~Disciplinary Process:~~ Non-Summary Suspensions

A. How a Disciplinary Action is Initiated.

1. If the State Licensing Authority, on its own initiative or based on a complaint, has reasonable cause to believe that a Licensee has violated the Marijuana Code, any rule promulgated pursuant to it, or any of its orders, the State Licensing Authority shall issue and serve upon the Licensee an Order to Show Cause (administrative citation) as to why

its license should not be suspended, revoked, restricted, fined, or subject to other disciplinary sanction.

2. The Order to Show Cause shall identify the statute, rule, regulation, or order allegedly violated, and the facts alleged to constitute the violation. The order shall also provide an advisement that the license could be suspended, revoked, restricted, fined, or subject to other disciplinary sanction should the charges contained in the notice be sustained upon final hearing.

B. Disciplinary Hearings. Disciplinary hearings will be conducted in accordance with Rule 8-220 – Administrative Hearings.

C. Renewal. The issuance of an Order to Show Cause does not relieve the Licensee of the obligation to timely comply with all license renewal requirements.

Basis and Purpose – 8-210

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(l), 24-4-104(4)(a), 44-10-701, 44-10-901, and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to set forth the process for summary suspensions when the State Licensing Authority has cause to immediately suspend a license prior to and pending a hearing and final agency order. Summary suspensions will be imposed when the State Licensing Authority has reason to believe and finds that a Licensee has been guilty of a deliberate and willful violation of any applicable law or regulation, or that the public health, safety, and welfare imperatively require emergency action. The rule ensures proper due process for Licensees when their licenses are temporarily or summarily suspended by requiring prompt initiation of disciplinary proceedings after such suspensions. The purpose of the modifications to this rule is to clarify that the hearing following the Order of Summary Suspension concerns the allegations set forth in the Order to Show Cause. This Rule 8-210 was previously Rules M and R 1302, 1 CCR 212-1 and 1 CCR 212-2.

8-210 – Summary Suspensions

A. How a Summary Suspension Action is Initiated.

1. When the State Licensing Authority has reasonable grounds to believe and finds that a Licensee has been guilty of a deliberate and willful violation of any applicable law or regulation or that the public health, safety, or welfare imperatively requires emergency action it shall serve upon the Licensee a Summary Suspension Order that temporarily or summarily suspends the license.

2. The Summary Suspension Order shall identify the nature of the State Licensing Authority's basis for the summary suspension. The Summary Suspension Order shall also provide an advisement that the License may be subject to further discipline or revocation following a hearing on an Order to Show Cause.

3. Proceedings for suspension or revocation shall be promptly instituted and determined after the Summary Suspension Order is issued in accordance with the following procedure:

a. After the Summary Suspension Order is issued, the State Licensing Authority shall promptly issue and serve upon the Licensee an Order to Show Cause (administrative citation) as to why the Licensee's license should not be suspended, revoked, restricted, fined, or subject to other disciplinary sanction.

b. The Order to Show Cause shall identify the statute, rule, regulation, or order allegedly violated, and the facts alleged to constitute the violation. The Order to Show Cause shall also provide an advisement that the license could be suspended, revoked, restricted, fined or subject to disciplinary sanction should the charges contained in the Order to Show Cause be sustained upon final hearing.

c. The Order to Show Cause shall be filed with the Department's Hearings Division. The hearing on the allegations set forth in the Order to Show Cause shall be expedited to the extent practicable and will be conducted in accordance with Rule ~~1304~~ 8-220 – Administrative Hearings.

B. Duration of Summary Suspension. Unless lifted by the State Licensing Authority, the Summary Suspension Order shall remain in effect until issuance of a Final Agency Order.

Basis and Purpose – 8-215

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(l), 44-10-701, 44-10-901, 24-4-104(4)(a), and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The State Licensing Authority recognizes that if Licensees are not able to care for their products during a period of active suspension, then their plants could die, their edible products could deteriorate, and their on-hand inventory may not be properly maintained. Accordingly, this rule was written to clarify that Licensees whose licenses are summarily suspended may care for on-hand inventory, manufactured products, and plants during the suspension (unless the State Licensing Authority does not allow such activity), provided the Licensed Premises and all Regulated Marijuana is adequately secured. In addition, the rule clarifies what activity is always prohibited during such suspension. This Rule 8-215 was previously Rules M and R 1303, 1 CCR 212-1 and 1 CCR 212-2.

8-215 – Suspension Process: Regular and Summary Suspensions

A. Signs Required During Suspension. Every Licensee whose license has been suspended, whether summarily or after an administrative hearing, shall post two notices in conspicuous places, one on the exterior and one on the interior of its premises, for the duration of the suspension. The notices shall be at least 17 inches in length and 11 inches in width containing lettering not less than 1/2'' in height.

1. For suspension following issuance of a Final Agency Order, the sign shall be in the following form:

NOTICE OF SUSPENSION

REGULATED MARIJUANA LICENSES ISSUED

FOR THESE PREMISES HAVE BEEN

SUSPENDED BY ORDER OF THE STATE LICENSING AUTHORITY

FOR VIOLATION OF THE COLORADO MARIJUANA CODE

2. For a summary suspension pending issuance of a Final Agency Order, the sign shall be in the following form:

NOTICE OF SUSPENSION

REGULATED MARIJUANA LICENSES ISSUED

FOR THESE PREMISES HAVE BEEN

SUSPENDED BY ORDER OF THE STATE LICENSING AUTHORITY

FOR ALLEGED VIOLATION OF THE COLORADO MARIJUANA CODE

Any advertisement or posted signs that indicate that the premises have been closed or business suspended for any reason other than by the manner described in this Rule shall be deemed a violation of these rules.

B. Prohibited Activity During Active Suspension.

1. Unless otherwise ordered by the State Licensing Authority, during any period of active license suspension the Licensee shall not permit the serving, giving away, distribution, manufacture, sampling, acquisition, purchase, testing, Transfer, or transport of Regulated Marijuana on or from the Licensed Premises, nor allow patients or consumers to enter the Licensed Premises.

2. Unless otherwise ordered by the State Licensing Authority, during any period of suspension the Licensee may continue to possess, maintain, cultivate, or harvest Regulated Marijuana on the Licensed Premises. The Licensee must fully account for all such Regulated Marijuana in the Inventory Tracking System. The Licensee must safeguard any Regulated Marijuana in its possession or control. The Licensee must possess and maintain the Licensed Premises in reasonable condition according to health, safety, and sanitary standards, and must fully comply with all security requirements including but not limited to surveillance, lock and alarm requirements set forth in the Marijuana Code and the rules of the State Licensing Authority.

C. Removal and Destruction of Regulated Marijuana. Regulated Marijuana shall not be removed from the Licensed Premises or destroyed unless:

1. The provisions described in section 44-10-902, C.R.S., related to the proper destruction of unauthorized marijuana are met, and the State Licensing Authority orders forfeiture and destruction. *See also* Rule 8-115 – Disposition of Unauthorized Regulated Marijuana;

2. The Licensee has voluntarily surrendered the Regulated Marijuana in accordance with Rule 8-110(C) – Voluntary Surrender; or

3. The State Licensing Authority has seized the Regulated Marijuana pursuant to an Administrative Warrant. *See* Rule 8-130 – Administrative Warrant.

D. Renewal. The issuance of an Order to Show Cause ~~suspension~~ or an Order of Summary Suspension does not relieve the Licensee of the obligation to timely comply with all license renewal requirements. The Division's approval of any renewal application filed by a Licensee while subject to an Order to Show Cause or an Order of Summary Suspension shall not constitute a Final Agency Order or an agreement to a settlement of the administrative action. The Licensee shall continue to comply with the requirements of this Rule pending a Final Agency Order resolving the Order of Summary Suspension and any related Order to Show Cause.

Basis and Purpose – 8-220

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(l), 44-10-204(1)(a), 44-10-701, 44-10-901, 24-4-104, and

24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish what entity conducts the administrative hearings, the procedures governing administrative hearings, and other general hearings issues. The purpose of the modifications to this rule is to clarify that the hearing following the Order of Summary Suspension concerns the allegations set forth in the Order to Show Cause, and to clarify that an answer is required only for two types of administrative notices: an Order to Show Cause and a Notice of Grounds for Denial. This Rule 8-220 was previously Rules M and R 1304, 1 CCR 212-1 and 1 CCR 212-2.

8-220 – Administrative Hearings

A. General Procedures.

1. Hearing Location. Hearings will generally be conducted by the Department's Hearings Division. Hearings will be held virtually unless otherwise ordered by the hearing officer for good cause. "Good cause" for an in-person hearing means that there are unusual circumstances where justice, judicial economy, and convenience of the parties would be served by holding a hearing in person. The Division, Respondent or Denied Applicant may request a hearing officer order an in-person hearing upon a showing of good cause. If the hearing officer orders an in-person hearing, the hearing will be conducted at a location in the greater Denver metropolitan area to be determined by the hearing officer.

2. Scope of Hearing Rules. This Rule shall be construed to promote the just and efficient determination of all matters presented.

3. Right to Legal Counsel. Any Denied Applicant or Respondent has a right to legal counsel throughout all processes described in rules associated with the denial of an application and disciplinary action. Such counsel shall be provided solely at the Denied Applicant's or Respondent's expense. Unless a Denied Applicant or Respondent that is an entity ~~or Respondent that is an entity~~ satisfies the exception in section 13-1-127(2), C.R.S., the Denied Applicant or Respondent must be represented by an attorney admitted to practice law in the state of Colorado.

4. Service. An Order to Show Cause or a Notice of Denial must be served on a Respondent or Denied Applicant personally or by first-class mail. Service of pleadings or other papers on a Denied Applicant, Respondent, or any attorney representing a party, may be made by hand delivery, by mail to the party's last known address, or by electronic mail. Service of pleadings or other papers on the Division in an administrative hearing may be made to the attorney(s) of record, as identified on the Certificate of Service to the Order to Show Cause, Order of Summary Suspension, or Notice of Denial, by electronic mail or first-class mail.

B. Requesting a Hearing.

1. A Denied Applicant that has been served with a Notice of Denial may request a hearing within 60 days of the service of the Notice of Denial by making a written request for a hearing to the Division. The request must be submitted by United States mail or by hand delivery. Email or fax requests will not be considered. The request must be sent to the mailing address of the Division's headquarters, as listed on the Division's website. Include "Attn: Hearing Request" in the mailing address. The written request for a hearing must be received by the Division within the time stated in the Notice of Denial. An untimely request for hearing will not be considered.

2. A Denied Applicant that timely requests a hearing following issuance of a Notice of Denial shall be served with a Notice of Grounds for Denial, and shall be entitled to a hearing regarding the matters addressed therein.

3. A Respondent that has been served with an Order to Show Cause shall be entitled to a hearing regarding the matters addressed therein.

C. When a Responsive Pleading is Required.

1. A Respondent shall file a written answer with the Hearings Division and the Division within 30 days after the date of mailing of any Order to Show Cause. The written answer shall comply with the requirements of Rule 8 of the Colorado Rules of Civil Procedure. If a Respondent fails to file a required answer, the ~~H~~hearing ~~O~~officer, upon motion, may enter a default against that Person pursuant to section 24-4-105(2)(b), C.R.S. For good cause, as described in this Rule, shown, the hearing officer may set aside the entry of default within ten days after the date of such entry.

2. A Denied Applicant shall file a written answer with the Hearings Division and the Division within 30 days after the date of mailing of any Notice of Grounds for Denial. The written answer shall comply with the requirements of Rule 8 of the Colorado Rules of Civil Procedure. If a Denied Applicant fails to file a required answer, the hearing officer, upon motion, may enter a default against that Person pursuant to section 24-4-105(2)(b), C.R.S. For good cause, as described in this Rule, shown, the hearing officer may set aside the entry of default within ten days after the date of such entry.

D. Hearing Notices.

1. Notice to Set. The Division shall send a notice to set a hearing to the Denied Applicant or Respondent in writing by electronic mail or by first-class mail to the last mailing address of record if an electronic mail address is unknown.

2. Notice of Hearing. The Hearings Division shall notify the Division and Denied Applicant or Respondent of the date, place, time, and nature of the hearing regarding denial of the license application or whether discipline should be imposed against the Respondent's license at least 30 days prior to the date of such hearing, unless otherwise agreed to by both parties. This notice shall be sent to the Denied Applicant or Respondent in writing by first-class mail to the last mailing address of record. Hearings shall be scheduled and held as soon as is practicable.

a. If an Order of Summary Suspension has issued, the hearing on the Order to Show Cause will be scheduled and held promptly.

b. Continuances may be granted for good cause, as described in this Rule, shown. A motion for a continuance must be timely.

c. "Good cause" for a continuance may include but is not limited to: death or incapacitation of a party or an attorney for a party; a court order staying proceedings or otherwise necessitating a continuance; entry or substitution of an attorney for a party a reasonable time prior to the hearing, if the entry or substitution reasonably requires a postponement of the hearing; a change in the parties or pleadings sufficiently significant to require a postponement; a showing that more time is clearly necessary to complete authorized discovery or other mandatory preparation for the hearing; or agreement of the parties to a settlement of the case which has been or will likely be approved by the final decision maker. Good cause normally will not include the following: unavailability of counsel because of engagement in another judicial or administrative proceeding, unless the other proceeding was involuntarily set subsequent to the setting in the present case; unavailability of a necessary witness, if the witness'

testimony can be taken by telephone or by deposition; or failure of an attorney or a party timely to prepare for the hearing.

E. Prehearing Matters Generally.

1. Prehearing Conferences Once a Hearing is Set. Prehearing conferences may be held at the discretion of the hearing officer upon request of any party, or upon the ~~H~~hearing ~~O~~officer's own motion. If a prehearing conference is held and a prehearing order is issued by the ~~H~~hearing ~~O~~officer, the prehearing order will control the course of the proceedings. ~~Such prehearing conferences may occur by telephone.~~

2. Depositions. Depositions are generally not allowed; however, a hearing officer has discretion to allow a deposition if a party files a written motion and can show why such deposition is necessary to prove its case. When a hearing officer grants a motion for a deposition, C.R.C.P. 30 controls. Hearings will not be continued because a deposition is allowed unless (a) both parties stipulate to a continuance and the hearing officer grants the continuance, or (b) the hearing officer grants a continuance over the objection of any party in accordance with subsections (D)(2)(b) and (c) of this Rule.

3. Prehearing Statements Once a Hearing is Set. Prehearing Statements are required and unless otherwise ordered by the hearing officer, each party shall file with the hearing officer and serve on each party a prehearing statement no later than seven calendar days prior to the hearing. Parties shall also exchange exhibits at that time. Parties shall not file exhibits with the ~~H~~hearing ~~O~~officer. Parties shall exchange exhibits by the date on which prehearing statements are to be filed. Prehearing statements shall include the following information:

   a. Witnesses. The name, mailing address, and telephone number of any witness whom the party may call at hearing, together with a detailed statement of the expected testimony.

   b. Experts. The name, mailing address, and brief summary of the qualifications of any expert witness a party may call at hearing, together with a statement that details the opinions to which each expert is expected to testify. These requirements may be satisfied by the incorporation of an expert's resume or report containing the required information.

   c. Exhibits. A description of any physical or documentary evidence to be offered into evidence at the hearing. Exhibits should be identified as follows: Division using numbers and Denied Applicant or Respondent using letters.

   d. Stipulations. A list of all stipulations of fact or law reached, as well as a list of any additional stipulations requested or offered to facilitate disposition of the case.

4. Prehearing Statements Binding. The information provided in a party's prehearing statement shall be binding on that party throughout the course of the hearing unless modified to prevent manifest injustice. New witnesses or exhibits may be added only if: (1) the need to do so was not reasonably foreseeable at the time of filing of the prehearing statement; (2) it would not prejudice other parties; and (3) it would not necessitate a delay of the hearing.

5. Consequence of Not Filing a Prehearing Statement Once a Hearing is Set. If a party does not timely file a prehearing statement, the hearing officer may impose appropriate sanctions including, but not limited to, striking proposed witnesses and exhibits.

F. Conduct of Hearings.

1. The hearing officer shall cause all hearings to be electronically recorded.

2. The hearing officer may allow a hearing, or any portion of the hearing, to be conducted in real time by telephone or other electronic means. If a party is appearing by telephone, the party must provide actual copies of the exhibits to be offered into evidence at the hearing to the hearing officer when the prehearing statement is filed. Electronic filings will be accepted at: dor_regulatoryhearings@state.co.us.

3. The hearing officer shall administer oaths or affirmations to all witnesses at hearing. The hearing officer may question any witness.

4. The hearing, including testimony and exhibits, shall be open to the public unless otherwise ordered by the hearing officer in accordance with a specific provision of law.

   a. Reports and other information that would otherwise be confidential pursuant to subsection 44-10-204(1)(a), C.R.S., may be introduced as exhibits at hearing.

   b. Any party may move the hearing officer to seal an exhibit or order other appropriate relief if necessary to safeguard the confidentiality of evidence.

5. Court Rules.

   a. To the extent practicable, the Colorado Rules of Evidence apply. Unless the context requires otherwise, whenever the word “court,” “judge,” or “jury” appears in the Colorado Rules of Evidence, such word shall be construed to mean a ~~H~~hearing ~~O~~officer. A hearing officer has discretion to consider evidence not admissible under such rules, including but not limited to hearsay evidence, pursuant to section 24-4-105(7), C.R.S.

   b. To the extent practicable, the Colorado Rules of Civil Procedure apply. However, Colorado Rules of Civil Procedure 16 and 26-37 do not apply, although parties are encouraged to voluntarily work together to resolve the case, simplify issues, and exchange information relevant to the case prior to a hearing. Unless the context otherwise requires, whenever the word “court” appears in a rule of civil procedure, that word shall be construed to mean a ~~H~~hearing ~~O~~officer.

6. Exhibits.

   a. All documentary exhibits must be paginated by the party offering the exhibit into evidence.

   b. The Division shall use numbers to mark its exhibits.

   c. The Denied Applicant or Respondent shall use letters to mark its exhibits.

7. The hearing officer may proceed with the hearing or enter default judgment if any party fails to appear at hearing after proper notice.

G. Post Hearing. After considering all the evidence, the hearing officer shall determine whether the proponent of the order has proven its case by a preponderance of the evidence, and shall make written findings of evidentiary fact, ultimate conclusions of fact, conclusions of law, and a recommendation. These written findings shall constitute an Initial Decision subject to review by

the State Licensing Authority pursuant to the Colorado Administrative Procedure Act and as set forth in Rule 8-230 – Administrative Hearing Appeals/Exceptions to Initial Decision.

H. No Ex Parte Communication. Ex parte communication shall not be allowed at any point following the formal initiation of the hearing process. A party or counsel for a party shall not initiate any communication with a hearing officer or the State Licensing Authority, or with conflicts counsel representing the hearing officer or State Licensing Authority, pertaining to any pending matter unless all other parties participate in the communication or unless prior consent of all other parties (and any pro se parties) has been obtained. Parties shall provide all other parties with copies of any pleading or other paper submitted to the hearing officer or the State Licensing Authority in connection with a hearing or with the exceptions process.

I. Marijuana Enforcement Division representation. The Division shall be represented by the Colorado Department of Law.

Basis and Purpose – 8-225

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(k), 44-10-203(2)(a), 24-4-105, and 44-10-901, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish how all parties, including pro se parties, can obtain subpoenas during the administrative hearing process. This Rule 8-225 was previously Rules M and R 1305, 1 CCR 212-1 and 1 CCR 212-2.

8-225 – Administrative Subpoenas

A. Informal Exchange of Documents Encouraged. Parties are encouraged to exchange documents relevant to the Notice of Denial or Order to Show Cause prior to requesting subpoenas. In addition, to the extent practicable, parties are encouraged to secure the voluntary presence of witnesses necessary for the hearing prior to requesting subpoenas.

B. Hearing Officer May Issue Subpoenas.

1. A party or its counsel may request the hearing officer to issue subpoenas to secure the presence of witnesses or documents necessary for the hearing or a deposition, if one is allowed.

2. Requests for subpoenas to be issued by the hearing officer must be emailed to the Hearings Division at the Department of Revenue at dor_regulatoryhearings@state.co.us. Subpoena requests must include the return mailing address, and phone and facsimile numbers of the requesting party or its attorney.

3. Requests for subpoenas to be issued by the hearing officer ~~must~~ may be made on a "Request for Subpoena" form authorized and provided by the Hearings Division, or on a "Request for Subpoena" request that includes the information below. A hearing officer shall not issue a subpoena unless the request contains the following information:

a. Name of Denied Applicant or Respondent;

b. License or application number;

c. Case number;

d. Date of hearing;

e. Location of hearing, or telephone number for telephone check-in;

f. Time of hearing;

g. Name of witness to be subpoenaed; and

h. Mailing address of witness (home or business).

4. A request for a subpoena *duces tecum* must identify each document or category of documents to be produced.

5. Requests for subpoenas shall be signed by the requesting party or its counsel.

6. The hearing officer shall issue subpoenas without discrimination, as set forth in section 24-4-105(5), C.R.S. If the reviewing hearing officer denies the issuance of a subpoena, or alters a subpoena in any material way, specific findings and reasons for such denial or alteration must be made on the record, or by written order incorporated into the record.

C. Service of Subpoenas.

1. Service of any subpoena is the duty of the party requesting the subpoena.

2. All subpoenas must be served at least two business days prior to the hearing.

D. Subpoena Enforcement.

1. Any subpoenaed witness, entity, or custodian of documents may move to quash the subpoena with the h~~H~~earing o~~O~~fficer.

2. A hearing officer may quash a subpoena if he or she finds on the record that compliance would be unduly burdensome or impracticable, unreasonably expensive, or is unnecessary.

Basis and Purpose – 8-230

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-701, 44-10-901, and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish how parties may appeal a hearing officer's Initial Decision pursuant to the Administrative Procedure Act. This Rule 8-230 was previously Rules M and R 1306, 1 CCR 212-1 and 1 CCR 212-2.

8-230 – Administrative Hearing Appeals/Exceptions to Initial Decision

A. Exception(s) Process. Any party may appeal an Initial Decision to the State Licensing Authority pursuant to the Colorado Administrative Procedure Act by filing written exception(s) within 30 days after the date of mailing of the Initial Decision to the Denied Applicant or Respondent and the Division. The written exception(s) shall include a statement giving the basis and grounds for the exception(s). Any party who fails to properly file written exception(s) within the time provided in these rules shall be deemed to have waived the right to an appeal. A copy of the exception(s) shall be served on all parties. The address of the State Licensing Authority is: State Licensing Authority, 1707 Cole Boulevard, Suite 350, Lakewood, CO 80401.

B. Designation of Record. Any party that seeks to reverse or modify the Initial Decision of the hearing officer shall file with the State Licensing Authority, within 20 days from the mailing of the Initial Decision, a designation of the relevant parts of the record and of the parts of the hearing transcript which shall be prepared, and advance the costs therefore. A copy of this designation shall be served on all parties. Within ten days thereafter, any other party may also file a

designation of additional parts of the transcript of the proceedings which is to be included and advance the cost therefore. No transcript is required if the review is limited to a pure question of law. A copy of this designation of record shall be served on all parties.

C. Deadline Modifications. The State Licensing Authority may modify deadlines and procedures related to the filing of exceptions to the Initial Decision upon motion by either party for good cause shown.

D. No Oral Argument Allowed. Requests for oral argument will not be considered.

Basis and Purpose – 8-235

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(l), 44-10-701, and 44-10-901(3)(b), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(IX). The purpose of this rule is to establish guidelines for enforcement and penalties that will be imposed by the State Licensing Authority for non-compliance with Marijuana Code, section 18-18-406.3(7), or any other applicable rule. The State Licensing Authority may pursue a violation in any of the categories described in this Rule and is not required to prove harm from any of the alleged violation types. This Rule 8-235 was previously Rules M and R 1307, 1 CCR 212-1 and 1 CCR 212-2.

8-235 – Penalties

A. Penalty Schedule. The State Licensing Authority will make determinations regarding the type of penalty to impose based on the severity of the violation in the following categories:

1. License Violations Affecting Public Safety. This category of violation is the most severe and may include, but is not limited to, Retail Marijuana sales to persons under the age of 21 years, Medical Marijuana sales to non-patients, consuming marijuana on the Licensed Premises, Regulated Marijuana sales in excess of the relevant sales limitations, permitting the diversion of Regulated Marijuana outside the regulated distribution system, possessing marijuana obtained from outside the regulated distribution system or from an unauthorized source, making misstatements or omissions in the Inventory Tracking System, failure to report any transfer required by section 44-10-313(11), knowingly adulterating or altering or attempting to adulterate or alter any Samples of Regulated Marijuana, violations related to ~~co-located~~sharing Licensed Premises between Medical Marijuana Businesses and Retail Marijuana Businesses, violations related to R&D Co-Location Permits, failure to maintain books and records to fully account for all transactions of the business, failure to cooperate with Division investigators during the course of a Division investigation, failure to comply with any requirement related to the Transfer of Sampling Units, utilizing advertising material that is misleading, deceptive, or false, advertising violations directly targeting minors, ~~or~~ packaging or labeling violations that directly impact patient or consumer safety, or violations related to the mandatory testing program. Violations of this nature generally have an immediate or potential negative impact on the health, safety, and welfare of the public at large. The range of penalties for this category of violation may include license suspension, a fine per individual violation, a fine in lieu of suspension of up to $100,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

2. License Violations. This category of violation is more severe than a license infraction but generally does not have an immediate or potential negative impact on the health, safety, and welfare of the public at large. License violations may include but are not limited to, advertising and/or marketing violations, packaging or labeling violations that do not directly impact patient or consumer safety, failing to continuously escort a visitor in a Limited Access Area, failure to maintain minimum security requirements, failure to keep

and maintain adequate business books and records, or minor or clerical errors in the Inventory Tracking System. The range of penalties for this category of violation may include license suspension, a fine per individual violation, a fine in lieu of suspension of up to $50,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

3. License Infractions. This category of violation is the least severe and may include, but is not limited to, failure to display required Identification Badges, visitor badges, unauthorized modifications of the Licensed Premises of a minor nature, or failure to notify the State Licensing Authority of a minor change in ownership. The range of penalties for this category of violation may include license suspension, a fine per individual violation, and/or a fine in lieu of suspension of up to $10,000 depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

B. Other Factors

1. The State Licensing Authority may take into consideration any aggravating and mitigating factors surrounding the violation which could impact the type or severity of penalty imposed.

2. The penalty structure is a framework providing guidance as to the range of violations, suspension description, fines, and mitigating and aggravating factors. The circumstances surrounding any penalty imposed will be determined on a case-by-case basis.

3. For all administrative offenses involving a proposed suspension, a Licensee may petition the State Licensing Authority for permission to pay a monetary fine, within the provisions of section 44-10-901, C.R.S., in lieu of having its license suspended for all or part of the suspension.

C. Mitigating and Aggravating Factors. The State Licensing Authority may consider mitigating and aggravating factors when considering the imposition of a penalty. These factors may include, but are not limited to:

1. Any prior violations that the Licensee has admitted to or was found to have engaged in.

2. Good faith measures by the Licensee to prevent the violation, including the following:

a. Proper supervision;

b. Regularly-provided and documented employee training, provided the Licensee demonstrates all reasonable training measures were delivered prior to the Division's investigation;

c. Standard operating procedures established prior to the Division's investigation, and which include procedures directly addressing the conduct for which imposition of a penalty is being considered; and

~~d. Previously established and maintained responsible vendor designation pursuant to the 3-500 Series Rules.~~

3. Licensee's past history of success or failure with compliance checks.

4. Corrective action(s) taken by the Licensee related to the current violation or prior violations.

5. Willfulness and deliberateness of the violation.

6. Likelihood of reoccurrence of the violation.

7. Circumstances surrounding the violation, which may include, but are not limited to:

   a. Prior notification letter to the Licensee that an underage compliance check would be forthcoming.

   b. The dress or appearance of an underage operative used during an underage compliance check (*e.g.*, the operative was wearing a high school letter jacket).

   c. Licensee self-reported violation(s) of the Marijuana Code or rules promulgated pursuant to the Marijuana Code.

8. Owner or management personnel is the violator or has directed an employee or other individual to violate the law.

D. Responsible Vendor Designation. The State Licensing Authority shall consider responsible vendor designation pursuant to the 3-500 Series Rules as a mitigating factor when considering the imposition of sanctions or penalties.

Basis and Purpose – 8-240

The statutory authority for this rule includes but is not limited to sections 44-10-201(3), 44-10-201(4), 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(l), 44-10-203(2)(m), 44-10-203(1)(e), and 44-10-204(1)(a), C.R.S. The purpose of this rule is to assure Licensees do not use unauthorized confidential information at any time and do not engage the services of former State Licensing Authority or Division employees with regulatory oversight responsibilities for licensed marijuana businesses for the first 6 months following State Licensing Authority or Division employment. This Rule 8-240 was previously Rules M and R 1308, 1 CCR 212-1 and 1 CCR 212-2.

8-240 – Confidential Information and Former State Licensing Authority Employees

A. Misdemeanor if Disclosed. Disclosure of confidential records or information in violation of the Marijuana Code constitutes a class 1 misdemeanor pursuant to subsection 44-10-201(4), C.R.S.

1. Licensees, and employees or agents of Licensees, shall not obtain or utilize confidential information the Licensee, employee or agent is not lawfully entitled to possess and acquire through use or misuse of Division processes or Division-approved systems. For confidentiality requirements of State Licensing Authority and Division employees, *see* Rule 8-105 – Duties of Employees of the State Licensing Authority.

2. Any Licensee, and any employee or agent of a Licensee, who is authorized to access the Division's Inventory Tracking System and/or have access to confidential information derived from Division sources, shall utilize the confidential information only for a purpose authorized by the Division or these Rules.

3. All Licensees, and all employees and agents of Licensees, shall not use the Inventory Tracking System for any purpose other than tracking the Licensee's Regulated Marijuana and Regulated Marijuana Product.

B. Six-Month Prohibition from Working with Former State Licensing Authority Employees. State Licensing Authority or Division employees with regulatory oversight responsibilities for Regulated Marijuana Businesses are prohibited from working for, representing, or providing consulting

services to or otherwise deriving pecuniary gain from a Licensee for a period of six months following his or her last day of employment with the State Licensing Authority or Division.

1. Any Licensee who utilizes, employs, consults, seeks advice from, or contracts with a former employee of the State Licensing Authority or the Division prior to the conclusion of the six-month period shall be in violation of the Marijuana Code.

2. Any Licensee who possesses, utilizes, or re-discloses confidential information obtained from a former State Licensing Authority or Division employee at any time shall be in violation of the Marijuana Code.

COLORADO
Department of Revenue
Marijuana Enforcement Division

Final Adopted Rules

Colorado Marijuana Rules
1 CCR 212-3

Part 1 – General Applicability

Basis and Purpose – 1-105

The statutory authority for this rule includes but is not limited to sections 44-10-102(3), 44-10-202(1)(c), and 44-10-701(2)(a), C.R.S. Unless such activity is authorized by the Colorado Constitution, article XVIII, Section 14 or Section 16, the Colorado Marijuana Code, section 25-1.5-106.5, C.R.S., or these rules, any Person who buys, Transfers, or acquires Regulated Marijuana outside the requirements of the Colorado Marijuana Code is engaging in illegal activity pursuant to Colorado law. This rule clarifies that those engaged in the business of possessing, cultivating, dispensing, Transferring, transporting, or testing Medical Marijuana or Retail Marijuana must be properly licensed to be in compliance with Colorado law. This Rule 1-105 was previously Rules M and R 101, 1 CCR 212-1 and 1 CCR 212-2.

1-105 – Engaging in Business

A. Except as authorized by the Colorado Constitution, article XVIII, sections 14 or 16, the Colorado Marijuana Code, or section 25-1.5-106.5, C.R.S., no person shall possess, cultivate, dispense, Transfer, transport, offer to sell, manufacture, or test Regulated Marijuana unless said person is duly licensed by the State Licensing Authority and approved by the relevant Local Jurisdiction(s) and/or licensed by the relevant Local Licensing Authority(-ies).

B. Public Health Orders and Executive Orders.

1. All Licensees, their agents, and their employees shall comply with any applicable public health orders issued by any agency of the State of Colorado including, but not limited to the Colorado Department of Public Health and Environment.

2. All Licensees, their agents, and their employees, shall comply with any and all executive orders issued by the Governor pursuant to the Governor's disaster emergency powers under section 24-33.5-704, C.R.S.

3. A violation of this Rule by a Licensee, or by any of the agents or employees of a Licensee, is a license violation affecting public safety, which may result in disciplinary action up to and including license revocation and summary suspension pursuant to sections 44-10-901(1), C.R.S. and 44-10-901(2), C.R.S., and these Rules.

Basis and Purpose – 1-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), C.R.S. The purpose of this rule is to clarify that each rule is independent of the others, so if one is found to be invalid, the remainder will stay in effect. This will give the regulated community confidence in the rules even if one is challenged. This Rule 1-110 was previously Rules M and R 102, 1 CCR 212-1 and 1 CCR 212-2.

1-110 – Severability

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

Basis and Purpose – 1-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(j), and 44-10-103, C.R.S., and all of the Marijuana Code. The purpose of this rule is to provide necessary definitions of terms used throughout the rules. Defined terms are capitalized where they appear in the rules, to let the reader know to refer back to these definitions. When a term is used in a conventional sense, and is not intended to be a defined term, it is not capitalized. This Rule 1-115 was previously Rules M and R 103, 1 CCR 212-1 and 1 CCR 212-2.

1-115 – Definitions

Definitions. The following definitions of terms, in addition to those set forth in section 44-10-103, C.R.S., apply to all rules promulgated pursuant to the Marijuana Code, unless the context requires otherwise:

"Accelerator Cultivator" means a Social Equity Licensee qualified to participate in the accelerator program established pursuant to the Marijuana Code and authorized to exercise the privileges of a Retail Marijuana Cultivation Facility on the premises of an Accelerator-Endorsed Retail Marijuana Cultivation Facility Licensee. The premises can be either the same premises or a separate Licensed Premises possessed by an Accelerator-Endorsed Licensee.

"Accelerator-Endorsed Licensee" means a Retail Marijuana Cultivation Facility Licensee, Retail Marijuana Products Manufacturer Licensee, or a Retail Marijuana Store Licensee who has, pursuant to these rules, been endorsed to host and offer technical and capital support to a Social Equity Licensee pursuant to the requirements of the accelerator program established pursuant to the Code.

"Accelerator Licensee" means an Accelerator Cultivator, Accelerator Manufacturer, or Accelerator Store.

"Accelerator Manufacturer" means a Social Equity Licensee qualified to participate in the accelerator program established pursuant to the Marijuana Code and authorized to exercise the privileges of a Retail Marijuana Products Manufacturer on the premises of an Accelerator-Endorsed Retail Marijuana Products Manufacturer Licensee. The premises can be either the same premises or a separate Licensed Premises possessed by an Accelerator-Endorsed Licensee.

"Accelerator Store" means a Social Equity Licensee qualified to participate in the accelerator program established pursuant to the Marijuana Code and authorized to exercise the privileges of a Retail Marijuana Store on the premises of an Accelerator-Endorsed Retail Marijuana Store Licensee. The premises can be either the same premises or a separate Licensed Premises possessed by an Accelerator-Endorsed Licensee.

"Acquire," when used in connection with the acquisition of an Owner's Interest of a Regulated Marijuana Business, means obtaining ownership, Control, power to vote, or sole power of disposition of the Owner's Interest, directly or indirectly through one or more transactions or subsidiaries, through purchase, assignment, transfer, exchange, succession or other means.

"Acting in Concert" means knowing participation in a joint activity or interdependent conscious parallel action toward a common goal, whether or not pursuant to an express agreement.

"Additive" means any non-marijuana derived substance added to Regulated Marijuana to achieve a specific technical and/or functional purpose during processing, storage, or packaging. Additives

may be direct or indirect. Direct additives are used to impart specific technological or functional qualities. Indirect additives are not intentionally added but may be present in trace amounts as a result of processing, packaging, shipping, or storage. Botanically Derived Compounds which have been isolated or enriched and subsequently added back into cannabis products are additives.

“Adverse Health Event” means any untoward health condition or occurrence associated with the use of marijuana—this could include any unfavorable and unintended sign (including a hospitalization, emergency department visit, medical visit, abnormal laboratory finding, outbreak, death [non-motor vehicle]), symptom, or disease temporally associated with the use of a marijuana product, and may include concerns or reports on the quality, labeling, or possible adverse reactions to a specific marijuana (or hemp) product Transferred or manufactured at a Regulated Marijuana Business.

“Adverse Weather Event” means:

a. Damaging weather, which involves a drought, a freeze, hail, excessive moisture, excessive wind, or a tornado; or

b. An adverse natural occurrence, which involves an earthquake, wildfire, or flood.

“Advertising” means the act of providing consideration for the publication, dissemination, solicitation, or circulation, of visual, oral, or written communication, to directly induce any Person to patronize a particular Medical Marijuana Business or Retail Marijuana Business, or to purchase particular Regulated Marijuana. “Advertising” does not include packaging and labeling, Consumer Education Materials, or Branding.

“Affiliate” of, or Person affiliated with, a specified Person, means a Person that directly or indirectly through one or more intermediaries, Controls or is Controlled by, or is under common Control with, the Person specified.

“Alarm Installation Company” means a Person engaged in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing a Security Alarm System in a Licensed Premises.

“Alternative Use Designation” means a designation approved by the State Licensing Authority, permitting a Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer to manufacture and Transfer Alternative Use Product.

“Alternative Use Product” means Regulated Marijuana that has at least one intended use that is not included in the list of intended uses in Rule 3-1015(B). Alternative Use Product may raise public health concerns that outweigh approval of the Alternative Use Product, or that require additional safeguards and oversight. Alternative Use Product cannot be Transferred except as permitted by Rule 5-325 or Rule 6-325 after obtaining an Alternative Use Designation. Rule 5-325 permits a Medical Marijuana Products Manufacturer to Transfer Alternative Use Product to a Medical Marijuana Testing Facility prior to receiving an Alternative Use Designation. Rule 6-325 permits a Retail Marijuana Products Manufacturer to Transfer Alternative Use Product to a Retail Marijuana Testing Facility prior to receiving an Alternative Use Designation. Except where the context otherwise clearly requires, rules applying to Regulated Marijuana Concentrate or Regulated Marijuana Product apply to Alternative Use Product.

“Applicant” means a Person that has submitted an application for licensure, permit, or registration, or for renewal of licensure, permit, or registration, pursuant to these rules that was accepted by the Division for review but has not been approved or denied by the State Licensing Authority.

"Approved Training Program" means a responsible vendor program that received approval from the Division prior to being offered to a Licensee.

"Audited Product" means a Regulated Marijuana Product with an intended use of: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration. Audited Product types may raise public health concerns requiring additional safeguards and oversight. These product types may only be manufactured and Transferred by a Medical Marijuana Products Manufacturer in strict compliance with Rule 5-325 or Retail Marijuana Products Manufacturer in strict compliance with Rule 6-325. Prior to the first Transfer of an Audited Product to a Medical Marijuana Store, Medical Marijuana Cultivation Facility that has a Centralized Distribution Permit, Retail Marijuana Store or Retail Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit, the Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer shall submit to the Division and, if applicable, to the Local Licensing Authority or Local Jurisdiction an independent third-party audit verifying compliance with Rule 5-325 or Rule 6-325. All rules regarding Regulated Marijuana Product apply to Audited Product except where Rules 5-325, 6-325, 4-115, 3-1010, and 3-1015 apply different requirements.

"Bad Actor" means a Person who:

a. Has been convicted, within the previous ten years (or five years, in the case of issuers, their predecessors and affiliated issuers), of any felony or misdemeanor:

   i. In connection with the purchase or sale of any Security;

   ii. Involving the making of any false filing with the Federal Securities Exchange Commission; or

   iii. Arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser, or paid solicitor of purchasers of Securities;

b. Is subject to any order, judgment or decree of any court of competent jurisdiction, entered within the previous five years, that restrains or enjoins such Person from engaging or continuing to engage in any conduct or practice:

   i. In connection with the purchase or sale of any Security;

   ii. Involving the making of any false filings with the Federal Securities Exchange Commission; or

   iii. Arising out of conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser, or paid solicitor of purchasers of Securities:

c. Is subject to a final order of a state securities commission (or an agency or officer of a state performing like functions); a state authority that supervises or examines banks, savings associations, or credit unions; a state insurance commission (or an agency or officer of a state performing like functions); an appropriate federal banking agency; the U.S. Commodity Futures Trading Commission; or the National Credit Union Administration that:

   i. Bars the Person from:

      A. Association with an Entity regulated by such commission, authority, agency, or officer;

B. Engaging in the business of Securities, insurance, or banking; or

C. Engaging in savings association or credit union activities; or

ii. Constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct entered within the previous ten years;

d. Is subject to an order of the Federal Securities Exchange Commission entered pursuant to section 15(b) or 15B(c) of the Securities Exchange Act of 1934, or section 203(e) or (f) of the Investment Advisers Act of 1940 that:

i. Suspends or revokes such Person's registration as a broker, dealer, municipal securities dealer, or investment adviser;

ii. Places limitations on the activities, functions or operations of such Person; or

iii. Bars such Person from being associated with any Entity, or from participating in the offering of any Penny Stock;

e. Is subject to any order of the Federal Securities Exchange Commission entered within the previous five years that orders the Person to cease and desist from committing or causing a violation or future violation of:

i. Any scienter-based anti-fraud provision of the federal securities laws, including without limitations section 17(a)(1) of the Securities Act of 1933, section 10(b) of the Securities Exchange Act of 1934 and 17 C.F.R. 240.10b-5, section 15(c)(1) of the Securities Exchange Act of 1934 and section 206(1) of the Investment Advisers Act of 1940, or any other rule or regulation thereunder; or

ii. Section 5 of the Securities Act of 1933.

f. Is suspended or expelled from membership in, or suspended or barred from association with a member of, a registered national securities exchange or a registered national or affiliated securities association for any act or omission to act constituting conduct inconsistent with just and equitable principles of trade;

g. Has filed (as a registrant or issuer), or was named as an underwriter in, any registration statement or Regulation A offering statement filed with the federal Securities Exchange Commission that, within the previous five years, was the subject of a refusal order, stop order, or order suspending the Regulation A exemption, or is the subject of an investigation or proceeding to determine whether a stop order or suspension order should be issued; or

h. Is subject to a United States Postal Service false representation order entered with the previous five years, or is subject to a temporary restraining order or preliminary injunction with respect to conduct alleged by the United States Postal Service to constitute a scheme or device for obtaining money or property through the mail by means of false representations.

"Batch Number" means any distinct group of numbers, letters, or symbols, or any combination thereof, assigned by a Medical Marijuana Cultivation Facility or Medical Marijuana Products Manufacturer to a specific Harvest Batch or Production Batch of Medical Marijuana, or by a Retail

Marijuana Cultivation Facility or Retail Marijuana Products Manufacturer to a specific Harvest Batch or Production Batch of Retail Marijuana.

"Beneficial Owner" includes the terms "beneficial ownership", or "beneficially owns" and means:

a. Any Person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

i. Voting power which includes the power to vote, or to direct the voting of, an Owner's Interest; and/or,

ii. Investment power which includes the power to dispose, or to direct the disposition of, an Owner's Interest.

b. Any Person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement or any other contract, arrangement, or device with the purpose of effect of divesting such Person of beneficial ownership of an Owner's Interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of section 13(d) or (g) of the Securities Act of 1933 shall be deemed for purposes of such sections to be the beneficial owner of such Owner's Interest.

c. All Owner's Interests of the same class beneficially owned by a Person, regardless of the form which such beneficial ownership takes, shall be aggregated in calculating the number of shares beneficially owned by such Person.

d. Notwithstanding the provisions of paragraphs (a) and (c) of this rule:

i.

A. A Person shall be deemed to be the beneficial owner of an Owner's Interest, subject to the provisions of paragraph (b) of this rule, if that Person has the right to acquire beneficial ownership of such Owner's Interest, as defined in Rule 13d-3(a) (§ 240.13d-3(a)) within sixty days, including but not limited to any right to acquire: (1) Through the exercise of any option, warrant or right; (2) through the conversion of an Owner's Interest; (3) pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or (4) pursuant to the automatic termination of a trust, discretionary account or similar arrangement; provided, however, any person who acquires an Owner's Interest or power specified in paragraphs (d)(i)(A)(1), (2) or (3), of this section, with the purpose or effect of changing or influencing the control of the issuer, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the Owner's Interests which may be acquired through the exercise or conversion of such Owner's Interests or power. Any Owner's Interests not outstanding which are subject to such options, warrants, rights or conversion privileges shall be deemed to be outstanding for the purpose of computing the percentage of outstanding Owner's Interests of the class owned by such Person but shall not be deemed to be outstanding for

the purpose of computing the percentage of the class by any other Person.

B. Paragraph (d)(i)(A) of this section remains applicable for the purpose of determining the obligation to file with respect to the underlying Owner's Interests even though the option, warrant, right or convertible Owner's Interests is of a class of equity Owner's Interest, as defined in § 240.13d-1(i), and may therefore give rise to a separate obligation to file.

ii. A member of a national securities exchange shall not be deemed to be a beneficial owner of an Owner's Interest held directly or indirectly by it on behalf of another Person solely because such member is the record holder of such Owner's Interests and, pursuant to the rules of such exchange, may direct the vote of such Owner's Interests, without instruction, on other than contested matters or matters that may affect substantially the rights or privileges of the holders of the Owner's Interests to be voted, but is otherwise precluded by the rules of such exchange from voting without instruction.

iii. A person who in the ordinary course of his business is a pledgee of Owner's Interests under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged Owner's Interests until the pledgee has taken all formal steps necessary which are required to declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged Owner's Interests will be exercised, provided, that:

A. The pledgee agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the issuer, nor in connection with any transaction having such purpose or effect, including any transaction subject to Rule 13d-3(b);

B The pledgee is a Person specified in Rule 13d-1(b)(ii), including Persons meeting the conditions set forth in paragraph (G) thereof; and

C The pledgee agreement, prior to default, does not grant to the pledgee;

1. The power to vote or to direct the vote of the pledged Owner's Interests; or

2. The power to dispose or direct the disposition of the pledged Owner's Interests, other than the grant of such power(s) pursuant to a pledge agreement under which credit is extended subject to regulation T (12 CFR 220.1 to 220.8) and in which the pledgee is a broker or dealer registered under section 15 of the Securities Act of 1933.

iv. A Person engaged in business as an underwriter of Owner's Interests who acquires Owner's Interests through his participation in good faith in a firm commitment underwriting registered under the Securities Act of 1933 shall not be deemed to be the beneficial owner of such Owner's

Interests until the expiration of forty days after the date of such acquisition.

"Blank Check Company" means an Entity that:

a. Is a development stage company that has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other Entity or Person; and

b. Is issuing Penny Stock.

"Botanically Derived Compounds" are organic chemicals that typically have a high vapor pressure at room temperature and are likely to be dispersed into the air. Botanically Derived Compounds include, but are not limited to terpenes, terpenoids, ketones, esters, and other molecules which are naturally occurring in plants and are used to affect the flavor and aroma of Regulated Marijuana.

"Branding" means promotion of a Regulated Marijuana Business's brand through publicizing the Regulated Marijuana Business's name, logo, or distinct design feature of the brand.

"Cannabinoid" means any of the chemical compounds that are the active principles of marijuana.

"Centralized Distribution Permit" means a permit issued to a Medical Marijuana Cultivation Facility pursuant to section 44-10-502, C.R.S., or a Retail Marijuana Cultivation Facility pursuant to section 44-10-602, C.R.S., authorizing temporary storage of Medical Marijuana Concentrate and Medical Marijuana Product received from a Medical Marijuana Products Manufacturer or Retail Marijuana Concentrate and Retail Marijuana Product received from a Retail Marijuana Products Manufacturer for the sole purpose of Transfer to commonly owned Medical Marijuana Stores or Retail Marijuana Stores. For purposes of a Centralized Distribution Permit only, the term "commonly owned" means at least one natural person has a minimum of five percent ownership in both the Medical Marijuana Cultivation Facility possessing the Centralized Distribution Permit and the Medical Marijuana Store, or in both the Retail Marijuana Cultivation Facility possessing the Centralized Distribution Permit and the Retail Marijuana Store.

"Child-Resistant" means special packaging that is:

a. Designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995). Note that this Rule does not include any later amendments or editions to the Code of Federal Regulations. The Division has maintained a copy of the applicable federal regulations, which is available to the public;

b. Opaque so that the packaging does not allow the product to be seen without opening the packaging material; and

c. Resealable for any product intended for more than a single use or containing multiple servings.

"Commercially Reasonable Royalty" means a right to compensation in the form of a royalty payment for the use of intellectual property with a direct nexus to the cultivation, manufacture, Transfer or testing of Regulated Marijuana. A Commercially Reasonable Royalty must be limited to specific intellectual property the Commercially Reasonable Royalty interest owns or is otherwise authorized to license or to a product or line of products. A Commercially Reasonable Royalty must not cause reasonable consumer confusion or violate any federal copyright,

trademark or patent law or regulation will not be approved. To determine whether the Commercially Reasonable Royalty is reasonable, the Division will consider the totality of the circumstances, including but not limited to the following factors:

a. The percentage of royalties received by the recipient for the licensing of the intellectual property.

b. The rates paid by the Licensee for the use of other intellectual property.

c. The nature and scope of the license, as exclusive or non-exclusive; or as restricted or non-restricted in terms of territory or with respect to whom the product may be sold.

d. The licensor's established policy and marketing program to maintain an intellectual property monopoly by not licensing others or by granting licenses under special conditions designed to preserve that monopoly.

e. The commercial relationship between the recipient and Licensee, such as, whether they are competitors in the same territory in the same line of business.

f. The effect of selling the intellectual property in promoting sales of other products of the Licensee; the existing value of the intellectual property to the recipient as a generator of sales of his non-intellectual property items; and the extent of such derivative sales.

g. The duration of the term of the license for use of the intellectual property.

h. The established or projected profitability of the product made using the intellectual property; its commercial success; and its current popularity.

i. The utility and advantages of the intellectual property over products or businesses without the intellectual property.

j. The nature of the intellectual property; the character of the commercial embodiment of it as owned and produced by the licensor; and the benefits to those who have used the intellectual property.

k. The portion of the profit or of the selling price that may be customary in the particular business or in comparable businesses to allow for the use of the intellectual property.

l. The portion of the realizable profit that should be credited to the intellectual property as distinguished from non-intellectual property elements, the manufacturing process, business risks, or significant features or improvements added by the Licensee.

"Consumer Education Materials" means any informational materials that seek to educate consumers about Regulated Marijuana generally, including but not limited to education regarding the safe consumption of marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Products, provided it is not distributed or made available to individuals under twenty-one years of age.

"Consumption Area" means a designated and secured area within the Licensed Premises of a Licensed Hospitality Business where consumers can use and consume marijuana and where no

one under the age of 21 is permitted. A Consumption Area may, but is not required to, be part of a Restricted Access Area.

"Container" means the receptacle directly containing Regulated Marijuana that is labeled according to the requirements in the 3-1000 Series Rules.

"Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting Owner's Interests, by contract, or otherwise. This definition of Control includes Controls, Controlled, Controlling, Controlled by, and under common Control with.

"Controlling Beneficial Owner" or "CBO" means a Person that satisfies one or more of the following criteria:

a. A natural person, an Entity that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia, a trust, the trustee of a trust, a Publicly Traded Corporation, or a Qualified Private Fund that is not a Qualified Institutional Investor:

   i. Acting alone or Acting In Concert, that owns or Acquires Beneficial Ownership of ten percent or more of the Owner's Interest of a Regulated Marijuana Business;

   ii. That is an Affiliate that Controls a Regulated Marijuana Business and includes, without limitation, any Manager; or

   iii. That is otherwise in a position to Control the Regulated Marijuana Business except as authorized in section 44-10-506 or 44-10-606, C.R.S.; or

b. A Qualified Institutional Investor acting alone or Acting In Concert that owns or Acquires Beneficial Ownership of more than thirty percent of the Owner's Interest of a Regulated Marijuana Business.

c. Unless the context otherwise requires, the defined term Controlling Beneficial Owner includes Direct Beneficial Interest Owner.

"Corrective Action" means a reactive action implemented to eliminate the root cause of a Nonconformance and to prevent recurrence.

"Court Appointee" means a Person appointed by a court as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person; acting in accordance with section 44-10-401(3), C.R.S., and these rules; and authorized by court order to take possession of, operate, manage, or control a licensed Regulated Marijuana Business.

"Covered Securities" means:

a. A Security designated as qualified for trading in the national market system pursuant to section 78k-1(a)(2) of the Securities Act of 1933 that is listed, or authorized for listing, on a national securities exchange (or tier or segment thereof); or a Security of the same issuer that is equal in seniority or that is a senior Security to a Security designated as qualified for trading in the national market system.

b. A Security issued by an investment company that is registered, or that has filed a registration statement under the federal Investment Company Act of 1940.

c. A Security as defined by the Federal Securities Exchange Commission by rule pursuant to 15 U.S.C. §77r(b)(3).

d. A Security pursuant to 15 U.S.C. §77r(b)(4).

"Decontamination" means the process of neutralization or removal of dangerous substances or other contaminants from regulated marijuana without changing the product type of the Regulated Marijuana.

"Delivery Motor Vehicle" means any self-propelled vehicle that is designed primarily for travel on the public highways, that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle that is used for delivery of Regulated Marijuana to patients or consumers; except that the term does not include electric assisted bicycles, wheelchairs, or vehicles moved solely by human power.

"Denied Applicant" means any Person whose application for licensure, permit, or registration pursuant to the Marijuana Code has been denied, any Person whose application for a responsible vendor program has been denied, or any Licensee whose application for any of the following non-exhaustive list has been denied: An initial license application pursuant to Rule 2-220, a renewal application pursuant to Rule 2-225, the request for a finding of suitability pursuant to Rule 2-235, a change of owner pursuant to Rule 2-245; a change of location of the Licensed Premises pursuant to Rule 2-255; a change, alteration, or modification of the Licensed Premises pursuant to Rule 2-260; or a production management tier increase request pursuant to Rule 5-225 or 6-220.

"Department" means the Colorado Department of Revenue.

"Designated Test Batch Collection Area" means an area that has been designated within the Limited Access Area of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Medical Marijuana Products Manufacturer that is under surveillance and used for purposes of organizing and combining Sample Increments to create Test Batches, and which has been cleaned and sanitized prior to preparing Test Batches.

"Designated Test Batch Collector" means an Owner Licensee or an Employee Licensee who has been designated by a Regulated Marijuana Business and completed training required by Rule 4-110 to engage in Sample Increment Collection for the purpose of creating Test Batches.

"Director" means the Senior Director of the Marijuana Enforcement Division.

"Disproportionate Impacted Area" means a census tract in the top 15th percentile for that state in at least two of the following categories as measured by the United States Census Bureau:

a. the percent of residents in the census tract receiving public assistance;

b. the percent of residents in the census tract falling below the federal poverty level;

c. the percent of residents in the census tract failing to graduate from High School; and

d. the percent of residents in the census tract who are unemployed.

"Division" means the Marijuana Enforcement Division.

"Edible Medical Marijuana Product" means any Medical Marijuana Product for which the intended use is oral consumption, including but not limited to, any type of food, drink, or pill.

"Edible Retail Marijuana Product" means any Retail Marijuana Product for which the intended use is oral consumption, including but not limited to, any type of food, drink, or pill.

"Employee License" means a license granted by the State Licensing Authority pursuant to section 44-10-401, C.R.S., to a natural person who is not a Controlling Beneficial Owner. Any person who possesses, cultivates, manufactures, tests, dispenses, sells, serves, transports, or delivers Regulated Marijuana, who is authorized to input data into a Regulated Marijuana Business's Inventory Tracking System or point-of-sale system, or who has unescorted access in the Restricted Access Area or Limited Access Area must hold an Employee License. Employee License includes both Key Licenses and Support Licenses.

"Entity" means a domestic or foreign corporation, cooperative, general partnership, limited liability partnership, limited liability company, limited partnership, limited liability limited partnership, limited partnership association, nonprofit association, nonprofit corporation, or any other organization or association that is formed under a statute or common law of the state of Colorado or any other jurisdiction as to which the laws of this state of Colorado or the laws of any other jurisdiction governs relations among owners and between the owners and the organization or association and that is recognized under the laws of the state of Colorado or the other jurisdiction as a separate legal entity.

"Executive Officer" means the president, any vice president in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy making function, or any other person who performs similar policy-making functions for the Regulated Marijuana Business.

"Exit Package" means an Opaque bag or other similar Opaque covering provided at the point of sale, in which Regulated Marijuana already in a Container is placed. If Regulated Marijuana flower, trim, or seeds are placed into a Container that is not Child-Resistant, then the Exit Package must be Child-Resistant. The Exit Package is not required to be labeled in accordance with the 3-100 Series Rules.

"Fibrous Waste" means any roots, stalks, and stems from a Regulated Marijuana plant.

"Final Agency Order" means an Order of the State Licensing Authority issued in accordance with the Marijuana Code and the State Administrative Procedure Act. The State Licensing Authority will issue a Final Agency Order following review of the Initial Decision and any exceptions filed thereto or at the conclusion of the declaratory order process. A Final Agency Order is subject to judicial review.

"Flammable Solvent" means a liquid that has a flash point below 100 degrees Fahrenheit.

"Flowering" means the reproductive state of the cannabis plant in which there are physical signs of flower budding out of the nodes of the stem.

"Food-Based Medical Marijuana Concentrate" means a Medical Marijuana Concentrate that was produced by extracting Cannabinoids from Medical Marijuana through the use of propylene glycol, glycerin, butter, olive oil, or other typical cooking fats.

"Food-Based Retail Marijuana Concentrate" means a Retail Marijuana Concentrate that was produced by extracting Cannabinoids from Retail Marijuana through the use of propylene glycol, glycerin, butter, olive oil or other typical cooking fats.

"Foreign Private Issuer" means any foreign issuer other than a foreign government except an issuer meeting the following conditions as of the last business day of its most recently completed second fiscal quarter:

a. More than 50 percent of the outstanding voting Securities of such issuer are directly or indirectly owned of record by residents of the United States; and

b. Any of the following:

i. The majority of the executive officers or directors are United States citizens or residents;

ii. More than 50 percent of the assets of the issuer are located in the United States; or

iii. The business of the issuer is administered principally in the United States.

"Good Cause" for purposes of denial of an initial, renewal, or reinstatement of a license, registration, or permit application, means:

a. The Licensee or Applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Marijuana Code, any rules promulgated pursuant to the Marijuana Code, or any supplemental relevant state or local law, rule, or regulation;

b. The Licensee or Applicant has failed to comply with any special terms or conditions that were placed upon the license pursuant to an order of the State Licensing Authority or the relevant local jurisdiction; or

c. The Licensee's Licensed Premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

"Good Moral Character" means having a criminal history that demonstrates honesty, fairness, and respect for the rights of others and for the law.

"Greenhouse" means a hoop house or other structure with non-rigid walls that utilizes natural light, in whole or in part, for the cultivation of Regulated Marijuana.

"Harvest Batch" means a specifically identified quantity of processed Regulated Marijuana that is uniform in strain, cultivated utilizing the same Pesticide and other agricultural chemicals and harvested at the same time. A Harvest Batch may also include a Manicure Batch that was harvested prior to the creation of the Harvest Batch.

"Harvested Marijuana" means Regulated Marijuana flower reported as a package in the Inventory Tracking System or post-harvest Regulated Marijuana not including wet whole plant, trim, concentrate, waste, or Fibrous Waste that remains on the premises of the Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility or its off-premises storage location beyond 90 days from harvest.

"Heat/Pressure-Based Medical Marijuana Concentrate" means a Medical Marijuana Concentrate that was produced by extracting Cannabinoids from Medical Marijuana through the use of heat and/or pressure. The method of extraction may be used by only a Medical Marijuana Products Manufacturer and can be used alone or on a Production Batch that also includes Physical Separation-Based Medical Marijuana Concentrate or Solvent-Based Medical Marijuana Concentrate.

"Heat/Pressure-Based Retail Marijuana Concentrate" means Retail Marijuana Concentrate that was produced by extracting Cannabinoids from Retail Marijuana through the use of heat and/or pressure. This method of extraction may be used by only a Retail Marijuana Products Manufacturer and can be used alone or on a Production Batch that also includes Physical Separation-Based Retail Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate.

"Identification Badge" means a physical badge issued by the Division to any natural person possessing an Owner License or Employee License, used to verify the identity and license status of the natural persons on the Licensed Premises of a Regulated Marijuana Business.

"Identity Statement" means the name of the business as it is commonly known and used in any Advertising.

"Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no wider than eight inches produced from a cutting, clipping or seedling and is in a cultivating container.

"Indirect Financial Interest Holder" means a Person that is not an Affiliate, a Controlling Beneficial Owner, or a Passive Beneficial Owner of a Regulated Marijuana Business and that:

a. Holds a Commercially Reasonable Royalty in exchange for a Regulated Marijuana Business's use of the Person's intellectual property;

b. Holds a Permitted Economic Interest that was issued prior to January 1, 2020, and that has not been converted into an Owner's Interest or holds any unsecured convertible debt option, option agreement or warrant that establishes a right for a Person to obtain an interest that might convert to an ownership interest in a Regulated Marijuana Business obtained after January 1, 2020;

c. Is a contract counterparty with a Regulated Marijuana Business, other than a customary employment agreement, that has a direct nexus to the cultivation, manufacture, sale, or testing of Regulated Marijuana, including, but not limited to, a lease of real property on which the Regulated Marijuana Business operates, a lease of equipment used in the cultivation, manufacture, or testing of Regulated Marijuana, a secured or unsecured financing agreement with the Regulated Marijuana Business, a security contract with the Regulated Marijuana Business, or a management agreement with the Regulated Marijuana Business, provided that no such contract compensates the contract counterparty with a percentage of revenue for profits of the Regulated Marijuana Business.

    i. Any secured interest in Regulated Marijuana must expressly provide that it is subject to all required suitability and application requirements.

d. Unless the context otherwise requires, the defined term Indirect Financial Interest Holder includes Indirect Beneficial Interest Owner.

"Industrial Fiber Products" means intermediate or finished products made from Fibrous Waste that are not intended for human or animal consumption and are not usable or recognizable as

Regulated Marijuana. Industrial Fiber Products include, but are not limited to, cordage, paper, fuel, textiles, bedding, insulation, construction materials, compost materials, and industrial materials.

"Industrial Fiber Products Producer" means a Person who produces Industrial Fiber Products using Fibrous Waste.

"Industrial Hemp" means a plant of the genus Cannabis and any part of the plant, whether growing or not, containing a delta-9 tetrahydrocannabinol (THC) concentration of no more than three-tenths of one percent (0.3%) on a dry weight basis.

"Industrial Hemp Product" means a finished product containing Industrial Hemp that:

a. Is a cosmetic, food, food additive, or herb;

b. Is for human use or consumption;

c. Contains any part of the hemp plant, including naturally occurring Cannabinoids, compounds, concentrates, extracts, isolates, resins, or derivatives; and

d. Contains a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent.

"Industrial Hygienist" means a natural person who has obtained a baccalaureate or graduate degree in industrial hygiene, biology, chemistry, engineering, physics, or a closely related physical or biological science from an accredited college or university.

a. The special studies and training of such persons must be sufficient in the cognate sciences to provide the ability and competency to:

   i. Anticipate and recognize the environmental factors and stresses associated with work and work operations and to understand their effects on individuals and their well-being;

   ii. Evaluate on the basis of training and experience and with the aid of quantitative measurement techniques the magnitude of such environmental factors and stresses in terms of their ability to impair human health and well-being;

   iii. Prescribe methods to prevent, eliminate, control, or reduce such factors and stresses and their effects.

b. Any person who has practiced within the scope of the meaning of industrial hygiene for a period of not less than five years immediately prior to July 1, 1997, is exempt from the degree requirements set forth in the definition above.

c. Any person who has a two-year associate of applied science degree in environmental science from an accredited college or university and in addition not less than four years practice immediately prior to July 1, 1997, within the scope of the meaning of industrial hygiene is exempt from the degree requirements set forth in the definition above.

"Ineligible Issuer" means:

a. Any issuer that is required to file reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 that has not filed all reports and other materials required to be filed during the preceding 12 months, other than reports on Form 8-K required solely pursuant to an item specified in General Instruction I.A.3(b) of Form S-3;

b. The issuer is, or during the past three years the issuer or any of its predecessors was:

i. A Blank Check Company;

ii. A Shell Company;

iii. An issuer of an offering of Penny Stock;

c. The issuer is a limited partnership that is offering and selling its Securities other than through a firm commitment underwriting;

d. Within the past three years, a petition under the federal bankruptcy laws or any state insolvency law was filed by or against the issuer, or a court-appointed a receiver, fiscal agent, or similar officer with respect to the business or property of the issuer subject to the following:

i. In the case of an involuntary bankruptcy in which a petition was filed against the issuer, ineligibility will occur upon the earlier to occur of:

A. 90 days following the date of the filing of the involuntary petition (if the case has not been earlier dismissed); or

B. The conversion of the case to a voluntary proceeding under federal bankruptcy or state insolvency laws; and

ii. Ineligibility will terminate if an issuer has filed an annual report with audited financial statements subsequent to its emergence from that bankruptcy, insolvency, or receivership process;

e. Within the past three years, the issuer or any Entity that at the time was a subsidiary of the issuer was convicted of any felony or misdemeanor described in paragraphs (i) through (iv) of section 15(b)(4)(B) of the Securities Exchange Act of 1934;

f. Within the past three years, the issuer or any Entity that at the time was a subsidiary of the issuer was made the subject of any judicial or administrative decree or order arising out of a governmental action that:

i. Prohibits certain conduct or activities regarding, including future violations of, the anti-fraud provisions of the federal securities laws;

ii. Requires that the Person cease and desist from violating the anti-fraud provisions of the federal securities laws; or

iii. Determines that the Person violated the anti-fraud provisions of the federal securities laws;

g. The issuer has filed a registration statement that is the subject of any pending proceeding or examination under section 8 of the Securities Act of 1933 or has been the subject of any refusal order or stop order under section 8 of the Securities Act of 1933 within the past three years; or

h. The issuer is the subject of any pending proceeding under section 8A of the Securities Act of 1933 in connection with an offering.

"Infused Pre-Rolled Marijuana" means Regulated Marijuana that was produced by rolling, filling, or stuffing Harvested Marijuana flower, shake, and/or trim with Regulated Marijuana Concentrate(s) into paper, leaves, or an equivalent wrapper and is intended for consumption by inhalation.

"Ingredient" means any non-marijuana derived substance that is added to Regulated Marijuana to achieve a desired effect. The term Ingredient includes all Additives.

"Initial Decision" means a decision of a hearing officer in the Department following a licensing, disciplinary, or other administrative hearing. Either party may file exceptions to the Initial Decision. The State Licensing Authority will review the Initial Decision and any exceptions filed thereto, and will issue a Final Agency Order.

"Inventory Tracking System" means the required seed-to-sale tracking system that tracks Regulated Marijuana from either the seed or immature plant stage until the Regulated Marijuana is sold to a patient at a Medical Marijuana Store or to a consumer at a Retail Marijuana Store, Transferred to a Medical Marijuana Testing Facility or Retail Marijuana Testing Facility, Transferred to a Sampling Manager, Transferred to an Industrial Fiber Products Producer, Transferred to a Pesticide Manufacturer, or destroyed by a Regulated Marijuana Business, or used in a Research Project by a Marijuana Research and Development Facility.

"Inventory Tracking System Trained Administrator" means an Owner Licensee of a Regulated Marijuana Business or an Employee Licensee employed by a Regulated Marijuana Business, each of whom has attended and successfully completed Inventory Tracking System training and has completed any additional training required by the Division.

"Inventory Tracking System User" means an Owner Licensee of a Regulated Marijuana Business or an Employee Licensee employed by a Regulated Marijuana Business, who is granted Inventory Tracking System User account access for the purposes of performing inventory tracking functions in the Inventory Tracking System. Each Inventory Tracking System User must have been successfully trained by an Inventory Tracking System Trained Administrator in the proper and lawful use of Inventory Tracking System.

"Kief" means a subset of Physical Separation-Based Marijuana Concentrate that consists of the resinous crystal-like trichomes that have been physically separated from Regulated Marijuana flower, shake, or trim that results in a higher concentration of cannabinoids.

"License" means a license, permit, or registration pursuant to the Marijuana Code.

"Licensed Hospitality Business" means a Marijuana Hospitality Business or Retail Marijuana Hospitality and Sales Business.

"Licensed Premises" means the premises specified in an application for a license pursuant to the Marijuana Code that are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell, store, transport, or test Medical Marijuana, or to cultivate, manufacture, distribute, sell, store, transport, test, or allow the use or consumption of

Retail Marijuana, in accordance with the provisions of the Marijuana Code, and these rules. Not all areas of the Licensed Premises are Limited Access Areas or Restricted Access Areas.

“Licensee” means any Person licensed, registered, or permitted pursuant to the Marijuana Code including an Owner Licensee and an Employee Licensee.

“Limited Access Area” means a building, room, or other contiguous area upon the Licensed Premises where Regulated Marijuana and Regulated Marijuana Products are grown, cultivated, manufactured, stored, weighed, packaged, sold, possessed for sale, Transferred, or processed for Transfer, under control of the Licensee, with access limited to only those persons licensed by the State Licensing Authority and those visitors Escorted by a person licensed by the State Licensing Authority. All areas of ingress or egress to limited access areas must be clearly identified as such by a sign as designated by the State Licensing Authority.

“Limit of Detection” or “LOD” means the lowest quantity of a substance that can be distinguished from the absence of that substance (a blank value) within a stated confidence limit (generally 1%).

“Limit of Quantitation” or “LOQ” means the lowest concentration at which the analyte can not only be reliably detected but at which some predefined goals for bias and imprecision are met.

“Liquid Edible Medical Marijuana Product” means an Edible Medical Marijuana Product that is a liquid beverage or liquid food-based product for which the intended use is oral consumption, such as a soft drink or cooking sauce.

“Liquid Edible Retail Marijuana Product” means an Edible Retail Marijuana Product that is a liquid beverage or liquid food-based product for which the intended use is oral consumption, such as a soft drink or cooking sauce.

“Local Jurisdiction” means a locality as defined in section 16 (2)(e) of Article XVIII of the state constitution.

“Local Licensing Authority” means an authority designated by municipal, county, or city and county charter, ordinance, or resolution, or the governing body of a municipality or city and county, or the board of county commissioners of a county if no such authority is designated.

“Manager” means:

a. A member of a limited liability company in which management is not vested in managers rather than members;

b. A manager of a limited liability company in which management is vested in managers rather than members;

c. A member of a limited partnership association in which management is not vested in managers rather than members;

d. A manager of a limited partnership association in which management is vested in managers rather than members;

e. A general partner;

f. An officer or director of a corporation, a nonprofit corporation, a cooperative, or a limited partnership association; or

g. Any Person whose position with respect to an Entity, as determined under the constituent documents and organic statutes of the Entity, without regard to the Person's title, is the functional equivalent of any of the positions described in this definition.

"Manicure Batch" means a Harvest Batch or a part of a Harvest Batch of a specifically identified quantity of processed Regulated Marijuana that is uniform in strain, cultivated utilizing the same Pesticide and other agricultural chemicals and harvested at the same time. A Manicure Batch consists of Regulated Marijuana that has been harvested from plants that have not yet been cut down and/or used in a Harvest Batch. A Manicure Batch may be considered a Harvest Batch by itself, or it may be combined with a Harvest Batch containing the same plant from which the Manicure Batch was created.

"Marijuana Code" means the Colorado Marijuana Code found at sections 44-10-101 *et seq.*, C.R.S.

"Marijuana Consumer Waste" means any component left after the consumption of a Regulated Marijuana Product, including but not limited to Containers, packages, cartridges, pods, cups, batteries, all-in-one disposable devices, and any other waste component left after the Regulated Marijuana is consumed.

"Marijuana Hospitality Business" means a facility, which may be mobile, licensed to permit the consumption of marijuana pursuant to article 10; rules promulgated pursuant to article 10; and the provisions of an enacted, initiated, or referred ordinance or resolution of the local jurisdiction in which the licensee operates.

"Marijuana Research and Development Facility" means a Person that is licensed pursuant to the Marijuana Code to grow, cultivate, manufacture, and possess Medical Marijuana, and to Transfer Medical Marijuana to another Marijuana Research and Development Facility all for limited research purposes authorized pursuant to section 44-10-507, C.R.S.

"Marketing Layer" means packaging in addition to the Container that is the outermost layer visible to the consumer at the point of sale. The Marketing Layer is optional, but if used by a Licensee in addition to the required Container, it must be labeled according to the requirements in the 3-1000 Series Rules.

"Material Change" means a change that the Licensee makes to their product's design, cultivation process, or manufacturing process that a Licensee knows, or should reasonably know, could affect the product's quality or ability to comply with the requirements set forth in these Rules including, but not limited to, intended use, testing, and product safety. This includes any change that would require a substantive revision to a Regulated Marijuana Business's standard operating procedures. *See* Rule 4-120(F)(1) for additional examples of Material Change.

"Medical Marijuana" means marijuana that is grown and sold pursuant to the provisions of article 10 and for a purpose authorized by section 14 of article XVIII of the state constitution but shall not be considered a nonprescription drug for purposes of section 12-42.5-102(21) or 39-26-717, or an over-the-counter medication for purposes of section 25.5-5-322. If the context requires, Medical Marijuana includes Medical Marijuana Concentrate and Medical Marijuana Products.

"Medical Marijuana Business" means any of the following entities licensed pursuant to article 10: A Medical Marijuana Store, a Medical Marijuana Cultivation Facility, a Medical Marijuana Product Manufacturer, a Medical Marijuana Testing Facility, a Marijuana Research and Development Licensee, a Medical Marijuana Business Operator, or a Medical Marijuana Transporter.

"Medical Marijuana Business Operator" means an entity or person that is not an owner and that is licensed to provide professional operational services to a medical marijuana business for direct remuneration from the Medical Marijuana Business(es). A Medical Marijuana Business Operator is not, by virtue of its status as a medical marijuana business operator, a controlling beneficial owner or a passive beneficial owner of any medical marijuana business it operates.

"Medical Marijuana Concentrate" means a subset of Medical Marijuana that is separated from the medical marijuana plant and results in matter with a higher concentration of cannabinoids than naturally occur in the plant. Medical Marijuana Concentrate contains cannabinoids and may contain terpenes and other chemicals that are naturally occurring in medical marijuana plants that have been separated from medical marijuana. Medical Marijuana Concentrate may also include residual amounts of the types of solvents, as permitted by the marijuana rules. The State Licensing Authority may further define by rule subcategories of Medical Marijuana Concentrate and authorize limited ingredients based on the method of production of Medical Marijuana Concentrate. Unless the context otherwise requires, Medical Marijuana Concentrate is included when article 10 of the Colorado Revised Statutes refers to Medical Marijuana Product.

"Medical Marijuana Cultivation Facility" means a Person licensed pursuant to the Marijuana Code to operate a business as described in section 44-10-502, C.R.S.

"Medical Marijuana Product" means a product infused with Medical Marijuana and other Ingredients that is intended for use or consumption other than by smoking, including but not limited to edible product, ointments, and tinctures.

"Medical Marijuana Products Manufacturer" means a Person licensed pursuant to the Marijuana Code to operate a business as described in section 44-10-503, C.R.S.

"Medical Marijuana Store" means a Person licensed pursuant to the Marijuana Code to operate a business as described in section 44-10-501, C.R.S., and sells Medical Marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

"Medical Marijuana Testing Facility" means a public or private laboratory licensed and certified, or approved by the Division, to perform testing and research on Medical Marijuana.

"Medical Marijuana Transporter" means an entity or Person licensed to transport Medical Marijuana and Medical Marijuana Products from one Medical Marijuana Business to another Medical Marijuana Business and to temporarily store the transported Medical Marijuana and Medical Marijuana Products at its Licensed Premises, but is not authorized to sell Medical Marijuana or Medical Marijuana Products under any circumstances.

"Mobile Premises" means a Licensed Premises operated by a Marijuana Hospitality Business in a motor vehicle, which includes any self-propelled vehicle that is designed primarily for travel on the public highways and that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle; but does not include electrical assisted bicycles, electric scooters, low-power scooters, wheelchairs, or vehicles moved solely by human power. A Marijuana Hospitality Business operating a Mobile Premises must comply with all requirements in Rule 6-940.

"Monitoring" means the continuous and uninterrupted attention to potential alarm signals that could be transmitted from a Security Alarm System located at a Regulated Marijuana Business Licensed Premises, for the purpose of summoning a law enforcement officer to the premises during alarm conditions.

"Monitoring Company" means a person in the business of providing security system Monitoring services for the Licensed Premises of a Regulated Marijuana Business.

"Multiple-Serving Edible Retail Marijuana Product" means an Edible Retail Marijuana Product unit for sale to consumers containing more than 10 milligrams of active THC and no more than 100 milligrams of active THC. If the overall Edible Retail Marijuana Product unit for sale to the consumer consists of multiple pieces where each individual piece may contain less than 10 milligrams of active THC, yet in total all pieces combined within the unit for sale contain more than 10 milligrams of active THC, then the Edible Retail Marijuana Product shall be considered a Multiple-Serving Edible Retail Marijuana Product.

"Nonconformance" means a non-fulfillment of a requirement or departure from written procedures, work instructions, or quality system, as defined by the Licensee's written Corrective Action and Preventive Action procedures.

"Non-objecting Beneficial Owner" means a Beneficial Owner who gives permission to a financial intermediary to release their name and address to the company(ies) or issuer(s) in which they have bought Securities.

"Notice of Denial" means a written statement from the State Licensing Authority, articulating the reasons or basis for denial of a license application.

"Opaque" means that the packaging does not allow the product to be seen without opening the packaging material.

"Order to Show Cause" means a document from the State Licensing Authority alleging the grounds for imposing discipline against a Licensee's license.

"Owner Entity License" means a License issued to an Entity that is a Controlling Beneficial Owner of a Regulated Marijuana Business.

"Owner's Interest" means the shares of stock in a corporation, a membership in a nonprofit corporation, a membership interest in a limited liability company, the interest of a member in a cooperative or in a limited cooperative association, a partnership interest in a limited partnership, a partnership interest in a partnership, and the interest of a member in a limited partnership association.

"Owner License" means a License issued to a natural person who is a Controlling Beneficial Owner of a Regulated Marijuana Business or who is a Passive Beneficial Owner electing to be subject to licensure.

"Passive Beneficial Owner" means any Person Acquiring any Owner's Interest in a Regulated Marijuana Business that is not otherwise a Controlling Beneficial Owner or in Control.

"Penny Stock" means any equity security other than a Security:

a. That is a National Market System stock, provided that:

i. The Security is registered, or approved for registration upon notice of issuance, on a national securities exchange that has been continuously registered as a national securities exchange since April 20, 1992; and the national securities exchange has maintained quantitative listing standards that are substantially similar to or stricter than those listing standards that were in place on that exchange on January 8, 2004; or

ii. The Security is registered, or approved for registration upon notice of issuance, on a national securities exchange, or is listed, or approved for listing upon notice of issuance on, an automated quotation system sponsored by a registered national securities association, that:

A. Has established initial listing standards that meet or exceed the following criteria:

1. The issuer shall have: (a) stockholders' equity of $5,000,000; (b) market value of listed Securities of $50 million for 90 consecutive days prior to applying for a listing (market value means the closing bid price multiplied by the number of Securities listed); or (c) net income of $750,000 (excluding non-recurring items) in the most recently completed fiscal year or in two of the last three most recently completed fiscal years;

2. The issuer shall have an operating history of at least one year or a market value of listed Securities of $50 million (market value means the closing bid price multiplied by the number of Securities listed);

3. The issuer's stock, common or preferred, shall have a minimum bid price of $4 per share;

4. In the case of common stock, there shall be at least 300 round lot holders of the Security (a round lot holder means a holder of a normal unit of trading);

5. In the case of common stock, there shall be at least 1,000,000 publicly held shares and such shares shall have a market value of at least $5 million (market value means the closing bid price multiplied by the number of publicly held shares, and shares held directly or indirectly by an officer or director of the issuer and by any Person who is the Beneficial Owner of more than 10 percent of the total shares outstanding are not considered to be publicly held);

6. In the case of a convertible debt security, there shall be a principal amount outstanding of at least $10 million;

7. In the case of rights and warrants, there shall be at least 100,000 issued and the underlying security shall be registered on a national securities exchange or listed on an automated quotation system sponsored by a registered national securities association and shall satisfy the requirements of paragraphs (a) or (e) of this definition;

8. In the case of put warrants (that is, instruments that grant the holder the right to sell to the issuing company a specified number of shares of the company's common stock, at a specified price until a specified period of time), there shall be at least 100,000 issued and the

underlying Security shall be registered on a national securities exchange or listed on an automated quotation system sponsored by a registered national securities association and shall satisfy the requirements of paragraphs (a) or (e) of this definition;

9. In the case of units (that is, two or more Securities traded together), all component parts shall be registered on a national securities exchange or listed on an automated quotation system sponsored by a registered national securities association and shall satisfy the requirements of paragraphs (a) or (e) of this definition; and

10. In the case of equity Securities (other than common and preferred stock, convertible debt securities, rights and warrants, put warrants, or units), including hybrid products and derivative products, the national securities exchange or registered national securities association shall establish quantitative listing standards that are substantially similar to those found in paragraph (a)(ii) of this definition; and

B. Has established quantitative continued listing standards that are reasonably related to the initial listing standards set forth in paragraph (a)(ii) of this definition, and that are consistent with the maintenance of fair and orderly markets;

b. That is issued by an investment company registered under the Federal Investment Company Act of 1940;

c. That is a put or call option issued by the Options Clearing Corporation;

d. That has a price of five dollars or more;

i. For purposes of this paragraph (d):

A. A Security has a price of five dollars or more for a particular transaction if the Security is purchased or sold in that transaction at a price of five dollars or more, excluding any broker or dealer commission, commission equivalent, mark-up, or mark-down; and

B. Other than in connection with a particular transaction, a Security has a price of five dollars or more at a given time if the inside bid quotation is five dollars or more; provided, however, that if there is no such inside bid quotation, a Security has a price of five dollars or more at a given time if the average of three or more interdealer bid quotations at specified prices displayed at that time in an interdealer quotation system, by three or more market makers in the Security, is five dollars or more.

C. The term “inside bid quotation” shall mean the highest bid quotation for the Security displayed by a market maker in the Security on an automated interdealer quotation system that has

the characteristics set forth in section 17B(b)(2) of the Federal Securities Exchange Act of 1934, or such other automated interdealer quotation system designated by the Federal Securities Exchange Commission for purposes of this definition, at any time in which at least two market makers are contemporaneously displaying on such system bid and offer quotation for the Security at specified prices.

ii. If a Security is a unit composed of one or more Securities, the unit price divided by the number of shares of the unit that are not warrants, options, rights, or similar Securities must be five dollars or more as determined in accordance with paragraph (d)(i), and any share of the unit that is a warrant, option, right, or similar security, or a convertible security, must have an exercise price or conversion price of five dollars or more;

e. That is registered, or approved for registration upon notice of issuance, on a national securities exchange that makes transaction reports available provided that:

i. Price and volume of information with respect to transactions in that security is required to be reported on a current and continuing basis and is made available to vendors of market information pursuant to the rules of the national securities exchange;

ii. The Security is purchased or sold in a transaction that is effected on or through the facilities of the national securities exchange, or that is part of the distribution of the Security; and

iii. The Security satisfies the requirements of paragraphs (a)(i) or (a)(ii);

f. That is a security futures product listed on a national securities exchange or an automated quotation system sponsored by a registered national securities association; or

g. Whose issuer has:

i. Net tangible assets in excess of $2,000,000, if the issuer has been in continuous operation for at least three years, or $5,000,000 if the issuer has been in continuous operation for less than three years; or

ii. Average revenue of at least $6,000,000 for the last three years.

“Person” means a natural person, an estate, a trust, an Entity, or a state or other jurisdiction.

“Pesticide” means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; except that the term “pesticide” does not include any article that is a “new animal drug” as designated by the United States Food and Drug Administration.

“Pesticide Manufacturer” means a Person who (1) manufactures, prepares, compounds, propagates, or processes any Pesticide or device or active ingredient used in producing a Pesticide; (2) who possesses an establishment registration number with the U.S. Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 *et seq.*; (3) who conducts research to establish safe and effective protocols, including but not limited to establishing efficacy and toxicity, for the use of Pesticides on Regulated Marijuana;

(4) who has applied for and received any necessary license, registration, certifications, or permits from the Colorado Department of Agriculture, pursuant to the Pesticide Act, sections 35-9-101 *et seq.*, C.R.S. and/or the Pesticide Applicators' Act, sections 35-10-101 *et seq.*, C.R.S.; (5) who is authorized to conduct business in the State of Colorado; and (6) who has physical possession of the location in the State of Colorado where its research activities occur. A Pesticide Manufacturer is neither a Regulated Marijuana Business, nor a Licensee.

"Physical Separation-Based Medical Marijuana Concentrate" means a Medical Marijuana Concentrate that was produced by separating Cannabinoids from Medical Marijuana through the use of physical separation by grinding, sifting, or a similar process and may use water, ice, or dry ice. Physical Separation-Based Medical Marijuana Concentrate does not include Solvent-Based Medical Marijuana Concentrate or Heat/Pressure-Based Medical Marijuana Concentrate.

"Physical Separation-Based Retail Marijuana Concentrate" means a Retail Marijuana Concentrate that was produced by separating Cannabinoids from Retail Marijuana through the use of physical separation by grinding, sifting, or a similar process and may use water, ice, or dry ice. Physical Separation-Based Retail Marijuana Concentrate does not include Solvent-Based Retail Marijuana Concentrate or Heat/Pressure-Based Retail Marijuana Concentrate.

"Pre-Rolled Marijuana" means Regulated Marijuana that was produced by rolling, filling, or stuffing Harvested Marijuana flower, shake, and/or trim into paper, leaves or an equivalent wrapper and is intended for consumption by inhalation.

"Pressurized Metered Dose Inhaler" means inhalable Regulated Marijuana Concentrate, which may be comprised of other Ingredients, and a pressurized propellant inside a device that administers a dose of an aerosolized composition.

"Preventive Action" means a proactive action implemented to eliminate the cause of a potential Nonconformance or other quality problem before it occurs.

"Processing Aid" means any non-marijuana derived substance used in the production of Regulated Marijuana to assist in extraction or manufacturing processes.

"Production Batch" means (a) any amount of Regulated Marijuana Concentrate of the same category and produced using the same extraction methods, standard operating procedures and an identical group of Harvest Batch(es) of Medical Marijuana or Retail Marijuana; or (b) any amount of Regulated Marijuana Product of the same exact type, produced using the same Ingredients, standard operating procedures, and the same Harvest Batch(es) of Harvested Marijuana (single strain or multiple strain) and/or Production Batch(es) of Regulated Marijuana Concentrate; or (c) any amount of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana of the same exact type, produced using the same ingredients, standard operating procedures, and the same Harvest Batch(es) of Regulated Marijuana Concentrate.

"Professional Engineer" means a natural person who is licensed by the State of Colorado as a professional engineer pursuant to sections 12-25-101 *et seq.*, C.R.S.

"Proficiency Testing" means an assessment of the performance of a Medical Marijuana Testing Facility's or Retail Marijuana Testing Facility's methodology and processes. Proficiency Testing is also known as inter-laboratory comparison. The goal of Proficiency Testing is to ensure results are accurate, reproducible, and consistent.

"Propagation" means the reproduction of Regulated Marijuana plants by seeds, cuttings, or grafting.

"Public Institution," for purposes of the 5-700 Series Rules, means any entity established or controlled by the federal government, a state government, or a local government or municipality, including but not limited to an institution of higher education or a public higher education research institution.

"Public Money," for purposes of the 5-700 Serie Rules, means any funds or money obtained by the holder from any governmental entity, including but not limited to research grants.

"Publicly Traded Corporation" means any Person other than an individual that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia or another country that authorizes the sale of marijuana that:

a. Has a class of Securities registered pursuant to 15 U.S.C. sec. 77a et seq., that:

   i. Constitutes Covered Securities; or

   ii. Is qualified and quoted on the OTCQX or OTCQB tier of the OTC markets if:

      A. The Person is then required to file reports and is filing reports on a current basis with the Federal Securities Exchange Commission pursuant to 15 U.S.C. sec. 78a et seq., as if the Securities constituted Covered Securities; and

      B. The Person has established and is in compliance with corporate governance measures pursuant to corporate governance obligations imposed on Securities qualified and quoted on the OTCQX tier of the OTC markets.

b. Is an Entity that has a class of Securities listed on the Canadian Securities Exchange, Toronto Stock Exchange, TSX Venture Exchange, or NEO Exchange, if:

   i. The Entity constitutes a Foreign Private Issuer whose Securities are exempt from registration pursuant to 15 U.S.C. sec. 78a et seq., pursuant to 17 CFR 240.12g3-2; and

   ii. The Entity has been, for the preceding three hundred sixty-five days or since the formation of the Entity, in compliance with all governance and reporting obligations imposed by the relevant exchange on such Entity; or

c. Publicly Traded Corporation does not include:

   i. An Ineligible Issuer, unless such Publicly Traded Corporation satisfies the definition of Ineligible Issuer solely because it is one or more of the following, and the Person is filing reports on a current basis with the Federal Securities and Exchange Commission pursuant to 15 U.S.C. sec. 78a et seq., as if the Securities constituted Covered Securities, and prior to becoming a Publicly Traded Corporation, the Person for at least two years was licensed by the State Licensing Authority as a Regulated Marijuana Business with a demonstrated history of operations in the state of Colorado, and during such time was not subject to suspension or revocation of the business license:

A. a Blank Check Company;

B. an issuer in an offering of Penny Stock; or

C. a Shell Company.

ii. A Person disqualified as a Bad Actor.

"Qualified Institutional Investor" means:

a. A bank as defined in 15 U.S.C. sec. 78c (a)(6), if the bank is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

b. A bank holding company as defined in 12 U.S.C. sec. 1841 (a)(1), if the bank holding company is registered and current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

c. An insurance company as defined in 15 U.S.C. sec. 80a-2 (a)(17), if the insurance company is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

d. An investment company registered and subject to 15 U.S.C. sec. 80a-1, et seq., if the investment company is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

e. An employee benefit plan or pension fund subject to 29 U.S.C. sec. 1001 et seq., excluding an employee benefit plan or pension fund sponsored by a licensee or an intermediary or holding company licensee which directly or indirectly owns ten percent or more of a licensee;

f. A state or federal government pension plan; or

g. A group comprised entirely of persons specified in (a) through (g) of this definition; or

h. Any other entity identified by rule by the state licensing authority.

"Qualified Private Fund" means an issuer that would be an investment company, as defined in section 3 of the Federal Investment Company Act of 1940, but for the exclusions provided under sections 3(c)(1) or 3(c)(7) of that Act, and that:

a. Is advised or managed by an investment adviser as defined and registered pursuant to 15 U.S.C. sec. 80b-1 et seq., and for which the registered investment adviser is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder; and

b. Satisfies one or more of the following:

i. Is organized under the law of a state or the United States;

ii. Is organized, operated, or sponsored by a U.S. person, as defined under subsection 17 CFR 230.902(k), as amended; or

iii. Sells Securities to a U.S. person, as defined under subsection 17 CFR 230.902(k), as amended.

"Reduced Testing Allowance" means the allowance for a Regulated Marijuana Business to conduct less testing than otherwise required by Rules 4-120 and 4-125 upon demonstrating that standard operating procedures and production practices result in consistent passing test results over a time frame established in Rules 4-120 and 4-125.

"R&D Co-Location Permit" means a permit issued to a Marijuana Research and Development Facility authorizing it to co-locate with a commonly owned Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Retail Marijuana Cultivation Facility pursuant to Rule 5-705. A separate R&D Co-Location Permit is required for each location at which a Marijuana Research and Development Facility seeks to share a single Licensed Premises.

"Reasonable Cause" means just or legitimate grounds based in law and in fact to believe that the particular requested action furthers the purposes of the Marijuana Code or protects the public safety.

"Regulated Marijuana" means Medical Marijuana and Retail Marijuana. If the context requires, Regulated Marijuana includes Medical Marijuana Concentrate, Medical Marijuana Product, Retail Marijuana Concentrate, and Retail Marijuana Product.

"Regulated Marijuana Business" means Medical Marijuana Businesses and Retail Marijuana Businesses.

"Regulated Marijuana Concentrate" means Medical Marijuana Concentrate and Retail Marijuana Concentrate.

"Regulated Marijuana Cultivation Facility" means a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and Accelerator Cultivator.

"Regulated Marijuana Products Manufacturer" means a Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, and Accelerator Manufacturer.

"Regulated Marijuana Product" means Medical Marijuana Product and Retail Marijuana Product.

"Regulated Marijuana Store" means a Medical Marijuana Store, Retail Marijuana Store, and Accelerator Store.

"Regulated Marijuana Testing Facility" means a Medical Marijuana Testing Facility and Retail Marijuana Testing Facility.

"Remediation" means the process of neutralization or removal of dangerous substances or other contaminants from regulated marijuana while changing the product type of the regulated marijuana.

"Resealable" means that the Container maintains its Child-Resistant effectiveness for multiple openings.

"Research Project" means a discrete scientific endeavor to answer a research question or a set of research questions. A Research Project must include a description of a defined protocol, clearly articulated goal(s), defined methods and outputs, and a defined start and end date. The description must demonstrate that the Research Project will comply with all requirements in the 5-700 Series Rules – Marijuana Research and Development Facility. All research and development

conducted by a Marijuana Research and Development Facility must be conducted in furtherance of an approved Research Project.

"Respondent" means a Person who has filed a petition for declaratory order that the State Licensing Authority has determined needs a hearing or legal argument, or a Licensee who is subject to an Order to Show Cause.

"Responsible Vendor Program Provider" means a Person offering an Approved Training Program, in accordance with section 44-10-1201, C.R.S., to Licensees seeking to be designated a responsible vendor.

"Restricted Access Area" means a designated and secure area within a Licensed Premises in a Medical Marijuana Store where Medical Marijuana is sold to patients or their caregiver, possessed for sale, and displayed for sale, and where no one without a valid patient registry card or that patient's caregiver is permitted, and 2) in a Retail Marijuana Store or a Retail Marijuana Hospitality and Sales Business where Retail Marijuana is sold to consumers, possessed for sale, and displayed for sale, and where no one under the age of 21 is permitted.

"Retail Food Establishment" means a retail operation that stores, prepares, or packages food for human consumption or serves or otherwise provides food for human consumption to consumers directly or indirectly through a delivery service, whether such food is consumed on or off the premises or whether there is a charge for such food. "Retail food establishment" does not mean:

a. Any private home;

b. Private boarding house;

c. Hospital and health facility patient feeding operations licensed by the department;

d. Child care centers and other child care facilities licensed by the department of human services;

e. Hunting camps and other outdoor recreation locations where food is prepared in the field rather than at a fixed based of operation;

f. Food or beverage wholesale manufacturing, processing, or packaging plants, or portions thereof, that are subject to regulatory controls under state or federal laws or regulations;

g. Motor vehicles used only for the transport of food;

h. Establishments preparing and serving only hot coffee, hot tea, instant hot beverages, and non-potentially hazardous doughnuts or pastries obtained from sources complying with all laws related to food and food labeling;

i. Establishments that handle only non-potentially hazardous prepackaged food and operations serving only commercially prepared, prepackaged foods requiring no preparation other than the heating of the food within its original container or package;

j. Farmers markets and roadside markets that offer only uncut fresh fruit and vegetables for sale;

k. Automated food merchandising enterprises that supply only prepackaged non-potentially hazardous food or drink in bottles, cans, or cartons only, and

operations that dispense only chewing gum or salted nuts in their natural protective covering;

l. The donation, preparation, sale, or service of food by a nonprofit or charitable organization in conjunction with an event or celebration if such donation, preparation, sale, or service of food:

i. Does not exceed the duration of the event or celebration or a maximum of fifty-two days within a calendar year; and

ii. Takes place in the county in which such nonprofit or charitable organization resides or is principally located.

m. A home, commercial, private, or public kitchen in which a person produces food products sold directly to consumers pursuant to the "Colorado Cottage Foods Act," section 25-4-1614, C.R.S.

"Retail Marijuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including but not limited to Retail Marijuana Concentrate, that is cultivated, manufactured, distributed, or sold by a licensed Retail Marijuana Business. "Retail Marijuana" does not include industrial hemp, nor does it include fiber produced from stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other Ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product. If the context requires, Retail Marijuana includes Retail Marijuana Concentrate and Retail Marijuana Product.

"Retail Marijuana Business" means a Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturer, a Marijuana Hospitality Business, a Retail Marijuana Hospitality and Sales Business, a Retail Marijuana Testing Facility, a Retail Marijuana Business Operator, and a Retail Marijuana Transporter.

"Retail Marijuana Business Operator" means an entity or person that is not an owner and that is licensed to provide professional operational services to a Retail Marijuana Businesses for direct remuneration from the Retail Marijuana Business.

"Retail Marijuana Concentrate" means a subset of Retail Marijuana that is separated from the retail marijuana plant and results in matter with a higher concentration of cannabinoids than naturally occur in the plant. Retail Marijuana Concentrate contains cannabinoids and may contain terpenes and other chemicals that are naturally occurring in Retail Marijuana plants that have been separated from Retail Marijuana. Retail Marijuana Concentrate may also include residual amounts of the types of solvents, as permitted by the marijuana rules. The State Licensing Authority may further define by rule subcategories of Retail Marijuana Concentrate and authorize limited ingredients based on the method of production of Retail Marijuana Concentrate. Unless the context otherwise requires, Retail Marijuana Concentrate is included when article 10 of the Colorado Revised Statutes refers to Retail Marijuana Product.

"Retail Marijuana Cultivation Facility" means an entity licensed to cultivate, prepare, and package Retail Marijuana and sell Retail Marijuana to Retail Marijuana Stores, to Retail Marijuana Products Manufacturers, and to other Retail Marijuana Cultivation Facilities, but not to consumers.

"Retail Marijuana Hospitality and Sales Business" means a facility, which cannot be mobile, licensed to permit the consumption of only the retail marijuana or retail marijuana products it has

sold pursuant to the provisions of an enacted, initiated, or referred ordinance or resolution of the local jurisdiction in which the licensee operates.

“Retail Marijuana Product” means a product that is comprised of Retail Marijuana and other Ingredients and is intended for use or consumption, such as, but not limited to, edible product, ointments and tinctures.

“Retail Marijuana Products Manufacturer” means an entity licensed to purchase Retail Marijuana; manufacture, prepare, and package Retail Marijuana Product; and Transfer Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Product only to other Retail Marijuana Products Manufacturers, Retail Marijuana Stores, Retail Marijuana Hospitality and Sales Businesses and Pesticide Manufacturers.

“Retail Marijuana Store” means an entity licensed to purchase Retail Marijuana and Retail Marijuana Concentrate from a Retail Marijuana Cultivation Facility and to purchase Retail Marijuana Product and Retail Marijuana Concentrate from a Retail Marijuana Products Manufacturer, and to Transfer Retail Marijuana to Retail Marijuana Hospitality and Sales Businesses and to consumers.

“Retail Marijuana Testing Facility” means an entity licensed to analyze and certify the safety and potency of marijuana.

“Retail Marijuana Transporter” means a Person licensed to transport Retail Marijuana from one Retail Marijuana Business to another Retail Marijuana Business or to a Pesticide Manufacturer, and to temporarily store the transported Retail Marijuana at its Licensed Premises, but is not authorized to sell, give away, buy, or receive complimentary Retail Marijuana under any circumstances. A Retail Marijuana Transporter does not include a Licensee that transports and distributes its own Retail Marijuana.

“RFID” means Radio Frequency Identification.

“Sample Increment” means a single portion or unit that is removed from a Harvest Batch or Production Batch by a Designated Test Batch Collector for the creation of a Test Batch. For Harvest Batches, a Sample Increment shall be 500 milligrams of flower or trim. For Regulated Marijuana Products, Audited Products, and Alternative Use Products, a Sample Increment shall be a single serving of the product as defined by the Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer, but shall contain no more than 10 milligrams of active THC per serving for Edible Retail Marijuana Products. For Regulated Marijuana Concentrate, a Sample Increment shall be 250 milligrams of concentrate.

“Sample Increment Collection” means the gathering of Sample Increments to combine into a larger, composite Test Batch.

“Sampling Manager” means an Owner Licensee or management personnel holding an Employee Licensee designated by a Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, Retail Marijuana Cultivation Facility, or Retail Marijuana Products Manufacturer to receive Transfers of Sampling Units pursuant to Rules 5-230, 5-320, 6-225, and 6-320.

“Sample Plan” means a written, documented plan generated by Designated Test Batch Collector(s) in line with the Regulated Marijuana Business' Standard Operating Procedure for Sample Increment Collection.

“Sampling Unit” means a unit of Regulated Marijuana Transferred to a Sampling Manager for purposes of quality control and product development pursuant to Rules 5-230 and 5-320, sections

44-10-502(4) and 44-10-503(10), C.R.S., and Rules 6-225 and 6-320, and sections 44-10-602(6) and 44-10-603(10), C.R.S.

"Security(ies)" means any note, stock, treasury stock, security future, security-based swap, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

"Security Alarm System" means a device or series of devices, intended to summon law enforcement personnel during, or as a result of, an alarm condition. Devices may include hard-wired systems and systems interconnected with a radio frequency method such as cellular or private radio signals that emit or transmit a remote or local audible, visual, or electronic signal; motion detectors, pressure switches, duress alarms (a silent system signal generated by the entry of a designated code into the arming station to indicate that the user is disarming under duress); panic alarms (an audible system signal to indicate an emergency situation); and hold-up alarms (a silent system signal to indicate that a robbery is in progress).

"Shell Company" means a registrant, other than an asset-backed issuer as defined in Item 1101(b) of Regulation AB, that has:

a. No or nominal operations; and

b. Either:

i. No or nominal operations;

ii. Assets consisting solely of cash and cash equivalents; or

iii. Assets consisting of any amount of cash and cash equivalents and nominal other assets.

"Shipping Container" means a hard-sided container with a lid or other enclosure that can be secured in place. A Shipping Container is used solely for the transport of Regulated Marijuana between Regulated Marijuana Businesses or a Pesticide Manufacturer.

"Single-Serving Edible Retail Marijuana Product" means an Edible Retail Marijuana Product unit for sale to consumers containing no more than 10mg of active THC.

"Social Equity Licensee" means a natural person who meets the criteria established pursuant to section 44-10-308(4), C.R.S. A person qualified as a Social Equity Licensee may participate in the accelerator program established pursuant to the Marijuana Code or may hold a Regulated Marijuana Business License or permit issued pursuant to the Marijuana Code.

"Solvent-Based Medical Marijuana Concentrate" means a Medical Marijuana Concentrate that was produced by extracting Cannabinoids from Medical Marijuana through the use of a solvent approved by the Division pursuant to Rule 5-315.

"Solvent-Based Retail Marijuana Concentrate" means a Retail Marijuana Concentrate that was produced by extracting Cannabinoids from Retail Marijuana through the use of a solvent approved by the Division pursuant to Rule 6-315.

"Standardized Graphic Symbol" means a graphic image or small design adopted by a Licensee to identify its business.

"Standardized Serving of Marijuana" means a standardized single serving of active THC in Retail Marijuana. The size of a Standardized Serving of Marijuana shall be no more than 10mg of active THC.

"State Licensing Authority" means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale, and testing of Regulated Marijuana in Colorado, pursuant to section 44-10-201, C.R.S.

"Target Potency" means the potency that a Medical Marijuana Products Manufacturer intends for an individual Medical Marijuana Product, or a Retail Marijuana Products Manufacturer intends for an individual Retail Marijuana Product, prior to testing, which is also outlined in the Licensee's standard operating procedures.

"Temporary Appointee Registration" means a registration issued to a Court Appointee pursuant to section 44-10-401(3)(a), C.R.S.

"THCA" means tetrahydrocannabinolic acid.

"THC" means tetrahydrocannabinol.

"Test Batch" means a group of Sample Increments that are derived from a single Harvest Batch, Production Batch, or Inventory Tracking System package, and that are collectively submitted to a Regulated Marijuana Testing Facility for testing purposes.

"Total THC" means the following:

The sum of the percentage by weight of Delta-9-tetrahydrocannabinolic acid (D9-THCA) multiplied by 0.877,

Plus the percentage by weight of Delta-8-tetrahydrocannabinol (D8-THC),

Plus the percentage by weight of Delta-9-tetrahydrocannabinol (D9-THC),

Plus the percentage by weight of Exo-tetrahydrocannabinol (Exo-THC),

Plus the percentage by weight of Delta-10-tetrahydrocannabinol (D10-THC).

i.e. Total THC = (% D9-THCA * 0.877) + % D8-THC + % D9-THC + % Exo-THC + % D10-THC.

"Transfer(s)(ed)(ing)" means to grant, convey, hand over, assign, sell, exchange, donate, or barter, in any manner or by any means, with or without consideration, any Regulated Marijuana from one Licensee to another Licensee, to a patient, or to a consumer. A Transfer includes the movement of Regulated Marijuana from one Licensed Premises to another, even if both premises are contiguous, and even if both premises are owned by a single entity or individual or group of individuals and also includes a virtual Transfer that is reflected in the Inventory Tracking System, even if no physical movement of the Regulated Marijuana occurs.

"Universal Symbol" means the image established by the Division and made available to Licensees through the Division's website indicating the Regulated Marijuana contains marijuana.

"Unrecognizable" means Regulated Marijuana that has been rendered indistinguishable from any other plant material.

"U.S. Person" means:

a. Any natural person resident in the United States;

b. Any partnership or corporation organized or incorporated under the laws of the United States;

c. Any estate of which any executor or administrator is a U.S. natural person;

d. Any trust of which any trustee is a U.S. natural person;

e. Any agency or branch of a foreign entity located in the United States;

f. Any non-discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary for the benefit or account of a U.S. natural person;

g. Any discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary organized, incorporated, or (if a natural person) resident in the United States; and

h. Any partnership or corporation if:

i. Organized or incorporated under the laws of any foreign jurisdiction; and

ii. Formed by a U.S. natural person principally for the purpose of investing in Owner's Interests not registered under the Securities Act of 1933, unless it is organized or incorporated, and owned, by accredited investors (as defined in § 230.501(a)) who are not natural persons, estates or trusts.

"Vaporizer Delivery Device" means inhalable Regulated Marijuana Concentrate, which may be comprised of other Ingredients inside a device that uses a heating element to create a vapor including, but not limited to, vaporizer cartridges and vaporizer pens.

"Vegetative" means the state of the *Cannabis* plant during which plants do not produce resin or flowers and are bulking up to a desired production size for Flowering.

Basis and Purpose – 1-120

The statutory authority for this rule includes but is not limited to sections 24-4-105(11) and 44-10-201, C.R.S. The purpose of this rule is to establish a system by which a Licensee may request the Division to issue a formal statement of position and, subsequently, petition the State Licensing Authority for a declaratory order. Typically, a position statement or declaratory order would address matters that are likely to be applicable to other Licensees. The approach is similar to that utilized by other divisions within the Department of Revenue. This Rule 1-120 was previously Rules M and R 104, 1 CCR 212-1 and 1 CCR 212-2.

1-120 – Declaratory Orders Concerning the Marijuana Code

A. Who May Request a Statement of Position. Any person as defined in section 24-4-102(12), C.R.S., may request the Division to issue a statement of position concerning the applicability to the petitioner of any provision of the Marijuana Code, or any regulation of the State Licensing Authority.

B. Division Response. The Division will determine, in its sound discretion, whether to respond with a written statement of position. Following receipt of a proper request, the Division will respond by issuing a written statement of position or by declining to issue such a statement.

C. Petition for Declaratory Order. Any person who has properly requested a statement of position, and who is dissatisfied with the Division's response, may petition the State Licensing Authority for a declaratory order pursuant to section 24-4-105(11), C.R.S. The petition shall be filed within 30 days of the Division's response, or may be filed at any time before the Division's response if the Division has not responded within 60 days of receiving a proper request for a statement of position, and shall set forth the following:

1. The name and address of the petitioner.

2. Whether the petitioner is licensed pursuant to the Marijuana Code, and if so, the type of license and address of the Licensed Premises.

3. Whether the petitioner is involved in any pending administrative hearings with the State Licensing Authority or relevant Local Jurisdiction.

4. The statute, rule, or order to which the petition relates.

5. A concise statement of all of the facts necessary to show the nature of the controversy or the uncertainty as to the applicability to the petitioner of the statute, rule, or order to which the petition relates.

6. A concise statement of the legal authorities, if any, and such other reasons upon which petitioner relies.

7. A concise statement of the declaratory order sought by the petitioner.

D. State Licensing Authority Retains Discretion Whether to Entertain Petition. The State Licensing Authority will determine, in its discretion without prior notice to the petitioner, whether to entertain any petition. If the State Licensing Authority decides it will not entertain a petition, it shall notify the petitioner in writing of its decision and the reasons for that decision. Any of the following grounds may be sufficient reason to refuse to entertain a petition:

1. The petitioner failed to properly request a statement of position from the Division, or the petition for declaratory order was filed with the State Licensing Authority more than 30 days after the Division's response to the request for a statement of position.

2. A ruling on the petition will not terminate the controversy nor remove uncertainties concerning the applicability to petitioner of the statute, rule, or order in question.

3. The petition involves a subject, question or issue that is relevant to a pending hearing before the state or any Local Licensing Authority, an on-going investigation conducted by the Division, or a written complaint previously filed with the State Licensing Authority.

4. The petition seeks a ruling on a moot or hypothetical question.

5. Petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Colo. R. Civ. Pro. 57, which will terminate the controversy or remove any uncertainty concerning applicability of the statute, rule, or order.

E. State Licensing Authority May Adopt Division Position Statement. The State Licensing Authority may adopt the Division Position Statement as a Final Agency Order subject to judicial review pursuant to section 24-4-106, C.R.S.

F. If State Licensing Authority Entertains Petition. If the State Licensing Authority determines that it will entertain the petition for declaratory order, it shall so notify the petitioner within 30 days, and any of the following procedures may apply:

1. The State Licensing Authority may expedite the matter by ruling on the basis of the facts and legal authority presented in the petition, or by requesting the petitioner or the Division to submit additional evidence and legal argument in writing.

2. In the event the State Licensing Authority determines that an evidentiary hearing is necessary to a ruling on the petition, a hearing shall be conducted in accordance with Rules 8-220 – Administrative Hearings, 8-225 – Administrative Subpoenas, and 8-230 – Administrative Hearing Appeals. The petitioner will be identified as Respondent.

3. The parties to any proceeding pursuant to this Rule shall be the petitioner/Respondent and the Division. Any other interested person may seek leave of the State Licensing Authority to intervene in the proceeding and such leave may be granted if the State Licensing Authority determines that such intervention will make unnecessary a separate petition for declaratory order by the interested person.

4. The declaratory order shall constitute a Final Agency Order subject to judicial review pursuant to section 24-4-106, C.R.S.

G. Public Inspection. Files of all requests, petitions, statements of position, and declaratory orders will be maintained by the Division. Except with respect to any material required by law to be kept confidential, such files shall be available for public inspection.

H. Posted on Website. The Division shall post a copy of all statements of position and all declaratory orders on the Division's website.

Basis and Purpose – 1-125

The statutory authority for this rule includes but is not limited to section 44-10-202(1)(c), C.R.S. The purpose of this rule is to clarify that any reference to days means calendar days. This Rule 1-125 was previously Rules M and R 105, 1 CCR 212-1 and 1 CCR 212-2.

1-125 – Computation of Time

The word "days" as used in these rules means calendar days.

Basis and Purpose – 1-130

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c) and 44-10-801(4), C.R.S. The purpose of this rule is to establish the basic fees that must be paid at the time of service of any subpoena (including a subpoena for testimony and/or a subpoena duces tecum) upon the State Licensing Authority, and for production of documents pursuant to any such subpoena. This rule also establishes additional fees for meals, mileage, and each day's testimony. The service fee is not applicable

when a subpoena is served by a governmental agency. This Rule 1-130 was previously Rules M and R 106, 1 CCR 212-1 and 1 CCR 212-2.

1-130 – Subpoena Fees

A. Required Fees for Subpoenas. The following fees must be paid at the time of service of any subpoena on the Division or State Licensing Authority:

1. Subpoenas for records only (*subpoenas duces tecum*):

a. Responsive records - $0.25/page. The Division and State Licensing Authority may use discretion when electronic copies are requested.

b. The Division or State Licensing Authority may charge $30/hour to retrieve and review voluminous records.

2. Subpoenas requiring any Division or State Licensing Authority employee to attend any proceeding:

a. $200/day attendance;

b. Current state mileage reimbursement fee; and

c. Current state meal reimbursement fee.

B. When Subpoena-Related Fees Are Due.

1. Subpoenas duces tecum fees must be paid before the Division or State Licensing Authority will release the records.

2. All other subpoena-related fees are due at the time of service of the subpoena.

C. Service Complete Only When Fees Are Paid. The Division or State Licensing Authority will not consider service to be complete unless all applicable fees are paid.

D. State Employees and Private Litigation. Division and State Licensing Authority employees will not serve as expert witnesses in private litigation. In addition, the Division and State Licensing Authority may move to quash any subpoena that seeks fact testimony from Division or State Licensing Authority employees in private litigation.

E. Not Applicable to Government-Issued Subpoenas. This Rule does not apply to subpoenas issued by any governmental agency.

Basis and Purpose – 1-135

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(f), 44-10-203(1)(g), and 44-10-301, C.R.S. This rule gives general instructions regarding Regulated Marijuana Business administrative matters to local jurisdictions and clarifies for such entities what the Division and State Licensing Authority will do in certain instances. The rule also reaffirms that local law enforcement's authority to investigate and take any necessary action with regard to Regulated Marijuana Businesses remains unaffected by the Marijuana Code or any rules promulgated pursuant to it. This Rule 1-135 was previously Rules M and R 1401(A) through (D), 1 CCR 212-1 and 1 CCR 212-2.

1-135 – Instructions for Local Licensing Authorities and Local Jurisdictions

A. Division Protocol for Regulated Marijuana Businesses.

1. The Division shall forward a copy of all new Regulated Marijuana Business applications to the relevant Local Licensing Authority or Local Jurisdiction.

2. The Division shall forward half of the total application fee with the copy of the Retail Marijuana Business application to the relevant Local Jurisdiction.

3. The Division shall notify the relevant Local Licensing Authority or Local Jurisdiction when an application for a Regulated Marijuana Business is either approved or denied. This includes new business applications, renewal business applications, change of location applications, change of owner applications, premises modification applications, and off-premises storage permit applications.

4. Conditioned on Local Approval. Any License issued or renewed by the Division for a Regulated Marijuana Business shall be conditioned upon relevant Local Licensing Authority or Local Jurisdiction approval of the application.

B. Local Licensing Authority/Local Jurisdiction Protocol for Regulated Marijuana Businesses.

1. As soon as practicable, a Local Licensing Authority or Local Jurisdiction that has prohibited the operation of a Regulated Marijuana Business License authorized by the Marijuana Code shall inform the Division, in writing, of such prohibition and shall include a copy of the applicable ordinance or resolution.

2. If a Local Licensing Authority or Local Jurisdiction will authorize the operation of a Regulated Marijuana Business License authorized by the Marijuana Code, it shall inform the Division of the local point-of-contact on Regulated Marijuana regulatory matters. The Local Jurisdiction shall include, at minimum, the name of the division or branch of local government, the mailing address of that entity, and telephone number.

3. Local Licensing Authorities or Local Jurisdictions may impose separate local licensing requirements related to the time, place, and manner of Regulated Marijuana Businesses, and shall otherwise determine if an application meets all those local requirements.

4. The relevant Local Licensing Authority or Local Jurisdiction shall notify the Division, in writing, of whether an application for a Regulated Marijuana Business complies with local restrictions and requirements, and whether the application is approved or denied based on that review. If a Local Licensing Authority or Local Jurisdiction makes any written findings of fact, a copy of those written findings shall be included with the notification.

C. Local Licensing Authority Inspections. The relevant Local Licensing Authorities or Local Jurisdiction and their investigators may inspect Regulated Marijuana Businesses during all business hours and other times of apparent activity, for the purpose of inspection or investigation.

D. Local Licensing Authority Powers. Nothing in these rules shall be construed to limit the authority of Local Licensing Authorities or Local Jurisdictions as established by the Marijuana Code or otherwise by law.

Basis and Purpose – 1-140

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(f) 44-10-203(1)(g), and 44-10-301(1), C.R.S. This rule gives general instructions regarding Regulated Marijuana Business administrative matters to local jurisdictions and clarifies for such entities what the Division and State Licensing Authority will do in certain instances. The rule also reaffirms that local law

enforcement's authority to investigate and take any necessary action with regard to Regulated Marijuana Businesses remains unaffected by the Marijuana Code or any rules promulgated pursuant to it. This Rule 1-140 was previously Rules M and R 1401(E), 1 CCR 212-1 and 1 CCR 212-2.

1-140 – Local Law Enforcement's Authority Not Impaired by Marijuana Code

Nothing in the Marijuana Code or any rules promulgated pursuant to it shall be construed to limit the ability of local police departments, sheriffs, or other state or local law enforcement agencies to investigate unlawful activity in relation to a Regulated Marijuana Business and such agencies shall have the ability to run a Colorado Crime Information Center criminal history check of an Applicant or Licensee during an investigation of unlawful activity related to Regulated Marijuana or a Regulated Marijuana Business to ensure they are in compliance with all Local Licensing Authority regulations related to time, place, and manner.

Part 2 – Applications and Licenses

2-200 Series – Applications and Licenses Rules

Basis and Purpose – 2-205

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

2-205 – Fees

A. Regulated Marijuana Business Initial Application and License Fees.

1. Medical Marijuana Businesses.

License Type	**Application Fee**	**License Fee**	**Total Due at Application**
Medical Marijuana Store	$5,000.00	$2,440.00	$7,440.00
Medical Marijuana Products Manufacturer	$1,000.00	$1,830.00	$2,830.00
Medical Marijuana Cultivation Facility Class 1 (1-500 plants)	$1,000.00	$1,830.00	$2,830.00
Medical Marijuana Testing Facility	$1,000.00	$1,830.00	$2,830.00
Medical Marijuana Transporter	$1,000.00	$5,368.00	$6,368.00
Medical Marijuana Business Operator	$1,000.00	$2,684.00	$3,684.00

Marijuana Research and Development Facility	$1,000.00	$1,830.00	$2,830.00

2. Retail Marijuana Businesses.

License Type	**Application Fee**	**License Fee**	**Total Due at Application**
Retail Marijuana Store	$5,000.00	$2,440.00	**Separate Checks** $4,940.00 State $2,500.00 Local
Retail Marijuana Products Manufacturer	$5,000.00	$1,830.00	**Separate Checks** $4,330.00 State $2,500.00 Local
Retail Marijuana Cultivation Facility Tier 1 (1-1,800 plants)	$5,000.00	$1,830.00	**Separate Checks** $4,330.00 State $2,500.00 Local
Retail Marijuana Testing Facility	$1,000.00	$1,830.00	**Separate Checks** $2,330.00 State $500.00 Local
Retail Marijuana Transporter	$1,000.00	$5,368.00	**Separate Checks** $5,868.00 State $500.00 Local
Retail Marijuana Business Operator	$1,000.00	$2,684.00	**Separate Checks** $3,184.00 State $500.00 Local
Marijuana Hospitality Business (Eff. Jan. 1, 2020)	$1,000.00	$1,220.00	**Separate Checks** $1,720.00 State $500.00 Local
Retail Marijuana Hospitality and Sales Business (Eff. Jan. 1, 2020)	$5,000.00	$2,440.00	**Separate Checks** $4,940.00 State $2,500.00 Local

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

1. Medical Marijuana Businesses.

License Type	**Application Fee**	**License Fee**	**Total Due at**

			Application
Medical Marijuana Store	$300.00	$1,830.00	$2,130.00
Medical Marijuana Products Manufacturer	$300.00	$1,830.00	$2,130.00
Medical Marijuana Cultivation Facility Class 1 (1-500 plants)	$300.00	$1,830.00	$2,130.00
Class 2 (501-1,500 plants)		$2,806.00	$3,106.00
Class 3 (1,501-3,000 plants)		$4,270.00	$4,570.00
Expanded Production Management (for each class of 3,000 plants over Class 3)		$4,270.00 [Plus $976.00 for each additional class of 3,000 plants over Class 3]	$4,570.00 [Plus $976.00 for each additional class of 3,000 plants over Class 3]
Medical Marijuana Testing Facility	$300.00	$1,830.00	$2,130.00
Medical Marijuana Transporter	$300.00	$5,368.00	$5,668.00
Medical Marijuana Business Operator	$300.00	$2,684.00	$2,984.00
Marijuana Research and Development Facility	$300.00	$1,830.00	$2,130.00

2. Retail Marijuana Businesses.

License Type	**Application Fee**	**License Fee**	**Total Due at Application**
Retail Marijuana Store	$300.00	$1,830.00	$2,130.00
Retail Marijuana Products Manufacturer	$300.00	$1,830.00	$2,130.00
Retail Marijuana Cultivation Facility Tier 1 (1-1,800 plants)	$300.00	$1,830.00	$2,130.00
Tier 2 (1,801-3,600 plants)		$2,806.00	$3,106.00
Tier 3 (3,601-6,000 plants)		$3,660.00	$3,960.00
Tier 4 (6,001-10,200 plants)		$5,490.00	$5,790.00
Tier 5 (10,201-13,800 plants)		$7,930.00	$8,230.00

Expanded Production Management (for each additional tier of 3,600 plants over Tier 5)			
		$7,930.00 [Plus $976.00 for each additional tier of 3,600 plants over Tier 5]	$8,230.00 [Plus $976.00 for each additional tier of 3,600 plants over Tier 5]
Retail Marijuana Testing Facility	$300.00	$1,830.00	$2,130.00
Retail Marijuana Transporter	$300.00	$5,368.00	$5,668.00
Retail Marijuana Business Operator	$300.00	$2,684.00	$2,984.00
Marijuana Hospitality Business (Eff. Jan. 1, 2020)	$300.00	$915.00	$1,215.00
Retail Marijuana Hospitality and Sales Business (Eff. Jan. 1, 2020)	$300.00	$1,830.00	$2,130.00

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

1. Controlling Beneficial Owner Request for a Finding of Suitability Fee.

   a. $800.00 per Natural Person

   b. $400.00 per Natural Person in possession of a valid Owner's License who is an Accelerator-Endorsed Licensee and seeking to have the existing Owner's License designated as a Social Equity Licensee.

   c. $800.00 for an Entity that is not a Publicly Traded Corporation, plus the fee in paragraph (C)(1)(a) and (C)(1)(b), for each associated natural person subject to suitability

   d. $5,000.00 for a Publicly Traded Corporation, plus the fee in paragraph (C)(1)(a) and (C)(1)(b), for each associated natural person or Entity subject to suitability.

2. Passive Beneficial Owner Request for Finding of Suitability Fee. A Passive Beneficial Owner may, but is not required to, apply for an Owner License and Identification Badge, and if the Passive Beneficial Owner chooses to do so, must submit the fees required by subparagraph (C)(1).

3. Renewal Fee for an Owner License. All Controlling Beneficial Owners and licensed Passive Beneficial Owners - $500.00.

D. Employee License – Initial Fees and Renewal Fees.

1. Employee License Initial Application and License Fee – $105.00

a. Of the total Employee License application and license fee, $75.00 is the application fee and $30.00 is the license fee. An individual submitting an application for an Employee License may submit the total fee of $105.00 in one form of payment.

2. Employee License Renewal Fee – $80.00

a. Of the total Employee License Renewal fee, $50.00 is the application fee and $30.00 is the license fee. An individual submitting an application for an Employee License renewal may submit the total fee of $80.00 in one form of payment.

b. All Key Licenses and Support Licenses issued before January 1, 2020 will be converted to an Employee License upon the first license renewal following January 1, 2020.

3. Conditional Employee License Fee - $200.00

E. Temporary Appointee Registration – Request for Finding of Suitability Fees.

1. Natural Person – $274.00

2. Entity – $976.00

F. Other Fees. The following other fees apply:

1. Permits.

a. Off Premises Storage Permit – $1,830.00

b. Transporter Off Premises Storage Permit – $2,684.00

c. Centralized Distribution Permit – $24.00

d. R&D Co-Location Permit – $61.00

e. Delivery Permit:

i. Initial Fee if the Store or Transporter Business License will expire in 6 months or less - $2,440.00.

ii. Initial Fee if the Store or Transporter Business License will expire in more than 6 months - $4,880.00.

iii. All Renewals - $2,440.00

f. Transition Permit – $305.00

2. Regulated Marijuana Business Changes. The following fees apply per license:

a. Change of Controlling Beneficial Owner – $1,952.00

b. Changes Exempt from Change of Owner Application Requirement – $976.00

c. Change of Trade Name – $61.00

d. Change of Location – $610.00

e. Modification of Licensed Premises – $122.00

3. Marijuana Research and Development Facility Research Project Proposal – $610.00

4. Responsible Vendor Provider Applications.

a. Responsible Vendor Program Provider Initial Application – $1,037.00

b. Responsible Vendor Program Provider Renewal Application – $427.00

5. Duplicate License, Identification Badge, Certificate, Regulated Marijuana Business License Reinstatement.

a. Duplicate Business License – $24.00

b. Duplicate Owner or Employee Identification Badge – $24.00

c. Responsible Vendor Program Provider Duplicate Certificate – $61.00

d. Reinstatement of Regulated Marijuana Business License - $305.00

6. Outdoor Contingency Plan Review - $1,200.00

G. When Fees are Due. All fees in this Rule are due at the time the application or request is submitted.

Basis and Purpose – 2-210

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(w), 44-10-305, 44-10-901(2), and 24-4-105(2) C.R.S. The purpose of this rule is to clarify the duties that Applicants and Licensees have when reporting to the State Licensing Authority information that is necessary for the issuance of a state license. These duties include but are not limited to reporting and keeping a mailing address current, reporting a felony conviction or other disqualifying event, cooperating with the State Licensing Authority and his or her employees, and notifying the State Licensing Authority of any change of registered agent in the State of Colorado. This rule further provides that all communications or notifications that the State Licensing Authority or Division send an Applicant or Licensee will be sent to the last known address. The Applicant's or Licensee's failure to notify the Division of a change of address does not relieve the Applicant or Licensee from timely responding to any correspondence or notification.

2-210 – Duties of All Applicants and Licensees

A. Duty to Keep Mailing Address Current: All Applicants and Licensees.

1. Timing of Notification. An Applicant or Licensee must provide a physical mailing address to the Division and may provide an electronic mailing address to the Division. A Licensee must inform the Division in writing of any change to its physical mailing address and/or electronic mailing address within 28 days of the change. The Division will not change a Licensee's information without written notice from the Licensee or its authorized agent.

2. State Licensing Authority and Division Communications. The State Licensing Authority and Division will send any formal notifications or determinations regarding any application

or an administrative action to the last mailing address and to the last electronic mailing address, if any, furnished to the Division by the Applicant or Licensee.

3. Failure to Change Address Does Not Relieve Applicant's or Licensee's Obligations. An Applicant's or Licensee's failure to notify the Division of a change of physical or electronic mailing address does not relieve the Applicant or Licensee from the obligation of responding to a Division communication or a State Licensing Authority communication.

B. Duty to Report Felony - Convictions, Deferred Sentences and Judgments. An Applicant or Licensee must notify the Division in writing of any felony conviction or deferred sentence or judgment regarding a felony against him or her within seven days of the conviction or deferred sentence or judgment. The notification must include disposition documents. Failure to make required notification to the Division may be grounds for administrative action.

C. Duty to Report Any Disqualifying Event. Applicants and Licensees must notify the Division within seven days of any change of fact that would result in the Applicant or Licensee being disqualified from holding a license, permit, or registration pursuant to the Marijuana Code, or these Rules.

D. Duty to Cooperate. Applicants and Licensees must cooperate in any investigation conducted by the Division. Failure to cooperate with a Division investigation may be grounds for denial of an application or for administrative action against a Licensee.

E. Duty to Report Change of Registered Agent. A Regulated Marijuana Business must disclose any change of its registered agent in the State of Colorado within seven days of the change.

Basis and Purpose – 2-215

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(c), 44-10-203(2)(k), 44-10-203(2)(w), 44-10-305, 44-10-307, 44-10-308, 44-10-309, 44-10-310, 44-10-311, 44-10-312, 44-10-313, 44-10-314 and 44-10-316, C.R.S. The purpose of this rule is to establish requirements for all applications including: required application fees; complete, accurate and truthful applications; notification of the applicable local licensing authority or local jurisdiction; that the Applicant or Licensee establish he, she or it is not a person prohibited from licensure; submission of additional information or documents upon request by the Division; and notification that all application material may be disclosed consistent with the Marijuana Code.

2-215 – All Applications Requirements

A. Applicability. This Rule 2-215 applies to all applications submitted to the Division for a license, permit, or registration provided by the Marijuana Code.

B. Division Forms Required. All applications for licenses, registrations, or permits authorized by subsections 44-10-401(2) and (3), C.R.S., must be made on current Division forms.

C. Application Fees Required. Applications must be accompanied by full remittance of the required application and license fees. *See* Rule 2-205.

D. Complete, Accurate, and Truthful Applications Required. Applications must be complete, accurate, and truthful and include all attachments and supplemental information. Incomplete applications may not be accepted by the Division.

E. Local Licensing Authority/Local Jurisdiction.

1. Each application must identify the applicable Local Licensing Authority or Local Jurisdiction.

2. If the Local Licensing Authority or Local Jurisdiction requires a physical copy of the application, the Applicant or Licensee must submit the original application and one identical copy to the Division. Otherwise the Applicant or Licensee must submit only the original application to the Division.

F. Applicant Not Prohibited From Licensure. Applicants must provide information establishing the Applicant is not a Person prohibited from licensure by section 44-10-307, C.R.S.

G. Additional Information and Documents May Be Required.

1. Upon request by the Division, an Applicant must provide additional information or documents required to process and investigate the application. The additional information or documents must be provided within seven days of the request, however, this deadline may be extended for a period of time commensurate with the scope of the request.

2. An Applicant's failure to provide requested information or documents by the deadline may be grounds for denial of the application.

H. Application Forms Accessible. All application forms provided by the Division and filed by an Application for a license, registration, or permit, including attachments and any other documents associated with the investigation, may be used for a purpose authorized by the Marijuana Code, for investigation or enforcement of any international, federal, state, or local securities law or regulation, for any other state or local law enforcement purpose, or as otherwise required by law.

Basis and Purpose – 2-220

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(c), 44-10-203(1)(j), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(w), 44-10-203(2)(ee), 44-10-203(7), 44-10-301, 44-10-305, 44-10-307, 44-10-308, 44-10-309, 44-10-310, 44-10-311, 44-10-312, 44-10-313, and 44-10-316, C.R.S. The purpose of this rule is to establish the general requirements and processes for submission of an initial application for a Regulated Marijuana Business to the State Licensing Authority.

2-220 – Initial Application Requirements for Regulated Marijuana Businesses

A. Documents and Information Requested. Every initial application for a Regulated Marijuana Business license must include all required documents and information including, but not limited to:

1. A copy of the local license application, if required, for a Regulated Marijuana Business.

2. Certificate of Good Standing from the jurisdiction in which the Entity was formed, which must be one of the states of the United States, territories of the United States, District of Columbia, or another country that authorizes the sale of marijuana.

3. If the Applicant is an Entity, the identity and physical address of its registered agent in the state of Colorado.

4. Organizational Documents. Articles of Incorporation, by-laws, and any shareholder agreement for a corporation; articles of organization and operating agreement for a limited liability company; or partnership agreement for a partnership.

5. Corporate Governance Documents.

a. A Regulated Marijuana Business that is a Publicly Traded Corporation must maintain corporate governance documents as required by the securities exchange on which its securities are listed and traded, and section 44-10-103(50), C.R.S., and must provide those corporate governance documents with each initial application.

b. A Regulated Marijuana Business that is not a Publicly Traded Corporation is not required to maintain any corporate governance documents. However, if the Regulated Marijuana Business that is not a Publicly Traded Corporation voluntarily maintains corporate governance documents, the Division encourages inclusion of such documents with each initial application.

6. The deed, lease, sublease, rental agreement, contract, or any other document(s) establishing the Applicant is, or will be, entitled to possession of the premises for which the application is made.

7. Legible and accurate diagram for the facility. The diagram must include a plan for the Licensed Premises and a separate plan for the security/surveillance plan including camera location, number and direction of coverage. If the diagram is larger than 8.5 x 11 inches, the Applicant must also provide a copy of the diagram in a portable document format (.pdf).

8. All required findings of suitability issued by the Division.

9. If the Applicant is a Publicly Traded Corporation:

a. Documents establishing the Publicly Traded Corporation qualifies to hold a Regulated Marijuana Business license including but not limited to disclosure of securities exchange(s) on which its Securities are listed and traded, the stock symbol(s), the identity of all regulators with regulatory oversight over its Securities; and

b. Divestiture plan for any Controlling Beneficial Owner that is a Person prohibited by the Marijuana Code, has had her or his Owner License revoked, or has been found unsuitable.

10. Financial Statements. Consolidated financial statements (which may be prepared on either a calendar or fiscal year basis) that were prepared in the preceding 365 days, and which must include a balance sheet, an income statement, and a cash flow statement. If the Applicant or Regulated Marijuana Business is required to have audited financial statements by another regulator (e.g. United States Securities and Exchange Commission or the Canadian Securities Administrators) the financial statements provided to the Division must be audited and must also include all footnotes, schedules, auditors' report(s), and auditor's opinion(s). If the financial statements are publicly available on a website (e.g. EDGAR or SEDAR), the Applicant or Regulated Marijuana Business may provide notification of the website link where the financial statements can be accessed in lieu of hardcopy submission.

11. Tax Documents. While duplicate tax documentation is not required to be provided with the application, the Applicant shall cooperate with the Division to establish proof of compliant return filing and payment of taxes related to any Regulated Marijuana Business in which the Person is, or was, required to file and pay taxes.

B. Local Licensing/Approval Required.

1. Regulated Marijuana Business Local Licensing Authority Approval Required.

    a. If the Division grants a license to a Regulated Marijuana Business before the Local Licensing Authority or Local Jurisdiction approves the application or grants a local license, the state license will be conditioned upon local approval. If the Local Licensing Authority denies the application, the state license will be revoked.

    b. An Applicant is prohibited from operating a Regulated Marijuana Business prior to obtaining all necessary licenses, registrations, permits, or approvals from both the State Licensing Authority and the Local Licensing Authority or Local Jurisdiction.

2. Retail Marijuana Business One Year to Obtain Local Jurisdiction Approval Required.

    a. The Applicant has one year from the date of licensing by the State Licensing Authority to obtain approval or licensing from the Local Jurisdiction. If the Applicant fails to obtain Local Jurisdiction approval or licensing within one year from grant of the state license, the state license expires and may not be renewed.

C. Social Equity License Qualification.

1. A natural person who can establish he or she qualifies as a Social Equity Licensee may apply for either a Regulated Marijuana Business License or an Accelerator License.

2. Qualifications. To qualify as a Social Equity Licensee, the Applicant must be found suitable for licensure pursuant to Rule 2-235, unless otherwise exempted by these Rules, and must meet the following minimum eligibility requirements:

    a. The Applicant is a Colorado Resident and has established Colorado residency by providing the items required by Rule 2-265(H).

    b. The Applicant has not been the Beneficial Owner of a License subject to administrative action issued by the State Licensing Authority resulting in the revocation of a license issued pursuant to the Marijuana Code;

    c. The Applicant has demonstrated at least one of the following:

        i. The Applicant has resided for at least fifteen years between the years 1980 and 2010 in a census tract designated by the office of economic development and international trade as an opportunity zone or a census tract designated as a Disproportionate Impacted Area;

        ii. The Applicant or the Applicant's parent, legal guardian, sibling, spouse, child, or minor in their guardianship was arrested for a marijuana offense, convicted of a marijuana offense, or was subject to civil asset forfeiture related to a marijuana investigation; or

        iii. The Applicant's household income in the year prior to application did not exceed 50% of the state median income as measured by the number of people who reside in the Applicant's household.

    d. The Social Equity Licensee, or collectively one or more Social Equity Licensees, holds at least fifty-one percent of the Beneficial Ownership of the Regulated Marijuana Business License.

3. Information Required to Establish Qualification as a Social Equity Licensee.

   a. To demonstrate qualification as a Social Equity Licensee based on residence during the relevant time period, the Applicant must demonstrate the Applicant's residency which may include either:

      i. Provide information or documents including but not limited to a copy of school records, rental agreements, lease agreements, utility bills, mortgage statements, loan documents, bank records, tax returns, or any other document which proves the Applicant's place of residence; or

      ii. Affirm, under penalty of perjury, the Applicant's place of residence and provide the name(s) and contact information for at least one individual who can verify the Applicant's place of residence during the time period at issue.

   b. To demonstrate that an Applicant qualifies as a Social Equity Licensee based on a prior marijuana conviction of a family member, the Applicant must provide affirmation of the familial relationship and court or other documents demonstrating the family member's arrest or conviction for a marijuana offense or that the family member was subject to a civil asset forfeiture related to a marijuana investigation.

   c. To demonstrate that an Applicant qualifies as a Social Equity Licensee based on the Applicant's income, the Applicant must provide the Applicant's tax return for the prior year. If an Applicant applies between January 1 and April 15 but has not yet filed a tax return, the application may be delayed or denied until the tax return is filed and provided to the Division. The Division cannot accept tax returns for previous years.

4. Denial of an Application on the Basis of a Marijuana Conviction. The State Licensing Authority will not deny an application for a Social Equity License or a related request for a finding of suitability on the sole basis of a marijuana conviction.

D. Accelerator License Application and Qualification.

1. License Issuance.

   a. Beginning January 1, 2021, a Social Equity Licensee may apply for an Accelerator License. The application shall be made on Division forms and in accordance with the 2-200 Series Rules.

   b. An Accelerator Licensee may exercise the privileges of a Retail Marijuana Cultivation Facility License, Retail Marijuana Products Manufacturer License, or Retail Marijuana Store License on the Licensed Premises of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, or Retail Marijuana Store that has been approved as an Accelerator-Endorsed Licensee or on a Licensed Premises under the control of the Accelerator-Endorsed Licensee.

2. Qualifications. To qualify for an Accelerator License, an Applicant must:

   a. Be found suitable for licensure pursuant to Rule 2-235, unless otherwise exempted by these Rules; and

   b. Be approved as a Social Equity Licensee pursuant to this Rule.

3. Information Required to Establish Qualification as an Accelerator Licensee. To establish that an Applicant qualifies as an Accelerator Licensee, he or she must establish:

   a. Qualification as a Social Equity Licensee; and

   b. An affirmation that the Applicant has not been the Beneficial Owner of a Regulated Marijuana Business License issued pursuant to the Marijuana Code.

Basis and Purpose – 2-225

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

2-225 – Renewal Application Requirements for All Licensees

A. License Periods.

   1. Regulated Marijuana Business and Owner Licenses are valid for one year from the date of issuance.

   2. Medical Marijuana Transporters, Retail Marijuana Transporters, and Employee Licenses are valid for two years from the date of issuance.

B. Division Notification Prior to Expiration.

   1. The Division will send a notice of license renewal 90 days prior to the expiration of an existing Regulated Marijuana Business or Owner License by first class mail to the Licensee's physical address of record.

   2. Failure to receive the Division notification does not relieve the Licensee of the obligation to timely renew the license.

C. Renewal Deadline.

   1. A Licensee must apply for the renewal of an existing license prior to the License's expiration date.

   2. A renewal application submitted to the Division prior to the license's expiration date shall be deemed timely pursuant to subsection 24-4-104(7), C.R.S., and the Licensee may continue to operate until Final Agency Order on the renewal application.

D. If License Not Renewed Before Expiration. A license is immediately invalid upon expiration if the Licensee has not filed a renewal application and remitted all of the required application and license fees prior to the license expiration date. A Regulated Marijuana Business that fails to file a renewal application and remit all required application and license fees prior to the license expiration date must not operate unless it first obtains a new state license and any required local license.

   1. Reinstatement of Expired Regulated Marijuana Business License. A Regulated Marijuana Business that fails to file a renewal application and remit all required application and license fees prior to the license expiration date may request that the Division reinstate an expired license only in accordance to the following:

a. The Regulated Marijuana Business license expired within the previous 30 days;

b. The Regulated Marijuana Business License has submitted an initial application pursuant to Rule 2-220. The initial application must be submitted prior to, or concurrently with, the request for reinstatement;

c. The Regulated Marijuana Business has paid the reinstatement fee in Rule 2-205; and

d. Any license or approval from the Local Licensing Authority or Local Jurisdiction is still valid or has been obtained.

2. Reinstatement Not Available for Surrendered or Revoked Licenses. A request for reinstatement cannot be submitted and will not be approved for a Regulated Marijuana Business license that was surrendered or revoked.

3. Reinstatement Not Available for Owner Licenses or Employee Licenses. A request for reinstatement cannot be submitted and will not be approved for expired, surrendered, or revoked Owner Licenses or Employee Licenses.

4. Denial of Request for Reinstatement or Administrative Action. If the Licensee requesting reinstatement of a Regulated Marijuana Business license operated during a period that the license was expired, the request may be subject to denial and the Licensee may be subject to administrative action as authorized by the Marijuana Code or these Rules.

5. Approval of Request for Reinstatement. Upon approval of any request for reinstatement of an expired Regulated Marijuana Business License, the Licensee may resume operations until the final agency action on the Licensee's initial application for a Regulated Marijuana Business license.

a. Approval of a request for reinstatement of an expired Regulated Marijuana Business license does not guarantee approval of the Regulated Marijuana Business Licensee's initial application; and

b. Approval of a request for reinstatement of an expired license does not waive the State Licensing Authority's authority to pursue administrative action on the expired license or initial application for a Regulated Marijuana Business license.

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

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

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

E. Voluntarily Surrendered or Revoked Licenses Not Eligible for Renewal. Any license that was voluntarily surrendered or that was revoked by a Final Agency Order is not eligible for renewal. Any Licensee who voluntarily surrendered its license or has had its license revoked by a Final Agency Order may only submit an initial application. The State Licensing Authority will consider

the voluntary surrender or the Final Agency Order and all related facts and circumstances in determining approval of any subsequent initial application.

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

G. Documents Required at Renewal. A Regulated Marijuana Business and all Controlling Beneficial Owner-Entities must provide the following documents with every renewal application:

1. Any document required by Rule 2-220(A)(1) through (9) that has changed since the document was last submitted to the Division. It is a license violation affecting public safety to fail to submit any document that changed since the last submission for the purpose of circumventing the requirements of the Marijuana Code, or these Rules;

2. A copy of the Local Licensing Authority or Local Jurisdiction approval, licensure, and/or documentation demonstrating timely submission of and pending local license renewal application;

3. A list of any sanctions, penalties, assessments, or cease and desist orders imposed by any securities regulatory agency, including but not limited to the United States Securities and Exchange Commission or the Canadian Securities Administrators;

4. A Regulated Marijuana Business operating under a single Entity name with more than one license may submit the following documents only once each calendar year on the first license renewal in lieu of submission with every license renewal in the same calendar year:

    a. Financial statements required by Rule 2-220(A)(10);

    b. If the Regulated Marijuana Business is a Publicly Traded Corporation, the most recent list of Non-Objecting Beneficial Owners possessed by the Regulated Marijuana Business;

    c. A copy of all management agreement(s) the Regulated Marijuana Business has entered into regardless of whether the Person is licensed or unlicensed; and

    d. Contracts, agreements, royalty agreements, equipment leases, financing agreement, or security contract for any Indirect Financial Interest Holder that is required to be disclosed by Rule 2-230(A)(3).

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

I. Accelerator Program Renewal Application Requirements.

1. Accelerator License Renewal. Accelerator Cultivator, Accelerator Manufacturer, and Accelerator Store licenses are required to be renewed annually. In addition to the documents and information required to be submitted with a renewal application, an Accelerator Licensee must also disclose to the Division copies of any agreements between the Accelerator Licensee and the Accelerator-Endorsed Licensee under which it operated during the previous year.

2. Accelerator-Endorsed Licensee Additional Renewal Requirements.

a. An endorsement issued to an Accelerator-Endorsed Licensee is required to be renewed annually.

b. At the time of submitting a renewal application for the endorsement, an Accelerator-Endorsed Licensee must submit the following:

i. The name and license number of any Accelerator Licensee for which it served as an Accelerator-Endorsed Licensee during the previous year;

ii. The equity assistance proposal if there have been any updates or amendments since the proposal was last submitted to the Division;

iii. Copies of any agreements between the Accelerator-Endorsed Licensee and the Accelerator Licensee(s), including the equity partnership agreement; and

iv. Any required Local Jurisdiction approvals.

c. In addition to any other basis for denial of a renewal application, the State Licensing Authority may also consider the following facts and circumstances as additional bases for denial of an endorsement renewal application:

i. The Accelerator-Endorsed Licensee violated the terms of any equity partnership agreement it entered into with an Accelerator Licensee;

ii. The Accelerator-Endorsed Licensee ended the equity partnership agreement with an Accelerator Licensee prematurely; and

iii. The Accelerator-Endorsed Licensee provided false or misleading statements, records, or information to an Accelerator Licensee.

Basis and Purpose – 2-230

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(c), 44-10-203(2)(t), 44-10-203(2)(u), 44-10-203(2)(w), 44-10-203(2)(ee), 44-10-203(7), 44-10-308, 44-10-309, and 44-10-316, C.R.S. Section 44-10-309, C.R.S., establishes varying disclosure requirements for Applicants and Licensees regarding disclosure of financial interests and ownership in a Regulated Marijuana Business. The purpose of this rule is to clarify information an Applicant or Licensee must disclose to the State Licensing Authority at the various levels, which include mandatory disclosure, disclosure in the State Licensing Authority's discretion, and disclosure for reasonable cause. This rule also provides factors that will be considered in determining whether a Regulated Marijuana Business exercised reasonable care and whether a Person is in control of a Regulated Marijuana Business.

2-230 – Disclosure of Financial Interests in a Regulated Marijuana Business

A. Mandatory Disclosures. Information required to be disclosed by section 44-10-309, C.R.S., must be identified in every initial, renewal, and change of owner application. Mandatory disclosures include, but are not limited:

1. All Regulated Marijuana Businesses (including Publicly Traded Corporations and Entities that are not Publicly Traded Corporations) must disclose an organizational chart including the identity and ownership percentages of all Controlling Beneficial Owners;

2. All Controlling Beneficial Owners.

a. For any Controlling Beneficial Owner that is an Entity (including Publicly Traded Corporations and entities that are not Publicly Traded Corporations):

i. The Controlling Beneficial Owner's Executive Officers; and

ii. Beneficial Owners of ten percent or more of the Controlling Beneficial Owner.

b. Natural persons:

i. Name;

ii. Address;

iii. Date of birth;

iv. Social Security Number or other Federal Government-issued identification number.

c. Qualified Private Fund: Organizational chart reflecting the identity and ownership percentages of the Qualified Private Fund's Executive Officers, investment advisers, investment adviser representatives, any trustee or equivalent, and any other Person that controls the investment in, or management or operations of, a Regulated Marijuana Business.

d. Trust: A copy of any documents required to establish the trust, a certification of the trust, and any additional documents necessary to demonstrate the type of trust, the identity and age of the trustee and all beneficiaries of the trust.

3. Any Person that is an Indirect Financial Interest Holder that:

a. Holds two or more indirect financial interests;

b. Is also a Passive Beneficial Owner; or

c. That is contributing debt financing, secured or unsecured, that has not previously been disclosed and exceeds fifty percent of the operating capital of the Regulated Marijuana Business or if the calculation yields a negative number. Operating capital is defined as total current and fixed assets less total liabilities (as presented on the balance sheet consistent with the business's past practices), measured as of the nearest month's end prior to the date of the applicable loan document(s).

B. Discretionary Disclosure. In his or her reasonable discretion, the State Licensing Authority may require disclosure following an initial or renewal application for a Regulated Marijuana business as follows:

1. For a Regulated Marijuana Business or a Controlling Beneficial Owner, neither of which is a Publicly Traded Corporation, its:

a. Affiliates;

b. Beneficial Owners of a Controlling Beneficial Owner;

2. Qualified Private Fund's Affiliates; and

3. Managers of a Controlling Beneficial Owner.

C. Reasonable Cause Disclosure. An Applicant will be notified by the State Licensing Authority of Reasonable Cause to require additional disclosure. The State Licensing Authority's notification will identify the facts and law supporting Reasonable Cause for the disclosure and the deadline for disclosure. The following may be required to be disclosed by the State Licensing Authority's notification:

1. An updated list of all Non-objecting Beneficial Owners in a Publicly Traded Corporation that is either a Regulated Marijuana Business or a Controlling Beneficial Owner reflecting ownership as of the date of request;

2. All Passive Beneficial Owners in a Regulated Marijuana Business that is not a Publicly Traded Corporation. If the Passive Beneficial Owner is not a natural person, the members of the board of directors, general partners, managing members, or Managers or Executive Officers and Beneficial Owners of ten percent or more of the Passive Beneficial Owner;

3. A list of all Beneficial Owners of a Qualified Private Fund;

4. All Indirect Financial Interest Holders of a Regulated Marijuana Business, and, for any Indirect Financial Interest Holder that is an Entity, the Beneficial Owners of ten percent or more of the Indirect Financial Interest Holder.

D. Affirmation of Reasonable Care.

1. Reasonable Care Affirmation for a Regulated Marijuana Business That is Not a Publicly Traded Corporation. A Regulated Marijuana Business that is not a Publicly Traded Corporation must affirm it exercised reasonable care to confirm its Passive Beneficial Owner(s), including any Qualified Institutional Investor(s), and Indirect Financial Interest Holder(s) are not Persons prohibited from holding a license under these Rules or the Marijuana Code. A Regulated Marijuana Business exercises reasonable care if it:

a. Receives documentation from each Passive Beneficial Owner, including any Qualified Institutional Investor, and each Indirect Financial Interest Holder affirming each is not a Person prohibited from holding a license by these Rules or the Marijuana Code; and

b. The Regulated Marijuana Business does not know or reasonably should not know facts that would contradict the Passive Beneficial Owner or Indirect Financial Interest Holder's affirmation.

2. Reasonable Care Affirmation for a Regulated Marijuana Business That is a Publicly Traded Corporation. A Regulated Marijuana Business that is a Publicly Traded Corporation must affirm it exercised reasonable care to confirm its Passive Beneficial Owners, including any Qualified Institutional Investor(s), both of which are Non-Objecting Beneficial Owners, and Indirect Financial Interest Holder(s) are not Person prohibited from holding a license by these Rules and the Marijuana Code. A Regulated Marijuana Business that is a Publicly Traded Corporation exercises reasonable care if it:

a. At least annually, checks a list of its Passive Beneficial Owners, including any Qualified Institutional Investor(s), both of which are Non-Objecting Beneficial Owners, against the Specially Designated Nationals and Blocked Persons List (SDN List) on the United States Treasury Office of Foreign Assets Control

(OFAC) website and the Financial Industry Regulatory Authority (FINRA) website for Persons Barred by FINRA to determine if there are any prohibited Persons;

b. Receives documentation from its Indirect Financial Interest Holder(s) affirming each is not a Person prohibited from holding a license by these Rules or the Marijuana Code; and

c. The Regulated Marijuana Business does not know or reasonably should not know facts that would contradict the Indirect Financial Interest Holder's affirmation.

E. Control. The State Licensing Authority will consider all facts and circumstances in determining whether a Person has Control of a Regulated Marijuana Business or is a Controlling Beneficial Owner by virtue of common control.

1. Non-Exhaustive Factors. Non-exhaustive facts and circumstances that will be considered when evaluating Control include, but are not limited to:

a. The Person's percentage of ownership, if any;

b. The Person's ability to influence the decision of the Regulated Marijuana Business;

c. The Person is a Manager of the Regulated Marijuana Business;

d. The Person has a close relationship, familial tie, or common purpose or motive with one or more Persons in Control of the Regulated Marijuana Business;

e. The Person has substantial business relationship(s) with the Regulated Marijuana Business;

f. The Person has the ability to control the proxy machinery or to win a proxy contest;

g. The Person is a primary creditor of the Regulated Marijuana Business; or

h. The Person is the original incorporator of the Regulated Marijuana Business.

2. Totality of the Evidence. The State Licensing Authority may consider the totality of the evidence when determining whether a Person has Control of a Regulated Marijuana Business or is a Controlling Beneficial Owner by virtue of common control.

Basis and Purpose – 2-235

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(e), 44-10-203(2)(c), 44-10-203(2)(ee), 44-10-309, 44-10-310, and 44-10-312(4), C.R.S. Section 44-10-310, C.R.S., requires that persons disclosed or who should have been disclosed to the State Licensing Authority obtain a finding of suitability from the State Licensing Authority. The purpose of this rule is to explain the conditions under which a Person is subject to either a mandatory finding of suitability or a finding of suitability for reasonable cause, to identify exemptions from an otherwise required finding of suitability and to identify the information and documents that, at a minimum, must be submitted in connection with any Person's request for a finding of suitability.

2-235 – Suitability

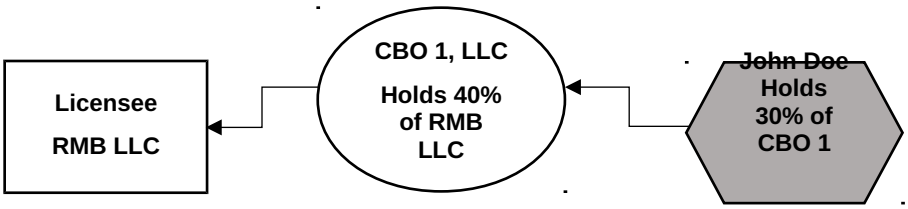
A. Persons Subject to a Mandatory Finding of Suitability for Regulated Marijuana Businesses That Are Not Publicly Traded Corporations.

1. Except as provided in subparagraph (A)(1)(a), any Person intending to become a Controlling Beneficial Owner by submitting an initial application for any Regulated Marijuana Business that is not a Publicly Traded Corporation must first obtain a finding of suitability from the State Licensing Authority.

a. Members of the Board of Directors and Executive Officers of a Regulated Marijuana Business. An individual who is a Controlling Beneficial Owner because he or she is a member of the board of directors or an Executive Officer of a Regulated Marijuana Business or is Controlling a Regulated Marijuana Business but who does not possess ten percent or more of the Owner's Interest in a Regulated Marijuana Business must submit a request for a finding of suitability to the State Licensing Authority within 45 days of becoming such a Controlling Beneficial Owner.

2. Indirect Ownership of Ten-Percent or More Owner's Interests in an Entity.

a. For a Controlling Beneficial Owner that is an Entity, the Entity's request for finding of suitability must include all information necessary for the State Licensing Authority to determine whether that Entity's Executive Officers and any Person that directly or indirectly owns ten percent or more of the Owner's Interest in the Regulated Marijuana Business are suitable. For example, assuming the scenario depicted below, Licensee RMB LLC has one-thousand outstanding ownership interests and CBO 1, LLC owns 400 of those ownership interests. John Doe owns 30% of CBO 1, LLC. Therefore, John Doe indirectly owns 12% of the outstanding ownership interests of Licensee RMB LLC, and must apply to the State Licensing Authority for a finding of suitability.



3. Any Person that has not received a finding of suitability and who intends to become a Controlling Beneficial Owner of a Regulated Marijuana Business that is not a Publicly Traded Corporation must submit their request for a finding of suitability prior to or contemporaneously with the change of owner application, unless exempt from the change of owner application requirement under Rule 2-245(C).

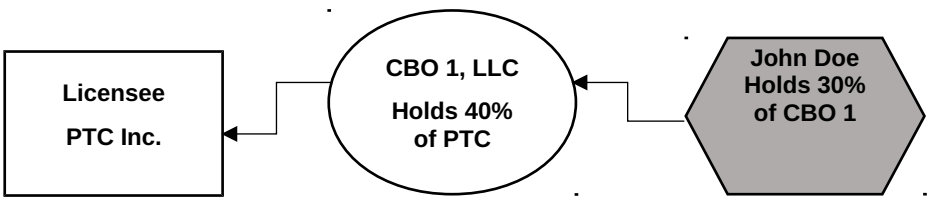
4. For a Controlling Beneficial Owner that is a trust, the trust's request for a finding of suitability must include all documents and information required or requested by the State Licensing Authority to permit a determination of whether or not the trustee and any beneficiary who may exercise control over the trust is suitable. A trust will not be found suitable if any person prohibited by section 44-10-307 is the trustee, otherwise controls the trust, or is positioned to receive distributions from the trust while a person prohibited.

B. Persons Subject to a Mandatory Finding of Suitability for Regulated Marijuana Businesses That Are Publicly Traded Corporations.

1. The following Persons must apply to the State Licensing Authority for a finding of suitability:

    a. Any Person that becomes a Controlling Beneficial Owner of any Regulated Marijuana Business that is a Publicly Traded Corporation; and

    b. Any Person that indirectly Beneficially Owns ten percent or more of the Regulated Marijuana Business that is a Publicly Traded Corporation through direct or indirect ownership of its Controlling Beneficial Owner. For example, assuming the scenario depicted below, Licensee PTC Inc. has one-million shares of outstanding Securities and CBO 1 owns 400,000 of those securities. John Doe owns 30% of CBO 1. Therefore, John Doe indirectly owns 12% of the outstanding securities of Licensee PTC Inc., and must apply to the State Licensing Authority for a finding of suitability.



2. For a Controlling Beneficial Owner that is an Entity, the Entity's request for finding of suitability must include all information necessary for the State Licensing Authority to determine whether its Executive Officers and any Person that indirectly owns ten percent or more of the Owner's Interest in the Regulated Marijuana Business are suitable.

3. Timing of Request for Finding of Suitability Involving Publicly Traded Corporation.

    a. Unless exempted under Rule 2-235(E), all Persons that will be a Controlling Beneficial Owner in a Regulated Marijuana Business that is entering into a Publicly Traded Corporation transaction described in Rule 2-245(C)(1) must first obtain a finding of suitability by the State Licensing Authority before the transaction can close or the public offering can occur.

    b. A Person who becomes a Controlling Beneficial Owner in a Regulated Marijuana Business that is a Publicly Traded Corporation must submit a request for a finding of suitability to the State Licensing Authority within 45 days of becoming a Controlling Beneficial Owner.

    c. An individual who is a Controlling Beneficial Owner because he or she is a member of the board of directors or an Executive Officer of a Regulated Marijuana Business or is Controlling a Regulated Marijuana Business but who does not possess ten percent or more of the Owner's Interest in a Regulated Marijuana Business must submit a request for a finding of suitability to the State Licensing Authority within 45 days of becoming such a Controlling Beneficial Owner.

C. Finding of Suitability for Reasonable Cause. For Reasonable Cause, any other Person that was disclosed or should have been disclosed pursuant to subsections 44-10-309(1) or (2) or that was required to be disclosed based on previous notification of Reasonable Cause must submit a request to the State Licensing Authority for a finding of suitability. Any Person required to submit a

request for a finding of suitability pursuant to this Rule must submit such request within 45 days from notice of the State Licensing Authority's determination of Reasonable Cause for the finding of suitability.

D. Information Required in Connection with a Request for a Finding of Suitability. When determining whether a Person is suitable or unsuitable for licensure, the State Licensing Authority may consider the Person's criminal character or record, licensing character or record, or financial character or record. To consider a Person's criminal character or record, licensing character or record, and financial character or record, all requests for a finding of suitability must, at a minimum, be accompanied by the following information:

1. Criminal Character or Record:

   a. A set of the natural person's fingerprints for purposes of a fingerprint-based criminal history record check.

2. Licensing Character or Record:

   a. Affirmation that the Person is not prohibited from holding a license under section 44-10-307, C.R.S.

   b. A list of all Colorado Department of Revenue-issued business licenses held in the three years prior to submission of the request for a finding of suitability;

   c. A list of all Department of Regulatory Agencies business, professional, or occupational licenses held in the three years prior to submission of the request for a finding of suitability;

   d. A list of any marijuana business or personal license(s) held in any other state or territory of the United States or District of Columbia or another country, where such license is or was at any time subject to a denial, suspension, revocation, surrender, or equivalent action by the licensing agency, commission, board, or similar authority; and

   e. Disclosure of any civil lawsuits in which the Person was named a party where pleadings included allegations involving any Regulated Marijuana Business.

3. Financial Character or Record:

   a. Disclosure of any sanctions, penalties, assessments, or cease and desist orders imposed by any securities regulatory agency other than the United States Securities Exchange Commission;

   b. Account Statements or Property Ownership Documents Required.

      i. If a Person is submitting a request for a finding of suitability to acquire ten percent or more of the Owner's Interest in a Regulated Marijuana Business and has identified both the source of funds or property and the Regulated Marijuana Business License that will be acquired at the time of the request for the finding of suitability, then the Person shall also include, copies of the Person's financial account statements for the preceding one-hundred eighty days for any accounts serving as a source of funding used to acquire the Owner's Interest in the Regulated Marijuana Business; or, if the Person is contributing one or more asset(s) to the Regulated Marijuana Business in exchange for the Owner's

Interests, documents establishing the Person has owned such asset(s) for the preceding one-hundred eighty days.

ii. If a Person has not identified both the source of funding or property and the Regulated Marijuana Business License that will be acquired, then the Person can submit a request for a finding of suitability without account statements or property ownership documents.

iii. When a Person submits a Change of Controlling Beneficial Owner or new Regulated Marijuana Business License application, the Person shall also provide account statements for the funds that will be used to acquire the Owner's Interest in the Regulated Marijuana Business License or the property ownership documents for the preceding one hundred eighty (180) days.

E. Exemptions from a Finding of Suitability.

1. The following Persons are exempt from an otherwise required finding of suitability:

a. Any Person that currently possesses an approved Owner License issued by the State Licensing Authority and such Owner License has not, in the preceding 365 days, been subject to suspension or revocation.

2. Exemptions from an otherwise required finding of suitability are limited to those listed in this Rule. The State Licensing Authority will consider other factors that may inform amendments to this Rule through the Department's formal rulemaking session.

F. Timing to Approve or Deny a Request for Finding of Suitability. Absent Reasonable Cause, the State Licensing Authority must approve or deny a request for a finding of suitability within 120 days from the date of submission of the request for such finding, where such request was accompanied by all information required under subsection (D) of this Rule.

G. Executive Officer Considerations. Whether an individual is an Executive Officer subject to a mandatory finding of suitability is based on the definition in these rules and the facts and circumstances. In determining whether an individual is an Executive Officer, the State Licensing Authority will consider the following, non-exhaustive factors:

1. Title is not dispositive, however, the Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, president, the General Counsel, and any individual with similar policy making authority are Executive Officers;

2. The level of decision-making authority the individual possesses;

3. The Controlling Beneficial Owner and/or Regulated Marijuana Business's organizational chart; and

4. Any relevant guidance from the United States Securities and Exchange Commission or similar securities regulator, securities rules or securities case law.

H. Findings of Suitability.

1. Finding of Suitability. A finding of suitability other than for a Social Equity Licensee is valid for one year from the date it is issued by the State Licensing Authority. If more than one year has passed since the State Licensing Authority issued a finding of suitability to a Person other than for a Social Equity Licensee and such Person has not during that time

applied to become a Controlling Beneficial Owner of a Regulated Marijuana Business pursuant to an initial business license application or change of owner application, then such Person shall submit a new request for finding of suitability to the State Licensing Authority and obtain a new finding of suitability before submitting any application to become a Controlling Beneficial Owner of a Regulated Marijuana Business.

2. Finding of Suitability for Social Equity Licensees. A finding of suitability for Social Equity License Applicants under Rule 2-220(C) is valid for two years from the date it is issued by the State Licensing Authority. If more than two years has passed since the State Licensing Authority issued the finding of suitability and such Social Equity Licensee has not during that time applied to become a Controlling Beneficial Owner of a Regulated Marijuana Business, then such Social Equity Licensee shall submit a new request for finding of suitability to the State Licensing Authority and obtain a new finding of suitability before submitting any application to become a Controlling Beneficial Owner of a Regulated Marijuana Business.

Basis and Purpose – 2-240

The statutory basis for this rule includes but is not limited to sections 44-10-103(53), 44-10-203(2)(ee)(C), 44-10-309(3), and 44-10-310(10), C.R.S. The purpose of this rule is to clarify factors the State Licensing Authority will consider when determining whether reasonable cause exists to require disclosure, to require a finding of suitability or to extend the 120-day deadline for granting or denying a request for a finding of suitability.

2-240 – Factors Considered in Determining Reasonable Cause for Disclosure, Finding of Suitability, and Extension of 120 Day Deadline for Finding of Suitability

A. Non-Exhaustive Factors Informing Reasonable Cause Considerations. The State Licensing Authority may consider the following non-exhaustive factors when evaluating whether Reasonable Cause exists for disclosure, requiring a reasonable cause finding of suitability or extension of time to provide a finding of suitability:

1. The Person provided materially inaccurate or incomplete documents to the Division;

2. The Person failed to provide required documents to the Division;

3. The request for a finding of suitability is sufficiently complex such that a determination cannot be completed within the 120-day deadline specified;

4. Information that an undisclosed Person is controlling or has the ability to control the Regulated Marijuana Business;

5. Information indicating one or more Persons prohibited holds an interest in the Regulated Marijuana Business;

6. Inability to obtain documents or information expected to be available from third-parties or publicly available sources;

7. The Person interfered with, obstructed, or impeded a Division investigation; or

8. The Person failed to make any filing required by a securities regulator or securities exchange that has regulatory oversight over the Person.

Basis and Purpose – 2-245

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(e), 44-10-203(1)(d), 44-10-203(1)(k), 44-10-203(2)(ee)(I)(A) and (E), 44-10-203(7), 44-10-308(3)(b), 44-10-309, 44-10-310, 44-10-311, 44-10-312, 44-10-505(1)(a), and 44-10-605(1)(a), C.R.S. The purpose of this rule is to define the application process and conditions an Applicant or Licensee must meet when changing Beneficial Ownership in a Regulated Marijuana Business. This rule further describes requirements in the event of a dispute between the Controlling Beneficial Owners of a Regulated Marijuana Business.

2-245 – Change of Controlling Beneficial Owner Application or Notification

A. Application for Change of Controlling Beneficial Owner(s) – Not a Publicly Traded Corporation.

1. Division Approval Required Prior to Transfer of Owner's Interest. Unless excepted pursuant to subparagraph (C) of this Rule, a Regulated Marijuana Business that is not a Publicly Traded Corporation must obtain Division approval before it transfers the Owner's Interests of any Controlling Beneficial Owner(s) or before a trust that is a Controlling Beneficial Owner changes its trustee.

2. Documents Required. Any change of owner application regarding a Controlling Beneficial Owner of a Regulated Marijuana Business that does not involve a Publicly Traded Corporation must include the following documents:

a. Asset purchase agreement, merger, sales contract, agreement, or any other document necessary to effectuate the change of owner;

b. Request for a finding of suitability for each proposed Controlling Beneficial Owner(s) who has not already submitted a request for a finding of suitability, who has not already been found suitable, or who does not already hold an Owner License;

c. Operating agreement, by-laws, partnership agreement, or other governing document(s) as will apply to the Regulated Marijuana Business if the change of owner application is approved;

d. Request for voluntary surrender form of the Owner License of any Controlling Beneficial Owner that will not remain a Controlling Beneficial Owner, or Passive Beneficial Owner electing to hold an Owner License in a Regulated Marijuana Business if the change of owner application is approved; and

e. Copy of current Medical Marijuana or Retail Marijuana State Sales Tax or Wholesale license and any other documents necessary to verify tax compliance.

3. Licensee Initiates Change of Owner for Permitted Economic Interests Issued Prior to January 1, 2020. All natural persons holding a Permitted Economic Interest who seek to become a Controlling Beneficial Owner are subject to this Rule. The Regulated Marijuana Business must initiate the change of owner process for a natural person holding a Permitted Economic Interest who seeks to convert its interest and become a Controlling Beneficial Owner in a Regulated Marijuana Business. Prior to submitting a change of owner application, the Permitted Economic Interest holder must obtain a finding of suitability pursuant to Rule 2-235 including any required criminal history record check. Permitted Economic Interest holders who fail to obtain a finding of suitability to become a Controlling Beneficial Owner may remain as a Permitted Economic Interest holder.

B. Change of Owner Involving a Publicly Traded Corporation. This Rule applies to transactions involving any Publicly Traded Corporation.

1. Publicly Traded Corporation Transactions. A Regulated Marijuana Business may transact with a Publicly Traded Corporation in the following ways:

    a. Merger with a Publicly Traded Corporation. A Regulated Marijuana Business or a Controlling Beneficial Owner that intends to receive, directly or indirectly, an investment from a Publicly Traded Corporation, or that intends to merge or consolidate with a Publicly Traded Corporation, whether by way of merger, combination, exchange, consolidation, reorganization, sale of assets or otherwise, including but not limited to any shell company merger.

    b. Investment by a Publicly Traded Corporation. A Regulated Marijuana Business that intends or that has a Controlling Beneficial Owner that intends to transfer, directly or indirectly, ten percent or more of the Securities in the Regulated Marijuana Business to a Publicly Traded Corporation, whether by sale or other transfer of outstanding Securities, issuance of new Securities, or otherwise.

    c. Public Offering. A Regulated Marijuana Business that intends or that has a Controlling Beneficial Owner that intends to become, directly or indirectly, a Publicly Traded Corporation, whether by effecting a primary or secondary offering of its Securities, uplisting of outstanding Securities, or otherwise.

2. Required Finding(s) of Suitability.

    a. Pre-Transaction Findings of Suitability Required. Any Person intending to become a Controlling Beneficial Owner in a Regulated Marijuana Business in connection with any transaction identified in subparagraph (B)(1)(a) through (c) above, must obtain a finding of suitability prior to the Publicly Traded Corporation transaction closing or becoming effective.

    b. Ongoing Suitability Requirements. Any Person who becomes a Controlling Beneficial Owner of a Publicly Traded Corporation that is a Regulated Marijuana Business must apply to the State Licensing Authority for a finding of suitability or an exemption from a finding of a suitability pursuant to Rule 2-235 within forty-five days of becoming a Controlling Beneficial Owner. A Publicly Traded Corporation that is a Regulated Marijuana Business must notify any Person that becomes a Controlling Beneficial Owner of the suitability requirements as soon as the Regulated Marijuana Business becomes aware of the ownership subjecting the Person to this requirement; however, the Controlling Beneficial Owner's obligation to timely request the required finding of suitability is independent of, and unaffected by, the Regulated Marijuana Business's failure to make the notification.

3. Change of Owner Application Required. A Licensee entering into a transaction permitted in subparagraph (B)(1)(a)-(c) above with Publicly Traded Corporation must submit any required change of owner application to the Division prior to the transaction closing. The change of owner application may be submitted simultaneously with the requests for finding(s) of suitability required by subparagraph (B)(2) or after the request(s) for findings of suitability were submitted to the Division.

4. Mandatory Disclosure of Required, United States Securities and Exchange Commission, Canadian Securities Administrators and/or Securities Exchange Filings. A Regulated Marijuana Business and any Controlling Beneficial Owner that is required to file any document with the United States Securities and Exchange Commission, the Canadian Securities Administrators, any other similar securities regulator or any securities exchange regarding any change of owner in subparagraphs (B)(1)(a) through (c) above must also provide a notice to the Division at the same time as the filing with the United

States Securities and Exchange Commission, the Canadian Securities Administrators or the securities exchange.

5. Ordinary Broker Transactions. Resales or transfers of Securities of a Publicly Traded Corporation that is a Regulated Marijuana Business or Controlling Beneficial Owner or Passive Beneficial Owner in ordinary broker transactions through an established trading market do not require a change of owner application or prior approval from the State Licensing Authority.

C. Exemptions to the Change of Owner Application Requirement.

1. Entity Conversions or Change of Legal Name. A Regulated Marijuana Business or a Controlling Beneficial Owner may combine with or convert, including but not limited to under sections 7-90-201 et seq., C.R.S., for the exclusive purpose of changing its Entity jurisdiction to one of the states or territories of the United States or the District of Columbia, its Entity type or change the legal name of an Entity without filing a change of owner application. These exemptions apply only if the Controlling Beneficial Owners and their Owner's Interests will remain the same after the combination, conversion, or change of legal name, and there will not be any new Controlling Beneficial Owners (individuals or Entities). Within fourteen days of the combination, conversion, or change of legal name the Regulated Marijuana Business must submit the following to the Division:

a. A copy of the transaction documents;

b. Documents submitted to the Colorado Secretary of States;

c. Any document submitted to the secretary of state or similar regulator if the Entity is organized under the laws of a state of the United States other than Colorado, a territory of the United States, or the District of Columbia;

d. Identification of the Regulated Marijuana Business's or Controlling Beneficial Owner's registered agent;

e. Identification of any Passive Beneficial Owner and Indirect Financial Interest Holder for which disclosure is required by Rule 2-230; and

f. The fee required by Rule 2-205(F)(2)(b).

2. Reallocation of Owner's Interests Among Controlling Beneficial Owners. A Regulated Marijuana Business may reallocate Owner's Interests among existing Controlling Beneficial Owners holding valid Owner Licenses if it provides notification of the reallocation to the Division with its next application submission as long as there are no new Controlling Beneficial Owners. Reallocations that are solely a result of adding, removing, or changing Passive Beneficial Owners are not subject to this Rule 2-245(C)(2), but are subject to the requirements in Rule 2-245(C)(5). A reallocation under this Rule is subject to the following requirements:

a. All Owner's Interests of a Controlling Beneficial Owner may be reallocated to other existing Controlling Beneficial Owners;

b. Only consensual reallocations where all Controlling Beneficial Owners whose ownership percentages will change agree to the reallocation are permitted under this Rule. Proof that the transfer was consensual may include affirmation from all Controlling Beneficial Owners for which the Owner's Interests were reallocated in the required disclosure at the next application submission.

c. If any Controlling Beneficial Owner will not hold any Owner's Interest in a Regulated Marijuana Business following the reallocation, that Controlling Beneficial Owner shall voluntarily surrender his or her Owner's License and identification badge within 30 days of the reallocation;

d. All Controlling Beneficial Owners remain responsible for all actions of the Regulated Marijuana Business while they were a Controlling Beneficial Owner and are subject to administrative action based on the same regardless of the reallocation; and

e. Disclosure and submission of the fee required by Rule 2-205(F)(2)(b) at the next application submission which shall not be longer than 365 days.

3. Passive Beneficial Owner Licensed Prior to August 1, 2019. A Passive Beneficial Owner who was issued an Owner License prior to August 1, 2019, and who has continuously maintained that license, is not required to submit a change of owner application if he or she becomes a Controlling Beneficial Owner in the business license(s) with which the Owner License is associated but must disclose and submit the fee required by Rule 2-205(F)(2)(b) at the next application submission, which shall not be longer than 365 days.

4. Change of Executive Officer or Member of the Board of Directors. A change of owner application is not required for a change of an Executive Officer or member of the board of directors of a Regulated Marijuana Business or an Owner Entity License of a Regulated Marijuana Business so long as the new Executive Officer or member of the board of directors does not possess ten percent or more of the Owner's Interest in the Regulated Marijuana Business or is otherwise Controlling the Regulated Marijuana Business. However, a change of Executive Officer or member of the board of directors is subject to the following requirements:

a. Any such Executive Officer or member of the board of directors of the Regulated Marijuana Business must notify the Division of the new Controlling Beneficial Owner, Executive Officer, or member of the board of directors and submit a request for a finding of suitability as required by Rule 2-235(A)(1)(a) unless exempt under subparagraph (b) of this Rule 2-245(C)(4); or,

b. If exempt from a finding of suitability pursuant to Rule 2-235(E), the Regulated Marijuana Business subject to any such change of the Executive Officer or members of their board of directors, whether adding or removing, must provide notice to the Division of the new Controlling Beneficial Owner within forty-five days.

c. The fee required by Rule 2-205(F)(2)(b).

5. Change of Passive Beneficial Owner. Persons are not required to submit an application or obtain prior approval of their ownership, or provide notification, if: (1) the person was not a Direct Beneficial Interest Owner prior to November 1, 2019, (2) the Person will remain a Passive Beneficial Owner after the acquisition of Owner's Interests is complete, (3) the transfer will not create any previously undisclosed Controlling Beneficial Owner, and (4) disclosure is not otherwise required by section 44-10-309, C.R.S., or Rule 2-230.

D. Change of Owner Requirements, Restrictions and Procedures Applicable to All Regulated Marijuana Businesses.

1. Application Signature Requirements. All applications for change of Controlling Beneficial Owner(s) must be executed by every Controlling Beneficial Owner whose Owner's

Interests are proposed to change and any Person proposed to become a Controlling Beneficial Owner(s). Controlling Beneficial Owners whose Owner's Interest will not change are not required to execute the change of owner application; however, at least one Controlling Beneficial Owner and all Persons proposed to become a Controlling Beneficial Owner must execute every change of owner application.

2. Process for Approval. Upon completion of the investigation of a change of owner application, the State Licensing Authority will issue a contingent approval letter. However, the State Licensing Authority will not issue the state license until:

   a. Local Approval Required. If local approval is required, the proposed Controlling Beneficial Owner(s) demonstrates to the State Licensing Authority that local approval has been obtained and notifies the State Licensing Authority of the date by which the change of owner will be completed, which must be within thirty days of the notification. The proposed Controlling Beneficial Owner's notification to the Division must be within 365 days of the issuance of the Division's contingent approval letter.

      i. If a Local Licensing Authority or Local Jurisdiction requires a change of owner application and that application is denied, the State Licensing Authority will deny the State change of owner application;

   b. No Local Approval Required. If local approval is not required, the proposed Controlling Beneficial Owner(s) demonstrates that such approval is not required and notifies the State Licensing Authority of the date by which the change of owner will be completed, which must be within thirty days of the of the notification. However, the proposed Controlling Beneficial Owner's notification to the Division must be made within 365 days of issuance of the Division's contingent approval letter.

   c. Contingent Approval. Contingent approval pursuant to this subparagraph (D)(2) is valid for one year from the date it is issued by the State Licensing Authority. If more than one year has passed since the State Licensing Authority issued contingent approval to a Person and such Person during that time has not met the requirements of Rule 2-245(D)(2)(a) or 2-245(D)(2)(b) to complete the Change of Beneficial Owner Application, then such Person shall submit a new Change of Controlling Beneficial Owner Application. The State Licensing Authority in their discretion may extend the contingent approval upon written request.

3. Operational Restrictions Pending All Required Approvals. Unless otherwise provided under these Rules, any proposed new Controlling Beneficial Owner cannot operate the Regulated Marijuana Business for which it intends to become a Controlling Beneficial Owner until it receives any required finding of suitability and is issued all approvals and/or license(s) pursuant to any change of owner application required by this Rule. Controlling Beneficial Owners that have already been approved in connection with ownership of the Regulated Marijuana Business may continue to operate the Regulated Marijuana Business. A violation of this requirement is grounds for denial of the change of owner application, may be a violation affecting public safety, and may result in disciplinary action against existing license(s).

4. Modifications to Change of Owner Applications. If anything in a change of owner application is modified or changed after the Division approves the application, the Licensee must submit a new change of owner application, unless exempted by the Division prior to completing the change of owner.

5. Regulated Marijuana Business Subject to Investigation or Administrative Action. If a Regulated Marijuana Business or any of its Controlling Beneficial Owner(s) apply for a change of owner and is involved in an administrative investigation or administrative action, the following may apply:

    a. The change of owner application may be delayed or denied until the administrative action is resolved; or

    b. If the change of owner application is approved by the Division, the transferor, the transferee, or both may be responsible for the actions of the Regulated Marijuana Business and its prior Controlling Beneficial Owner(s), and subject to discipline based upon the same.

6. Repealed.

E. Refundable and Nonrefundable Deposits Permitted. A proposed Controlling Beneficial Owner may provide a selling Controlling Beneficial Owner with a refundable or nonrefundable deposit in connection with a change of owner application.

F. Controlling Beneficial Owner Dispute.

1. In the event of a dispute between Controlling Beneficial Owner(s) not involving divestiture under Rule 2-275 and precluding or otherwise impeding the ability to comply with these Rules, a Regulated Marijuana Business that is not a Publicly Traded Corporation must submit a change of owner application, notification pursuant to subparagraph (C) of this Rule, or initiate mediation, arbitration, or a judicial proceeding within 90 days of the dispute. The 90-day period may be extended for an additional 90 days upon a showing of good cause by the Regulated Marijuana Business.

2. A Regulated Marijuana Business that is not a Publicly Traded Corporation must submit a change of owner application or notification pursuant to subparagraph (C) of this Rule within forty-five days of entry of a final court order, final arbitration award, or full execution of a settlement agreement altering the Controlling Beneficial Owner(s) of a Regulated Marijuana Business. Any change of owner application or notification based on a final court order, final arbitration award, or fully executed settlement agreement must include a copy of the order or settlement agreement and remains subject to approval by the Division. In this circumstance, the change of owner application or notification needs to be executed by at least one remaining Controlling Beneficial Owner.

3. If mediation, arbitration, or a judicial proceeding is not timely initiated, or if a change of owner application or notification pursuant to subparagraph (C) of this Rule is not timely submitted following entry of a final court order, final arbitration award, or full execution of a settlement agreement altering the Controlling Beneficial Owner(s) of a Regulated Marijuana Business that is not a Publicly Traded Corporation, the Regulated Marijuana Business and its Owner Licensee(s) may be subject to fine, suspension, or revocation of their license(s).

Basis and Purpose – 2-250

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(e), 44-10-203(2)(ee)(I), 44-10-203(7), and 44-10-309(6), C.R.S. The purpose of this rule is to require notification to the State Licensing Authority of any filing with a securities regulator by an Applicant or Licensee.

2-250 – Regulated Marijuana Business that is a Publicly Traded Corporation – Notification of Non-Confidential Securities Filings

A. A Regulated Marijuana Business that is a Publicly Traded Corporation must provide notice on Division forms within two business days of any non-confidential filing with the United States Securities and Exchange Commission, the Canadian Securities Administrators, any other securities regulator, or any security exchange on which the Securities are listed or traded. The notice must identify the title of the document and include a hyperlink to the website where the document is publicly available (example EDGAR or SEDAR link for the Publicly Traded Corporation).

B. In addition to any other administrative or investigative requests or inquiries, the Division may contact a Regulated Marijuana Business that is a Publicly Traded Corporation to obtain clarification of a securities filing.

C. This Rule is currently limited to require notice of securities filings that are not confidential. However, this Rule may be evaluated during subsequent rulemaking proceedings and/or in connection with development of a policy regarding confidential securities filings.

Basis and Purpose – 2-255

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(e), 44-10-203(2)(w), 44-10-203(2)(cc), 44-10-305, 44-10-313(8), and 44-10-313(13), C.R.S. The purpose of this rule is to clarify the application process for changing location of a Licensed Premises. This rule also provides the requirements for a Medical Marijuana Cultivation Facility or a Retail Marijuana Cultivation Facility to obtain a transition permit.

2-255 – Change of Location of a Regulated Marijuana Business

A. Application Required Before Changing Location of Licensed Premises. A Regulated Marijuana Business must apply for and receive Division approval before changing the location of its Licensed Premises.

B. Application Requirements. A change of location application must include the following:

1. At least one signature of a Controlling Beneficial Owner and representation that the signing Controlling Beneficial Owner(s) is/are authorized to submit the application on behalf of the Regulated Marijuana Business.

2. Evidence the Local Licensing Authority and/or Local Jurisdiction in which the Regulated Marijuana Business proposes to move have approved the proposed new location.

3. The deed, lease, sublease, rental agreement, contract, or any other document(s) establishing the Licensee is, or will be, entitled to possession of the premises for which the application is made.

4. Legible and accurate diagram for the proposed licensed Premises that complies with the requirements of the 3-200 Series Rules. The diagram must include a plan for the proposed Licensed Premises and a separate plan for the security/surveillance plan including camera location, number and direction of coverage. If the diagram is larger than 8.5 inches x 11 inches, the Applicant must also provide the diagram in a portable document format (.pdf).

C. Change of Location Permit Required.

1. A Regulated Marijuana Business cannot change the location of its Licensed Premises until it receives a change of location permit from the Division.

2. The permit is effective on the date of issuance, and the Licensee must, within 120 days, change the location of its Regulated Marijuana Business to the place specified in the change of location permit and at the same time cease to operate a Regulated Marijuana Business at the former location. For good cause shown, the 120-day deadline may be extended an additional 120 days.

3. If the Regulated Marijuana Business does not change the location of its Licensed Premises within the time period granted by the Division, including any extension, the Regulated Marijuana Business must submit a new application, pay the change of location fee, and receive a new change of location permit prior to changing the location of its Licensed Premises.

4. A Regulated Marijuana Business cannot operate or exercise any of the privileges of its license(s) in both locations, unless a Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility has received a transition permit.

D. Medical Marijuana Cultivation Facilities and Retail Marijuana Cultivation Facilities - Transition Permit. A Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility that has obtained an approved change of location from the State Licensing Authority may operate one License at two geographical locations for the purpose of transitioning operations from one location to the other, subject to the following requirements:

1. A Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility may apply for a transition permit and a change of location at the same time. The Division will not accept an application for a transition permit unless it is submitted prior to or concurrently with a change of location application. A Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility is prohibited from exercising the privileges of a transition permit until it has also received all required approvals for a change of location.

2. A Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility that has an approved change of location and a transition permit must comply with the following requirements:

   a. The total plants cultivated at both locations do not exceed any plant count limit imposed on the Licensee by the Marijuana Code and these rules;

   b. The Licensed Premises of both geographical locations comply with all surveillance, security, and inventory tracking requirements imposed by the Marijuana Code and these rules at the Rule 3-200 Series and 3-800 Series;

   c. Both geographical locations shall track all Regulated Marijuana plants in transition in the Inventory Tracking System to ensure proper tracking for taxation purposes;

   d. Operation at both geographical locations does not exceed 180 days, unless Licensee demonstrates good cause to extend the deadline an additional 180 days; and

   e. The Licensee obtains a transition permit pursuant to this Rule and any local permit or license, as required by the Local Licensing Authority or Local Jurisdiction.

3. Change of Location in the Same Local Jurisdiction. If the change of location is within the same local jurisdiction, the Licensee must:

a. First obtain a transition permit pursuant to this Rule; and

b. If required by the Local Licensing Authority or Local Jurisdiction, obtain a transition permit or other form of approval from the Local Licensing Authority or Local Jurisdiction.

4. Change of Location to a Different Local Jurisdiction. If the change of location is to a different local jurisdiction, the Licensee must:

a. First obtain a license from the Local Licensing Authority or Local Jurisdiction where the Licensee intends to locate;

b. Obtain a transition permit pursuant to this Rule; and

c. If required by the Local Licensing Authority or Local Jurisdiction, obtain a transition permit or other form of approval from the Local Licensing Authority or Local Jurisdiction for the local jurisdiction where it intends to locate.

5. Conduct at either location may be basis for fine, suspension, revocation, or other sanction against the License.

E. Violation Affecting Public Safety. It is a violation affecting public safety if a Regulated Marijuana Business changes the location of its Licensed Premises without first obtaining a change of location permit from the Division, and any required approval(s) from the Local Licensing Authority and/or Local Jurisdiction.

Basis and Purpose – 2-260

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(e), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(h), 44-10-203(2)(w), 44-10-305, 44-10-313(8)(b), and 44-10-313(2) C.R.S. The purpose of this rule is to establish guidelines for changing, altering, modifying, or transitioning the Licensed Premises. This Rule 2-260 was previously Rules M and R 303, 1 CCR 212-1 and 1 CCR 212-2.

2-260 – Changing, Altering, or Modifying Licensed Premises

A. Application Required to Change, Alter, or Modify Licensed Premises. After obtaining a license, the Licensee shall make no physical change, alteration, or modification of the Licensed Premises that significantly alters the Licensed Premises or the usage of the Licensed Premises from the plans originally approved, without the Division's prior written approval and, written approval or written acknowledgement from the relevant Local Licensing Authority or Local Jurisdiction. The Licensee whose Licensed Premises are to be significantly changed is responsible for filing an application for approval on current forms provided by the Division. Changes to the Licensed Premises which do not require an application must be disclosed on a floorplan submitted with the Licensee's renewal application.

B. What Constitutes a Significant Change. This Rule does not exempt Licensees from complying with any Local Licensing Authority or Local Jurisdiction requirements regarding changes, alterations, or modifications to the Licensed Premises. Significant changes, alterations, or modifications requiring Division approval include, but are not limited to, the following:

1. Any increase or decrease in the total physical size or capacity of the Licensed Premises;

2. The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, walk-up window or drive-up window,

when such common entryway, doorway, passage, walk-up or drive-up window alters or changes Limited Access Areas, such as the cultivation, harvesting, manufacturing, testing, or sale of Regulated Marijuana within the Licensed Premises; or

3. Any physical modification of the Licensed Premises which would require the installation of additional video surveillance cameras. *See* Rule 3-225 – Video Surveillance.

C. Attachments to Application. The Division and relevant Local Licensing Authority or Local Jurisdiction may grant approval for the types of changes, alterations, or modifications described herein upon the filing of an application by the Licensee and payment of any applicable fee. The Licensee must submit all information requested by the Division, including but not limited to, documents that verify the following:

1. The Licensee will continue to have possession of the Licensed Premises, as changed, by ownership, lease, or rental agreement; and

2. The proposed change conforms to any local restrictions related to the time, manner, and place of Regulated Marijuana Business regulation.

D. Application Required to Change Mobile Premises. After obtaining a License, a Marijuana Hospitality Business Licensee must apply for Division approval to change the Mobile Premises. The Licensee whose Mobile Premises is to be changed is responsible for filing an application for approval on current forms provided by the Division.

1. The Application to change Mobile Premises must include the following:

a. Documentation that the Mobile Premises is owned or leased by the Marijuana Hospitality Business;

b. The vehicle manufacturer/make, model, and model year associated with the Mobile Premises;

c. The vehicle identification number (VIN) associated with the Mobile Premises;

d. The Colorado license plate number and copy of the registration associated with the Mobile Premises;

e. If applicable, the automatic vehicle identification tag associated with the Mobile Premises;

f. A copy of a valid permit issued by the Public Utilities Commission to the Marijuana Hospitality Business; and

g. Information demonstrating the proposed Mobile Premises meets the requirements in Rule 6-940(E).

Basis and Purpose – 2-265

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(2)(b)-(c), 44-10-203(2)(e), 44-10-203(2)(t)-(u), 44-10-203(2)(w), 44-10-307, 44-10-308(2), 44-10-313(6), 44-10-401(2)(c), 44-10-901(1), 24-76.5-101 *et seq*., C.R.S. Historically, natural persons who held an Owner's Interest in a Regulated Marijuana Business were required to hold an Associated Key License. This Rule transitions the Associated Key designation to an Owner License designation after August 1, 2019. The purpose of this rule is to clarify the requirements and procedures a Person must follow when applying for or possessing either an Owner License or an Employee License. This rule also

identifies factors the State Licensing Authority will consider in determining whether a natural person is a resident and whether such person possess good moral character.

2-265 – Owner and Employee License: License Requirements, Applications, Qualifications, and Privileges

A. Repealed.

B. Owner Licenses Required.

1. Each Controlling Beneficial Owner must hold a valid Owner License.

2. If a Controlling Beneficial Owner is an Entity, then its Executive Officer(s) and any natural person who indirectly holds ten percent or more of the Owner's Interests in the Regulated Marijuana Business must also hold a valid Owner's License.

a. The existence of an Owner Entity does not relieve the Owner Licensees from responsibility for acts and violations of the Regulated Marijuana Business.

3. A Passive Beneficial Owner who is a natural person may elect to hold an Owner License and obtain an Owner Identification Badge provided that such Person agrees to be disclosed as holding an Owner's Interest in the Regulated Marijuana Business.

4. Only Controlling Beneficial Owners and Passive Beneficial Owners can obtain an Owner License.

C. Owner License and Identification Badge or Employee License and Identification Badge Required. The following natural persons must possess a valid Owner License and Identification Badge or an Employee License and Identification Badge:

1. Any natural person who possesses, cultivates, manufactures, tests, dispenses, sells, serves, transports, or delivers Regulated Marijuana or Regulated Marijuana Products as permitted by privileges of a Regulated Marijuana Business license;

2. Any natural person who has access to the Inventory Tracking System or a Regulated Marijuana Business point-of-sale system; and

3. Any natural person with unescorted access in the Limited Access Area.

D. Escort or Monitoring Required.

1. Any natural person in a Limited Access Area that does not have a valid Owner License and Identification Badge or an Employee License and Identification Badge is a visitor and must be escorted at all times by a person who holds a valid Owner License and Identification Badge or Employee License and Identification Badge. Failure by a Regulated Marijuana Business to continuously escort an individual who does not have a valid Owner License and Identification Badge or an Employee License and Identification Badge in the Limited Access Area is a license violation affecting public safety.

2. Patients, their caregiver, and consumers in a Restricted Access Area and third-party vendors in a Limited Access Area do not need to be escorted at all times but must be reasonably monitored to ensure compliance with these rules.

E. Employee License Required to Commence or Continue Employment. Any natural person required to obtain an Employee License by these rules must obtain such license before commencing activities permitted by an Employee License.

1. Conditional License. Applicants for an Employee License may be issued a conditional License and Identification Badge upon results of an initial investigation that demonstrates the Applicant is qualified to hold such License in compliance with Rule 2-215, subject to the following requirements:

i. Applications for a conditional Employee License must be submitted in person to the Division to facilitate the issuance and physical transfer of the conditional License to the Applicant. Applications for a conditional Employee License must be accompanied by the Conditional Employee License Fee in Rule 2-205.

ii. The Employee's application remains subject to a Notice of Denial pending the complete results of the Applicant's initial fingerprint-based criminal history record check.

iii. If the Division issues the Applicant a Notice of Denial, the Employee License Applicant shall return the conditional License and Identification Badge within seven (7) days of the Division's mailing of the Notice of Denial.

F. Owner License and Employee License Identification Badges Are Property of the State Licensing Authority. All Owner Licenses and Employee Licenses, and all Identification Badges are property of the State Licensing Authority.

G. Owner and Employee Initial and Renewal Applications Required. Owner Licensees and Employee Licensees must submit initial license applications and renewal applications on Division forms and in accordance with this Rule and Rules 2-215, 2-220, and 2-225.

H. Licenses Requiring Proof of Residency. Where a license issued by the State Licensing Authority requires the Applicant to establish Colorado residency, an Applicant may demonstrate residency by the following methods including, but are not limited to:

1. Current valid Colorado driver's license or current Colorado identification card with a current address; or

2. A government issued photo identification and two of the following documents showing the Applicant's correct name, current date, and current Colorado address:

a. Utility bill or phone bill;

b. Car registration;

c. Voter registration card;

d. Statement from a major creditor;

e. Bank statement;

f. Recent County tax notice;

g. Recent contract/mortgage statement.

I. Owner License Qualifications and Privileges.

1. Owner License Qualifications. Each Controlling Beneficial Owner, or Passive Beneficial Owner who elects to be subject to disclosure and licensure, must meet the following criteria before receiving an Owner License:

    a. The Applicant is not prohibited from licensure pursuant to section 44-10-307, C.R.S.;

    b. The Applicant has not been a State Licensing Authority employee with regulatory oversight responsibilities for Persons licensed by the State Licensing Authority in the six months immediately preceding the date of the Applicant's application;

    c. The Division has not received notice that the Applicant has failed to comply with a court or administrative order for current child support, child support debt, retroactive child support, or child support arrearages. If the Division receives notice of the Applicant's noncompliance pursuant to sections 24-35-116 and 26-13-126, C.R.S., the application may be denied or delayed until the Applicant has established compliance with the order to the satisfaction of the state child support enforcement agency.

    d. Each Controlling Beneficial Owner required to hold an Owner License, and any Passive Beneficial Owner that elects to hold an Owner License, must be fingerprinted at least once every two years, and may be fingerprinted more often at the Division's discretion.

        i. Repealed.

    e. An Owner Licensee who exercises day-to-day operational control on the Licensed Premises of a Regulated Marijuana Business must possess an Identification Badge and must establish and maintain Colorado residency. Proof of residency may be accomplished by submission of the documents identified in Rule 2-265(H). A Controlling Beneficial Owner will not be deemed to exercise day-to-day operational control by reason of holding a title defined as an Executive Officer.

2. Owner License Exercising Privileges of an Employee License. A natural person who holds an Owner License and Identification Badge may exercise the privileges of an Employee License in a Regulated Marijuana Business, subject to the following limitations:

    a. If the Owner Licensee is not a Controlling Beneficial Owner of the Regulated Marijuana Business for which he or she is seeking to exercise the privileges of an Employee License, the Owner Licensee may exercise such Employee License privileges regardless of that Person's residency.

    b. If the Owner Licensee is a Controlling Beneficial Owner of the Regulated Marijuana Business for which he or she is seeking to exercise the privileges of an Employee License, the Owner Licensee may only exercise such Employee License privileges if he or she is a Colorado resident.

3. Business License Required. A natural person cannot hold an Owner License without holding a Regulated Marijuana Business license, or without at least submitting an application for a Regulated Marijuana Business license.

J. Employee License Qualifications and Privileges.

1. Employee License Qualifications and Requirements. An Employee License Applicant must meet the following criteria before receiving an Employee License:

    a. The Applicant is not prohibited from licensure pursuant to section 44-10-307, C.R.S.;

    b. The Applicant has not been a State Licensing Authority employee with regulatory oversight responsibilities for Persons licensed by the State Licensing Authority in the six months immediately preceding the date of the Applicant's application.

    c. The Division has not received notice that the Applicant has failed to comply with a court or administrative order for current child support, child support debt, retroactive child support, or child support arrearages. If the Division receives notice of the Applicant's noncompliance pursuant to sections 24-35-116 and 26-13-126, C.R.S., the application may be denied or delayed until the Applicant has established compliance with the order to the satisfaction of the state child support enforcement agency.

2. Medical and Retail Employee Licenses. A natural person who holds a current, valid Employee License and Identification Badge issued pursuant to the Marijuana Code may work in any Regulated Marijuana Business.

K. Owner Licensees and Employee Licensees Required to Maintain Licensing Qualification. An Owner Licensee or Employee Licensee's failure to maintain qualifications for licensure may constitute grounds for discipline, including but not limited to, suspension, revocation, or fine.

L. Evaluating a Natural Person's Good Moral Character Based on Criminal History.

1. In evaluating whether a Person is prohibited from holding a license pursuant to subsections 44-10-307(1)(b) or (c), C.R.S., based on a determination that the person's criminal history indicates she or he is not of Good Moral Character, the Division will not consider the following:

    a. The mere fact a person's criminal history contains an arrest(s) or charge(s) of a criminal offense that is not actively pending;

    b. A conviction of a criminal offense in which the Applicant/Licensee received a pardon;

    c. A conviction of a criminal offense which resulted in the sealing or expungement of the record;

    d. A conviction of a criminal offense in which a court issued an order of collateral relief specific to the application for state licensure;

    e. A civil judgment or criminal conviction, discipline, or other sanction imposed under the laws of another state regarding consumption, possession, cultivation, or processing of marijuana that is lawful and consistent with professional conduct and standards of care within the State of Colorado; or

    f. The Applicant has been adjudicated for committing a delinquent act in a juvenile proceeding.

2. In evaluating whether a Person is prohibited from holding a license pursuant to subsections 44-10-307(1)(b) or (c), C.R.S., based on a determination that the person's

criminal history indicates he or she is not of Good Moral Character, the Division may consider the following history:

a. Any felony conviction(s), except as set forth in Rule 2-265(L)(1)(e) and 2-265(L)(1)(f);

b. Any conviction(s) of crimes involving moral turpitude;

c. Pertinent circumstances connected with the conviction(s); and

d. Conduct underlying arrest(s) or charge(s) or a criminal offense for which the criminal case is not actively pending.

3. When considering criminal history in subparagraph (L)(2) above, the Division will consider:

a. Whether there is a direct relationship between the conviction(s) and the duties and responsibilities of holding a state license issued pursuant to the Marijuana Code;

b. Any information provided to the Division regarding the person's rehabilitation, which may include but is not limited to the following non-exhaustive considerations:

i. Character references;

ii. Educational, vocational, and community achievements, especially those achievements occurring during the time between the person's most recent criminal conviction and the application for a state license;

iii. Successful participation in an alcohol and drug treatment program;

iv. That the person truthfully and fully reported the criminal conduct to the Division;

v. The person's employment history after conviction or release, including but not limited to whether the person was vetted and approved to hold a state or out-of-state license for the purposes of employment in a regulated industry;

vi. The person's successful compliance with any conditions of parole or probation imposed after conviction or release; or

vii. Any other facts or circumstances tending to show the Applicant has been rehabilitated and is ready to accept the responsibilities of a law-abiding and productive member of society.

Basis and Purpose – 2-270

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(l)-(m), 44-10-203(2)(w), 44-10-305, 44-10-306, 44-10-307, 44-10-313(8), 24-4-104, and 24-4-105, C.R.S. The purpose of this rule is to clarify the procedures and factors governing the denial process and voluntary withdrawal process for all licenses issued by the State Licensing Authority. This Rule 2-270 is similar to the previous Rules M and R 251, 1 CCR 212-1 and 1 CCR 212-2.

2-270 – Application Denial, Voluntary Withdrawal, and Effect of License Surrender or Revocation on Related Applications

A. Applicant Bears the Burden of Proving It Meets Licensure Requirements. A License issued to a Person or a Regulated Marijuana Business is a revocable privilege. At all times during the application process, an Applicant must be capable of establishing it is qualified to hold a License.

B. Applicants Must Provide Information to the Division in a Full, Faithful, Truthful, and Fair Manner. An application may be denied where the Applicant made misstatements, omissions, misrepresentations, or untruths in the application or in connection with the Applicant's suitability investigation. Providing misstatements, misrepresentations, omissions, or untruths to the Division may be the basis for administrative action, or the basis of criminal charges against the Applicant.

C. Grounds for Denial.

1. The State Licensing Authority will deny an application for Good Cause.

2. The State Licensing Authority will deny an application from an Applicant that is statutorily disqualified from holding a license.

3. The State Licensing Authority will deny an application where the Applicant failed to provide all required information or documents, failed to obtain all required findings of suitability prior to submitting the application, provided inaccurate, incomplete, or untruthful information or documents, or failed to cooperate with the Division.

D. Voluntary Withdrawal of Application.

1. The Division and Applicant may mutually agree to allow the voluntary withdrawal of an application in lieu of a denial proceeding.

2. Applicants must first submit a form to the Division requesting the voluntary withdrawal of the application. Applicants will submit the form with the understanding that they were not obligated to request the voluntary withdrawal and that any right to a hearing in the matter is waived once the voluntary withdrawal is approved.

3. The Division will consider the request along with any circumstances at issue with the application in making a decision to accept the voluntary withdrawal. The Division may at its discretion grant the request with or without prejudice or deny the request.

4. The Division will notify the Applicant of its acceptance of the voluntary withdrawal and the terms thereof.

5. If the Applicant agrees to a voluntary withdrawal granted with prejudice, then the Applicant is not eligible to apply again for licensing or approval until after expiration of one year from the date of such voluntary withdrawal.

E. A Denied Applicant May Appeal a Denial. A Denied Applicant may appeal a denial pursuant to the Administrative Procedure Act.

F. Effect of License Surrender or Revocation on Related Applications. If a License is voluntarily surrendered or revoked, and there are related applications that are seeking some change to that License (including, but not limited to, renewal, change of Controlling Beneficial Owner, modification of Licensed Premises, or change of location) pending Final Agency Order, the related applications become moot and those moot applications will be closed by the Division without further action or notification to the Applicant.

Basis and Purpose – 2-275

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(b)-(c), 44-10-203(1)(k), 44-10-203(2)(q), 44-10-203(2)(t), 11-10-310, 44-10-401(3)(a)-(d), C.R.S. The purpose of this rule is to establish procedures and requirements for any Person appointed by a court as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person acting in accordance with sections 44-10-401(3)(a)-(d), C.R.S., and authorized by court order to take possession of, operate, manage, or control a Regulated Marijuana Business. This Rule 2-275 was previously Rules M and R 253, 1 CCR 212-1 and 1 CCR 212-2.

2-275 – Temporary Appointee Registrations for Court Appointees

A. Notice and Application Requirements for All Court Appointees.

1. Notice to the State and Local Licensing Authorities. Within seven days of accepting an appointment as a Court Appointee pursuant to sections 44-10-401(3), C.R.S., such Court Appointee must file a notice to the State Licensing Authority and the applicable Local Licensing Authority on a form required by the State Licensing Authority which must include at least:

a. A copy of the order appointing the Court Appointee;

b. A statement affirming the Court Appointee complied with the certification required by section 44-10-401(3)(a), C.R.S.;

c. If the Court Appointee is an entity, a list of all natural persons responsible for taking possession of, operating, managing, or controlling the Regulated Marijuana Business; and

d. A complete list of all Regulated Marijuana Businesses for which the Court Appointee was appointed and the respective dates during which the Court Appointee is currently serving, or has previously served, as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person.

2. Application for Finding of Suitability. Within 14 days of accepting an appointment as a Court Appointee pursuant to section 44-10-401(3), C.R.S., each Court Appointee must file an application for a finding of suitability with the State Licensing Authority on forms required by the State Licensing Authority. Each entity and natural person for whom a notice was filed pursuant to Rule 2-275(A) must file an application for a finding of suitability. The Division may in its discretion extend the 14-day deadline to file an application for a finding of suitability upon a showing of good cause. The Division may also in its discretion rely upon a recent licensing background investigation for Court Appointees that currently hold a license or Temporary Appointee Registration issued by the State Licensing Authority and may waive all or part of the application fee accordingly.

3. Effective Date. The Temporary Appointee Registration will be issued following the State Licensing Authority's receipt of the notice required by Rule 2-275(A)(1) and is effective as of the date of the court appointment.

B. Temporary Appointee Registration.

1. Entities. If the Court Appointee is an entity, the entity and all natural persons responsible for taking possession of, operating, managing, or controlling the Regulated Marijuana Business must receive a Temporary Appointee Registration. Every Court Appointee that

is an entity must have at least one natural person with a Temporary Appointee Registration.

2. Temporary Appointee Registrations. Every Temporary Appointee Registration issued to a Person will be treated as an Owner License except where inconsistent with section 44-10-401(3), C.R.S., or this Rule.

3. Other employees. Any other person working under the direction of a Court Appointee who possesses, cultivates, manufactures, tests, dispenses, sells, serves, transports, researches, or delivers Regulated Marijuana as permitted by privileges granted under a Regulated Marijuana Business license must have a valid Employee License.

4. Licensed Premises. A Court Appointee cannot establish an independent Licensed Premises but is authorized to exercise the privileges of the Temporary Appointee Registration in the Licensed Premises of the Regulated Marijuana Business for which it is appointed.

5. Medical Marijuana Business Operators or Retail Marijuana Business Operators. A Court Appointee may retain a Medical Marijuana Business Operator or a Retail Marijuana Business Operator. If the Medical Marijuana Business Operator or Retail Marijuana Business Operator is the Court Appointee, see subparagraph E of this Rule.

6. Marijuana Code and Rules Applicable. Court Appointees are subject to the requirements of the Marijuana Code and the rules promulgated thereto. Except where inconsistent with section 44-10-401(3), C.R.S., or this Rule, the State Licensing Authority may take any action with respect to a Temporary Appointee Registration that it could take with respect to any license issued under the Marijuana Code. In any action involving a Temporary Appointee Registration, these rules will be read to include the terms “registered”, “registration”, “registrant”, or any other similar terms in lieu of “licensed”, “licensee”, and any other similar terms as the context requires when applied to a Temporary Appointee Registration.

C. Administrative Actions.

1. Suspension, Revocation, Fine, or Other Administrative Action Regarding a Regulated Marijuana Business. In addition to any other basis for suspension, revocation, fine, or other administrative action, a Regulated Marijuana Business’s license may, pursuant to subsections 44-10-202(1)(b), 44-10-401(3)(b), and 44-10-901(1), C.R.S., be suspended, revoked, fined, or subject to other administrative action based upon its Court Appointee’s violations of the Marijuana Code, the rules promulgated pursuant to the Marijuana Code, the terms, conditions, or provisions of the Temporary Appointee Registration issued by the State Licensing Authority, or any order of the State Licensing Authority. Grounds for discipline include, but are not limited to, the Court Appointee’s failure to timely notify the Division of the appointment or failure to timely apply for and obtain a finding of suitability. Such administrative action may occur even after the Temporary Appointee Registration is expired or surrendered, if the action is based upon an act or omission that occurred while the Temporary Appointee Registration was in effect.

2. Suspension, Revocation, Fine, or Other Administrative Action Regarding a Temporary Appointee Registration. In addition to any other basis for suspension, revocation, fine, or other administrative action, a Temporary Appointee Registration may, pursuant to subsections 44-10-202(1)(b), 44-10-401(3)(b), and 44-10-901(1), C.R.S., be suspended, revoked, or subject to other administrative action based upon the Court Appointee’s violations of the Marijuana Code or the Rules promulgated pursuant to the Marijuana Code, the terms, conditions, or provisions of the Temporary Appointee Registration issued by the State Licensing Authority, or any order of the State Licensing Authority.

Grounds for discipline include, but are not limited to, the Court Appointee's failure to timely notify the Division of the appointment or failure to timely apply for and obtain a finding of suitability. Such administrative action may occur even after the Temporary Appointee Registration is expired or surrendered, if the action is based upon an act or omission that occurred while the Temporary Appointee Registration was in effect. If a Person holding a Temporary Appointee Registration also holds any other Owner License or Employee License, the Owner License, the Employee License, and the Temporary Appointee Registration may be suspended, revoked, fined, or subject to other administrative action for any violations of the Marijuana Code or the rules promulgated pursuant to the Marijuana Code, the terms, conditions, or provisions of the Temporary Appointee Registration, Owner License, and/or Employee License issued by the State Licensing Authority, or any order of the State Licensing Authority.

3. Suitability. If the State Licensing Authority denies an application for a finding of suitability because the Court Appointee failed to timely apply for a finding of suitability, failed to timely provide all information requested by the Division in connection with an application for a finding of suitability, or was found unsuitable, the State Licensing Authority may also pursue administrative action as set forth in this Rule.

4. Court Appointee's Responsibility to Notify Appointing Court. The Court Appointee must notify the appointing court of any action taken against the Temporary Appointee Registration by the State Licensing Authority pursuant to sections 44-10-901 or 24-4-104, C.R.S., within two business days. Such actions include, without limitation, the issuance of an Order to Show Cause, the issuance of an Administrative Hold, the issuance of an Order of Summary Suspension, the issuance of an Initial Decision by the Department's Hearings Division, or the issuance of a Final Agency Order by the State Licensing Authority. The Court Appointee must forward a copy of such notification to the Division at the same time the notification is made to the appointing court.

D. Expiration and Renewal.

1. Conclusion of Court Appointment. A Court Appointee's Temporary Appointee Registration expires upon the conclusion of a Court Appointee's court appointment. Each Court Appointee and each Regulated Marijuana Business that has a Court Appointee must notify the State Licensing Authority within two business days of the date on which a Court Appointee's court appointment ends, whether due to termination of the appointment by the court, substitution of another Court Appointee, closure of the court case, or otherwise. For a Court Appointee that is appointed in connection with multiple court cases, the notice must be filed with the State Licensing Authority with respect to each such case.

2. Annual Renewal. If it has not yet expired pursuant to Rule 2-270(D)(1), each Temporary Appointee Registration is valid for one year, after which it must be subject to annual renewal in accordance with the Marijuana Code and the rules promulgated pursuant to the Marijuana Code. If a Court Appointee is appointed in connection with multiple court cases, the Temporary Appointee Registration is subject to annual renewal unless all such appointments have ended, whether due to termination of the appointments by the courts, substitution of other Court Appointees, closure of the court cases, or otherwise.

3. Other Termination. A Temporary Appointee Registration may be valid for less than the applicable term if surrendered, revoked, suspended, or subject to similar action.

E. Medical Marijuana Business Operators and/or Retail Marijuana Business Operators as Court Appointees. By virtue of its privileges of licensure, a Medical Marijuana Business Operator, a Retail Marijuana Business Operator, and their respective Owner Licensees may serve as Court Appointees without a Temporary Appointee Registration subject to the following terms:

1. Notice to the State Licensing Authority of Appointment. The Medical Marijuana Business Operator or the Retail Marijuana Business Operator, and its Owner Licensee(s) are responsible for notifying the State Licensing Authority within seven days of any court appointment to serve as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person and take possession of, operate, manage, or control a Regulated Marijuana Business. Such notice must be accompanied by a copy of the order making the appointment and must identify each Regulated Marijuana Business regarding which the Medical Marijuana Business Operator and/or Retail Marijuana Business Operator is appointed.

2. Notice to the Appointing Court of State Licensing Authority Action. The Medical Marijuana Business Operator or the Retail Marijuana Business, and its Owner Licensee(s) are responsible for notifying the appointing court of any action taken against the Medical Marijuana Business Operator license, the Retail Marijuana Business Operator license and/or the Owner License by the State Licensing Authority pursuant to sections 44-10-901 or 24-4-104, C.R.S., within two business days. Such actions include, without limitation, the issuance of an Order to Show Cause, the issuance of an Administrative Hold, the issuance of an Order of Summary Suspension, the issuance of an Initial Decision by the Department's Hearings Division, or the issuance of a Final Agency Order by the State Licensing Authority. The Medical Marijuana Business Operator, the Retail Marijuana Business Operator and its Owner Licensee(s) must forward a copy of such notification to the Division at the same time the notification is made to the appointing court.

Basis and Purpose – 2-280

The statutory basis for this rule includes but is not limited to sections 44-10-203(2)(c), 44-10-203(2)(l), 44-10-203(2)(t), 44-10-203(2)(ee)(D), 44-10-203(7), 44-10-307, 44-10-309(4)-(5), 44-10-310(5) and (11), 44-10-313(8)(a), and 44-10-901, C.R.S. The purpose of this rule is to clarify the conditions and procedures for divestiture of any Person prohibited from holding a license under section 44-10-307, C.R.S., or who is found unsuitable by the State Licensing Authority. This rule also requires that every Regulated Marijuana Business have at least one Controlling Beneficial Owner and provides what happens in the event of suspension of a Regulated Marijuana Business's Controlling Beneficial Owner(s). Finally, this rule provides that Licensees cannot have unlicensed persons take actions on their behalf or for their benefit that the Licensees themselves are prohibited from taking under these rules or the Marijuana Code.

2-280 – Controlling Beneficial Owners that are Persons Prohibited, Unsuitable, Revoked, or Suspended; At Least One Controlling Beneficial Owner Holding a Valid Owner License Required; and Prohibited Third-Party Acts

A. Controlling Beneficial Owners That Are Persons Prohibited, Unsuitable, or Revoked.

1. Less than 100% of all Controlling Beneficial Owners – Divestiture. If less than 100% of a Regulated Marijuana Business's Controlling Beneficial Owners are or become a Person prohibited from holding a license by these Rules or the Marijuana Code, have his or her Owner License revoked by a Final Agency Order, or are found unsuitable, the Regulated Marijuana Business must divest all of the Beneficial Ownership of that Controlling Beneficial Owner.

a. Unless extended for good cause, within 90 days of a Controlling Beneficial Owner becoming a Person prohibited from holding a license, having his or her Owner License revoked, or being found unsuitable, the Regulated Marijuana Business must either:

i. Submit a change of owner application, where required, and any document(s) necessary to transfer all of that Controlling Beneficial

Owner's Interests to one or more Persons that are not prohibited from holding a license or unsuitable. Any required change of owner application is subject to approval by the Division; or

ii. Where a change of owner application is not required, transfer all of that Controlling Beneficial Owner's Interests to one or more Persons that are not a Person prohibited from holding a license or unsuitable.

b. In determining whether good cause for an extension exists, the Division will consider whether there is any Owner Interest buy-back provision with the Controlling Beneficial Owner. If mediation, arbitration, or a legal proceeding has been initiated regarding the required divestiture, the 90-day deadline is extended until 90 days following execution of a settlement agreement, arbitration order, or final judgment concluding the mediation, arbitration, or legal proceeding.

c. A Regulated Marijuana Business that is a Publicly Traded Corporation must have a divestiture plan with its Controlling Beneficial Owners which must be disclosed to the Division pursuant to Rule 2-220(A).

d. A Regulated Marijuana Business that fails to divest a Controlling Beneficial Owner as required by this Rule may be subject to denial, fine, suspension, or revocation of its license(s). The State Licensing Authority may consider aggravating and mitigating factors surrounding measures taken to divest the unsuitable or Person prohibited from holding a license when determining the imposition of a penalty. However, a Regulated Marijuana Business that is unable to divest a Controlling Beneficial Owner that is a Person prohibited from holding a license or found unsuitable is prohibited from being issued or holding a license.

2. All Controlling Beneficial Owners are Unsuitable, Revoked, or Persons Prohibited From Holding a License. A Regulated Marijuana Business's License may be revoked if 100% of its Controlling Beneficial Owners are found unsuitable, have his or her Owner's License revoked, or are Persons prohibited from holding a license by these Rules or the Marijuana Code.

B. Suspension of Controlling Beneficial Owners.

1. Suspension of Less than 100% of the Controlling Beneficial Owner(s) of a Regulated Marijuana Business. In the event of the suspension of the Owner License of a Controlling Beneficial Owner, either (i) the Regulated Marijuana Business must comply with all requirements of Rule 8-210 – Disciplinary Process: Summary Suspensions, or (ii) the non-suspended Owner Licensee(s) must control the Regulated Marijuana Business without participation from the suspended Controlling Beneficial Owner(s).

2. Suspension of 100% of the Controlling Beneficial Owners of a Regulated Marijuana Business. A Regulated Marijuana Business cannot operate or Transfer Regulated Marijuana if all Controlling Beneficial Owners are suspended.

C. At Least One Controlling Beneficial Owner Holding a Valid Owner License Required. No Regulated Marijuana Business may operate or be licensed unless it has at least one Controlling Beneficial Owner who holds a valid Owner License.

D. Loss Of Owner License As A Controlling Beneficial Owner Of Multiple Businesses. If an Owner License is suspended, revoked, or found unsuitable as to one Regulated Marijuana Business, that Owner License is automatically suspended, revoked, or found unsuitable as to any other Regulated Marijuana Business in which that Person is a Controlling Beneficial Owner.

E. Prohibited Third-Party Acts. No Licensee may employ, contract with, hire, or otherwise retain any Person, including but not limited to an employee, agent, or independent contractor, to perform any act or conduct on the Licensee's behalf or for the Licensee's benefit if the Licensee is prohibited by law or these rules from engaging in such conduct itself.

1. A Licensee may be held responsible for all actions and omissions of any Person the Licensee employs, contracts with, hires, or otherwise retains, including but not limited to an employee, agent, or independent contractor, to perform any act or conduct on the Licensee's behalf or for the Licensee's benefit.

2. A Licensee may be subject to license denial or administrative action, including but not limited to fine, suspension, or revocation of its license(s), based on the act and/or omissions of any Person the Licensee employs, contracts with, hires, or otherwise retains, including but not limited to an employee, agent, or independent contractor, to perform any act or conduct on the Licensee's behalf or for the Licensee's benefit.

Basis and Purpose – 2-285

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(aa), 44-10-310(2), and 44-10-311(2), 44-10-401(2)(b)(I), 44-10-401(2)(b)(VII), 44-10-401(2)(b)(VIII), 44-10-607, 44-10-608, 44-10-611 C.R.S. The purpose of this rule is to establish requirements for Accelerator-Endorsed Licensees participating in the accelerator program.

2-285 – Accelerator Endorsement Application, Qualification, and Eligibility

A. Beginning January 1, 2021, Retail Marijuana Store Licensees, Retail Marijuana Cultivation Facility Licensees, and Retail Marijuana Products Manufacturers Licensees may apply for an endorsement to participate in the accelerator program. The application shall be made on Division forms and in accordance with the 2-200 Series Rules.

B. Qualifications and Eligibility. The State Licensing Authority may consider the following facts and circumstances for purposes of determining a Licensees' qualifications and eligibility to be an Accelerator-Endorsed Licensee.

1. The Applicant has not, in the previous two years, been subject to a license revocation or active suspension issued by the State Licensing Authority, any Local Licensing Authority or Local Jurisdiction, or any other state in which it operated.

2. Information demonstrating the Applicant operated its license for at least two years prior to the date of application; or if the Applicant is unable to demonstrate operations for a period of at least two years, it must satisfy at least one of the following:

a. The Applicant possesses a valid commercial marijuana license issued in another state and has operated such license for the preceding two years;

b. For the preceding two years the Applicant has participated in an accelerator, incubator, or social equity program that may, but is not required to be, associated with the commercial marijuana industry;

c. The Applicant has at least two years of regulated cannabis industry experience at a managerial or executive level; or

d. The Applicant has at least two years of business experience in a highly regulated industry other than the marijuana industry.

C. Application Requirements. In addition to all other application requirements outlined in the 2-200 Series Rules, an application to become an Accelerator-Endorsed Licensee must include the Applicant's equity assistance proposal, containing the information required by the 3-1100 Series Rules.

D. The Division will maintain a list of Accelerator-Endorsed Licensees on its website. By submitting an application to become an Accelerator-Endorsed Licensee, the Applicant authorizes the State Licensing Authority to publish the Applicant's name on the Division's website.

Part 3 – Regulated Marijuana Business Operations

3-100 Series – General Privileges and Limitations

Basis and Purpose – 3-105

The statutory authority for this rule includes but is not limited to sections 44-10-102(2), 44-10-102(3), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-401(2), 44-10-701(2)(a), 44-10-701(2)(c), and 44-10-701(3)(e), C.R.S. The purpose of this rule is to establish that it is unlawful for any Regulated Marijuana Business Licensee to exercise any privileges other than those granted to it by the State Licensing Authority.

3-105 – Regulated Marijuana Businesses: Privileges Granted

A Regulated Marijuana Business shall only exercise those privileges granted to it by the State Licensing Authority.

Basis and Purpose – 3-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-401(2), 44-10-701(1)(a), 44-10-701(3)(d), and 44-10-701(3)(f), C.R.S. The purpose of this rule is to clarify that, except for in a Licensed Hospitality Business, it is unlawful for a Regulated Marijuana Business to allow consumption on the Licensed Premises.

3-110 – Regulated Marijuana Businesses: General Restrictions

A. Consumption Prohibited.

1. Applicability. This subparagraph (A) applies to all Regulated Marijuana Businesses, except Licensed Hospitality Businesses.

2. Licensees shall not permit the consumption of marijuana or marijuana product on the Licensed Premises or in transport vehicles, including any Sampling Units Transferred to a Sampling Manager.

B. Alcohol Beverage License Prohibited. A Person may not operate a license issued pursuant to the Marijuana Code and these rules at the same Licensed Premises as a license or permit issued pursuant to article 3, 4 or 5 of Title 44.

Basis and Purpose – 3-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-401(2), and 44-10-701(2)(a), C.R.S. The purpose of this rule is to clarify those acts that are limited or prohibited in some way and to make clear that a Regulated Marijuana Business shall not offer or receive complimentary Regulated Marijuana from a licensed transporter.

3-115 – Transporter Transfer Restriction

A Licensee shall not sell or give away Regulated Marijuana to a Medical Marijuana Transporter or Retail Marijuana Transporter, and shall not buy, or receive, complimentary Regulated Marijuana from a Medical Marijuana Transporter or Retail Marijuana Transporter.

3-200 Series – Licensed Premises

Basis and Purpose – 3-205

The statutory authority for this rule includes but is not limited to sections 44-10-103(14), 44-10-103(26), 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(p), and 44-10-203(2)(t), C.R.S. The purpose of this rule is to establish Limited Access Areas for Licensed Premises under the control of the Licensee to only individuals licensed by the State Licensing Authority. In addition, this rule clarifies that businesses and individuals cannot use the visitor system as a means to employ an individual who does not possess a valid and current Employee License. This Rule was previously Rules M and R 301, 1 CCR 212-1 and 1 CCR 212-2.

3-205 – Limited Access Areas

A. Proper Display of Identification Badge. All Persons in a Limited Access Area as provided for in section 44-10-103(26) C.R.S., shall be required to hold and properly display a current Identification Badge issued by the Division at all times. Proper display of the Identification Badge shall consist of wearing the badge in a plainly visible manner, at or above the waist, and with the photo of the Licensee visible. The Licensee shall not alter, obscure, damage, or deface the badge in any manner.

B. Visitors in Limited Access Areas.

1. Prior to entering a Limited Access Area, all visitors, including outside vendors, contractors or others, must obtain a visitor identification badge from management personnel of the Licensee that shall remain visible while in the Limited Access Area.

2. Visitors shall be escorted by the Regulated Marijuana Business's licensed personnel at all times. No more than five visitors may be escorted by a single employee. Except that trade craftspeople, including but not limited to ancillary business operators, not normally engaged in the business of cultivating, processing, or selling Regulated Marijuana need not be accompanied on a full-time basis, but only reasonably monitored.

3. A Regulated Marijuana Business and all Licensees employed by the Regulated Marijuana Business shall report to the Division any discovered plan or other action of any Person to (1) commit theft, burglary, underage sales, diversion of marijuana or marijuana product, or other crime related to the operation of the subject Regulated Marijuana Business; or (2) compromise the integrity of the Inventory Tracking System. A report shall be made as soon as possible after the discovery of the action, but not later than 14 days. Nothing in this paragraph (B) alters or eliminates any obligation a Regulated Marijuana Business or Licensee may have to report criminal activity to a local law enforcement agency.

4. The Licensee shall maintain a log of all visitor activity, for any purpose, within the Limited Access Area and shall make such logs available for inspection by the Division and relevant Local Licensing Authority or Local Jurisdiction.

5. All visitors admitted into a Limited Access Area must provide acceptable proof of age and must be at least 21 years of age. *See* Rule 3-405 – Acceptable Forms of Identification.

6. The Licensee shall check the identification for all visitors to verify that the name on the identification matches the name in the visitor log. *See* Rule 3-405 – Acceptable Forms of Identification.

7. A Licensee may not receive consideration or compensation for permitting a visitor to enter a Limited Access Area.

8. Use of a visitor badge to circumvent the Employee License requirements of Rule 2-265 is prohibited and may constitute a license violation affecting public safety.

C. Required Signage. All areas of ingress and egress to Limited Access Areas on the Licensed Premises shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Do Not Enter - Limited Access Area – Access Limited to Licensed Personnel and Escorted Visitors." A Licensee may comply with this paragraph (C) when that sign is conspicuously placed immediately within an exterior entrance that is locked against public entry and only accessible to limited, licensed personnel and escorted visitors.

D. Diagram for Licensed Premises. All Limited Access Areas shall be clearly identified to the Division and relevant Local Licensing Authority or Local Jurisdiction and described in a diagram of the Licensed Premises reflecting walls, partitions, counters and all areas of ingress and egress. The diagram shall also reflect all Propagation, cultivation, manufacturing, testing, consumption, and Restricted Access Areas. *See* Rule 3-905 – Business Records Required.

E. Modification of Limited Access Area. A Licensee's proposed modification of designated Limited Access Areas must be approved by the Division, the Local Licensing Authority, and, if required, the relevant Local Jurisdiction prior to any modifications being made. *See* Rule 2-260 – Changing, Altering, or Modifying Licensed Premises.

F. Law Enforcement Personnel Authorized. Notwithstanding the requirements of subsection A of this Rule, nothing shall prohibit investigators and employees of the Division, authorities from relevant Local Jurisdiction or state or local law enforcement, for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose, from entering a Limited Access Area upon presentation of official credentials identifying them as such.

G. When the Limited Access Area within a Licensed Premises of a Regulated Marijuana Business can only be accessed from outside the Licensed Premises, the movement of Regulated Marijuana and Regulated Marijuana Product between and within the Licensed Premises must comply with the following requirements:

1. Any Regulated Marijuana or Regulated Marijuana Product must be moved by a person holding a valid Owner License or Employee License and who must be an employee of the Regulated Marijuana Business;

2. Any Regulated Marijuana or Regulated Marijuana Product must be in a sealed, opaque Container;

3. Any movement of Regulated Marijuana or Regulated Marijuana Product must remain on video surveillance;

4. The Owner Licensee or Employee Licensee moving the Regulated Marijuana or Regulated Marijuana Product must not enter the property of any other business, vehicle, residence, or building that is not controlled by the Licensee; and

5. Any movement must not be by a self-propelled vehicle that is designed primarily for travel on the public highways, that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle.

Basis and Purpose – 3-210

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-311(1)(b), and 44-10-311(2), C.R.S. The purpose of this rule is to establish and clarify the means by which the Licensee has lawful possession of the Licensed Premises. This Rule 3-210 was previously Rules M and R 302, 1 CCR 212-1 and 1 CCR 212-2.

3-210 – Possession of Licensed Premises

A. Evidence of Lawful Possession. Persons licensed pursuant to sections 44-10-501, 44-10-502, 44-10-503, 44-10-504, 44-10-507, 44-10-601, 44-10-602, 44-10-603, 44-10-604, 44-10-607, 44-10-608, 44-10-609, 44-10-610 C.R.S., or those applying for such licenses, must demonstrate proof of lawful possession of the premises to be licensed or Licensed Premises. Evidence of lawful possession consists of properly executed deeds of trust, leases, or other written documents acceptable to state and local licensing authorities.

B. Relocation Prohibited. The Licensed Premises shall only be those geographical areas that are specifically and accurately described in executed documents verifying lawful possession. Licensees are not authorized to relocate to other areas or units within a building structure without first filing a change of location application and obtaining approval from the Division and the relevant Local Jurisdiction. Licensees shall not add additional contiguous units or areas, thereby altering the initially-approved premises, without filing an application and receiving approval to modify the Licensed Premises on current forms prepared by the Division, including any applicable processing fee. *See* Rule 2-260 - Changing, Altering, or Modifying Licensed Premises

C. Subletting Not Authorized. Licensees are not authorized to sublet any portion of Licensed Premises for any purpose, unless all necessary applications to modify the existing Licensed Premises to accomplish any subletting have been approved by the Division and the relevant Local Licensing Authority or Local Jurisdiction.

Basis and Purpose – 3-215

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(d)(I)-(VI), 44-10-313(14), 44-10-401, 44-10-501, 44-10-502, 44-10-503, 44-10-504, 44-10-601, 44-10-602, 44-10-603, 44-10-604, C.R.S. The purpose of this rule is to establish guidelines for the manner in which a Medical Marijuana Business may share its existing Licensed Premises with a Retail Marijuana Business, and to ensure the proper separation of Regulated Marijuana Business operation operations. This Rule 3-215 was previously Rules M and R 304.1, 1 CCR 212-1 and 1 CCR 212-2.

3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation

A. Shared Licensed Premises for Medical Marijuana Stores and Retail Marijuana Stores.

1. Medical Marijuana Store that authorizes only patients that are over the age of 21. A Medical Marijuana Store that authorizes only Medical Marijuana patients who are over the age of 21 years to be on the Licensed Premises may also hold a Retail Marijuana Store license and operate at the same location under the following circumstances:

a. The relevant Local Licensing Authority and Local Jurisdiction permit a dual operation at the same location;

b. The Medical Marijuana Store and Retail Marijuana Store are commonly owned;

c. The Medical Marijuana Store and Retail Marijuana Store shall maintain physical or virtual separation between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory;

d. The Medical Marijuana Store and Retail Marijuana Store shall maintain separate displays between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory, but the displays may be on the same sale floor;

e. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Store and Retail Marijuana Store shall enable the Division and Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Store from the inventories and business transactions of the Retail Marijuana Store; and

f. The Medical Marijuana Store shall post and maintain signage that clearly conveys that persons under the age of 21 years may not enter.

2. Medical Marijuana Store that authorizes patients under the age of 21. A Medical Marijuana Store that authorizes Medical Marijuana patients under the age of 21 years to be on the Licensed Premises may operate in the same location with a Retail Marijuana Store under the following conditions:

a. The relevant Local Licensing Authority and Local Jurisdiction permit a dual operation at the same location;

b. The Medical Marijuana Store and Retail Marijuana Store are commonly owned;

c. The Medical Marijuana Store and Retail Marijuana Store maintain physical separation, including separate entrances and exits, between their respective Restricted Access Areas;

d. No point of sale operations occur at any time outside the physically separated Restricted Access Areas;

e. All Medical Marijuana, Medical Marijuana Concentrate, and Medical Marijuana Product in a Restricted Access Area must be physically separated from all Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Product in a Restricted Access Area, and such physical separation must include separate entrances and exits;

f. Any display areas shall be located in the physically separated Restricted Access Areas;

g. In addition to the physically separated sales and display areas, the Medical Marijuana Store and Retail Marijuana Store shall maintain physical or virtual separation for storage of Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory from

storage of Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory; and

h. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Store and Retail Marijuana Store shall enable the Division and Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Store from the inventories and business transactions of the Retail Marijuana Store.

B. Shared Licensed Premises For Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility. A Medical Marijuana Cultivation Facility and a Retail Marijuana Cultivation Facility may share a single Licensed Premises and operate at the same location under the following circumstances:

1. The relevant Local Licensing Authority and Local Jurisdiction permit a dual operation at the same location;

2. The Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility are commonly owned;

3. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility shall maintain either physical or virtual separation between (i) Medical Marijuana and Medical Marijuana Concentrate and (ii) Retail Marijuana and Retail Marijuana Concentrate; and

4. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility must enable the Division and relevant Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Cultivation Facility from the Retail Marijuana Cultivation Facility.

C. Shared Licensed Premises For Medical Marijuana Products Manufacturer and Retail Marijuana Products Manufacturer. A Medical Marijuana Products Manufacturer and a Retail Marijuana Products Manufacturer may share a single Licensed Premises and operate at the same location under the following circumstances:

1. The relevant Local Licensing Authority and Local Jurisdiction permit a dual operation at the same location;

2. The Medical Marijuana Products Manufacturer and the Retail Marijuana Products Manufacturer are commonly owned;

3. The Medical Marijuana Products Manufacturer and Retail Marijuana Products Manufacturer shall maintain either physical or virtual separation between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory. Nothing in this Rule prohibits a Retail Marijuana Products Manufacturer and Medical Marijuana Products Manufacturer from sharing raw Ingredients in bulk, for example flour or sugar, except Retail Marijuana and Medical Marijuana may not be shared under any circumstances; and

4. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Products Manufacturer and Retail Marijuana Products Manufacturer must enable the Division and Local Licensing Authority or Local Jurisdiction to clearly distinguish the

inventories and business transactions of the Medical Marijuana Products Manufacturer from the Retail Marijuana Products Manufacturer.

D. Shared Licensed Premises For Medical Marijuana Store, Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, Retail Marijuana Store, Retail Marijuana Cultivation Facility, and Retail Marijuana Products Manufacturer. A Medical Marijuana Store, Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, Retail Marijuana Store, Retail Marijuana Cultivation Facility, or Retail Marijuana Products Manufacturer may share the common areas of a Licensed Premises where the cultivation, manufacture, packaging, storing, or Transfers to patients and consumers of Regulated Marijuana does not occur. For example, the shared common areas may include hallways, break rooms, bathrooms, etc. Licensees must maintain physical separation of all Regulated Marijuana inventory. Nothing in this paragraph D prohibits Licensees sharing premises in accordance with paragraphs (B) and (C) of this Rule.

E. Shared Licensed Premises For Medical Marijuana Testing Facility and Retail Marijuana Testing Facility. A Medical Marijuana Testing Facility and a Retail Marijuana Testing Facility may share a single Licensed Premises and operate at the same location under the following circumstances:

1. The relevant Local Licensing Authority and Local Jurisdiction permit dual operation at the same location;

2. The Regulated Marijuana Testing Facilities are identically owned;

3. The Regulated Marijuana Testing Facilities shall maintain either physical or virtual separation between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory; and

4. Record-keeping, inventory tracking, packaging and labeling for the Regulated Marijuana Testing Facilities must enable the Division and Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and business transactions of the Medical Marijuana Testing Facility from the Retail Marijuana Testing Facility.

F. Shared Licensed Premises Medical Marijuana Transporter and Retail Marijuana Transporter. A Medical Marijuana Transporter and a Retail Marijuana Transporter may share a single Licensed Premises and operate dual transporting, logistics, and temporary storage business operation at the same location under the following circumstances:

1. The relevant Local Licensing Authority and Local Jurisdiction permit dual operation at the same location;

2. The Medical Marijuana Transporter and Retail Marijuana Transporter are identically owned;

3. The Medical Marijuana Transporter and Retail Marijuana Transporter shall maintain either physical or virtual separation between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory; and

4. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Transporter and Retail Marijuana Transporter must enable the Division and Local Licensing Authority or Local Jurisdiction to clearly distinguish the inventories and

business transactions of the Medical Marijuana Transporter from the Retail Marijuana Transporter.

G. Shared Licensed Premises Marijuana Research and Development Facility. A Marijuana Research and Development Facility that has obtained an R&D Co-Location Permit pursuant to Rule 5-705(C) may share a single Licensed Premises and operate at the same location as another Regulated Marijuana Business to the extent permitted by the R&D Co-Location Permit and otherwise in compliance with all applicable rules. *See* 5-700 Series Rules.

H. Violation Affecting Public Safety. Violation of this Rule may be considered a license violation affecting public safety.

Basis and Purpose – 3-220

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c),44-10-203(1)(k), 44-10-203(2)(e), and 29-2-114(8)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(IV). The purpose of this rule is to ensure adequate control of the Licensed Premises and Regulated Marijuana contained therein. This rule establishes the minimum guidelines for security requirements for alarm systems and commercial locking mechanisms for maintaining adequate security. This rule also establishes fencing and lighting requirements for outdoor cultivations. This Rule 3-220 was previously Rules M and R 305, 1 CCR 212-1 and 1 CCR 212-2.

3-220 – Security Alarm Systems and Lock Standards

A. Security Alarm Systems – Minimum Requirements. The following Security Alarm Systems and lock standards apply to all Regulated Marijuana Businesses, unless stated otherwise by these rules.

1. Each Licensed Premises shall have a Security Alarm System, installed by an Alarm Installation Company, on all perimeter entry points and perimeter windows.

2. Each Licensee must ensure that all of its Licensed Premises are continuously monitored. Licensees may engage the services of a Monitoring Company to fulfill this requirement.

3. A Licensee shall maintain up-to-date and current records and existing contracts on the Licensed Premises that describe the location and operation of each Security Alarm System, a schematic of security zones, the name of the Alarm Installation Company, and the name of any Monitoring Company. *See* Rule 3-905 – Business Records Required.

4. Upon request, Licensees shall make available to agents of the Division or relevant Local Licensing Authority or Local Jurisdiction or state or local law enforcement agency, for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose, all information related to Security Alarm Systems, Monitoring, and alarm activity.

5. Any outdoor or Greenhouse Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility is a Limited Access Area and must meet all of the requirements for Security Alarm Systems described in this Rule. An outdoor or Greenhouse Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility must provide sufficient security measures to demonstrate that outdoor areas are not readily accessible by unauthorized individuals. It shall be the responsibility of the Licensee to maintain physical security in a manner similar to a Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility located in an indoor Limited Access Area so it can be fully secured and alarmed. The fencing requirements shall include, at a minimum, perimeter fencing designed to prevent the general public from entering the Limited Access Areas and shall meet at least the following minimum requirements:

a. The entire Limited Access Area shall be surrounded by a fence constructed of nine gauge or lower metal chain link fence or another similarly secure material. The fence shall measure at least eight feet from the ground to the top, or in the alternative, the fence may measure six feet from the ground to the top with a 1 foot barbed wire arm with at least three strands along the entire fence. All support posts shall be steel and securely anchored.

b. All gates of ingress or egress shall measure at least eight feet from the ground to the top of the entry gate, or in the alternative, the gate may measure six feet from the ground to the top with a 1 foot barbed wire arm with at least three strands, and shall be constructed of nine gauge or lower metal chain link fence or a similarly secure material.

c. Repealed.

d. All areas of ingress and egress of the fence shall either:

i. Be illuminated including a 20 foot radius from the point of ingress or egress. Lights may be, but are not required to be, motion sensing; or

ii. Have cameras with night vision capacity capable of recording a 20 foot radius from the point of ingress or egress.

e. A Licensee or Applicant for initial licensure may, in writing, request that the Division waive one or more of the security requirements described in these subparagraphs (a) through (d) of this Rule, by submitting on a form prescribed by the Division a security waiver request for Division approval. The Division may, in its discretion and on a case-by-case basis, approve the security waiver if it finds that the alternative safeguard proposed by the Licensee or Applicant for initial licensure meets the goals of the above security requirements or that the security requirements are in conflict with a local ordinance of general applicability. Approved security waivers expire at the same time as the underlying License and may be renewed at the time the License renewal application is submitted. The Licensee's or Applicant for initial licensure's request for a waiver shall include:

i. The specific rules and subsections of a rule that are requested to be waived;

ii. The reason for the waiver;

iii. A description of an alternative safeguard the Licensee will implement in lieu of the requirement that is the subject of the waiver; and

iv. An explanation of how and why the alternative safeguard accomplishes the goals of the security rules, specifically public safety, prevention of diversion, accountability, and prohibiting access to minors.

B. Lock Standards – Minimum Requirement.

1. At all points of ingress and egress, the Licensee shall ensure the use of commercial-grade, non-residential door locks.

2. Any outdoor or Greenhouse Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility must meet all of the requirements for the lock standards described in this Rule.

Basis and Purpose – 3-225

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(h), 44-10-203(1)(k), 44-10-203(2)(e), 44-10-313(14), and 44-10-1001, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure adequate control of the Licensed Premises and Regulated Marijuana contained therein. This rule also establishes the minimum guidelines for security requirements for video surveillance systems for maintaining adequate security. This Rule 3-225 was previously Rules M and R 306, 1 CCR 212-1 and 1 CCR 212-2.

3-225 – Video Surveillance

A. Minimum Requirements. The following video surveillance requirements shall apply to all Regulated Marijuana Businesses, unless stated otherwise in these rules.

1. Prior to exercising the privileges of a Regulated Marijuana Business, an Applicant must install a fully operational video surveillance and camera recording system. The recording system must record in digital format and meet the requirements outlined in this Rule.

2. All video surveillance records and recordings must be stored in a secure area that is only accessible to a Licensee's management staff.

3. Video surveillance records and recordings must be made available upon request to the Division, the relevant Local Licensing Authority or Local Jurisdiction, or any other state or local law enforcement agency for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose.

4. Video surveillance records and recordings of point-of-sale areas shall be held in confidence by all employees and representatives of the Division, except that the Division may provide such records and recordings to the Local Licensing Authority or Local Jurisdiction, or any other state or local law enforcement agency for a purpose authorized by the Marijuana Code, or for any other state or local law enforcement purpose.

B. Video Surveillance Equipment.

1. Video surveillance equipment shall, at a minimum, consist of digital or network video recorders, cameras capable of meeting the recording requirements described in this Rule, video monitors, digital archiving devices, and a color printer capable of delivering still photos.

2. All video surveillance systems must be equipped with a failure notification system that provides prompt notification to the Licensee of any prolonged surveillance interruption and/or the complete failure of the surveillance system.

3. Licensees are responsible for ensuring that all surveillance equipment is properly functioning and maintained, so that the playback quality is suitable for viewing and the surveillance equipment is capturing the identity of all individuals and activities in the monitored areas.

4. All video surveillance equipment shall have sufficient battery backup to support a minimum of four hours of recording in the event of a power outage. Licensee must notify the Division of any loss of video surveillance capabilities that extend beyond four hours.

C. Placement of Cameras and Required Camera Coverage.

1. Camera coverage is required for all areas identified as Restricted Access Areas or Limited Access Areas, point-of-sale areas, security rooms, all points of ingress and egress to Limited Access Areas, all areas where Regulated Marijuana is displayed for sale, and all points of ingress and egress to the exterior of the Licensed Premises.

2. Camera placement shall be capable of identifying activity occurring within 20 feet of all points of ingress and egress and shall allow for the clear and certain identification of any individual and activities on the Licensed Premises.

3. At each point-of-sale location, camera coverage must enable recording of the facial features of patients, caregivers or consumer(s), and employee(s) with sufficient clarity to determine identity.

4. All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points.

5. The system shall be capable of recording all pre-determined surveillance areas in any lighting conditions. If the Licensed Premises has a Regulated Marijuana cultivation area, a rotating schedule of lighted conditions and zero-illumination can occur as long as ingress and egress points to Flowering areas remain constantly illuminated for recording purposes.

6. Areas where Regulated Marijuana is grown, tested, cured, manufactured, researched, or stored shall have camera placement in the room facing the primary entry door at a height which will provide a clear unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other equipment.

7. Cameras shall also be placed at each location where weighing, packaging, transport preparation, processing, or tagging activities occur.

8. At least one camera must be dedicated to record the access points to the secured surveillance recording area.

9. All outdoor cultivation areas must meet the same video surveillance requirements applicable to any other indoor Limited Access Areas.

D. Location and Maintenance of Surveillance Equipment.

1. The surveillance room or surveillance area shall be a Limited Access Area.

2. Surveillance recording equipment must be housed in a designated, locked, and secured room or other enclosure with access limited to authorized employees, agents of the Division, and the relevant Local Licensing Authority or Local Jurisdiction, state or local law enforcement agencies for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose, and service personnel or contractors.

3. Licensees must keep a current list of all authorized employees and service personnel who have access to the surveillance system and/or room on the Licensed Premises. Licensees must keep a surveillance equipment maintenance activity log on the Licensed Premises to record all service activity including the identity of the individual(s) performing the service, the service date and time and the reason for service to the surveillance system.

4. Off-site Monitoring and video recording storage of the areas identified in this Rule 3-225(C) by the Licensee or an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for on-site Monitoring.

5. Each Regulated Marijuana Business Licensed Premises located in a common or shared building, or commonly owned Regulated Marijuana Businesses located in the same Local Jurisdiction, must have a separate surveillance room/area that is dedicated to that specific Licensed Premises. Commonly-owned Regulated Marijuana Businesses located in the same Local Jurisdiction may have one central surveillance room located at one of the commonly owned Licensed Premises which simultaneously serves all of the commonly-owned Licensed Premises. The facility that does not house the central surveillance room is required to have a review station, printer, and map of camera placement on the premises. All minimum requirements for equipment and security standards as set forth in this section apply to the review station.

6. Licensed Premises that combine both a Medical Marijuana Business and a Retail Marijuana Business may have one central surveillance room located at the shared Licensed Premises. *See* Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation.

E. Video Recording and Retention Requirements.

1. All camera views of all Limited Access Areas must be continuously recorded 24 hours a day. The use of motion detection is authorized when a Licensee can demonstrate that monitored activities are adequately recorded.

2. All surveillance recordings must be kept for a minimum of 40 days and be in a format that can be easily accessed for viewing. Video recordings must be archived in a format that ensures authentication of the recording as legitimately captured video and guarantees that no alteration of the recorded image has taken place.

3. The Licensee's surveillance system or equipment must have the capabilities to produce a color still photograph from any camera image, live or recorded, of the areas identified in this Rule 3-225(C).

4. The date and time must be embedded on all surveillance recordings without significantly obscuring the picture. The date and time must be synchronized with any point-of-sale system.

5. Time is to be measured in accordance with the official United States time established by the National Institute of Standards and Technology and the U.S. Naval Observatory at: http://www.time.gov.

6. After the 40 day surveillance video retention schedule has lapsed, surveillance video recordings must be erased or destroyed prior to: sale or transfer of the facility or business to another Licensee; or being discarded or disposed of for any other purpose. Surveillance video recordings may not be destroyed if the Licensee knows or should have known of a pending criminal, civil, or administrative investigation, or any other proceeding for which the recording may contain relevant information.

F. Other Records.

1. All records applicable to the surveillance system shall be maintained on the Licensed Premises. At a minimum, Licensees shall maintain a map of the camera locations,

direction of coverage, camera numbers, surveillance equipment maintenance activity log, user authorization list, and operating instructions for the surveillance equipment.

2. A chronological point-of-sale transaction log must be made available to be used in conjunction with recorded video of those transactions.

Basis and Purpose – 3-230

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), and 44-10-203(2)(h), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish waste disposal requirements for Regulated Marijuana Businesses and to provide more sustainable options including for Regulated Marijuana waste including composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification. This Rule 3-230 was previously Rules M and R 307, 1 CCR 212-1 and 1 CCR 212-2.

3-230 – Waste Disposal

A. All Applicable Laws Apply. Regulated Marijuana waste must be stored, secured, locked, and managed in accordance with all applicable federal, state, and local statutes, regulations, ordinances, or other requirements, including but not limited to the "Regulations Pertaining to Solid Waste Sites and Facilities" (6 CCR 1007-2, Part 1) established by the Colorado Department of Public Health and Environment pursuant to the "Solid Wastes Disposal Sites and Facilities Act", Title 30, Article 20, Part 1, C.R.S. and "Regulation No. 100 – Water and Wastewater Facility Operations Certification Requirements" (5 CCR 1003-2) established by the Colorado Department of Public Health and Environment pursuant to the Title 25, Article 9, Part 1, C.R.S.

B. Liquid Waste. Liquid waste from Regulated Marijuana Businesses shall be disposed of in compliance with all applicable federal, state and local laws, regulations, rules, and other requirements.

C. Chemical, Dangerous and Hazardous Waste. Disposal of chemical, dangerous, and hazardous waste must be conducted in a manner consistent with federal, state and local laws, statutes, regulations, rules, and other requirements. This may include, but is not limited to, the disposal of all Pesticide and other agricultural chemicals, certain solvents and other chemicals used in the production of Regulated Marijuana Concentrate and any Regulated Marijuana soaked in a Flammable Solvent for purposes of producing a Regulated Marijuana Concentrate.

1. Elemental Impurities Remediation. All post extraction plant material generated from the elemental impurities Remediation process, and other Regulated Marijuana waste products (including but not limited to, still bottoms, lipids removed during winterization) generated from the Remediation process have the potential to be hazardous waste. Therefore, all such post extraction plant material must be subject to one of the following actions prior to leaving the Licensed Premises:

i. Treated as hazardous waste in regard to storage, labeling, and disposal; or

ii. Tested for elemental impurities content.

a. Materials that meet the definition of hazardous waste, as defined by the Resource Conservation and Recovery Act or other applicable federal, state, or local regulations, must be treated as hazardous waste. Accordingly, they must be properly labeled, contained, stored, and disposed of in accordance with the Environmental Protection Agency, the Resource Conservation and Recovery Act, and other applicable regulations for hazardous waste.

b. Materials that contain elemental impurities concentrations less than the allowable concentration limits specified in the Resource Conservation and Recovery Act, and are not designated hazardous waste by other applicable federal, state, or local regulations, may be disposed of in accordance with this rule.

D. Regulated Marijuana Waste Must Be Made Unusable and Unrecognizable. Unless expressly exempt by these rules, all Regulated Marijuana waste must be made unusable and Unrecognizable prior to leaving the Licensed Premises.

1. A Regulated Marijuana Business may Transfer Vaporizer Delivery Device waste prior to being made unusable and Unrecognizable for purposes of grinding or compacting the Vaporizer Delivery Device waste at the Licensed Premises of another Regulated Marijuana Business.

E. Methods to Make Waste Unusable and Unrecognizable. Regulated Marijuana waste shall be rendered unusable and Unrecognizable through one of the following methods:

1. Grind or Compact and Mix with Non-Marijuana Waste. A Regulated Marijuana Business may render its Regulated Marijuana waste unusable and Unrecognizable by grinding or compacting and incorporating the marijuana waste with non-consumable, solid wastes listed below such that the resulting mixture is at least 50 percent non-marijuana waste, and such that the resulting mixture cannot easily be separated and sorted:

a. Paper waste;

b. Plastic waste;

c. Cardboard waste;

d. Food waste;

e. Grease or other compostable oil waste;

f. Bokashi or other compost activators;

g. Soil;

h. Sawdust;

i. Manure; and

j. Other wastes approved by the Division that will render the Regulated Marijuana waste unusable and Unrecognizable.

2. Other Permitted and Sustainable Methods for Rendering Regulated Marijuana Waste Unusable and Unrecognizable. A Regulated Marijuana Business may render its Regulated Marijuana waste unusable and Unrecognizable through the following methods and subject to the following requirements and restrictions:

a. The following methods are exempt from the 50/50 waste mixing requirement in subparagraph E(1) above and can be used to render Regulated Marijuana unusable and Unrecognizable:

i. On-site composting;

ii. Anaerobic digestion;

iii. Pyrolyze into biochar; or

iv. Biomass gasification.

b. Requirements for Other Permitted and Sustainable Methods to Render Regulated Marijuana Waste Unusable and Unrecognizable. A Regulated Marijuana Business using other methods of rendering Regulated Marijuana waste unusable and Unrecognizable must comply with the requirements of this rule.

i. A Regulated Marijuana Business may utilize on its own Licensed Premises or may Transfer Regulated Marijuana waste to another Regulated Marijuana Business for on-site composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification.

ii. A Regulated Marijuana Business may transfer only the stalks, stems, fan leaves, and roots from Regulated Marijuana to an area outside the Licensed Premises that is under the Licensee's possession and control or to an unlicensed third-party that is registered and in good standing with the Colorado Secretary of State for composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification.

iii. Regulated Marijuana waste that is transferred to a location under the Licensee's possession and control, to another Regulated Marijuana Business, or to a third-party pursuant to this Rule is not required to comply with the 3-800 Series Rules - Inventory Tracking or the 3-1000 Series Rules - Labeling, Packaging, and Product Safety but must be recorded on the Transferring Regulated Marijuana Business' waste log.

iv. A Regulated Marijuana Business or an unlicensed third-party providing composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification shall ensure that the organic composition of the Regulated Marijuana waste is permanently altered so that it is rendered unusable and Unrecognizable.

v. Waste Management Plan. A Regulated Marijuana Business using on-site composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification to render Regulated Marijuana waste unusable and Unrecognizable must establish and maintain on its Licensed Premises a waste management plan that includes at least the following information: A description of the Regulated Marijuana Business's methods for on-site composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification and identification of the areas that will be used for these activities. The location of these activities may include areas used for other operational activities of the Regulated Marijuana Business or may be areas outside the Licensed Premises so long as such areas are within the Licensee's possession and control.

vi. Written Contract for Transfers to Unlicensed Third Parties. A Regulated Marijuana Business that is transferring stalks, stems, fan leaves, or roots from Regulated Marijuana to an unlicensed third-party for composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification must have a written contract with that third-party. The Regulated Marijuana

Business must maintain on its Licensed Premises a copy of the written contract and copies of receipts and invoices related to such third-party services. The written contract with the third-party must document at least the following information:

A. The identity of the unlicensed third party receiving any transfer of Regulated Marijuana waste pursuant to this Rule;

B. A description of the services provided by the unlicensed third party and the agreed-upon methods for managing the Regulated Marijuana waste, including the end-use of such waste; and

C. A requirement that the third-party is registered with the Colorado Secretary of State and must remain in in good standing during the contract term.

F. Mobile Waste Rendering. A Licensee or a third party vendor may also render Regulated Marijuana waste unusable and Unrecognizable outside of the Licensed Premises, subject to the following requirements and restrictions:

1. The waste must be rendered unusable and Unrecognizable in accordance with subparagraph (E) of this Rule, and unless otherwise expressly exempt by this Rule 3-230, mobile waste rendering must occur on property under the control of the Licensee that is immediately adjacent to the Licensed Premises;

2. Unless otherwise expressly exempt by this Rule 3-230, the waste must be taken from the Licensed Premises by an Owner Licensee or Employee Licensee directly to the vehicle where the rendering will occur;

3. Unless otherwise expressly exempt by this Rule 3-230, an Owner Licensee or Employee Licensee must monitor and observe the rendering to ensure the waste is made unusable and Unrecognizable;

4. Unless otherwise expressly exempt by this Rule 3-230, the Licensee shall ensure the rendering of any Regulated Marijuana waste unusable and Unrecognizable by a third party is recorded on the Licensee's video surveillance system; and

5. Any other restrictions imposed by the Local Licensing Authority or Local Jurisdiction.

G. After Waste is Made Unusable and Unrecognizable. After Regulated Marijuana waste is made unusable and Unrecognizable, the rendered waste shall be disposed of or otherwise managed as follows:

1. Disposed of at a solid waste site and disposal facility that has a Certificate of Designation from the local governing authority; or

2. Deposited at a compost facility that is permitted or approved by the Colorado Department of Public Health and Environment; or

3. Regulated Marijuana waste that has been rendered unusable and Unrecognizable by composting, anaerobic digestion, pyrolyzing into biochar or biomass gasification and pursuant to the Licensee's waste management plan(s) may be transferred to a Regulated Marijuana Business or an unlicensed third-party for further processing or use.

4. A Regulated Marijuana Business with cultivation privileges may reintroduce its own or Regulated Marijuana waste obtained from another Regulated Marijuana Business that has been rendered unusable and Unrecognizable into its Regulated Marijuana cultivation operations subject to its standard operating procedures. For example, a Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility may use such waste as a soil amendment, potting media, or fertilizer

H. Proper Disposal of Waste. A Licensee shall only dispose of Regulated Marijuana waste in a secured waste receptacle in possession and control of the Licensee.

I. Inventory Tracking Requirements.

1. In addition to all other tracking requirements set forth in these rules, a Licensee shall utilize the Inventory Tracking System to ensure its post-harvest waste and Fibrous Waste materials are identified, weighed, and tracked while on the Licensed Premises until disposed of.

2. All Regulated Marijuana waste must be weighed before leaving any Regulated Marijuana Business. A scale used to weigh Regulated Marijuana waste prior to entry into the Inventory Tracking System shall be tested and approved in accordance with section 35-14-127, C.R.S. *See* Rule 3-805 – Regulated Marijuana Businesses: Inventory Tracking System.

3. A Licensee is required to maintain accurate and comprehensive records regarding Regulated Marijuana waste that accounts for, reconciles, and evidences all waste activity related to the disposal of Regulated Marijuana. *See* Rule 3-905 – Business Records Required.

4. A Licensee is required to maintain accurate and comprehensive records regarding any waste material produced through the trimming or pruning of a Regulated Marijuana plant prior to harvest, which must include weighing and documenting all waste, including Fibrous Waste. Unless required by an Inventory Tracking System procedure, records of waste produced prior to harvest must be maintained on the Licensed Premises. Waste, excluding Fibrous Waste and Marijuana Consumer Waste, whether produced prior or subsequent to harvest, must be disposed of in accordance with this Rule and be made unusable and Unrecognizable. *See* Rule 3-235 – Transfers of Fibrous Waste and Rule 3-240 – Collection of Marijuana Consumer Waste.

Basis and Purpose – 3-235

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(2)(h), 44-10-203(2)(i), 44-10-203(1)(k), and 44-10-203(2)(x), C.R.S. The purpose of this rule is to establish conditions under which a Licensee is authorized to transfer Fibrous Waste to a Person for the purpose of producing only Industrial Fiber Products. This Rule 3-235 was previously Rules M and R 307.5, 1 CCR 212-1 and 1 CCR 212-2.

3-235 – Transfers of Fibrous Waste

A. All Applicable Laws Apply. Fibrous Waste must be stored and managed in accordance with all applicable state and local statutes, regulations, ordinances, or other requirements, including but not limited to the “Regulations Pertaining to Solid Waste Sites and Facilities” (6 CCR 1007-2, Part 1) established by the Colorado Department of Public Health and Environment pursuant to the “Solid Wastes Disposal Sites and Facilities Act”, Title 30, Article 20, Part 1, C.R.S. and “Regulation No. 100 – Water and Wastewater Facility Operations Certification Requirements” (5

CCR 1003-2) established by the Colorado Department of Public Health and Environment pursuant to the Title 25, Article 9, Part 1, C.R.S.

B. Regulated Marijuana Cultivation Facilities and Regulated Marijuana Manufacturers may Transfer Fibrous Waste to an Industrial Fiber Products Producer in accordance with the requirements of this Rule 3-235.

C. Contract Requirements. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, Retail Marijuana Products Manufacturers and Accelerator Manufacturers that transfer Fibrous Waste to an Industrial Fiber Products Producer shall enter into a written contract prior to transferring any Fibrous Waste.

1. The written contract must be complete, and must fully incorporate all terms and conditions.

2. The written contract shall include the following terms:

   a. The identity of the Industrial Fiber Products Producer;

   b. A requirement that the Industrial Fiber Products Producer shall be and shall remain in good standing with the Colorado Secretary of State during the contract term; and

   c. A requirement that the Industrial Fiber Products Producer shall ensure the security of Fibrous Waste during transport from the Licensed Premises to the point of processing by the Industrial Fiber Products Producer.

3. The Licensee and Industrial Fiber Products Producer shall sign an affirmation that the Fibrous Waste is being transferred only for the purpose of producing Industrial Fiber Products. The affirmation may be incorporated into a purchase order, invoice, or manifest.

D. Business Records. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, Retail Marijuana Products Manufacturers and Accelerator Manufacturers that transfer Fibrous Waste to an Industrial Fiber Products Producer shall keep all contracts, receipts, and inventory records relating to the transfer of any Fibrous Waste in accordance with Rule 3-905, including but not limited to Rule 3-905(A)(2).

E. Security Measures.

1. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, and Retail Marijuana Products Manufacturers, and Accelerator Manufacturers that transfer Fibrous Waste to an Industrial Fiber Products Producer shall comply with all security requirements pursuant to Rules 3-220 and 3-225.

2. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, Retail Marijuana Products Manufacturers and Accelerator Manufacturers preparing Fibrous Waste for transfer to an Industrial Fiber Products Producer must separate Fibrous Waste from other Regulated Marijuana plant material and waste within the Limited Access Area and on video surveillance.

3. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators Retail Marijuana Products Manufacturers, and Accelerator Manufacturers shall physically segregate all Fibrous Waste from other waste and Regulated Marijuana.

4. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, Retail Marijuana Products Manufacturers and Accelerator Manufacturers shall affix a label to all receptacles holding Fibrous Waste that has already been separated from other Regulated Marijuana plant material and waste within the Limited Access Area prior to transfer to an Industrial Fiber Products Producer. The label must identify the receptacle as "Contains Fibrous Waste."

5. An Industrial Fiber Products Producer, or its employee or agent, must sign the visitor log, unless such individual has a valid Division-issued Employee License, to enter the Limited Access Area for any transfer of Fibrous Waste.

6. The Licensee remains responsible for all Fibrous Waste until the Industrial Fiber Products Producer takes possession and removes Fibrous Waste from the Licensed Premises.

7. The Licensee shall ensure that only Fibrous Waste and waste that has been made unusable and Unrecognizable pursuant to Rule 3-320 is transferred to the Industrial Fiber Products Producer.

F. Inventory Tracking Requirements.

1. A Licensee shall utilize the Inventory Tracking System to ensure its post-harvest Fibrous Waste materials are identified, weighed, and tracked while on the Licensed Premises until transferred.

2. A scale used to weigh Fibrous Waste prior to entry into the Inventory Tracking System shall be tested and approved in accordance with section 35-14-127, C.R.S. *See* Rule 3-805 – Regulated Marijuana Business: Inventory Tracking System.

3. A Licensee is required to maintain accurate and comprehensive records regarding waste material that accounts for, reconciles, and evidences all Fibrous Waste transfers. *See* Rule 3-905 – Business Records Required.

G. Medical Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Accelerator Cultivators, Retail Marijuana Products Manufacturers and Accelerator Manufacturers shall not transfer contaminated Fibrous Waste to an Industrial Fiber Products Producer and shall handle contaminated Fibrous Waste using the same reasonable protocols used to handle waste.

H. Violation Affecting Public Safety. It may be considered a violation of public safety for a Licensee to transfer anything to an Industrial Fiber Products Producer other than in accordance with this Rule 3-235.

Basis and Purpose – 3-240

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), and 44-10-203(2)(bb), C.R.S. The purpose of this rule is to establish conditions under which Regulated Marijuana Businesses are permitted to collect Marijuana Consumer Waste for purposes of reuse and recycling.

3-240 – Collection of Marijuana Consumer Waste

A. All Applicable Laws Apply. Marijuana Consumer Waste must be stored and managed in accordance with all applicable state and local statutes, regulations, ordinances, or other requirements, including but not limited to the "Regulations Pertaining to Solid Waste Sites and Facilities" (6 CCR 1007-2, Part 1) established by the Colorado Department of Public Health and Environment pursuant to the "Solid Wastes Disposal Sites and Facilities Act", Title 30, Article 20, Part 1, C.R.S. and "Regulation No. 100 – Water and Wastewater Facility Operations Certification Requirements" (5 CCR 1003-2) established by the Colorado Department of Public Health and Environment pursuant to the Title 25, Article 9, Part 1, C.R.S.

B. Regulated Marijuana Businesses may collect, reuse, and recycle Marijuana Consumer Waste in accordance with the requirements of this Rule 3-240.

C. Collection, Separation, and Processes.

1. Collection. A Licensee must comply with the following requirements when collecting Marijuana Consumer Waste pursuant to this Rule:

a. Only Medical Marijuana Stores, Retail Marijuana Stores, and Licensed Hospitality Businesses may collect Marijuana Consumer Waste from patients and consumers. Medical Marijuana Stores, Retail Marijuana Stores, and Licensed Hospitality Businesses collecting Marijuana Consumer Waste pursuant to this Rule are not limited to collecting Marijuana Consumer Waste from patients or consumers who purchased Regulated Marijuana from the Medical Marijuana Store, Retail Marijuana Store, or Licensed Hospitality Business.

b. A Regulated Marijuana Business may collect Marijuana Consumer Waste from any of its Owner Licensees or Employee Licensees who purchased the Regulated Marijuana from the Regulated Marijuana Business, or may collect Marijuana Consumer Waste from other Regulated Marijuana Businesses pursuant to paragraph (E) of this Rule.

c. The Licensee must utilize receptacles that are locked, sealed and designed to require a key or specialized tools in order to open and access the contents of the receptacle used for collection of Marijuana Consumer Waste;

d. All receptacles used for collection of Marijuana Consumer Waste shall be located in a secured area on the Licensed Premises and shall be reasonably supervised by a Licensee to ensure any Marijuana Consumer Waste collected is only removed by a Licensee;

e. All receptacles used for collection of Marijuana Consumer Waste shall be recorded on video surveillance; and

f. All receptacles used for collection of Marijuana Consumer Waste shall be labeled. The label must at least identify the receptacle as "Contains Marijuana Consumer Waste." A Licensee may choose to include additional information on the receptacle label.

2. Separation. Regulated Marijuana Businesses collecting Marijuana Consumer Waste pursuant to this Rule must separate any electronic and battery components from the Marijuana Consumer Waste.

3. Processes. Regulated Marijuana Businesses collecting Marijuana Consumer Waste pursuant to this Rule must establish standard operating procedures that ensure at a

minimum any remaining Regulated Marijuana in Marijuana Consumer Waste is removed and destroyed to the extent practicable.

D. Reuse of Marijuana Consumer Waste. Once any remaining Regulated Marijuana has been removed and destroyed pursuant to these rules, a Regulated Marijuana Business may reuse Marijuana Consumer Waste as follows and subject to the following requirements and restrictions:

1. Sanitizing. The Containers have been sanitized and disinfected either by a Regulated Marijuana Business or by a third-party to ensure that they do not contain any harmful residue or contaminants.

2. Child-Resistant Containers. Either the Containers can be reused with new child resistant packaging that complies with 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995); or if new child resistant packaging is not being used, based on a visual inspection, the existing Child-Resistant packaging appears to be in good working order and does not appear to pose a risk of unintended exposure or ingestion of Regulated Marijuana. The visual inspection must ensure such Containers are not brittle or have chips, cracks, or other imperfections that could compromise the child-resistant properties of the Container or otherwise pose a threat of harm to a patient or consumer.

E. Transfers of Marijuana Consumer Waste. Once any remaining Regulated Marijuana has been removed and destroyed pursuant to these rules, a Regulated Marijuana Business may transfer Marijuana Consumer Waste as follows:

1. A Licensee may Transfer Marijuana Consumer Waste to another Regulated Marijuana Business for purposes of further processing and recycling or for reuse pursuant to this Rule; or

2. A Licensee may transfer Marijuana Consumer Waste, excluding the electronic components and battery components, to a Person for purposes of recycling or for reuse pursuant to this Rule. To the extent required, such Person shall be registered as required by the Colorado Department of Public Health and Environment's regulations at 6 CCR 1007-2, Part 1, Section 8; or

3. A Licensee may transfer the electronic and battery components of Marijuana Consumer Waste to a Person for purposes of recycling in accordance with the Colorado Department of Public Health and Environment's regulations at 6 CCR 1007-3.

F. Business Records. Regulated Marijuana Businesses that collect and Transfer Marijuana Consumer Waste pursuant to this Rule 3-240 shall keep all contracts, standard operating procedures, and receipts relating to the collection and Transfer of any Marijuana Consumer Waste in accordance with Rule 3-905, including but not limited to Rule 3-905(A)(2).

G. Violation Affecting Public Safety. It may be considered a violation affecting public safety for a Licensee to Transfer Marijuana Consumer Waste that has remaining Regulated Marijuana and in a manner other than in accordance with this Rule 3-240.

Basis and Purpose – 3-245

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(dd)(XIII), 44-10-609(1), 44-10-610(1), and 44-10-301(3)(b) C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(f). The purpose of this rule is to establish hours of operation requirements for Regulated Marijuana Businesses. The State Licensing Authority modeled this rule after the Colorado Department of Revenue's liquor rules. This Rule 3-245 was previously Rules M and R 308, 1 CCR 212-1 and 1 CCR 212-2.

3-245 – Selling and Serving Regulated Marijuana – Hours of Operation

A. Hours of Operation.

1. Medical Marijuana Stores and Retail Marijuana Stores shall not sell or serve Regulated Marijuana between the hours of 12:00 a.m. and 8:00 a.m., Mountain Time, Monday through Sunday.

2. Retail Marijuana Hospitality and Sales Businesses shall not sell Retail Marijuana or permit the consumption or use of Retail Marijuana on its Licensed Premises, between the hours of 2:00 a.m. and 7:00 a.m., Mountain Time, Monday through Sunday.

3. Marijuana Hospitality Businesses shall not permit the consumption or use of marijuana on its Licensed Premises, between the hours of 2:00 a.m. and 7:00 a.m., Mountain Time, Monday through Sunday.

4. Regulated Marijuana Businesses with a valid delivery permit shall not make or complete deliveries of Regulated Marijuana at any time between the hours of 12:00 a.m. and 8:00 a.m., Mountain Time, Monday through Sunday. Regulated Marijuana Businesses with a valid delivery permit may accept orders for delivery 24 hours a day, Monday through Sunday.

B. Local Jurisdictions May Further Restrict Hours. Nothing in this Rule shall prohibit a Local Jurisdiction from further restricting hours of operation within its jurisdiction.

3-300 Series – Health and Safety Regulations

Basis and Purpose – 3-305

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(3)(f), and 44-10-1001(2), C.R.S. The purpose of this rule is to clarify the conditions under which a Regulated Marijuana Business may be subject to an inspection of its Licensed Premises by a county or municipal employee, specifically but not exclusively a fire safety inspection.

3-305 – Local Safety Inspections

A Regulated Marijuana Businesses may be subject to inspection of its Licensed Premises by the local fire department, building inspector, or code enforcement officer to confirm that no health or safety concerns are present. The inspection could result in additional specific standards to meet Local Jurisdiction restrictions related to Regulated Marijuana or other local businesses. An annual fire safety inspection may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety

Basis and Purpose – 3-310

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(k), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), and 44-10-313(14), C.R.S. The purpose of this rule is to clarify the minimum health and sanitary conditions under which a Regulated Marijuana Business must maintain its Licensed Premises.

3-310 – General Sanitary Requirements

A. The Licensee shall take all reasonable measures and precautions to ensure the following:

1. That any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with Regulated Marijuana shall be excluded from any operations which may be expected to result in contamination until the condition is corrected;

2. That hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the Licensed Premises and where good sanitary practices require employees to wash or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices;

3. That all persons working in direct contact with Regulated Marijuana shall conform to hygienic practices while on duty, including but not limited to:

    a. Maintaining adequate personal cleanliness;

    b. Washing hands thoroughly in an adequate hand-washing area(s) before starting work, prior to engaging in the production of Regulated Marijuana Product, and at any other time when the hands may have become soiled or contaminated; and

    c. Refraining from having direct contact with Regulated Marijuana if the person has or may have an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected.

4. That litter and waste are properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Regulated Marijuana are exposed;

5. That floors, walls, and ceilings are constructed in such a manner that they may be adequately cleaned, and each is kept clean and in good repair;

6. That there is adequate lighting in all areas where Regulated Marijuana is stored or sold, and where equipment or utensils are cleaned;

7. That the Licensee provides adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests;

8. That any buildings, fixtures, and other facilities are maintained in a sanitary condition, including but not limited to the prevention of microorganism growth;

9. That toxic cleaning compounds, sanitizing agents, and other chemicals shall be identified, held, stored and disposed of in a manner that protects against contamination of Regulated Marijuana and in a manner that is in accordance with any applicable local, state or federal law, rule, regulation, or ordinance;

10. That all operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of Regulated Marijuana shall be conducted in accordance with adequate sanitation principles;

11. That each Regulated Marijuana Business provides its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and

12. That Regulated Marijuana that can support the rapid growth of undesirable microorganisms are held in a manner that prevents the growth of these microorganisms.

Basis and Purpose – 3-315

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(1)(g), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), and 44-10-1001(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). It sets forth general standards and basic sanitary requirements for Retail Marijuana Stores. It covers the physical premises where the products are made as well as the individuals handling the products. This rule authorizes the State Licensing Authority to require an independent consultant to conduct a health and sanitary audit of a Regulated Marijuana Business. The purpose of this rule is to establish the conditions under an independent health and safety audit may be required. This rule explains when an independent health and sanitary audit may be deemed necessary and sets forth possible consequences of a Regulated Marijuana Businesses refusal to cooperate or pay for the audit. The State Licensing Authority intends for this rule to reduce any product contamination, which will benefit both the Licensees and consumers. The State Licensing Authority modeled this rule after those adopted by the Colorado Department Revenue for Medical Marijuana and those adopted by the Colorado Department of Public Health and Environment. Overall, the State Licensing Authority intends this rule to help maintain the integrity of Colorado's Retail Marijuana businesses and the safety of the public.

3-315 – Independent Health and Safety Audit

A. State Licensing Authority May Require A Health and Sanitary Audit.

1. When the State Licensing Authority determines a health and sanitary audit by an independent consultant is necessary, it may require a Regulated Marijuana Business to undergo such an audit. The scope of the audit may include, but need not be limited, to whether the Regulated Marijuana Business is in compliance with the requirements set forth in this Rule and other applicable health, sanitary, or food handling laws, rules, and regulations.

2. In such instances, the Division may attempt to mutually agree upon the selection of the independent consultant with a Regulated Marijuana Business. However, the Division always retains the authority to select the independent consultant regardless of whether mutual agreement can be reached.

3. The Regulated Marijuana Business will be responsible for all costs associated with the independent health and sanitary audit.

B. When Independent Health and Sanitary Audit Is Necessary. The State Licensing Authority has discretion to determine when an audit by an independent consultant is necessary. The following is a non-exhaustive list of examples that may justify an independent audit:

1. The Division has reasonable grounds to believe that the Regulated Marijuana Business is in violation of one or more of the requirements set forth in this Rule or other applicable public health or sanitary laws, rules, or regulations;

2. The Division has reasonable grounds to believe that the Regulated Marijuana Business was the cause or source of contamination of Regulated Marijuana;

3. A Regulated Marijuana Cultivation Facility does not provide requested records related to the use of Pesticide or other agricultural chemicals used in the cultivation process;

4. Multiple Harvest Batches or Production Batches produced by a Regulated Marijuana Cultivation Facility failed contaminant testing;

5. A Regulated Marijuana Products Manufacturer does not provide requested records related to the production of Regulated Marijuana Products, including but not limited to, certification of its Licensed Premises, equipment or standard operating procedures, food handling training required for Owner Licensees and Employee Licensees engaged in the production of Regulated Marijuana Products, or Production Batch specific records to the Division;

6. Multiple Production Batches of Regulated Marijuana Products produced by the Regulated Marijuana Products Manufacturer failed contaminant testing.

C. Compliance Required. A Regulated Marijuana Business must pay for and timely cooperate with the State Licensing Authority's requirement that it undergo an independent health and sanitary audit in accordance with this Rule.

D. Suspension of Operations.

1. If the State Licensing Authority has objective and reasonable grounds to believe and finds upon reasonable ascertainment of the underlying facts that the Licensee committed a deliberate and willful violation or there is a substantial danger to public health and safety and incorporates such findings into its order, it may order summary suspension of the Regulated Marijuana Business's license. *See* Rule 8-210 – Disciplinary Process: Summary Suspensions.

2. Prior to or following the issuance of such an order, the Regulated Marijuana Business may attempt to come to a mutual agreement with the Division to suspend its operations until the completion of the independent audit and the implementation of any required remedial measures.

a. If an agreement cannot be reached or the State Licensing Authority, in its sole discretion, determines that such an agreement is not in the best interests of the public health, safety, or welfare, then the State Licensing Authority will promptly institute license suspension or revocation procedures. *See* Rule 8-210 – Disciplinary Process: Summary Suspensions.

b. If an agreement to suspend operations is reached, then the Regulated Marijuana Business may continue to care for its inventory and conduct any necessary internal business operations, but it may not Transfer any Regulated Marijuana or Regulated Marijuana Product to another Regulated Marijuana Business, a patient, or a consumer during the period of time specified in the agreement

Basis and Purpose – 3-320

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(dd)(X), and 44-10-203(3)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). This rule prohibits a Regulated Marijuana Business from Transferring any contaminated Regulated Marijuana or Regulated Marijuana Product to any Person or another Regulated Marijuana Business.

3-320 – Contaminated Product

A Regulated Marijuana Business shall not accept or Transfer to any Person any Regulated Marijuana that has failed required testing pursuant to Rule 4-120 or Rule 4-125, unless otherwise permitted in these rules. *See* Rule 4-135. If, despite the prohibitions in these rules, another Regulated Marijuana Business Transfers any Regulated Marijuana that has failed or subsequently fails required testing pursuant to Rule 4-120 or Rule 4-125, the receiving Regulated Marijuana Business shall ensure that all Regulated Marijuana that failed required testing are safely disposed of in accordance with Rule 3-230.

Basis and Purpose – 3-325

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(dd)(X), and 44-10-203(3)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to clarify that a Regulated Marijuana Business engaged in the cultivation of Regulated Marijuana is prohibited from using certain chemicals or pesticides that may cause harm to employees or consumers.

3-325 – Prohibited Chemicals

A. Applicability. This Rule 3-325 applies to Medical Marijuana Cultivation Facilities, Retail Marijuana Cultivation Facilities, Accelerator Cultivator and Marijuana Research and Development Licensees.

B. The following chemicals are prohibited and shall not be used in Regulated Marijuana cultivation. Possession of chemicals and/or containers from these chemicals upon the Licensed Premises shall be a violation of this Rule. Additionally, possession of Regulated Marijuana or Regulated Marijuana Concentrate on which any of the following chemicals is detected shall constitute a violation of this Rule.

1. Any Pesticide the use of which would constitute a violation of the Pesticide Act, section 35-9-101 *et seq*., C.R.S., the Pesticide Applicators' Act, section 35-10-101 et seq., C.R.S., or the rules and regulations pursuant thereto.

2. Other chemicals (listed by chemical name and CAS Registry Number (or EDF Substance ID)):

ALDRIN

309-00-2

ARSENIC OXIDE (3)

1327-53-3

ASBESTOS (FRIABLE)

1332-21-4

AZODRIN

6923-22-4

1,4-BENZOQUINONE, 2,3,5,6-TETRACHLORO-

118-75-2

BINAPACRYL

485-31-4

2,3,4,5-BIS (2-BUTENYLENE) TETRAHYDROFURFURAL

126-15-8

BROMOXYNIL BUTYRATE

EDF-186

CADMIUM COMPOUNDS

CAE750

CALCIUM ARSENATE [2ASH3O4.2CA]

7778-44-1

CAMPHECHLOR

8001-35-2

CAPTAFOL

2425-06-1

CARBOFURAN

1563-66-2

CARBON TETRACHLORIDE

56-23-5

CHLORDANE

57-74-9

CHLORDECONE (KEPONE)

143-50-0

CHLORDIMEFORM

6164-98-3

CHLOROBENZILATE

510-15-6

CHLOROMETHOXYPROPYLMERCURIC ACETATE [CPMA] EDF-

183

COPPER ARSENATE

10103-61-4

2,4-D, ISOOCTYL ESTER

25168-26-7

DAMINOZIDE

1596-84-5

DDD

72-54-8

DDT

50-29-3

DI(PHENYLMERCURY)DODECENYLSUCCINATE [PMDS] EDF-

187

1,2-DIBROMO-3-CHLOROPROPANE (DBCP)

96-12-8

1,2-DIBROMOETHANE

106-93-4

1,2-DICHLOROETHANE

107-06-2

DIELDRIN

60-57-1

4,6-DINITRO-O-CRESOL

534-52-1

DINITROBUTYL PHENOL

88-85-7

ENDRIN

72-20-8

EPN

2104-64-5

ETHYLENE OXIDE

75-21-8

FLUOROACETAMIDE

640-19-7

GAMMA-LINDANE

58-89-9

HEPTACHLOR

76-44-8

HEXACHLOROBENZENE

118-74-1

1,2,3,4,5,6-HEXACHLOROCYCLOHEXANE (MIXTURE OF ISOMERS)

608-73-1

1,3-HEXANEDIOL, 2-ETHYL-

94-96-2

LEAD ARSENATE

7784-40-9

LEPTOPHOS

21609-90-5

MERCURY

7439-97-6

METHAMIDOPHOS

10265-92-6

METHYL PARATHION

298-00-0

MEVINPHOS

7786-34-7

MIREX

2385-85-5

NITROFEN

1836-75-5

OCTAMETHYLDIPHOSPHORAMIDE

152-16-9

PARATHION

56-38-2

PENTACHLOROPHENOL

87-86-5

PHENYLMERCURIC OLEATE [PMO]

EDF-185

PHOSPHAMIDON

13171-21-6

PYRIMINIL

53558-25-1

SAFROLE

94-59-7

SODIUM ARSENATE

13464-38-5

SODIUM ARSENITE

7784-46-5

2,4,5-T

93-76-5

TERPENE POLYCHLORINATES (STROBANE6)

8001-50-1

THALLIUM(I) SULFATE

7446-18-6

2,4,5-TP ACID (SILVEX)

93-72-1

TRIBUTYLTIN COMPOUNDS

EDF-184

2,4,5-TRICHLOROPHENOL

95-95-4

VINYL CHLORIDE

75-01-4

C. DMSO. Except for R&D Licensees, the use of Dimethylsulfoxide (DMSO) in the production of Regulated Marijuana and the possession of DMSO upon the Licensed Premises is prohibited.

Basis and Purpose – 3-330

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), 44-10-203(3)(c), 44-10-203(3)(e), and 44-10-1001, C.R.S. The purpose of this rule is to clarify the minimum health and safety requirements imposed on a Medical or Retail Marijuana Cultivation Facility. The State Licensing Authority has determined the cultivation of Medical or Retail Marijuana requires the application of processes and procedures, and the use of materials, chemicals, and pesticides which, if improperly used, may be potentially harmful to employees and consumers. Therefore, the cultivation of Medical or Retail Marijuana must be performed in a manner that reduces the likelihood of exposure to such materials, chemicals and pesticides, or other microbials or molds. The State Licensing Authority intends for this rule to reduce any product contamination, which will benefit both the Licensees and consumers. The State Licensing Authority modeled this rule after those adopted by the Colorado Department Revenue for Medical Marijuana and those adopted by the Colorado Department of Public Health and Environment. Overall, the State Licensing Authority intends this rule to help maintain the integrity of Colorado's Retail Marijuana businesses and the safety of the public.

3-330 – Cultivation of Regulated Marijuana: Specific Health and Safety Requirements

A. Additional Sanitary Requirements. In addition to the general sanitary requirements in Rule 3-310, a Regulated Marijuana Cultivation Facility shall take all reasonable measure and precautions to ensure the following:

1. That all contact surfaces, including utensils and equipment used for the preparation of Regulated Marijuana, Physical Separation-Based Medical Marijuana Concentrate, or Physical Separation-Based Retail Marijuana Concentrate, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana shall be cleaned and sanitized as frequently as necessary to protect against contamination. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable and shall be properly maintained. Only sanitizers and disinfectants registered with the Environmental Protection Agency shall be used in a Regulated Marijuana Cultivation Facility;

2. That the water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the Licensed Premises' needs. Reclaimed water may also be used only for the cultivation of Regulated Marijuana to the extent authorized under the Reclaimed Water Control Regulations (5 CCR 1002-84), and subject to approval of the Water Quality Control Division of the Colorado Department of Public Health and Environment and the local water provider;

3. That plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the plant and that shall properly convey sewage and liquid disposable waste from the Licensed Premises. There shall be no cross-connections between the potable water, reclaimed water, and waste water lines; and

4. That any room used for the cultivation of Regulated Marijuana has measures to prevent the accumulation of dangerous levels of CO_2.

B. Pesticide Application. A Regulated Marijuana Cultivation Facility may only use Pesticide in accordance with the "Pesticide Act" sections 35-9-101 et seq., C.R.S., the "Pesticides Applicators' Act," sections 35-10-101 et seq., C.R.S., and all other applicable federal, state, and local laws, statutes, rules and regulations. This includes, but shall not be limited to, the prohibition on detaching, altering, defacing or destroying, in whole or in part, any label on any Pesticide. The Colorado Department of Agriculture's determination that the Licensee used any quantity of a Pesticide that would constitute a violation of the Pesticide Act or the Pesticide Applicators' Act shall constitute prima facie evidence of a violation of this Rule.

C. Application of Other Agricultural Chemicals. A Regulated Marijuana Cultivation Facility may only use agricultural chemicals, other than a Pesticide, in accordance with all applicable federal, state, and local laws, statutes, rules, and regulations.

D. Required Documentation.

1. Standard Operating Procedures. A Regulated Marijuana Cultivation Facility must establish written standard operating procedures for the cultivation, harvesting, drying, curing, trimming, packaging, storing, and sampling for testing of Regulated Marijuana, and the processing, packaging, storing, and sampling for testing of Regulated Marijuana Concentrate, and the processing, rolling, filling or similar process, packaging, storing and sampling for testing of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana made from Physical Separation-Based Concentrate. A copy of all standard operating procedures must be maintained on the Licensed Premises of the Regulated Marijuana Cultivation Facility.

   a. The standard operating procedures must include when, and the manner in which, all Pesticide and other agricultural chemicals are to be applied during its cultivation process.

   b. The standard operating procedures must also include any methods and processes related to Decontamination of Harvest Batches.

   c. If a Regulated Marijuana Cultivation Facility produces Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana made from Physical Separation-Based Concentrate, the standard operating procedures must include all methods and processes related to the creation of each type of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana product, including but not limited to, the strains used, where strains are sourced, which parts of Harvest Batches are used (e.g. flower, shake, trim), the size of the product (e.g. 1 gram pre-rolls), and how much and what type of Regulated Marijuana Concentrate is added (if applicable) for each type of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana it produces.

   d. Provide adequate training to every Owner Licensee and Employee Licensee who performs a task or set of tasks that are referenced in the standard operating procedures. Adequate training must include, but need not be limited to, providing a copy of the standard operating procedures for that Licensed Premises detailing

at least all of the topics required to be included in the standard operating procedures.

2. Material Change. If a Regulated Marijuana Cultivation Facility makes a Material Change to its cultivation procedures, it must document the change and revise its standard operating procedures accordingly. Records detailing the Material Change must be maintained on the relevant Licensed Premises.

3. Safety Data Sheet. A Regulated Marijuana Cultivation Facility must obtain a safety data sheet for any Pesticide or other agricultural chemical used or stored on its Licensed Premises. A Regulated Marijuana Cultivation Facility must maintain a current copy of the safety data sheet for any Pesticide or other agricultural chemical on the Licensed Premises where the product is used or stored.

4. Labels of Pesticide and Other Agricultural Chemicals. A Regulated Marijuana Cultivation Facility must have the original label or a copy thereof at its Licensed Premises for all Pesticide and other agricultural chemicals used during its cultivation process.

5. Pesticide Application Documentation. A Regulated Marijuana Cultivation Facility that applies any Pesticide to any portion of a Regulated Marijuana plant during cultivation or generally within the Licensed Premises must document, and maintain a record on its Licensed Premises of, the following information:

    a. The name, signature, and Employee License number of the individual who applied the Pesticide;

    b. Applicator certification number if the applicator is licensed through the Department of Agriculture in accordance with the “Pesticides Applicators’ Act,” sections 35-10-101 et seq., C.R.S.;

    c. The date and time of the application;

    d. The EPA registration number of the Pesticide applied;

    e. Any of the active ingredients of the Pesticide applied;

    f. Brand name and product name of the Pesticide applied;

    g. The restricted entry interval from the product label of any Pesticide applied;

    h. The RFID tag number of the Regulated Marijuana plant(s) that the was applied to or if applied to all plants, a statement to that effect; and

    i. The total amount of each Pesticide applied.

E. Adulterants. A Regulated Marijuana Cultivation Facility may not treat or otherwise adulterate Regulated Marijuana with any chemical or other compound whatsoever to alter its color, appearance, weight, or smell.

Basis and Purpose – 3-335

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), 44-10-202(2)(y), 44-10-203(3)(b), 44-10-203(3)(c), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-203(3)(g), and 44-10-1001, C.R.S. The State Licensing Authority has determined the manufacturing of Medical or Retail Marijuana

Infused Products involves the application of processes and procedures, materials, chemicals, and additives, which, if improperly applied, may cause harm to employees and consumers. Therefore, the purpose of this Rule is to clarify the minimum and specific health and safety requirements imposed on a Medical or Retail Marijuana Products Manufacturing Facility. This Rule clarifies which Edible Medical or Retail Marijuana Products, due to their specific composition, are *per se* practicable to mark with the Universal Symbol but exempts certain Liquid Products from the Universal Symbol requirements. Additionally, the Rule imposes manufacturing and production requirements (e.g. prohibiting products from being shaped like fruit or humans), identifies the standard THC portion, prohibits licensees from using commercial food products to remanufacture Medical or Retail Marijuana Products, and prohibits the use of toxic additives.

3-335 – Production of Regulated Marijuana Concentrate and Regulated Marijuana Products: Specific Health and Safety Requirements

A. Training.

1. Prior to engaging in the manufacture of any Edible Medical Marijuana Product or Edible Retail Marijuana Product each Owner Licensee or Employee Licensee must:

a. Have a currently valid Food Handler Certificate obtained through the successful completion of an online assessment or print exam; or

b. Take a food safety course that includes basic food handling training and is comparable to, or is a course given by, the Colorado State University extension service or a state, county, or district public health agency, and must maintain a status of good standing in accordance with the course requirements, including attending any additional classes if necessary. Any course taken pursuant to this rule must last at least two hours and cover the following subjects:

i. Causes of foodborne illness, highly susceptible populations and worker illness;

ii. Personal hygiene and food handling practices;

iii. Approved sources of food;

iv. Potentially hazardous foods and food temperatures;

v. Sanitization and chemical use; and

vi. Emergency procedures (fire, flood, sewer backup).

2. A Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer must obtain documentation evidencing that each Owner Licensee or Employee Licensee has successfully completed the examination or course required by this Rule and is in good standing. A copy of the documentation must be kept on file at any Licensed Premises where that Owner Licensee or Employee Licensee is engaged in the manufacturing of an Edible Medical Marijuana Product or Edible Retail Marijuana Product.

B. Other State and Local Health and Safety Standards Apply. A Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer that manufactures Edible Medical Marijuana Products or Edible Retail Marijuana Products shall comply with all kitchen-related health and safety standards of the relevant Local Licensing Authority or Local Jurisdiction and, to the extent applicable, with all Colorado Department of

Public Health and Environment health and safety regulations applicable to retail food establishments, as set forth in 6 CCR 1010-2.

C. Additional Sanitary Requirements. A Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer shall take all reasonable measures and precautions to ensure the following:

1. That there is sufficient space for placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations for production of Regulated Marijuana or Regulated Marijuana Products;

2. That all contact surfaces, including utensils and equipment used for the preparation of Regulated Marijuana or Regulated Marijuana Product, shall be cleaned and sanitized as frequently as necessary to protect against contamination. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable and shall be properly maintained. Only sanitizers and disinfectants registered with the Environmental Protection Agency shall be used by a Medical Marijuana Products Manufacturer, an Accelerator Manufacturer, or Retail Marijuana Products Manufacturer, and used in accordance with labeled instructions;

3. That the water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the Licensed Premises needs;

4. That plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the plant and that shall properly convey sewage and liquid disposable waste from the Licensed Premises. There shall be no cross-connections between the potable and waste water lines; and

5. That storage and transport of finished Regulated Marijuana Product shall be under conditions that will protect products against physical, chemical, and microbial contamination as well as against deterioration of any Container.

D. Product Safety.

1. A Regulated Marijuana Products Manufacturer that manufactures Edible Regulated Marijuana Product shall create and maintain standard production procedures and detailed manufacturing processes for each Edible Medical Marijuana Product or Edible Retail Marijuana Product it manufactures. These procedures and processes must be documented and made available on the Licensed Premises for inspection by the Division, the Colorado Department of Public Health & Environment, and local licensing authorities.

2. Universal Symbol Marking Requirements.

a. The following categories of Edible Medical Marijuana Products and Edible Retail Marijuana Products are considered to be per se practicable to mark, and shall be marked, stamped, or otherwise imprinted with the Universal Symbol directly on the Regulated Marijuana Product:

i. Chocolate;

ii. Soft confections;

iii. Hard confections or lozenges;

iv. Consolidated baked goods (e.g. cookie, brownie, cupcake, granola bar);

v. Pressed pills and capsules.

b. The Universal Symbol marking shall:

i. Be marked, stamped, or otherwise imprinted in its entirety on at least one side of the Edible Medical Marijuana Product or Edible Retail Marijuana Product. The shape of the product shall not be included or take place of any part of the Universal Symbol;

ii. Be centered either horizontally or vertically on the Edible Medical Marijuana Product or Edible Retail Marijuana Product;

iii. If centered horizontally on the Edible Medical Marijuana Product or Edible Retail Marijuana Product, the height and width of the Universal Symbol shall be of a size that is at least 25% of the product's height, but not less than ¼ inch by ¼ inch.

iv. If centered vertically on the Edible Medical Marijuana Product or Edible Retail Marijuana Product, the height and width of the Universal Symbol shall be of a size that is at least 25% of the product's height, but not less than ¼ inch by ¼ inch.

c. The following categories of Edible Medical Marijuana Product and Edible Retail Marijuana Product are considered to be per se impracticable to mark with the Universal Symbol marking requirements, provided that they comply with labeling and Container requirements of 3-1000 Series Rules.

i. Loose bulk goods (e.g. granola, cereals, popcorn);

ii. Powders;

iii. Liquid Edible Medical Marijuana Products;

iv. Liquid Edible Retail Marijuana Products.

3. Medical Marijuana Products Manufacturer Specific Requirements.

a. Standard Portion of THC. A Medical Marijuana Products Manufacturer may determine a standard portion of THC for each Edible Medical Marijuana Product it manufactures. If a Medical Marijuana Products Manufacturer determines a standard portion for an Edible Medical Marijuana Product, that information must be documented in the product's standard production procedure.

b. Documentation. For each Edible Medical Marijuana Product, the total amount of active THC contained within the product must be documented in the standard production procedures.

c. If a Medical Marijuana Products Manufacturer elects to determine standard portions for an Edible Medical Marijuana Product, then the Universal Symbol shall be applied to each portion in accordance with the requirements of subparagraph (D)(2)(b) of this Rule 3-335. Except that the size of the Universal

Symbol marking shall be determined by the size of the portion instead of the overall product size and shall not be less than ¼ inch by ¼ inch.

d. Medical Marijuana Concentrate Recommended Serving Size and Visual Representation.

i. The recommended serving size for Medical Marijuana Concentrate in Vaporized Delivery Devices should not exceed one (1) inhalation lasting two (2) seconds per serving.

ii. The recommended serving size for Medical Marijuana Concentrate intended to be inhaled in any manner other than a Vaporizer Delivery Device is a sphere identified in the tangible educational resource required to be provided to a patient pursuant to Rule 5-125(D) and Rule 5-115(C.5).

4. Retail Marijuana Products Manufacturer Specific Requirements.

a. Standardized Serving of Marijuana. The size of a Standardized Serving of Marijuana shall be no more than 10mg of active THC. A Retail Marijuana Products Manufacturer or an Accelerator Manufacturer that manufactures Edible Retail Marijuana Product shall determine the total number of Standardized Servings of Marijuana for each product that it manufactures. No individual Edible Retail Marijuana Product unit packaged for Transfer to a consumer shall contain more than 100 milligrams of active THC.

b. Documentation. The following information must be documented in the standard production procedures for each Edible Retail Marijuana Product: the amount in milligrams of Standardized Serving of Marijuana, the total number of Standardized Servings of Marijuana, and the total amount of active THC contained within the product.

c. Notwithstanding the requirement of subparagraph (D)(2)(b), an Edible Retail Marijuana Product shall contain no more than 10 mg of active THC per Container and the Retail Marijuana Products Manufacturer or an Accelerator Manufacturer must ensure that the product is packaged in accordance with the Rules 3-1005(C)(1) and 1010(D)(1), when:

i. The Edible Retail Marijuana Product is of the type that is impracticable to mark, stamp, or otherwise imprint with the Universal Symbol directly on the product in a manner to cause the Universal Symbol to be distinguishable and easily recognizable; or

ii. The Edible Retail Marijuana Product is of the type that is impracticable to clearly demark each Standardized Serving of Marijuana or to make each Standardized Serving of Marijuana separable.

d. Liquid Edible Retail Marijuana Product.

i. Pursuant to 44-10-603(4)(b), C.R.S., Liquid Edible Retail Marijuana Products are impracticable to mark with the Universal Symbol and are exempt from the provision in subparagraph (D)(4)(c) of this Rule 3-335 that requires Edible Retail Marijuana Products that are impracticable to mark with the Universal Symbol to contain 10mg or less active THC per Container.

ii. This exemption permits the manufacture and Transfer of Multi-Serving Liquid Edible Retail Marijuana Products so long as the product is packaged in accordance with Rules 3-1005(C)(1) and 3-1010(D)(1)(c)(ii).

e. Multiple-Serving Edible Retail Marijuana Product.

i. A Retail Marijuana Products Manufacturer or an Accelerator Manufacturer must ensure that each single Standardized Serving of Marijuana of a Multiple-Serving Edible Retail Marijuana Product is physically demarked in a way that enables a reasonable person to intuitively determine how much of the product constitutes a single serving of active THC.

ii. Each demarked Standardized Serving of Marijuana must be easily separable in order to allow an average person 21 years of age and over to physically separate, with minimal effort, individual servings of the product.

iii. Each single Standardized Serving of Marijuana contained in a Multiple-Serving Edible Retail Marijuana Product shall be marked, stamped, or otherwise imprinted with the Universal Symbol directly on the product in a manner to cause the Universal Symbol to be distinguishable and easily recognizable. The Universal Symbol marking shall comply with the requirements of subparagraph (D)(2)(b) of this Rule 3-335.

iv. A Multiple-Serving Edible Retail Marijuana Product that is a Liquid Edible Retail Marijuana Product shall comply with the requirements in subparagraph (D)(4)(d)(ii) of this Rule 3-335 and is exempt from subparagraphs (i)-(iii) of this subparagraph (D)(4)(e)(iv).

f. Retail Marijuana Concentrate Recommended Serving Size and Visual Representation.

i. The recommended serving size for Retail Marijuana Concentrate in Vaporized Delivery Devices should not exceed one (1) inhalation lasting two (2) seconds per serving.

ii. The recommended serving size for Retail Marijuana Concentrate intended to be inhaled in any manner other than a Vaporizer Delivery Device is a sphere identified in the tangible educational resource required to be provided to a patient pursuant to Rule 6-110(C.5) and Rule 6-1110(C.5).

E. Remanufactured Products Prohibited. A Regulated Marijuana Products Manufacturer shall not utilize a commercially manufactured food product as its Edible Medical Marijuana Product or Edible Retail Marijuana Product. The following exceptions to this prohibition apply:

1. A food product that was commercially manufactured specifically for use by a Regulated Marijuana Products Manufacturer to infuse with Regulated Marijuana shall be allowed. The Licensee shall have a written agreement with the commercial food product manufacturer that declares the food product's exclusive use by the Regulated Marijuana Products Manufacturer.

2. Commercially manufactured food products may be used as Ingredients in an Edible Medical Marijuana Product or Edible Retail Marijuana Product so long as: (1) they are

used in a way that renders them unrecognizable as the commercial food product in the final Edible Medical Marijuana Product or Edible Retail Marijuana Product, and (2) the Regulated Marijuana Products Manufacturer does not state or advertise to the consumer that the final Edible Medical Marijuana Product or Edible Retail Marijuana Product contains the commercially manufactured food product.

F. Trademarked Food Products. Nothing in this Rule alters or eliminates a Regulated Marijuana Products Manufacturer's responsibility to comply with the trademarked food product provisions required by the Marijuana Code per section 44-10-503(9)(a-c), C.R.S.

G. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit.

1. The production, Transfer, and donation of Edible Medical Marijuana Products or Edible Retail Marijuana Products in the following shapes is prohibited:

   i. The distinct shape of a human, animal, or fruit; or

   ii. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

2. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Regulated Marijuana Business. Nothing in this subparagraph (G)(2) alters or eliminates a Licensee's obligation to comply with the requirements of the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

3. Edible Medical Marijuana Products and Edible Retail Marijuana Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and

4. Edible Medical Marijuana Products and Edible Retail Marijuana Products that are manufactured in the shape of a marijuana leaf are permissible.

H. Inactive Ingredients.

1. Only non-cannabis derived inactive Ingredients listed in the Federal Food and Drug Administration Inactive Ingredient Database https://www.accessdata.fda.gov/scripts/cder/iig/index.cfm, or approved by another equivalent international government agency, may be used in the manufacture of Audited Product and Regulated Marijuana Concentrate intended for use through a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler.

2. All non-cannabis derived inactive Ingredients contained in any Audited Product or in any Regulated Marijuana Concentrate intended for use through a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler must be less than or equal to the concentration listed in the Federal Food and Drug Administration Inactive Ingredient Database, or approved by another equivalent international government agency for:

   a. The inhalation route of administration for any Audited Product to be used in a metered dose nasal spray, or any Regulated Marijuana Concentrate to be used in a Vaporizer Delivery Device or pressurized metered dose inhaler;

   b. The vaginal route of administration for any Audited Product to be used for vaginal administration; or

c. The rectal route of administration for any Audited Product to be used for rectal administration.

I. Other Permitted Ingredients. Nothing in paragraph H above prohibits a Regulated Marijuana Products Manufacturer from using marijuana-derived ingredients or Botanically Derived Compounds and/or terpenoids.

J. Processing Aids and Additives. A Regulated Marijuana Products Manufacturer shall not include any Processing Aid or Additive that is toxic, prohibited, or present at levels over the acceptable limits pursuant to Rule 4-115(D) within a Regulated Marijuana Product; nor include any Additive for the purposes of making the product more addictive, appealing to children, or misleading to patients or consumers.

K. Prohibited Ingredients.

1. A Regulated Marijuana Products Manufacturer shall not use the following Ingredients in the production or Transfer of Regulated Marijuana Concentrate and Regulated Marijuana Product for which the inhaled product is the intended use in accordance with Rule 3-1015:

a. Polyethylene glycol (PEG);

b. Vitamin E Acetate;

c. Medium Chain Triglycerides (MCT Oil);

2. A Licensee authorized to manufacture Regulated Marijuana Concentrate or Regulated Marijuana Product shall not use ingredients, other than Regulated Marijuana, with over 0.3% combined D8-THC, D9-THC, D10-THC, Exo-THC or other THC isomers, salts, or salt isomers of tetrahydrocannabinol in the manufacture, production, or Transfer of Regulated Marijuana Concentrate or Regulated Marijuana Product.

L. Standard Operating Procedures.

1. A Regulated Marijuana Products Manufacturer must have written standard operating procedures for each category and type of Medical Marijuana Product or Retail Marijuana Product that it produces.

a. All standard operating procedures for the production of a Medical Marijuana Concentrate or Retail Marijuana Concentrate must follow the requirements in Rules 5-315 and 6-315.

b. A copy of all standard operating procedures must be maintained on the Licensed Premises of the Regulated Marijuana Products Manufacturer.

c. If a Regulated Marijuana Products Manufacturer produces Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana, the standard operating procedures must include all methods and processes related to the creation of each type of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana product, including but not limited to, the strains used, where strains are sourced, which parts of Harvest Batches are used (e.g. flower, shake, trim), the size of the product (e.g. 1 gram pre-rolls), and how much and what type of Regulated Marijuana Concentrate is added (if applicable) for each type of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana it produces.

d. Provide adequate training to every Owner Licensee and Employee Licensee who performs a task or set of tasks that are referenced in the standard operating procedures. Adequate training must include, but need not be limited to, providing a copy of the standard operating procedures for that Licensed Premises detailing at least all of the topics required to be included in the standard operating procedures.

2. If a Regulated Marijuana Products Manufacturer makes a Material Change to its standard Medical Marijuana Product production process or Retail Marijuana Product production process, it must document the change and revise its standard operating procedures accordingly. Records detailing the Material Change must be maintained on the relevant Licensed Premises.

M. Expiration Date for Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers. Effective July 1, 2022, a Regulated Marijuana Products Manufacturer that produces a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler shall establish an expiration date upon which the Vaporized Delivery Device or Pressurized Metered Dose Inhaler will no longer be fit for consumption. The Licensee shall determine the expiration date by conducting potency and contaminant testing pursuant to Rules 4-120 and 4-125 on the final Vaporizer Delivery Device or Pressurized Metered Dose Inhaler prior to Transfer to ensure the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler can pass potency and contaminant testing prior to the established expiration date.

1. When determining the expiration date for a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler pursuant to this rule, the Licensee shall also consider the following:

i. Any expiration dates of additives used to produce the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler;

ii. The interaction with hardware;

iii. The final formulation within the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler; and

iv. The ideal storage conditions for the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler.

2. The License may, but is not required to, use accelerated stability tests to demonstrate compliance with this rule.

3. Expiration date determinations, along with any data used to establish the expiration date, shall be documented and maintained in the Licensee's business records pursuant to these rules.

N. DMSO. Except for R&D Licensees, the use of Dimethylsulfoxide (DMSO) in the production of Regulated Marijuana Product and possession of DMSO upon the Licensed Premises is prohibited.

Basis and Purpose – 3-336

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(b)-(c), 44-10-203(1)(k), 44-10-203(2)(d)(I)-(VI), 44-10-203(2)(m), 44-10-401(2)(a)(III), 44-10-503, and 44-10-901(1), C.R.S. The purpose of this rule is to establish minimum requirements for a recall plan, the process by which the Division or a Regulated Marijuana Business initiates a product recall, the requirements any recall must meet, and how such recall is terminated.

3-336 – Recall of Regulated Marijuana

A. Effective Date. This Rule is effective January 1, 2021.

B. Applicability. This Rule 3-336 applies to Medical Marijuana Stores, Medical Marijuana Products Manufacturers, Medical Marijuana Cultivation Facilities, Medical Marijuana Research and Development Facilities, Retail Marijuana Stores, Retail Marijuana Products Manufacturers, Retail Marijuana Cultivation Facilities, Licensed Hospitality Businesses, Accelerator Cultivators, Accelerator Manufacturers, and Accelerator Stores.

C. Initiating a Recall. A Regulated Marijuana Business subject to this Rule 3-336 may voluntarily initiate a recall at any time or a recall may be initiated at the request of the Division. A Regulated Marijuana Business subject to this rule must comply with the requirements of this Rule 3-336.

1. Division Requests for Recalls:

i. If the Division requests a Regulated Marijuana Business to initiate a recall pursuant to this rule, the Division's correspondence, which may be electronic, must include the reasons for the recall request and any other information necessary for the Regulated Marijuana Business to initiate a recall pursuant to this rule.

ii. A recall request issued by the Division does not require that a Regulated Marijuana Business initiate a recall. However, if the Division has reasonable grounds to believe a Licensee's Regulated Marijuana is contaminated or otherwise presents a risk to public safety, the Division may require a Regulated Marijuana Business to quarantine affected Regulated Marijuana Inventory pursuant to Rules 4-115 and 4-135.

D. Recall Plan Required. A Regulated Marijuana Business subject to this Rule 3-336 must have a written recall plan. A recall plan shall include, but is not limited to the following:

1. Evaluation of a Complaint or Condition. A Regulated Marijuana Business subject to this rule must maintain a record of all complaints it receives regarding the quality of Regulated Marijuana that has any potential negative impact to health or regarding an adverse reaction. To the extent known after reasonable diligence to ascertain the information, the record must contain the name of the complainant, the purchase date, the location of where the product was purchased, the date the complaint was received, the nature of the complaint, the steps taken to investigate the complaint, the response to the complaint, and the name and Production or Harvest Batch number for the Regulated Marijuana subject to the complaint.

a. If an initial assessment indicates a recall may be necessary, the Regulated Marijuana Business shall take the following measures:

i. Determine the hazard and evaluate the safety concerns with the product;

ii. Undertake necessary product quarantine measures for any affected Regulated Marijuana in the Licensee's possession or control; and

iii. Determine the product removal strategy appropriate to the threat and location in commerce.

2. Identification of Affected Regulated Marijuana. A recall plan must establish a process for identifying affected Regulated Marijuana subject to a recall, which shall include the following:

    a. Distribution List. When identifying Regulated Marijuana subject to a recall, the Licensee shall create a distribution list that includes the following information:

        i. The name, license number, and address of the Regulated Marijuana Business(es) that received the Regulated Marijuana subject to the recall;

        ii. Ship or Transfer date(s) for the Regulated Marijuana subject to the recall; and

        iii. Business contact information for each Regulated Marijuana Business that received Regulated Marijuana subject to the recall, including names and telephone numbers.

    b. Product Information. When identifying Regulated Marijuana subject to a recall, the Licensee shall document the following product information:

        i. The category of Regulated Marijuana (e.g. Medical Marijuana flower; Medical Marijuana Concentrate; Medical Marijuana Product; Retail Marijuana flower; Retail Marijuana Concentrate, Retail Marijuana Product);

        ii. Product description;

        iii. Net contents;

        iv. Production or Harvest Batch number;

        v. The license number(s) for the Regulated Marijuana Business(es) that cultivated or manufactured the product(s) subject to the recall; and

        vi. To the extent known after reasonable diligence to ascertain the information, the recall plan must also include the following additional product information: The amount of affected Regulated Marijuana returned in response to the recall and the amount of affected Regulated Marijuana that remains in the marketplace.

3. Notification to Affected Parties.

    a. A Licensee initiating a recall pursuant to this rule shall issue a recall notice to Regulated Marijuana Businesses identified on the Licensee's distribution list.

    b. No later than 48 hours from issuing a recall notice to Regulated Marijuana Businesses on the Licensee's distribution list, the Licensee shall issue the following additional notifications:

        i. The Licensee shall notify the Division and the Colorado Department of Public Health and Environment;

        ii. The Licensee shall notify the Local Licensing Authority or Local Jurisdiction in which the Licensee issuing the recall is located; and

iii. The Licensee shall notify patients or consumers using the most effective method available, which may include any of the following methods: an email to the patient or customer list serve, an alert on the Regulated Marijuana Business' website, a warning that is clearly and visibly posted on the Regulated Marijuana Business' Licensed Premises, or a press release to notify patients or consumers.

c. Recall Notice. A recall notice issued by a Regulated Marijuana Business pursuant to this rule shall include at least the following information:

i. The reason for recall and related hazards, if any. If the Regulated Marijuana is being removed for quality rather than health reasons, the notice may state that the Regulated Marijuana does not meet internal company specifications and is being removed from distribution;

ii. The category of Regulated Marijuana (e.g. Medical Marijuana flower; Medical Marijuana Concentrate; Medical Marijuana Product; Retail Marijuana flower; Retail Marijuana Concentrate, Retail Marijuana Product);

iii. Regulated Marijuana Businesses that received the Medical Marijuana Concentrate, Medical Marijuana Product, Retail Marijuana Concentrate or Retail Marijuana Product;

iv. The license number(s) and name(s), including trade name(s), of the Regulated Marijuana Business(es) that cultivated or manufactured the product(s) subject to the recall;

v. Product description(s) for Regulated Marijuana subject to the recall;

vi. Production or Harvest Batch number(s) for the Regulated Marijuana subject to the recall;

vii. Expiration date(s) for the Regulated Marijuana subject to the recall, if applicable;

viii. Ship or Transfer date(s) for the Regulated Marijuana subject to the recall; and

ix. Instructions regarding the disposition of the Regulated Marijuana subject to the recall.

4. Removal of Affected Regulated Marijuana.

a. Removal. A Regulated Marijuana Business subject to this Rule 3-336 shall make all reasonable efforts to remove the affected Regulated Marijuana from commerce. Affected Regulated Marijuana that is either still in control of the originating Regulated Marijuana Business or in commerce shall be, secured, segregated, clearly labeled not for sale or distribution and separated from any other Medical Marijuana Concentrate, Medical Marijuana Product(s), Retail Marijuana Concentrate, or Retail Marijuana Product(s).

b. Final Product Disposition. At the discretion of the Regulated Marijuana Business contaminated product must be disposed by either:

i. Destroying and documenting the destruction of the affected Regulated Marijuana pursuant to Rule 3-230; or

ii. If possible, Decontaminating the affected Regulated Marijuana pursuant to Rule 4-135(B)(2). If the Regulated Marijuana cannot be decontaminated, it must be destroyed pursuant to Rule 4-135(B)(3)(c) and 3-230.

c. Recall Effectiveness. A Regulated Marijuana Business initiating a recall pursuant to this rule is responsible for determining whether the recall is effective. The Licensee shall complete recall effectiveness checks to verify that all receiving Licensees have been notified and have taken the appropriate action.

i. Effectiveness checks shall determine:

A. If the receiving Licensee received the recall notification;

B. If the recalled Regulated Marijuana was handled as instructed in the recall notification; and

C. If the Regulated Marijuana was further distributed or sold by the receiving Licensee before receipt of the recall notification, and if so, were these additional Licensees notified.

ii. If 100 percent of the affected Regulated Marijuana has been accounted for, then no effectiveness checks are required.

d. Termination of Recall. A Regulated Marijuana Business initiating a recall pursuant to this rule may terminate the recall when the Licensee determines that all reasonable efforts have been made to remove or correct the affected Regulated Marijuana in accordance with the recall plan, and when it is reasonable to assume that the Regulated Marijuana subject to the recall has been removed and proper disposition or correction has been made commensurate with the degree of hazard of the recalled Regulated Marijuana.

i. Upon termination of the recall, the Regulated Marijuana Business shall provide notice to the Division with a recall status report and a description of the disposition of the recalled Regulated Marijuana. The recall status report shall contain the following information:

A. Number of receiving Licensees notified of the recall, the date and method of notification;

B. Number of receiving Licensees who responded to the recall notice and both the quantity of affected Regulated Marijuana in the possession of the Licensee at the time of response, and quantity of affected Regulated Marijuana returned or corrected;

C. Number and results of the effectiveness checks that were made; and

D. Estimated time frame for completion of the recall.

Basis and Purpose – 3-340

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(b)-(c), 44-10-203(1)(k), 44-10-203(2)(l), 44-10-203(2)(m), and 44-10-901(1), C.R.S. The purpose of this Rule is to clarify that a Regulated Marijuana Businesses failure to comply with the requirements of 3-300 Rules Series may jeopardize the public health and safety.

3-340 – Violation Affecting Public Safety

A violation of these 3-300 Rules may be considered a license violation affecting public safety.

Basis and Purpose – 3-345 {Emergency rule expired 05/11/2021]

Rule 3-345 – [Emergency rule expired 05/11/2021]

3-400 Series – Acceptable Forms of Identification for Regulated Marijuana Sales

Basis and Purpose – 3-405

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(v), 44-10-203(2)(z), 44-10-401(2)(a)(I), 44-10-401(2)(b)(I), 44-10-501(3)(b), 44-10-501(3)(c), 44-10-501(3)(d), 44-10-501(4), 44-10-501(10)(b)(II), 44-10-601(3)(b), 44-10-701(1)(b), 44-10-701(2)(a), 44-10-701(4)(a), and 44-10-701(5)(a), C.R.S. The purpose of this rule is to establish guidelines for the acceptable forms of identification for verifying the lawful sale of Regulated Marijuana. This Rule 3-405 was previously Rule M 405, 1 CCR 212-1, and Rule R 404, 1 CCR 212-2.

3-405 – Identification

A. Medical Marijuana Transfers.

1. Necessary Identification. Medical Marijuana Stores may only Transfer Medical Marijuana to any patient or primary caregiver who is permitted to deliver Medical Marijuana to homebound patients or minor patients as permitted by section 25-1.5-106(9)(e), C.R.S., if the patient or caregiver can produce:

    a. Proof of identification that complies with subparagraphs (C) and (D) of this Rule; and

    b. Either a valid patient registry card, including any valid and verified digital registry card, or a copy of a current and complete new application for the Medical Marijuana registry that is documented by proof of submittal to the Colorado Department of Public Health and Environment within the preceding 35 days.

2. Physical Inspection Required. A Licensee must physically view and inspect the patient or primary caregiver's registry card, including any valid and verified digital registry card, and proof of identification to confirm the information contained on the documents and also to judge the authenticity of the documents presented.

3. Valid and Verified Registry Card. For the purposes of these rules, a valid and verified digital registry card may include:

    a. A hard copy of the patient's registry card; or

    b. A portable document format (PDF) of the patient's registry card presented on a phone or other portable device.

i. If a patient is presenting his or her registry card on a phone or other portable device, the PDF of the registry card must be presented.

ii. A screen shot of the patient's profile, text image of a blank card, or photo of the hard copy is unacceptable.

B. Retail Marijuana Transfers. An Accelerator Store, a Retail Marijuana Store, or a Retail Marijuana Hospitality and Sales Business may only Transfer Retail Marijuana to a consumer that first produces a form of identification that complies with subparagraphs (C) and (D) of this Rule establishing the consumer is 21 years of age or older.

1. Fraudulent Identification and Licensee's Burden. Pursuant to section 44-10-601(3)(b)(I), C.R.S., if a person under 21 years of age presents a fraudulent proof of age to a Retail Marijuana Store, or an Accelerator Store any action based upon the fraudulent proof of age shall not be grounds for the revocation or suspension of a license. To establish that the identification presented by the minor was a fraudulent proof of age, the Licensee must establish that:

a. The minor presented fraudulent identification of the type established in subparagraph (C) below;

b. During the transaction in which Retail Marijuana was Transferred to the minor, the Licensee inspected the identification provided, compared the identification to the person presenting the identification, and:

i. Inspected an identification book issued within the past three years:

ii. Used an electronic scanner;

iii. Used an ID checking software or other device used in the inspection of identification; or

iv. Used other ID security features.

C. Forms of Valid Identification. The kind and type of identification deemed adequate shall be limited to the following, including any valid and verified digital identification:

1. An operator's, chauffeur's, or similar type driver's license, including a temporary license issued by any state within the United States, District of Columbia, or any U.S. territory;

2. An identification card, including a temporary identification card, issued by any state within the United States, District of Columbia, or any U.S. territory, for the purpose of proof of age using requirements similar to those in sections 42-2-302 and 42-2-303, C.R.S.;

3. A United States military identification card or any other identification card issued by the United States government including but not limited to a permanent resident card, alien registration card, or consular card;

4. A passport or passport identification card; or

5. An Enrollment card issued by the governing authority of a federally recognized Indian tribe, if the enrollment card incorporates proof of age requirements similar to sections 42-2-302 and 42-2-303, C.R.S.

D. Identification Must Be Valid. A Licensee shall refuse the Transfer of Regulated Marijuana if a person produces identification that is invalid or expired.

3-500 Series – Responsible Vendor Program

Basis and Purpose – 3-505

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-12-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(v), 44-203(2)(dd)(II), 44-10-609(3)(b), 44-10-1201, and 44-10-1202, C.R.S. The purpose of this rule is to establish the standards for a person, employee, manager, or Controlling Beneficial Owner, Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, Retail Marijuana Transporter, Marijuana Hospitality Businesses, and Retail Marijuana Hospitality and Sales Businesses to obtain and maintain a "responsible vendor" designation. This rule identifies Licensees required to attend the Approved Training Program and requirements to maintain a "responsible vendor" designation after initially being designated a "responsible vendor." This Rule 3-505 was previously Rules M 408, 1 CCR 212-1, and R 407, 1 CCR 212-2.

3-505 – General Standards for Responsible Vendor Designations

A. Pursuant to section 44-10-1202, C.R.S., a Regulated Marijuana Business Licensee, Owner Licensee, or Employee Licensee shall comply with these 3-500 Series Rules to be designated a "responsible vendor" of Regulated Marijuana.

B. Regulated Marijuana Business Responsible Vendor Designation. To be designated a "responsible vendor" as a Regulated Marijuana Business all Controlling Beneficial Owners with day-to-day operational control of the Licensed Premises, management personnel with responsibility over sales or training of employees who engage in sales or other consumer, primary caregiver, or patient interactions, and Employee Licensees involved in the handling and Transfer of Regulated Marijuana must have successfully completed an Approved Training Program.

C. Individual Responsible Vendor Designation. A person, Employee Licensee, manager, or Controlling Beneficial Owner may receive a "responsible vendor" designation upon successful completion of an Approved Training Program.

D. Maintaining Responsible Vendor Designation.

1. After initial successful completion of a responsible vendor program, each Controlling Beneficial Owner with day-to-day operational control of the Licensed Premises, management personnel, and Employee Licensee of a Regulated Marijuana Business, as described in subparagraph (B) of this Rule, shall successfully complete an Approved Training Program once every two years thereafter for the Regulated Marijuana Business to maintain its designation as a "responsible vendor."

2. Once a Regulated Marijuana Business License is designated a "responsible vendor," all new Controlling Beneficial Owners with day-to-day operational control, new managers, or employees with responsibility over sales or training of employees who engage in sales or other consumer, primary caregiver, or patient interactions shall successfully complete the training described in these 3-500 Series Rules within 90 days of becoming employed or an owner.

3. If an Employee Licensee with a "responsible vendor" designation leaves the employment of a Regulated Marijuana Business and is employed by another Regulated Marijuana Business, the Employee Licensee does not have to receive a new "responsible vendor" designation until the Employee Licensee's current "responsible vendor" designation expires.

4. If an Employee Licensee or Controlling Beneficial Owner has a valid "responsible vendor" designation upon hiring or becoming a Controlling Beneficial Owner, then the Regulated Marijuana Business must verify the designation within 90 days to maintain the Regulated Marijuana Business's "responsible vendor" designation.

E. Documentation Required. Information or documentation related to a "responsible vendor" designation must be maintained in accordance with Rule 3-905 of these Rules.

1. An Employee Licensee or Controlling Beneficial Owner with a valid "responsible vendor" designation is responsible for maintaining information related to the designation, including but not limited to the date(s) the Employee Licensee or Controlling Beneficial Owner took the Approved Training Program and the Responsible Vendor Training Program Provider's information.

2. A Regulated Marijuana Business is responsible for maintaining information related to a "responsible vendor" designation, including but not limited to the Employee Licensee(s) or Controlling Beneficial Owner(s) who have passed an Approved Training Program and the date(s) of such training.

F. Failure to Complete Approved Training Program or Verify Valid Responsible Vendor Designation. If within 90 days of hire an Employee Licensee or Controlling Beneficial Owner either fails to successfully complete an Approved Training Program, or the Regulated Marijuana Business fails to verify the new employee, manager, or Controlling Beneficial Owner has a valid "responsible vendor" designation, then the Regulated Marijuana Business will lose its "responsible vendor" designation.

Basis and Purpose – 3-510

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-12-203(1)(c), 44-10-203(2)(v), and 44-10-203(1)(k), 44-10-1201, 44-10-1202, C.R.S. The purpose of this rule is to establish general application and notification requirements for Responsible Vendor Program Providers. This Rule 3-510 was previously Rules M 408, 1 CCR 212-1, and R 407, 1 CCR 212-2.

3-510 – General Standards for Responsible Vendor Program Provider

A. An application for approval of a responsible vendor program pursuant to section 44-10-1201 or 44-10-1202, C.R.S., shall be made upon current forms prescribed by the Division and in accordance with the 2-200 Series Rules.

B. Changes to an Approved Program. Within 30 days of any changes to the Marijuana Code, or these rules, a Responsible Vendor Program Provider shall update its responsible vendor program curriculum with any such changes.

Basis and Purpose – 3-515

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-12-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(v), 44-203(2)(dd)(II), 44-10-609(3)(b), 44-10-1201, and 44-10-1202, C.R.S. The purpose of this rule is to provide the general standards for an Approved Training Program including the minimum amount of instruction time required, that the training must be provided in a classroom setting which may be virtual or online and the testing and passing score requirements for successful completion of the Approved Training Program. This Rule 3-515 was previously Rules M 408, 1 CCR 212-1, and R 407, 1 CCR 212-2.

3-515 – Certification Training Program Standards

A. No owner or employee of a responsible vendor program may have an Owner's Interest in a Regulated Marijuana Business.

B. A Responsible Vendor Program Provider shall submit their responsible vendor program for approval every two years in order to maintain designation as a Responsible Vendor Program Provider. The renewal application must be submitted within 60 days of the expiration of the Approved Training Program.

C. The responsible vendor program shall include at least two hours of instruction time.

D. Classroom setting. The responsible vendor program shall be taught in a classroom setting where the instructor is able to verify the identification of each individual attending the responsible vendor program and certify completion of the responsible vendor program by the individual identified.

1. An Approved Training Program may be delivered in an on-line or virtual based classroom setting provided the Responsible Vendor Program Provider utilizes a learning management system or other means to verify the identification of each individual attending the responsible vendor program. For purposes of this Rule, a learning management system means the platform or database used to monitor participation, attendance, and to deliver core-curriculum materials.

2. Any Approved Training Program delivered in an on-line or virtual based classroom setting must comply with the core curriculum and assessment requirements of Rule 3-520.

E. The Responsible Vendor Program Provider shall maintain its training records in a format that is readily understood by a reasonably prudent business person during the applicable year and for the following three years. The Responsible Vendor Program Provider shall make the records available for inspection by the State Licensing Authority upon request during normal business hours.

F. The responsible vendor program shall provide to the Licensee written or electronic documentation of attendance and successful passage of a test on the knowledge of the required curriculum for each attendee.

1. Successful completion of an Approved Training Program requires a minimum passage score of 70% or better. A Responsible Vendor Program Provider may provide a reasonable testing accommodation or modification to a Licensee participant, provided the results of the test are documented and meet the minimum passing score requirement.

G. A Responsible Vendor Program Provider shall solicit effectiveness evaluations from individuals who have completed the Approved Training Program.

Basis and Purpose – 3-520

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-12-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(v), 44-203(2)(dd)(II), 44-10-609(3)(b), 44-10-1201, and 44-10-1202, C.R.S. The purpose of this rule is to establish the required curriculum for an Approved Training Program. This rule also includes the required additional curriculum for Licensees engaged in delivery activity pursuant to a valid delivery permit and employees and Controlling Beneficial Owners of a Licensed Hospitality Businesses. This Rule 3-520 was previously Rules M 408, 1 CCR 212-1, and R 407, 1 CCR 212-2.

3-520 – Certification Training Class Core Curriculum

When considering whether to approve a responsible vendor program, the Division, after consulting with the Colorado Department of Public Health and Environment, will consider the following criteria.

A. Discussion concerning the health and safety concerns of marijuana use. Training shall include:

1. Health effects of marijuana use, including but not limited to the effects in connection with pregnancy and breast-feeding;

2. The amount of time to feel impairment based on the type of marijuana or marijuana product;

3. Recognizing signs of impairment;

4. The amount of time to wait before driving after marijuana use based on the type of marijuana or marijuana product;

5. Safe storage of marijuana;

6. Responsible use of marijuana; and

7. Appropriate responses in the event of unintentional or over-consumption of marijuana or marijuana product, including but not limited to access to the appropriate resources provided by state and local public health authorities.

B. Transfers to minors. Training shall cover all pertinent Colorado statutes, rules, and regulations.

C. Quantity Limitations on Transfer to Patients and Consumers. Training shall cover all pertinent Colorado statutes, rules, and regulations.

D. Acceptable Forms of Identification. Training shall include:

1. How to check identification;

2. Spotting false identification;

3. Patient Registry Cards issued by the Colorado Department of Public Health and Environment and equivalent patient verification documentation;

4. Provisions for confiscating false identification; and

5. Common mistakes made in verification.

E. Other Key State Laws and Rules That Apply to Medical Marijuana Stores, Medical Marijuana Transporters, Retail Marijuana Stores, Retail Marijuana Transporters Licensed Hospitality Businesses, and their Owners, Management Personnel, and Employees. Training shall include:

1. Local and state licensing and enforcement;

2. Compliance with all Inventory Tracking System regulations;

3. Administrative and criminal liability;

4. License sanctions and court sanctions;

5. Waste handling, management, and disposal;

6. Health and safety standards;

7. Patrons prohibited from bringing marijuana onto licensed premises;

8. Permitted hours of sale;

9. Licensee security and surveillance requirements;

10. Permitting inspections by state and local licensing and enforcement authorities;

11. Licensee responsibility for activities occurring within licensed premises;

12. Maintenance of records;

13. Privacy issues;

14. Applicable laws and regulations concerning Transfers to patients and consumers;

15. Packaging and labeling requirements for Transfers to patients and consumers;

16. How to access the Medical Marijuana Patient Registry website and how to sign up for the Registry's voluntary email list; and

17. Statutory and regulatory requirements related to Regulated Marijuana delivery.

F. Evaluation of Program Participants. The Responsible Vendor Program Provider shall establish that it has an adequate mechanism for evaluating attendees' successful completion of the Approved Training Program.

G. Additional Curriculum for Delivery to Patients and Consumers. In addition to the required curriculum in subparagraphs (B) through (F) above, training provided to any Licensee involved in activity pursuant to a valid delivery permit must also include all Colorado statutes and rules related to delivery of Regulated Marijuana to patients and consumers. Responsible Vendor Program Providers may provide the delivery curriculum as a separate training or as part of the core curriculum training. Licensees that do not engage in delivery activity are not required to, but may, complete the delivery training. Training provided to Licensees involved in delivery activity must include, but is not limited to:

1. Verification of identification and patient registry cards required before delivering Regulated Marijuana to a patient or consumer;

2. Maintaining confidentiality of patients' and consumers' personally identifiable information;

3. Methods for Licensees to identify themselves and verify the delivery permit during an interaction with law enforcement, Division employees or local regulators; and

4. Strategies to de-escalate potentially dangerous situations which could include development of an emergency action plan.

H. Additional Curriculum for Licensed Hospitality Businesses. In addition to the required curriculum in subparagraphs (B) through (F) above, training provided to Controlling Beneficial Owners of and any Licensee employed by a Licensed Hospitality Business must also include all Colorado statutes and rules related to Licensed Hospitality Businesses. Responsible Vendor Program Providers may provide the hospitality curriculum as a separate training or as part of the core curriculum training. Licensees that are not employed by a Licensed Hospitality Business are not required to, but may, complete the hospitality training. Training provided to Controlling Beneficial Owners of and employees of a Licensed Hospitality Business must include, but is not limited to:

1 Identifying signs of visible impairment including alcohol and drug impairment;

2. Resources to mitigate impaired driving including safe transportation options available to consumers;

3. Understanding customer's varying experience with Regulated Marijuana and options for lower dose Regulated Marijuana Products;

4. Resources available from the Colorado Department of Public Health and Environment regarding responsible Regulated Marijuana use;

5. Ceasing all consumption and other activities until law enforcement, firefighters, emergency medical service providers, or other public safety personnel have completed any investigation or services and left the Licensed Premises of the Licensed Hospitality Business;

6. Methods for Licensees to identify themselves during an interaction with law enforcement, Division employees or local regulators;

7. Poly-substance interactions including but not limited to interactions of Regulated Marijuana with alcohol, prescription and over-the-counter medications and other substances;

8. Risks and potential responses to adverse events such as overconsumption, altitude sickness, dehydration, poly-substance use or other similar events.

9. Strategies to de-escalate interactions with intoxicated consumers and potentially dangerous situations which could include development of an emergency action plan.

3-600 Series – Transport and Storage

Basis and Purpose – 3-605

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-313(5)(b), 44-10-505, and 44-10-605 C.R.S. The purpose of the rule is to provide clarity as to the requirements associated with the transport and delivery of Regulated Marijuana between Licensed Premises. It also prescribes the manner in which licensed entities will track inventory in the transport process to prevent diversionary practices. This Rule 3-605 was previously Rules M and R 801, 1 CCR 212-1 and 1 CCR 212-2.

3-605 – Transport: All Regulated Marijuana Businesses

A. Persons Authorized to Transport. Except as provided in these 3-600 Series Rules, any individual who transports Regulated Marijuana, Regulated Marijuana Vegetative plants, Regulated Marijuana Immature plants, Regulated Marijuana, or Regulated Marijuana Product on behalf of a Regulated Marijuana Business must hold a valid Owner License or Employee License and must be an employee of the Regulated Marijuana Business. An individual who does not possess a current and valid Owner's License or Employee License from the State Licensing Authority may not transport Regulated Marijuana, Regulated Marijuana Vegetative plants, Regulated Marijuana Immature plants, Regulated Marijuana Concentrate, or Regulated Marijuana Product between Licensed Premises.

B. Transport Between Licensed Premises.

1. Regulated Marijuana. Regulated Marijuana shall only be transported by Licensees between Licensed Premises; between Licensed Premises and a permitted off-premises storage facility; and between Licensed Premises and a Pesticide Manufacturer. Licensees transporting Regulated Marijuana are responsible for ensuring that all Regulated Marijuana are secured at all times during transport.

2. Regulated Marijuana Vegetative Plants and Regulated Marijuana Immature Plants.

    a. Regulated Marijuana Vegetative plants may only be transported between Licensed Premises and such transport shall only be permitted due to an approved change of location pursuant to Rule 2-255.

    b. Regulated Marijuana Immature plants shall only be transported between Licensed Premises; and between Licensed Premises and a Pesticide Manufacturer.

    c. Licensees transporting Regulated Marijuana Vegetative plants and Regulated Marijuana Immature plants are responsible for ensuring that all Regulated Marijuana Vegetative plants and Regulated Marijuana Immature plants are secure at all times during transport. Transportation of Regulated Marijuana Vegetative plants and Regulated Marijuana Immature plants to a permitted off-premises storage facility shall not be allowed. Transport of Regulated Marijuana plants other than Vegetative Plants and Immature plants shall not be allowed.

C. Inventory Tracking System-Generated Transport Manifest Required. A Licensee may only transport Regulated Marijuana if he or she has a copy of an Inventory Tracking System-generated transport manifest that contains all the information required by this Rule and shall be in the format prepared by the State Licensing Authority.

1. A Licensee may elect to use a hard copy or digital copy of an Inventory Tracking System-generated transport manifest. Licensees are required to ensure all information is preserved with valid and verified signatures on any digital copy of an Inventory Tracking System-generated transport manifest.

2. Regulated Marijuana. A Licensee may transport Regulated Marijuana from an originating location to multiple destination locations so long as the transport manifest correctly reflects the specific inventory destined for specific Regulated Marijuana Businesses and/or Pesticide Manufacturers.

3. Regulated Marijuana Vegetative Plants. A Licensee shall transport Regulated Marijuana Vegetative plants only from the originating Licensed Premises to the destination Licensed Premises due to a change of location that has been approved by the Division pursuant to Rule 2-255.

4. Manifest for Transfers to Pesticide Manufacturers. A Licensee may not transport or permit the transportation of Regulated Marijuana to a Pesticide Manufacturer unless an Inventory Tracking System-generated transport manifest has been generated.

D. Motor Vehicle Required. Transport of Regulated Marijuana shall be conducted by a motor vehicle that is properly registered in the state of Colorado pursuant to motor vehicle laws, but need not be registered in the name of the Licensee. Except that when a rental truck is required for transporting Regulated Marijuana Vegetative plants or Regulated Marijuana Immature plants, Colorado motor vehicle registration is not required.

E. Documents Required During Transport. Transport of Regulated Marijuana shall be accompanied by a copy of the originating Regulated Marijuana Business's business license, the driver's valid Owner's License or Employee License, the driver's valid motor vehicle operator's license, and all required vehicle registration and insurance information.

F. Use of Colorado Roadways. State law does not prohibit the transport of Regulated Marijuana on any public road within the state of Colorado as authorized in this Rule. However, nothing herein authorizes a Licensee to violate specific local ordinances or resolutions enacted by any city, town, city and county, or county related to the transport of Regulated Marijuana.

G. Preparation of Regulated Marijuana for Transport.

1. Final Weighing and Packaging. A Regulated Marijuana Business shall comply with the specific rules associated with the final weighing and packaging of Regulated Marijuana before such items are prepared for transport pursuant to this Rule. The scale used to weigh product to be transported shall be tested and approved in accordance with measurement standards established in 35-14-127, C.R.S.

2. Preparation in Limited Access Area. Regulated Marijuana shall be prepared for transport in a Limited Access Area, including the packaging and labeling of Containers or Shipping Containers.

3. Shipping Containers. Licensees may Transfer multiple Containers of Regulated Marijuana in a Shipping Container. The contents of Shipping Containers shall be easily accessible and may be inspected by the State Licensing Authority, Local Licensing Authorities, Local Jurisdictions, and state and local law enforcement agency for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose.

a. Licensees shall ensure that either the multiple Containers placed within a Shipping Container each have an RFID tag, or the Shipping Container itself must have an RFID tag. If the Licensee elects to place the RFID tag on the Shipping Container, the Shipping Container shall contain only one Harvest Batch, or Production Batch of Regulated Marijuana. If a Shipping Container consists of more than one Harvest Batch or Production Batch, then each group of multiple Containers shall be affixed with an RFID tag

b. Regulated Marijuana Vegetative Plants and Regulated Marijuana Immature Plants. Each Regulated Marijuana Vegetative plant that is transported pursuant to this Rule must have a RFID tag affixed to it prior to transport. Each receptacle containing Regulated Marijuana Immature plants transported pursuant to this Rule must have an RFID tag affixed prior to transport.

H. Creation of Records and Inventory Tracking.

1. Use of Inventory Tracking System – Generated Transport Manifest.

a. Regulated Marijuana. Licensees who transport or permit the transportation of Regulated Marijuana shall create an Inventory Tracking System-generated transport manifest to reflect inventory that leaves the Licensed Premises destined for another Licensed Premises or Pesticide Manufacturers. The transport manifest may either reflect multiple destination locations within a single trip or separate transport manifests may reflect each single destination location. In either case, no inventory shall be transported without an Inventory Tracking System-generated transport manifest.

b. Use of a Medical Marijuana Transporter or Retail Marijuana Transporter. In addition to subparagraph (H)(1)(a), Licensees shall also follow the requirements of this subparagraph (H)(1)(b) when a Licensee utilizes the services of a Medical Marijuana Transporter or Retail Marijuana Transporter.

i. When a Medical Marijuana Business utilizes a Medical Marijuana Transporter for transporting its Medical Marijuana, the originating Licensee shall input the requisite information on the Inventory Tracking System-generated transport manifest for the final destination Licensee or Pesticide Manufacturer who will be receiving the Medical Marijuana.

ii. When a Retail Marijuana Business utilizes a Retail Marijuana Transporter for transporting its Retail Marijuana the originating Licensee shall input the requisite information on the Inventory Tracking System-generated transport manifest for the final destination Licensee or Pesticide Manufacturer who will be receiving the Retail Marijuana.

iii. A Medical Marijuana Transporter or Retail Marijuana Transporter is prohibited from being listed as the final destination Licensee.

iv. A Medical Marijuana Transporter or Retail Marijuana Transporter shall not alter the information of the final destination Licensee or Pesticide Manufacturer after the information has been entered on the Inventory Tracking System-generated transport manifest by the Licensee.

v. If the Medical Marijuana Transporter or Retail Marijuana Transporter is not delivering the originating Licensee's Regulated Marijuana directly to the final destination Licensee or Pesticide Manufacturer, the Medical Marijuana Transporter or Retail Marijuana Transporter shall communicate to the originating Licensee which of the Medical Marijuana Transporter's or Retail Marijuana Transporter's Licensed Premises or off-premises storage facilities will receive and temporarily store the Regulated Marijuana. The originating Licensee shall input the Medical Marijuana Transporter's or Retail Marijuana Transporter's location address and license number on the Inventory Tracking System-generated transport manifest.

c. Medical Marijuana Vegetative Plants and Retail Marijuana Vegetative Plants.

i. Licensees who transport Medical Marijuana Vegetative or Retail Marijuana Vegetative plants shall create an Inventory Tracking System-generated transport manifest to reflect inventory that leaves the originating Licensed Premises to be transported to the destination Licensed Premises due to a change of location approved by the Division pursuant to Rule 2-255, or a one-time Transfer pursuant to Rule 3-805.

ii. Retail Marijuana Transporters are permitted to transport Retail Marijuana Vegetative plants on behalf of other Licensees due to a change of location approved by the Division pursuant to Rule 2-255, or a one-time Transfer pursuant to Rule 3-805. The Retail Marijuana Transporter shall transport the Retail Marijuana Vegetative Plants directly from the originating Licensed Premises to the final destination Licensed Premises.

iii. Medical Marijuana Transporters are permitted to transport Medical Marijuana Vegetative plants on behalf of other Licensees due to a

change of location approved by the Division pursuant to Rule 2-255, or a one-time Transfer pursuant to Rule 3-805. The Medical Marijuana Transporter shall transport the Medical Marijuana Vegetative plants directly from the originating Licensed Premises to the final destination Licensed Premises.

2. Copy of Transport Manifest to Recipient. A Licensee shall provide a copy of the transport manifest to each Regulated Marijuana Business, or Pesticide Manufacturer receiving the inventory described in the transport manifest. In order to maintain transaction confidentiality, the originating Licensee may prepare a separate Inventory Tracking System-generated transport manifest for each recipient Regulated Marijuana Business or Pesticide Manufacturer.

3. The Inventory Tracking System-generated transport manifest shall include the following:

   a. Departure date and approximate time of departure;

   b. Name, location address, and license number of the originating Regulated Marijuana Business;

   c. Name, location address, and license number of the destination Regulated Marijuana Business(es) or name and location address of the destination Pesticide Manufacturer;

   d. Name, location address, and license number of the Medical Marijuana Transporter or Retail Marijuana Transporter if applicable pursuant to Rule 3-605(H)(1)(b)(iv).

   e. Product name and quantities (by weight and unit) of each product to be delivered to each specific destination location(s);

   f. Arrival date and estimated time of arrival;

   g. Transport vehicle make and model and license plate number; and

   h. Name, Employee or Owner License number, and signature of the Licensee accompanying the transport.

I. Inventory Tracking. In addition to all the other tracking requirements set forth in these rules, a Regulated Marijuana Business shall be responsible for all the procedures associated with the tracking of inventory that is transported between Licensed Premises. *See* Rule 3-905 – Business Records Required.

1. Responsibilities of Originating Licensee.

   a. Regulated Marijuana. Prior to departure, the originating Regulated Marijuana Business shall adjust its records to reflect the removal of Regulated Marijuana. The scale used to weigh product to be transported shall be tested and approved in accordance with measurement standards established in 35-14-127, C.R.S. Entries to the records shall note the Inventory Tracking System-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest.

   b. Regulated Marijuana Vegetative Plants and Regulated Marijuana Immature Plants. Prior to departure, the originating Medical Marijuana Cultivation Facility or

Retail Marijuana Cultivation Facility shall adjust its records to reflect the removal of Medical Marijuana Vegetative plants and Medical Marijuana Immature plants, or Retail Marijuana Vegetative plants and Retail Marijuana Immature plants. Entries to the records shall note the Inventory Tracking System-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest.

2. Responsibilities of Recipient Licensee.

a. Regulated Marijuana. Upon receipt, the receiving Licensee shall ensure that the Regulated Marijuana received are as described in the transport manifest and shall immediately adjust its records to reflect the receipt of inventory. The scale used to weigh product being received shall be tested and approved in accordance with measurement standards established in 35-14-127, C.R.S. Entries to the inventory records shall note the Inventory Tracking System-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest. Medical Marijuana Transporters and Retail Marijuana Transporters shall comply with all requirements of this subparagraph (I)(2)(a) except that they are not required to weigh Regulated Marijuana.

i. When a Regulated Marijuana Business transfers Regulated Marijuana to a Pesticide Manufacturer, the originating Licensee is responsible for confirming receipt of the Regulated Marijuana in the Inventory Tracking System.

b. Regulated Marijuana Vegetative Plants and Regulated Marijuana Immature Plants. Upon receipt, the recipient Licensee shall ensure that the Regulated Marijuana Vegetative plants received are as described in the transport manifest, accounting for all RFID tags and each associated plant, and shall immediately adjust its records to reflect the receipt of inventory. Upon Receipt, the recipient Licensee shall ensure that the Regulated Marijuana Immature plants received are as described in the transport manifest, accounting for all RFID tags and each receptacle containing Regulated Marijuana Immature plants, and shall immediately adjust its records to reflect the receipt of inventory.

i. When a Regulated Marijuana Business transfers Regulated Marijuana Immature plants to a Pesticide Manufacturer, the originating Licensee is responsible for confirming receipt of the Retail Marijuana Immature plants in the Inventory Tracking System.

3. Discrepancies.

a. Licensees. A recipient Licensee shall separately document any differences between the quantity specified in the transport manifest and the quantities received. Such documentation shall be made in the Inventory Tracking System and in any relevant business records.

b. Pesticide Manufacturers. In the event of a discrepancy between the quantity specified in a transport manifest and the quantity received by a Pesticide Manufacturer, the originating Licensee shall document the discrepancy in the Inventory Tracking System and in any relevant business records, and account for the discrepancy.

J. Adequate Care of Perishable Regulated Marijuana Product. A Regulated Marijuana Business must provide adequate refrigeration for perishable Regulated Marijuana Product during transport.

K. Failed Testing. In the event Regulated Marijuana has failed required testing, has been contaminated, or otherwise presents a risk of cross-contamination to other Regulated Marijuana, such Regulated Marijuana may only be transported if it is physically segregated and contained in a sealed package that prevents cross-contamination.

Basis and Purpose – 3-610

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-313(14), 44-10-505(2), 44-10-605(2), and 44-10-1001(2), C.R.S. The purpose of this rule is to establish that Regulated Marijuana may not be stored outside of Licensed Premises unless the Licensee obtains an off-premises storage facility permit. This Rule 3-610 was previously Rules M and R 802, 1 CCR 212-1 and 1 CCR 212-2.

3-610 – Off-Premises Storage of Regulated Marijuana: All Regulated Marijuana Businesses

A. Off-Premises Storage Permit Authorized.

1. A Medical Marijuana Store, Medical Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, Medical Marijuana Testing Facility may only have one off-premises storage facility permit and may store Medical Marijuana in their Limited Access Area or in their one permitted off-premises storage facility. Medical Marijuana Transporters are allowed to have more than one permitted off-premises storage facility.

2. A Retail Marijuana Store, Retail Marijuana Products Manufacturer, a Retail Marijuana Cultivation Facility, and a Retail Marijuana Testing Facility may only have one off-premises storage facility permit and may store Retail Marijuana in their Limited Access Area or in their one permitted off-premises storage facility. Retail Marijuana Transporters are allowed to have more than one permitted off-premises storage facility.

3. An Accelerator Licensee may only have one off-premises storage facility permit and may store Retail Marijuana in their Limited Access Area of in their one permitted off-premises storage facility.

B. Permitting. To obtain a permit for an off-premises storage facility, a Regulated Marijuana Business must apply on current Division forms and pay any applicable fees.

1. A Medical Marijuana Transporter may only apply for and hold an off-premises storage permit in a local jurisdiction that permits the operation of Medical Marijuana Stores.

2. A Retail Marijuana Transporter may only apply for and hold an off-premises storage permit in a Local Jurisdiction that permits the operation of Retail Marijuana Stores.

C. Extension of Licensed Premises. A permitted off-premises storage facility is an extension of the Regulated Marijuana Business's Licensed Premises, subject to all applicable Regulated Marijuana regulations.

D. Limitation on Inventory to be Stored.

1. A Medical Marijuana Store, Medical Marijuana Products Manufacturer, and a Medical Marijuana Cultivation Facility possessing a valid off-premises storage facility permit may only have upon the permitted off-premises storage facility Medical Marijuana that is part of the particular Medical Marijuana Business's finished goods inventory. The

aforementioned Licensees may only share the premises with, and store inventory belonging to, a Medical Marijuana Business that has identical Controlling Beneficial Owners.

2. A Retail Marijuana Store, Retail Marijuana Products Manufacturer, and a Retail Marijuana Cultivation Facility possessing a valid off-premises storage facility permit may only have upon the permitted off-premises storage facility Retail Marijuana that is part of the particular Retail Marijuana Business's finished goods inventory. The aforementioned Licensees may only share the premises with, and store inventory belonging to a Retail Marijuana Business that has identical Controlling Beneficial Owners.

3. A Medical Marijuana Business may share one off-premises storage facility with the same type of Retail Marijuana Business if the businesses operate a shared Licensed Premises pursuant to Rule 3-215 and if the Local Licensing Authority and Local Jurisdiction permit shared off-premises storage facilities. All Transfers of Regulated Marijuana by a Regulated Marijuana Business to or from its off-premises storage facility must be without consideration except for delivery orders packaged for delivery to patients or consumers pursuant to subparagraph E.

4. An Accelerator Licensee possessing a valid off-premises storage facility permit may only have upon the permitted off-premises storage facility Retail Marijuana that is part of the Accelerator Licensee's finished goods inventory. The aforementioned Accelerator Licensees may only share the off-premises storage facility with, and store inventory belonging to, an Accelerator Licensee that has identical Controlling Beneficial Owners.

E. Privileges and Restrictions. The permitted off-premises storage facility may be utilized for storage only. A Regulated Marijuana Business must not Transfer, cultivate, manufacture, process, test, research, or consume any Regulated Marijuana within the premises of the permitted off-premises storage facility. An off-premises storage facility shall not be used as a distribution center for Transfers to Regulated Marijuana Businesses without identical Controlling Beneficial Owners or for consideration.

1. A Medical Marijuana Store or Retail Marijuana Store with a valid delivery permit may use its own off-premises storage facility to package, label, and fill orders for delivery of Regulated Marijuana to a patient or consumer after the Medical Marijuana Store or Retail Marijuana Store receives an order for delivery, unless otherwise restricted by the local jurisdiction.

2. A Medical Marijuana Transporter or Retail Marijuana Transporter shall not use its own off-premises storage facility to package, label, or fill orders for delivery of Regulated Marijuana to a patient or customer. A Medical Marijuana Transporter or a Retail Marijuana Transporter may use its own off-premises storage facility to store Regulated Marijuana that is packaged and labeled for delivery to a patient or consumer, unless otherwise restricted by the Local Licensing Authority or Local Jurisdiction.

F. Display of Off-premises Storage Permit and License. The off-premises storage facility permit and a copy of the Regulated Marijuana Business's license must be displayed in a prominent place within the permitted off-premises storage facility.

G. Local Licensing Authority or Local Jurisdiction Approval.

1. Prior to submitting an application for an off-premises storage facility permit, the Regulated Marijuana Business must obtain approval or acknowledgement from the relevant Local Licensing Authority or Local Jurisdiction.

2. A copy of the relevant Local Licensing Authority's or Local Jurisdiction's approval or acknowledgement must be submitted by the Regulated Marijuana Business in conjunction with its application for an off-premises storage facility.

3. No Regulated Marijuana may be stored within a permitted storage facility until the relevant Local Licensing Authority or Local Jurisdiction has been provided a copy of the off-premises storage facility permit.

4. Any off-premises storage permit issued by the Division shall be conditioned upon the Regulated Marijuana Business's receipt of all required Local Jurisdiction approvals or acknowledgments.

H. Security in Storage Facility. A permitted off-premises storage facility must meet all video, security and lock requirements applicable to a Licensed Premises. *See* Rules 3-220 – Security Alarm and Lock Standards and Rule 3-225 – Video Surveillance.

I. Transport to and from a Permitted Off-Premises Storage Facility. A Licensee must comply with the provisions of Rule 3-605 – Transport: All Regulated Marijuana Businesses, when transporting any Regulated Marijuana to and from a permitted off-premises storage facility.

J. Inventory Tracking. In addition to all the other tracking requirements set forth in these rules, a Regulated Marijuana Business shall utilize the Inventory Tracking System to track its inventories from the point of Transfer to or from a permitted off-premises storage facility. *See* Rules 3-805 – All Regulated Marijuana Businesses: Inventory Tracking System and Rule 3-905 – Business Records Required.

K. Inventory Tracking System Access and Scale. Every permitted off-premises storage facility must have an Inventory Tracking System terminal and a scale tested and approved in accordance with measurement standards established in section 35-14-127, C.R.S.

L. Adequate Care of Perishable Regulated Marijuana Product. A Regulated Marijuana Business must provide adequate refrigeration for perishable Regulated Marijuana Product and shall utilize adequate storage facilities and transport methods.

M. Consumption Prohibited. A Regulated Marijuana Business shall not permit the consumption of marijuana or marijuana product on the premises of its permitted off-premises storage facility.

Basis and Purpose – 3-615

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(2)(dd), C.R.S. The purpose of this rule is to provide requirements for a Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter or Retail Marijuana Transporter to apply for and conduct deliveries to private residences pursuant to a delivery permit. This rule provides application and renewal requirements for a delivery permit. Additionally, the rule describes requirements for responsible vendor training, requirements for use of the inventory tracking system, Delivery Motor Vehicles requirements including security, requirements for delivery orders, requirements prior to completing a delivery to a patient or consumer at a private residence and requirements for maintaining the confidentiality of all patient and customer information.

3-615 – Regulated Marijuana Delivery Permits

A. Application, Qualification, and Eligibility for Delivery Permit.

1. Beginning January 2, 2020, a Medical Marijuana Store may apply for a delivery permit. The application shall be made on Division forms and in accordance with the 2-200 Series

Rules. The delivery permit application can be submitted simultaneously with a Medical Marijuana Store initial or renewal application or it can be separate from a Medical Marijuana Store application but the application must identify the Medical Marijuana Store(s) seeking to obtain the delivery permit.

2. Beginning January 2, 2021, a Retail Marijuana Store, a Medical Marijuana Transporter, and a Retail Marijuana Transporter may apply for a delivery permit. The delivery permit application can be submitted simultaneously with a Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter initial or renewal application or it can be separate from a Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter application but the application must identify the Retail Marijuana Store(s), Medical Marijuana Transporter(s), or Retail Marijuana Transporter(s) seeking to obtain the delivery permit.

3. Prior to the State Licensing Authority issuing an Applicant a delivery permit, the Applicant must establish the Local Licensing Authority and/or Local Jurisdiction where the Applicant is located, or for a Medical Marijuana Transporter or Retail Marijuana Transporter without a Licensed Premise, the Local Licensing Authority or Local Jurisdiction for the location where they intend to operate:

    a. By ordinance or resolution has permitted delivery of Regulated Marijuana in the jurisdiction, and

    b. Is currently accepting applications for delivery permits in the jurisdiction, if required.

4. Multiple Medical Marijuana Stores, Retail Marijuana Stores, Medical Marijuana Transporters, or Retail Marijuana Transporters with identical Controlling Beneficial Owners that are in the same local jurisdiction may obtain one delivery permit that allows all Medical Marijuana Stores, all Retail Marijuana Stores, all Medical Marijuana Transporters, or all Retail Marijuana Transporters in that jurisdiction to make deliveries to patients or consumers.

5. Delivery Permit Renewal.

    a. A delivery permit must be renewed annually with the Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter license it accompanies. A Medical Marijuana Store or Retail Marijuana Store must disclose to the Division any online platform provider that the Licensee has utilized during the previous year at the time of renewal.

    b. Length of Delivery Permit.

        i. A delivery permit issued with an initial or renewal license application is valid for one year and will expire at the same time as the license for the associated Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter.

        ii. A delivery permit that is not issued with an initial or renewal application will be valid for less than one year to align the license expiration date of the related Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter. In all years after the first year, such a delivery permit will be valid for one year.

c. In addition to any other basis for denial of renewal application, the State Licensing Authority may also consider the following facts and circumstances as an additional basis for denial of a delivery permit renewal application:

i. The Medical Marijuana Store or Retail Marijuana Store failed to collect the one-dollar surcharge on every delivery or failed to timely remit the one-dollar surcharge to the municipality where the Medical Marijuana Store or Retail Marijuana Store is located, or to the county if the Medical Marijuana Store or Retail Marijuana Store is in an unincorporated area.

B. Delivery to Private Residence. Private residence includes, but is not limited to, a private premises where a person lives such as a private dwelling, place of habitation, a house, a multi-dwelling unit for residential occupants, or an apartment unit. Private residence does not include any premises located at a school, on the campus of an institution of higher education, public property, or any commercial property unit such as offices or retail space.

C. Responsible Vendor Certification Required. A Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter must obtain a valid responsible vendor designation pursuant to section 44-10-1202, C.R.S., and the 3-500 Series Rules including the delivery curriculum prior to conducting its first delivery.

D. Inventory Tracking System Required. A Regulated Marijuana Business possessing a valid delivery permit must use the inventory tracking system and transport manifests to track all Regulated Marijuana delivered to the intended patient or consumer. This includes the use of a transport manifest.

E. Delivery Motor Vehicle Requirements.

1. Any Delivery Motor Vehicle must be owned or leased by the Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, Retail Marijuana Transporter, or an Owner Licensee of the Regulated Marijuana Business that holds the delivery permit, must be registered in the State of Colorado, and must be insured.

2. Any Delivery Motor Vehicle must have a vehicle tracking system that is capable of real-time tracking and recording of the route taken by the Delivery Motor Vehicle while conducting deliveries that can be accessed remotely in real-time by the Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter. The vehicle tracking system may be an application installed on a mobile device. The real-time location of the Delivery Motor Vehicle shall not be displayed to any patients or consumers.

3. Any Delivery Motor Vehicle must not have any external markings, words, or symbols that indicate the Delivery Motor Vehicle is used for delivery of Regulated Marijuana or is owned or leased by a Medical Marijuana Business or a Retail Marijuana Business.

4. Regulated Marijuana must not be visible from outside the Delivery Motor Vehicle.

5. Delivery Motor Vehicle security requirements include but are not limited to:

a. A security alarm system, and

b. A secure, locked, opaque storage compartment that is securely affixed to the Delivery Motor Vehicle for the purpose of securing Regulated Marijuana.

6. Video Surveillance Requirements.

a. The Delivery Motor Vehicle must be equipped with video surveillance equipment that digitally records during all deliveries. The video surveillance shall record at least the secured, locked, opaque storage compartment containing the Regulated Marijuana and the front view of the Delivery Motor Vehicle (e.g. dash camera).

b. Video surveillance shall be kept for a minimum of 40 days, must be capable of being embedded with the date and time, must be reproducible upon request from law enforcement, the Division, a Local Licensing Authority or a Local Jurisdiction and must be archived in a format that ensures authentication and guarantees no alteration of the video.

7. An enclosed Delivery Motor Vehicle shall not contain more than $10,000.00 in retail value of Regulated Marijuana. A Delivery Motor Vehicle that is not enclosed shall not contain more than $2,000.00 in retail value of Regulated Marijuana.

8. A Delivery Motor Vehicle must not leave the State of Colorado while any amount of Regulated Marijuana is in the Delivery Motor Vehicle.

9. Only persons licensed by the State Licensing Authority and identified on the transport manifest may occupy a Delivery Motor Vehicle while conducting deliveries of Regulated Marijuana.

F. Delivery Order Requirements.

1. A Medical Marijuana Store or a Retail Marijuana Store that has a valid delivery permit may accept orders for delivery of Regulated Marijuana to patients who are at least 21 years of age, parents or guardians of patient under 18 years of age, or consumers who are at least 21 years of age at a private residence. Delivery orders to patients ages 18 to 20 are not permitted.

2. For a Medical Marijuana Store or a Retail Marijuana Store that utilizes an online platform provider:

a. The online platform provider must require that the patient or consumer choose a Medical Marijuana Store or Retail Marijuana Store before displaying the price of Regulated Marijuana to the patient or consumer; and

b. The Medical Marijuana Store or Retail Marijuana Store must receive verification that there has not already been a delivery of Regulated Marijuana to that private residence through the online platform provider that same business day.

3. All delivery orders must document the following information which must be maintained pursuant to Rule 3-905 by the Medical Marijuana Store or the Retail Marijuana Store:

a. The name and date of birth of the patient or consumer placing the delivery order;

b. The address of the private residence where the order will be delivered;

c. For Medical Marijuana delivery orders only, the registration number reflecting on the patient's registry identification card; and

d. For Medical Marijuana delivery orders only, if the patient is under 18 years of age, the parent or guardian designated as the patient's primary caregiver, and if applicable, the registration number of the primary caregiver.

4. A Medical Marijuana Store or a Retail Marijuana Store may accept payment for delivery orders using any legal method of payment, gift card pre-payments or payment on delivery, or pre-payment accounts established with a Medical Marijuana Store or Retail Marijuana Store except that any payment with an Electronic Benefits Transfer Services Card is not permitted. A Medical Marijuana Transporter or Retail Marijuana Transporter may accept payment on behalf of a Medical Marijuana Store or Retail Marijuana Store at the point of Transfer to the patient or consumer.

    a. A Local Licensing Authority or Local Jurisdiction may further restrict legal methods of payment not expressly permitted by section 44-10-203(2)(dd)(XV), C.R.S.

5. Regulated Marijuana must be weighed, packaged, prepared, and labeled for delivery on the Licensed Premises of a Medical Marijuana Store or Retail Marijuana Store or at their off-premises storage facility after receipt of a delivery order. Regulated Marijuana cannot be placed into a Delivery Motor Vehicle until after an order has been received and the Regulated Marijuana has been packaged and labeled for delivery to the patient or consumer as required by the 3-1000 Series Rules.

6. Medical Marijuana Transporters and Retail Marijuana Transporters shall not take delivery orders but may deliver Regulated Marijuana on behalf of Medical Marijuana Stores and Retail Marijuana Stores pursuant to a contract with the Medical Marijuana Store or Retail Marijuana Store provided that the store also holds a valid delivery permit. The Medical Marijuana Store and Medical Marijuana Transporter must maintain copies of all contracts for delivery pursuant to Rule 3-905. The Retail Marijuana Store and Retail Marijuana Transporter must maintain copies of all contracts for delivery pursuant to Rule 3-905.

G. Regulated Marijuana Delivery Requirements.

1. A Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter shall not deliver Regulated Marijuana to patients, parents, guardians, or consumers while also transporting Regulated Marijuana between Licensed Premises in the same Delivery Motor Vehicle.

2. Delivery of Medical Marijuana and Retail Marijuana.

    a. A Medical Marijuana Store and Retail Marijuana Store, both of which hold a valid delivery permit, and which have identical Controlling Beneficial Owners, may complete deliveries of Medical Marijuana and Retail Marijuana using the same Delivery Motor Vehicle and without returning to the Medical Marijuana Store or Retail Marijuana Store between deliveries.

    b. A Medical Marijuana Transporter and Retail Marijuana Transporter, both of which hold a valid delivery permit, and which have identical Controlling Beneficial Owners may complete deliveries of Medical Marijuana and Retail Marijuana using the same Delivery Motor Vehicle and without returning to the Medical Marijuana Store or Retail Marijuana Store between deliveries.

    c. A Medical Marijuana Transporter holding a valid delivery permit may make deliveries for multiple Medical Marijuana Stores that also hold valid delivery permits using the same Delivery Motor Vehicle and without returning to a Medical Marijuana Store between deliveries.

    d. A Retail Marijuana Transporter holding a valid delivery permit may make deliveries for multiple Retail Marijuana Stores that also hold valid delivery permits

using the same Delivery Motor Vehicle and without returning to a Retail Marijuana Store between deliveries.

3. An Owner Licensee or Employee Licensee delivering Regulated Marijuana shall not open any Container of Regulated Marijuana in the Delivery Motor Vehicle and is prohibited from packaging or re-packaging Regulated Marijuana once the Delivery Motor Vehicle has departed from the Licensed Premises of a Medical Marijuana Store or Retail Marijuana Store.

4. A Medical Marijuana Store or Retail Marijuana Store shall not accept delivery orders for Regulated Marijuana Product that is perishable unless the Delivery Motor Vehicle that will make the delivery has the ability to secure the Regulated Marijuana Product in climate-controlled storage.

5. A Medical Marijuana Store, Retail Marijuana Store, Medical Marijuana Transporter, or Retail Marijuana Transporter must maintain a transport manifest that documents the following:

   a. The time of delivery;

   b. The name, and identification number of the valid, acceptable identification (e.g. driver's license) presented by the patient or consumer;

   c. Address of the private residence;

   d. Acknowledgement of receipt of delivery by the person receiving the delivery;

   e. If applicable, patient registry number;

   f. If applicable, primary caregiver registry number of the patient's parent or guardian; and

   g. For every Regulated Marijuana delivery that could not be completed, the reason the delivery could not be completed.

6. Proof of Patient Medical Registry and Identification.

   a. Prior to Transferring possession of the order, the Owner Licensee or Employee Licensee delivering Medical Marijuana to a patient or a patient's parent or guardian must:

      i. Inspect the patient's or parent's or guardian's identification and registry identification card;

      ii. Verify the possession of a valid registry identification card;

      iii. Verify that the information provided at the time of order match the name and age on the patient's or parent or guardian's identification; and

      iv. Verify that the identification and registry identification card belong to the person receiving the delivery.

   b. The Owner Licensee or Employee Licensee must refuse delivery of Medical Marijuana if the person attempting to accept the delivery order cannot establish all of the requirements of subparagraph (G)(6)(a)(i) through (iv) above.

7. Proof of Consumer Identification.

   a. The Owner Licensee or Employee Licensee delivering Retail Marijuana to a consumer must first verify that the natural person accepting the delivery has an acceptable form of identification demonstrating the person is at least 21 years of age and that the person is the same as the person that placed the order for delivery with the Retail Marijuana Store.

   b. The Owner Licensee or Employee Licensee must refuse delivery of Retail Marijuana if the natural person attempting to accept the delivery order cannot establish all the requirements of subparagraph (G)(7)(a) above.

8. Daily Delivery Limits.

   a. A Medical Marijuana Store or Medical Marijuana Transporter must not deliver individually or in any combination, more than two ounces of Medical Marijuana, eight (8) grams of Medical Marijuana Concentrate, or Medical Marijuana Products containing more than 20,000 milligrams of THC to a patient in a single business day.

   b. A Medical Marijuana Store or Medical Marijuana Transporter must not deliver to a patient, parent, or guardian or private residence where the Licensee knows or reasonably should know that the patient, parent or guardian, or private residence has already received a delivery during that same business day. This does not prohibit delivery to more than one patient at the same time and private residence.

   c. A Retail Marijuana Store or Retail Marijuana Transporter must not deliver individually or in any combination, more than one ounce of Retail Marijuana, 8 grams of Retail Marijuana Concentrate, or Retail Marijuana Products containing more than ten 80 milligram servings of THC to a customer in a single business day.

   d. A Retail Marijuana Store or Retail Marijuana Transporter must not deliver to a consumer or private residence where the Licensee knows or reasonably should know that the consumer or private residence has already received a delivery during that same business day. This does not prohibit delivery to more than one consumer at the same time and private residence.

9. An Owner Licensee or Employee Licensee who cannot complete a delivery order for any reason must return the Regulated Marijuana to the Medical Marijuana Store, Retail Marijuana Store, or off-premises storage facility from which the delivery order originated. If the Container is unopened and has not been tampered with, the Medical Marijuana Store, Retail Marijuana Store, or off-premises storage facility may return the Regulated Marijuana into its inventory and reconcile it with the Inventory Tracking System by the close of business that same day. Otherwise, the Regulated Marijuana must be destroyed in accordance with this Rule and Rule 3-235.

H. Confidentiality of Patient and Consumer Personal Identifying Information. A Medical Marijuana Store, a Retail Marijuana Store, a Medical Marijuana Transporter, a Retail Marijuana Transporter, and their respective Owner Licensees and Employee Licensees must keep all personal identifying information and any health care information obtained from patients and consumers confidential and must not disclose such personally identifiable information and any health care information to any person other than those who need that information to take, process, or deliver the order or otherwise as required by the Marijuana Code, or Title 18, or Title 25 of the Colorado Revised Statutes.

3-700 Series – Signage and Advertising

Basis and Purpose – 3-705

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(3)(a), and 44-10-701(3)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clearly delineate that a Regulated Marijuana Business is not permitted to make deceptive, false, or misleading statements in Advertising materials or on any product or document provided to a patient or consumer. This Rule 3-705 was previously Rules M and R 1102, 1 CCR 212-1 and 1 CCR 212-2.

3-705 – Advertising General Requirements

A. No Deceptive, False, or Misleading Statements. A Regulated Marijuana Business shall not engage in Advertising that is deceptive, false, or misleading. A Regulated Marijuana Business shall not make any deceptive, false, or misleading assertions or statements on any product, any sign, or any document provided to a patient or consumer.

B. Potential Risks of Regulated Marijuana Concentrate Overconsumption. A Regulated Marijuana Business Advertising Medical Marijuana Concentrate or Retail Marijuana Concentrate shall include a notice as determined by the Division to patients or consumers regarding the potential risks of Medical Marijuana Concentrate or Retail Marijuana Concentrate overconsumption.

Basis and Purpose – 3-710

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(3)(a), and 44-10-701(3)(c), C.R.S. Authority also exists throughout Article XVIII, Section 16 of the Colorado Constitution. The purpose of this rule is to clarify the definition of the term “minor” as used in the Marijuana Code and these rules. This Rule 3-710 was previously Rules M and R 1103, 1 CCR 212-1 and 1 CCR 212-2.

3-710 – The Term “Minor” as Used in the Marijuana Code and These Rules

The term “minor” as used in the Marijuana Code and these rules means an individual under the age of 18 for Medical Marijuana and under the age of 21 for Retail Marijuana.

Basis and Purpose – 3-715

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(3)(a), and 44-10-103(10), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to Advertising and Branding.

3-715 – Use of Branding

A. For the purposes of these 3-700 Series Rules, the term Branding includes taglines, which may or may not be trademarked.

B. Branding may not be used to target individuals under the age of 21.

Basis and Purpose – 3-720

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to Advertising.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), (2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-720 was previously Rules M and R 1104, 1105, 1106, and 1107, 1 CCR 212-1 and 1 CCR 212-2.

3-720 – Advertising: All Media

A. Medical Marijuana Businesses. A Medical Marijuana Business may Advertise in television, radio, a print publication, or via the internet only where at least 71.6 percent of the audience is reasonably expected to be at least the age of 21. A Medical Marijuana Business is prohibited from specifically directing Advertising and marketing to persons under 21 years of age.

B. Retail Marijuana Businesses. A Retail Marijuana Business may Advertise in television, radio, a print publication or via the internet only where at least 71.6 percent of the audience is reasonably expected to be at least the age of 21.

C. Advertising for all Marijuana Businesses. Advertising proposes a commercial transaction or otherwise constitutes commercial speech. Advertising includes marketing.

Basis and Purpose – 3-725

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to safety and health and benefit claims that are by nature misleading, deceptive, or false.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), (2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-725 was previously Rules M and R 1109, 1 CCR 212-1 and 1 CCR 212-2.

3-725 – Signage and Advertising: No Safety Claims Because Regulated by State Licensing Authority

No Regulated Marijuana Business may engage in Advertising or utilize signage that asserts its products are safe because they are regulated by the State Licensing Authority.

Basis and Purpose – 3-730

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c) and 44-10-203(3)(a), and 44-10-701(3)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to safety claims that are by nature misleading, deceptive, or false. This Rule 3-730 was previously Rules M and R 1110, 1 CCR 212-1 and 1 CCR 212-2.

3-730 – Signage and Advertising: No Safety Claims Because Tested

A Regulated Marijuana Business shall not engage in Advertising or utilize signage that asserts its products are safe because they are tested by a Regulated Marijuana Testing Facility.

Basis and Purpose – 3-735

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to outdoor Advertising and signage.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), (2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-735 was previously Rules M and R 1111, 1 CCR 212-1 and 1 CCR 212-2.

3-735 – Signage and Advertising: Outdoor Advertising

A. Local Ordinances. In addition to any requirements within these rules, a Regulated Marijuana Business shall comply with any applicable local ordinances regulating signs and Advertising.

B. All Applicable State Laws Apply. A Regulated Marijuana Business that engages in any Advertising shall comply with all applicable state laws, including but not limited to the Outdoor Advertising Act at sections 43-1-401 through 43-1-420, C.R.S.

C. A Regulated Marijuana Business shall not Advertise on any outdoor sign that is within 500 feet of established and conspicuously identified elementary or secondary schools, places of worship, or public playgrounds.

Basis and Purpose – 3-740

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to prohibit signage and Advertising that has a high likelihood of reaching individuals under the age of 21.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), (2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-740 was previously Rules M and R 1112, 1 CCR 212-1 and 1 CCR 212-2.

3-740 – Signage and Advertising: No Content That Targets Minors

A. A Medical Marijuana Business shall not include in any form of Advertising or signage any content that specifically targets individuals under the age of 21, including but not limited to cartoon characters or similar images.

B. A Retail Marijuana Business shall not include in any form of Advertising or signage any content that specifically targets individuals under the age of 21, including but not limited to cartoon characters or similar images.

Basis and Purpose – 3-745

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to marketing directed toward location-based devices.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), (2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-745 was previously Rules M and R 1113, 1 CCR 212-1 and 1 CCR 212-2.

3-745 – Advertising: Advertising via Marketing Directed Toward Location-Based Devices

A Regulated Marijuana Business shall not engage in Advertising via marketing directed towards location-based devices, including, but not limited to, cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older for Medical Marijuana, 21 years of age or older for Retail Marijuana, and includes a permanent and easy opt-out feature.

Basis and Purpose – 3-750

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to pop-up Advertising.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), (2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-750 was previously Rules M and R 1114, 1 CCR 212-1 and 1 CCR 212-2.

3-750 – Pop-Up Advertising

A Regulated Marijuana Business shall not utilize unsolicited pop-up Advertising on the internet.

Basis and Purpose – 3-755

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), and 44-10-203(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to event sponsorship.

The operation of Regulated Marijuana Businesses in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Sections 14 and 16. The Colorado Constitution prohibits the purchase, possession, and consumption of Medical Marijuana by those under the age 18, and of Retail Marijuana by those under the age of 21. *See for example* Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), (2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Regulated Marijuana Businesses must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to minors. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Marijuana Code the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* § 44-10-203(3)(a), C.R.S. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than 28.4 percent of the audience is reasonably expected to be under the legal age of purchase. These rules apply to Advertising as defined in Rule 1-115. This Rule 3-755 was previously Rules M and R 1115, 1 CCR 212-1 and 1 CCR 212-2.

3-755 – Advertising: Event Sponsorship

A. A Medical Marijuana Business may sponsor a charitable, sports, or similar event, but a Medical Marijuana Business shall not engage in Advertising at, or in connection with, such an event unless the Medical Marijuana Business has reliable evidence that 71.6 percent of the audience at the event and/or viewing Advertising in connection with the event is reasonably expected to be at least the age of 21.

B. A Retail Marijuana Business may sponsor a charitable, sports, or similar event, but a Retail Marijuana Business shall not engage in Advertising at, or in connection with, such an event unless the Retail Marijuana Business has reliable evidence that 71.6 percent of the audience at the event and/or viewing Advertising in connection with the event is reasonably expected to be at least the age of 21.

3-800 Series – Inventory Tracking Requirements

Basis and Purpose – 3-805

The statutory authority for this rule includes but is not limited to sections, 44-10-201(1), 44-10-202(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-501(1)(b), 44-10-502(2), 44-10-503(1)(b), 44-10-505(3), 44-10-601(1)(d), 44-10-602(3), 44-10-603(1)(b), 44-10-605(3), and 44-10-610(3)(a), C.R.S. The purpose of this rule is to establish a system that will allow the State Licensing Authority and the industry to jointly track Regulated Marijuana from either seed or immature plant stage until the Regulated Marijuana is sold to a patient or consumer, or destroyed.

The Inventory Tracking System is a web-based tool coupled with RFID technology that allows both the Inventory Tracking System User and the State Licensing Authority the ability to identify and account for all Regulated Marijuana. Through the use of RFID technology, a Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility will tag either the seed or immature plant with an individualized number, which will follow the Regulated Marijuana through all phases of production and final sale to a patient or consumer. This will allow the State Licensing Authority and the Inventory Tracking System User the ability to monitor and track Regulated Marijuana inventory. The Inventory Tracking System will also provide a platform for the State Licensing Authority to exchange information and provide compliance notifications to the industry.

The State Licensing Authority finds it essential to regulate, monitor, and track all Regulated Marijuana to eliminate diversion, inside and outside of the state, and to ensure that all marijuana grown, processed, sold, and disposed of in the Regulated Marijuana market is transparently accounted for.

The State Licensing Authority will engage the industry and provide training opportunities and continue to evaluate the Inventory Tracking System to promote an effective means for this industry to account for and monitor its Regulated Marijuana inventory. This Rule 3-805 was previously Rules M and R 309, 1 CCR 212-1 and 1 CCR 212-2.

3-805 – Regulated Marijuana Businesses: Inventory Tracking System

A. Inventory Tracking System Required. A Regulated Marijuana Business is required to use the Inventory Tracking System as the primary inventory tracking system of record. A Regulated Marijuana Business must have an Inventory Tracking System account activated and functional prior to operating or exercising any privileges of a License. Medical Marijuana Businesses converting to or adding a Retail Marijuana Business must follow the inventory transfer guidelines detailed in Rule 3-805(C) below. Because Marijuana Hospitality Businesses are not authorized to receive or conduct Transfers of Regulated Marijuana, this Rule does not apply to Marijuana Hospitality Businesses.

B. Inventory Tracking System Access - Inventory Tracking System Administrator.

1. Inventory Tracking System Administrator Required. A Regulated Marijuana Business must have at least one Owner Licensee who is an Inventory Tracking System Administrator. A Regulated Marijuana Business may also designate additional Owner Licensees and Employee Licensees to obtain Inventory Tracking System Administrator accounts.

2. Training for Inventory Tracking System Administrator Account. In order to obtain an Inventory Tracking System Administrator account, a Person must attend and successfully complete all required Inventory Tracking System training. The Division may also require additional ongoing, continuing education for an individual to retain his or her Inventory Tracking System Administrator account.

3. Inventory Tracking System Access - Inventory Tracking System User Accounts. A Regulated Marijuana Business may designate licensed Owners and employees who hold valid Employee Licenses as Inventory Tracking System Users. A Regulated Marijuana Business shall ensure that all Owner Licensees and Employee Licensees who are granted Inventory Tracking System User account access for the purposes of conducting inventory tracking functions in the system are trained by Inventory Tracking System Administrators in the proper and lawful use of Inventory Tracking System.

C. Medical Marijuana Business License Conversions - Declaring Inventory Prior to Exercising Licensed Privileges as a Retail Marijuana Business.

1. Medical Marijuana Inventory Transfer to Retail Marijuana Business.

a. Except pursuant to Rules 5-205 and 6-205:

i. The only allowed Transfer of marijuana between a Medical Marijuana Business and Retail Marijuana Business is Medical Marijuana and Medical Marijuana Concentrate that was produced at the Medical Marijuana Cultivation Facility, from the Medical Marijuana Cultivation Facility to a Retail Marijuana Cultivation Facility.

ii. Each Medical Marijuana Cultivation Facility that is either converting to or adding a Retail Marijuana Cultivation Facility license must create a Retail Marijuana Inventory Tracking System account for each license it is converting or adding.

iii. A Medical Marijuana Cultivation Facility must Transfer all relevant Medical Marijuana and Medical Marijuana Concentrate into the Retail Marijuana Cultivation Facility's Inventory Tracking System account and affirmatively declare those items as Retail Marijuana or Retail Marijuana Concentrate as appropriate.

iv. The marijuana subject to the one-time Transfer is subject to the excise tax upon the first Transfer from the Retail Marijuana Cultivation Facility to another Retail Marijuana Business.

v. All other Transfers are prohibited, including but not limited to Transfers from a Medical Marijuana Store or Medical Marijuana Products Manufacturer to any Retail Marijuana Business.

2. No Further Transfer Allowed. Once a Licensee has declared any portion of its Medical Marijuana inventory as Retail Marijuana, no further Transfers of inventory from Medical Marijuana to Retail Marijuana shall be allowed.

D. RFID Tags Required.

1. Authorized Tags Required and Costs. Licensees are required to use RFID tags issued by a Division-approved vendor that is authorized to provide RFID tags for the Inventory Tracking System. Each licensee is responsible for the cost of all RFID tags and any associated vendor fees.

2. Use of RFID Tags Required. A Licensee is responsible to ensure its inventories are properly tagged where the Inventory Tracking System requires RFID tag use. A Regulated Marijuana Business must ensure it has an adequate supply of RFID tags to properly tag Regulated Marijuana as required by the Inventory Tracking System. An RFID tag must be physically attached to every Regulated Marijuana plant being cultivated that is greater than eight inches tall or eight inches wide. Prior to a plant reaching a viable point to support the weight of the RFID tag and attachment strap, the RFID tag may be securely fastened to the stalk. An RFID tag must be assigned to all Regulated Marijuana. *See* Rule 3-805(D); Rule 3-1005(G) – Shipping Containers.

3. Reuse of RFID Tags Prohibited. A Licensee shall not reuse any RFID tag that has already been affixed or assigned to any Regulated Marijuana.

4. When plants reach a viable point to support the weight of the RFID tag and attachment strap, the RFID tag shall be securely fastened to a lower supporting branch.

E. General Inventory Tracking System Use.

1. Reconciliation with Inventory. All inventory tracking activities at a Regulated Marijuana Business must be tracked through use of the Inventory Tracking System. A Licensee must reconcile all on-premises and in-transit Regulated Marijuana inventories each day in the Inventory Tracking System at the close of business.

2. Common Weights and Measures.

a. A Regulated Marijuana Business must utilize a standard of measurement that is supported by the Inventory Tracking System to track all Regulated Marijuana.

b. A scale used to weigh product prior to entry into the Inventory Tracking System shall be tested and approved in accordance with section 35-14-127, C.R.S.

3. Inventory Tracking System Administrator and User Accounts – Security and Record.

a. A Regulated Marijuana Business shall maintain an accurate and complete list of all Inventory Tracking System Administrators and Inventory Tracking System Users for each Licensed Premises. A Regulated Marijuana Business shall update this list when a new Inventory Tracking System User is trained. A Regulated Marijuana Business must train and authorize any new Inventory Tracking System Users before those Owners or employees may access Inventory Tracking System or input, modify, or delete any information in the Inventory Tracking System.

b. A Regulated Marijuana Business must cancel any Inventory Tracking System Administrators and Inventory Tracking System Users from their associated

Inventory Tracking System accounts once any such individuals are no longer employed by the Licensee or at the Licensed Premises.

c. A Regulated Marijuana Business is accountable for all actions employees take while logged into the Inventory Tracking System or otherwise conducting Regulated Marijuana inventory tracking activities.

d. Each individual user is also accountable for all of his or her actions while logged into the Inventory Tracking System or otherwise conducting Regulated Marijuana inventory tracking activities, and shall maintain compliance with all relevant laws.

4. Secondary Software Systems Allowed.

a. Nothing in this Rule prohibits a Regulated Marijuana Business from using separate software applications to collect information to be used by the business including secondary inventory tracking or point-of-sale systems.

b. A Licensee must ensure that all relevant Inventory Tracking System data is accurately transferred to and from the Inventory Tracking System for the purposes of reconciliations with any secondary systems.

c. A Regulated Marijuana Business must preserve original Inventory Tracking System data when transferred to and from a secondary application(s). Secondary software applications must use the Inventory Tracking System data as the primary source of data and must be compatible with updating to the Inventory Tracking System.

5. Regulated Marijuana Cultivations: Inventory Tracking System. A Manicure Batch may be combined with a Harvest Batch containing the same plants, provided that the Regulated Marijuana is homogenized prior to sampling and testing, uniform in strain, cultivated utilizing the same Pesticide and other agricultural chemicals. Manicure and Harvest Batches must be clearly identified at the Licensed Premises with the Manicure Batch and Harvest Batch name and date as it appears in the Inventory Tracking System.

F. Conduct While Using Inventory Tracking System.

1. Misstatements or Omissions Prohibited. A Regulated Marijuana Business and its designated Inventory Tracking System Administrator(s) and Inventory Tracking System User(s) shall enter data into the Inventory Tracking System that fully and transparently accounts for all inventory tracking activities. Both the Regulated Marijuana Business and the individuals using the Inventory Tracking system are responsible for the accuracy of all information entered into the Inventory Tracking System. Any misstatements or omissions may be considered a license violation affecting public safety.

2. Use of Another User's Login Prohibited. Individuals entering data into the Inventory Tracking System shall only use that individual's Inventory Tracking System account.

3. Loss of System Access. If at any point a Regulated Marijuana Business loses access to the Inventory Tracking System for any reason, the Regulated Marijuana Business must keep and maintain comprehensive records detailing all Regulated Marijuana tracking inventory activities that were conducted during the loss of access. *See* Rule 3-905 – Business Records Required. Once access is restored, all Regulated Marijuana inventory tracking activities that occurred during the loss of access must be entered into the Inventory Tracking System. A Regulated Marijuana Business must document when access to the system was lost and when it was restored. A Regulated Marijuana Business

shall not Transfer any Regulated Marijuana to another Regulated Marijuana Business until such time as access is restored and all information is recorded into the Inventory Tracking System.

G. System Notifications.

1. Compliance Notifications. A Regulated Marijuana Business must monitor all compliance notifications from the Inventory Tracking System. The Licensee must resolve the issues detailed in the compliance notification in a timely fashion. Compliance notifications shall not be dismissed in the Inventory Tracking System until the Regulated Marijuana Business resolves the compliance issues detailed in the notification.

2. Informational Notifications. A Regulated Marijuana Business must take appropriate action in response to informational notifications received through the Inventory Tracking System, including but not limited to notifications related to RFID billing, enforcement alerts, and other pertinent information.

H. Lawful Activity Required. Proper use of the Inventory Tracking System does not relieve a Licensee of its responsibility to maintain compliance with all laws, rules, and other requirements at all times.

I. Inventory Tracking System Procedures Must Be Followed. A Regulated Marijuana Business must utilize Inventory Tracking System in conformance with these rules and Inventory Tracking System procedures, including but not limited to:

1. Properly indicating the creation of a Harvest Batch and/or Production Batch including the assigned Harvest Batch and/or Production Batch Number;

2. Accurately identifying the cultivation rooms and location of each plant within those rooms on the Licensed Premises;

3. Accurately identifying when inventory is no longer on the Licensed Premises;

4. Properly indicating that a Test Batch is being used as part of achieving a Reduced Testing Allowance;

5. Accurately indicating the Inventory Tracking System category for all Regulated Marijuana; and

6. Accurately including a note explaining the reason for any destruction of Regulated Marijuana, and reason for any adjustment of weights to Inventory Tracking System packages.

7. Properly designating one or more Sampling Managers before Transferring any Sampling Units;

8. Fully and accurately tracking the Transfer of any Sampling Unit from a Regulated Marijuana Business to a Sampling Manager identified by name and license number; and

9. When entering into the Inventory Tracking System a unit of Regulated Marijuana the Inventory Tracking System Trained Administrator or Inventory Tracking System User shall also identify the net contents of each unit consistent with Rules 3-1005(B)(2)(e) and (C)(2)(a)(iv). For example, if the Inventory Tracking System User enters 1 unit of Retail Marijuana Product that contains 100 milligrams of Retail Marijuana Product, then the Inventory Tracking System User shall also identify that each unit contains 100 milligrams.

Further, if the Inventory Tracking System User enters 1 unit of Medical Marijuana Product that contains 200 mg of Medical Marijuana Product, the Inventory Tracking System User shall also identify that each unit contains 200 mg.

Basis and Purpose – 3-810

The statutory authority for this rule includes but is not limited to sections, 44-10-201, 44-10-202(1)(a), 44-10-202(1)(c), 44-10-203(2)(n), 44-10-501(1)(b), 44-10-502(2), 44-10-503(1)(b), 44-10-505(3), 44-10-601(1)(d), 44-10-601(4), 44-10-602(1), 44-10-602(6)(f), 44-10-603(1)(b), and 44-10-605(3), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to maintain a system that will allow the State Licensing Authority and the industry to jointly track Regulated Marijuana from either seed or immature plant stage until the Regulated Marijuana is sold to the patient or consumer or destroyed.

3-810 – Minimum Tracking Requirements

A. Requirement to Track Regulated Marijuana From Seed-to-Sale. Licensees must use the Inventory Tracking System to ensure Regulated Marijuana is identified and tracked from the point the Regulated Marijuana is Propagated from seed or cutting to the point when it is Transferred to another Regulated Marijuana Business, the Medical Marijuana Transporter or Retail Marijuana Transporter takes control of the Regulated Marijuana by removing it from the originating Licensee's Licensed Premises and placing the Regulated Marijuana in the transport vehicle, or it is Transferred to a Sampling Manager as a designated Sampling Unit, and through the delivery, point-of-sale, or the Regulated Marijuana is otherwise disposed of. *See* Rule 3-805 – Inventory Tracking System

B. Ability to Reconcile Required. Licensees must have the ability to reconcile transported and on-hand Regulated Marijuana inventory with the Inventory Tracking System and the associated transaction history and transportation order receipts. *See* Rule 3-905 – Business Records Required.

Basis and Purpose – 3-815

The statutory authority for this rule includes but is not limited to 44-10-201, 44-10-202(1)(a), 44-10-202(1)(c), 44-10-313(5)(b), 44-10-505(3), and 44-10-605(2) C.R.S. The purpose of this rule is to allow the State Licensing Authority and the industry to jointly track the Transfer and delivery of Regulated Marijuana and Regulated Marijuana Product between licensed Regulated Marijuana Businesses. It also prescribes the manner in which licensed entities will track inventory in the transport process to prevent diversionary practices.

3-815 – Transport Manifest Required

A. Transport of Regulated Marijuana Without Transport Manifest Prohibited. Licensees are prohibited from transporting any Regulated Marijuana without a valid transport manifest generated by the Inventory Tracking System.

B. Accepting Regulated Marijuana Without Transport Manifest Prohibited. Licensees are prohibited from accepting any Regulated Marijuana from another Regulated Marijuana Business without receiving a valid transport manifest generated from the Inventory Tracking System.

C. Information Must Be Accurate. All information on the Inventory Tracking System generated transport manifest must be accurate.

Basis and Purpose – 3-820

The statutory authority for this rule includes but is not limited to sections 44-10-201, 44-10-202(1)(a), 44-10-202(1)(c), 44-10-502(3), 44-10-503(10), 44-10-602(6), and 44-10-603(10). The purpose of this rule is to establish inventory tracking, reporting and recordkeeping requirements for Sampling Units to ensure that any Regulated Marijuana or Regulated Marijuana Products designated as a Sampling Unit is identified and tracked from the point of such designation.

3-820 – Sampling Unit Tracking Requirements

A. Applicability. This Rule 3-820 applies to Medical Marijuana Cultivation Facilities, Retail Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, and Retail Marijuana Products Manufacturers.

B. Sampling Unit Tracking Requirements.

1. In addition to all other requirements set forth in these rules, a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer shall utilize the Inventory Tracking System to ensure that any Regulated Marijuana designated as a Sampling Unit is identified and tracked from the point of such designation until the Sampling Unit is Transferred to a Sampling Manager. *See* Rules 5-230, 5-320, 6-225, 6-320 – Sampling Unit Protocols.

2. The Inventory Tracking System must adequately reflect all Transfers of Sampling Units. At a minimum, a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer must ensure that the Inventory Tracking System reflects the date the Sampling Unit was Transferred, the weight of the Sampling Unit, and the name and license number of the recipient Sampling Manager.

3. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer must have the ability to reconcile its Sampling Manager and Sampling Unit records with the Inventory Tracking System and any associated transaction history.

Basis and Purpose – 3-825

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-203(2)(d)(I), 44-10-504, and 44-10-604 The Purpose of this rule is to establish reporting standards for Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities.

3-825 – Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities Specific Tracking Requirements

A. Required Procedures. A Regulated Marijuana Testing Facility must establish procedures to ensure that results are accurate, precise, and scientifically valid prior to reporting such results.

B. Reports. Every final report, whether submitted to the Division, to a Regulated Marijuana Business, or to any other Person authorized to receive the report, must include the following:

1. Report quantitative results that are only above the lowest concentration of calibrator or standard used in the analytical run;

2. Verify results that are below the lowest concentration of calibrator or standard and above the LOQ by using a blank and a standard that falls below the expected value of the analyte in the sample in duplicate prior to reporting a quantitative result;

3. Qualitatively report results below the lowest concentration of calibrator or standard and above the LOD as either trace or using a non-specific numerical designation;

4. Adequately document the available external chain of custody information;

5. Ensure all final reports contain the name and location of the Regulated Marijuana Testing Facility that performed the test, name, and unique identifier of Sample, submitting client, Sample received date, date of report, type of Sample tested, test result, units of measure, and any other information or qualifiers needed for interpretation when applicable to the test method and results being reported, to include any identified and documented discrepancies; and

6. Provide the final report to the Division, as well as the Regulated Marijuana Business, and/or any other Person authorized to receive the report in a timely manner.

C. Inventory Tracking System. Each Regulated Marijuana Testing Facility shall:

1. Report all test results to the Division as part of daily reconciliation by the close of business and in accordance with all Inventory Tracking System Procedures under Rule 3-805 – All Regulated Marijuana Businesses: Inventory Tracking System. The requirement to report all test results includes:

a. Both positive and negative test results;

b. Results from both mandatory and voluntary testing; and

c. For quantitative tests, a quantitative value.

2. As part of Inventory Tracking System reporting, when results of tested Samples exceed maximum levels of allowable potency or contamination, or otherwise result in failed potency, homogeneity, or contaminant testing, the Regulated Marijuana Testing Facility shall, in the Inventory Tracking System, indicate failed test results for the Inventory Tracking System package associated with the failed Sample. This requirement only applies to testing of Samples that are comprised of Regulated Marijuana.

D. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

3-900 Series – Business Records

Basis and Purpose – 3-905

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-301, and 44-10-1001(1), C.R.S. This rule explains what business records a Licensee must maintain and clarifies that such records must be made available to the Division on demand. This Rule 3-905 was previously Rules M and R 901, 1 CCR 212-1 and 1 CCR 212-2.

3-905 – Business Records Required

A. General Requirements.

1. A Regulated Marijuana Business must maintain the information required in this Rule in a format that is readily understood by a reasonably prudent business person and may be stored electronically.

2. Each Regulated Marijuana Business shall retain all books and records necessary to fully account for the business transactions conducted under its license for the current year and three preceding calendar years.

    a. On premises records: The Regulated Marijuana Business's books and records for the preceding six months (or complete copies of such records) must be maintained on the Licensed Premises at all times. Electronic records that are accessible from, but not physically located at, a Licensee's Licensed Premises may also satisfy the requirements of this Rule 3-905.

    b. On- or off-premises records: Books and records associated with older periods may be archived on or off of the Licensed Premises.

3. Books and records necessary to fully account for the business transactions conducted under its License shall be made available to the State Licensing Authority or Division upon request.

B. The books and records must fully account for the transactions of the business and must include, but shall not be limited to:

1. Secure Facility Information – For its Licensed Premises and any associated permitted off-premises storage facility, a Regulated Marijuana Business must maintain the business contact information for vendors that maintain video surveillance systems and Security Alarm Systems.

2. Security Alarm Systems documents required by Rule 3-220(A)(3).

3. Advertising Records – All records related to Advertising and marketing, including, but not limited to, audience composition data.

4. Child Resistance Certificates – A copy of the certificate that each Container into which a Licensee places Regulated Marijuana is Child Resistant.

5. Diagram for the Licensed Premises – Diagram of all approved Limited Access Areas, Restricted Access Areas, and any permitted off-premises storage facilities.

6. Visitor Log – List of all visitors entering Limited Access Areas or Restricted Access Areas.

7. All records normally retained for tax purposes.

8. Waste Log and Fibrous Waste Records – Comprehensive records regarding all waste and Fibrous Waste material that accounts for, reconciles, and evidences all waste and Fibrous Waste activity related to the disposal of marijuana.

9. Consumer Waste Records – All contracts, standard operating procedures, and receipts relating to collection and Transfer of Marijuana Consumer Waste as required by Rule 3-240.

10. Surveillance Logs – Surveillance logs identify all authorized employees and service personnel who have access to the surveillance system and maintenance and activity log as required by Rule 3-225.

11. Every Licensee shall maintain a record of its identity statement and Standardized Graphic Symbol. A Licensee may elect to have its Identity Statement also serve as its Standardized Graphic Symbol for purposes of complying with this rule.

12. Testing Records Required to be Maintained by Regulated Marijuana Testing Facilities:

    a. All testing records required by Rule 5-450 and Rule 6-450.

    b. Digital photographs of each Test Batch.

    c. Any delegation of responsibilities from the laboratory director to a qualified supervisory analyst as permitted by Rule 5-240(B)9 or 6-240(B).

13. Testing Records Required to be Maintained by Regulated Marijuana Businesses and Accelerator Licensees:

    a. Documentation of Designated Test Batch Collector Training required by Rule 4-110(C)(3).

    b. Records regarding wet whole plant that was not tested for microbials pursuant to Rule 4-121(F)(3).

    c. Evidence of any achieved Reduced Testing Allowance - If a Licensee utilizes any Reduced Testing Allowances, then they must maintain documentation demonstrating how it was obtained and maintained throughout the allowance with all applicable rules.

14. Sampling Unit Records – All records related to designated Sampling Managers, identified Sampling Units, and Transfers of Sampling Units. *See* Rules 3-810, 5-230, 5-320, 6-225, 6-320. This includes, but is not limited to, standard operating procedures that explain the requirements of sections 44-10-502(5), 44-10-503(10), 44-10-602(6) and 44-10-603(10), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements imposed by Rules 5-230, 5-320, 6-225, 6-320. 6-725, and 6-280.

15. License Application Records – All records provided by the Licensee to both the state and local licensing authorities in connection with an application for licensure pursuant to the Marijuana Code and these Rules.

16. Standard Operating Procedures – All standard operating procedures as required by these Rules, including up-to-date records of employee training, as follows:

    a. Identification of required training of employees;

    b. Documentation of training topic, training method, date of initial training, date of any necessary re-training, name and signature of trainer, and name and signature of employee;

    c. Competency and effectiveness of employee training shall be adequately assessed in an appropriate manner determined by the Licensee that is described in the standard operating procedures.

17. Audited Product and/or Alternative Use Product Records – All records required to demonstrate compliance with Rule 5-325 and 6-325.

18. Corrective Action and Preventive Action records required by Rules 5-115, 5-210, 5-310, 6-110, 6-210, 6-310.

19. Certificates of analysis or other records demonstrating the full composition of each Ingredient used in the manufacture of Vaporizer Delivery Devices or Pressurized Metered Dose Inhalers as required by Rule 5-310(F).

20. Records required to be maintained by Delivery Permit holders including delivery order requirements and contracts for delivery pursuant to Rule 3-615.

21. Recall records required by Rule 3-336 including the recall plan, recall notice, and results of any action taken pursuant to the recall plan.

22. All records related to Material Changes as required by Rules 3-330(D) and 3-335(L).

23. Records related to Adverse Health Events as required by Rule 3-920.

24. Internal Security Controls – Licensees must establish and maintain a security plan for each Licensed Premises, including at a minimum:

    a. Protocols for the end-of-day handling of Regulated Marijuana and cash;

    b. Protocols for reporting theft or burglaries when they are discovered to Local Law Enforcement, the Division, and Local Licensing Authority or Local Jurisdiction;

    c. Protocols for reconciling inventory after a theft or burglary has been discovered;

    d. Identification of exterior lighting of the Licensed Premises and any exterior camera angles, and protocols for maintenance of the lighting and cameras; and

    e. Identification of ingress and egress routes for the property and identification of any access control measures taken outside of the Licensed Premises.

25. Patient Documents – Documents required for a patient to register a primary Medical Marijuana Store as required by Rule 5-115(D).

26. Regulated Marijuana Concentrate Production Records – All records required by Rules 5-315, 6-315, and 6-815 regarding production of Regulated Marijuana Concentrate.

27. Marijuana Research and Development Facility Records – Documents and correspondence sent to or received from an independent reviewer or the Scientific Advisory Council and any testing records if required by Rule 5-725.

28. Documents Related to Pesticide Manufacturers – Affidavit from a Pesticide Manufacturer that it meets the requirements of the Rule and the written agreement between the Licensee and the Pesticide Manufacturer as required by Rule 7-115.

29. Expiration date documents required by Rules 3-330(F) and 3-335(M).

30. Written report of change of management personnel as required by Rule 3-920(A)(2).

31. Current Owner and Employee List – This list must provide the full name and License number of all Owner Licensees and every employee who works for a Regulated Marijuana Business. The list shall include all employees who work for the Regulated Marijuana Business, whether or not they report to the Licensed Premises as part of their employment. A Regulated Marijuana Business can fulfill the requirements of this Rule by listing all employees in the Inventory Tracking System for each Licensed Premises. If a Regulated Marijuana Business does not use the Inventory Tracking System to list all

employees, it must maintain a separate record for employees who do not report to the Licensed Premises.

32. Documentation required to demonstrate valid responsible vendor designation(s).

33. All other records required by these Rules.

C. Records Required to be Maintained in the Inventory Tracking System. The following records must be maintained by Licensees in the Inventory Tracking System:

1. Records Related to Inventory Tracking. A Regulated Marijuana Business must maintain accurate and comprehensive inventory tracking records that account for, reconcile, and evidence all inventory activity for Regulated Marijuana from either seed or Immature Plant stage until the Regulated Marijuana is destroyed or Transferred to another Regulated Marijuana Business, a consumer, a patient, or a Pesticide Manufacturer.

2. Records Related to Transport. A Regulated Marijuana Business must maintain adequate records for the transport of all Regulated Marijuana. See Rule 3-605 – Transport: All Regulated Marijuana Businesses.

3. Employees Required to be Listed in the Inventory Tracking System. A Regulated Marijuana Business must use the Inventory Tracking System to list all employees who report to the Licensed Premises. The employee list in the Inventory Tracking System must include the full name and Employee License number of every employee who works on the premises. The Regulated Marijuana Business is responsible for updating its list of employees who work at the Licensed Premises in the Inventory Tracking System within 10 days of an employee commencing or ceasing employment.

4. Testing results.

D. Loss of Records and Data. Any loss of electronically-maintained records shall not be considered a mitigating factor for violations of this Rule. Licensees are required to exercise due diligence in preserving and maintaining all required records.

E. Violation Affecting Public Safety. Violation of this Rule may constitute a license violation affecting public safety.

F. Provision of Any Requested Record to the Division. A Licensee must provide on-demand access to on-premises records following a request from the Division during normal business hours or hours of apparent operation, and must provide access to off-premises records within three business days following a request from the Division.

Basis and Purpose – 3-910

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), and 44-10-203(2)(j), C.R.S. A Regulated Marijuana Business must collect and remit sales tax on all retail sales made pursuant to the licensing activities. The purpose of this rule is to clarify when such taxes must be remitted to the Colorado Department of Revenue. This Rule 3-910 was previously Rules M and R 902, 1 CCR 212-1 and 1 CCR 212-2.

3-910 – Reporting and Transmittal of Taxes

A. Sales and Use Tax Returns Required. All state and state-collected sales and use tax returns must be filed, and all taxes must be remitted to the Department of Revenue, on or before the 20th day of the month following the reporting month. For example, a January return and remittance will be

due to the Department of Revenue by February 20th. If the due date (20th of the month) falls on a weekend or holiday, the next business day is considered the due date for the return and remittance.

B. Excise and Retail Marijuana Sales Tax Returns Required. A Retail Marijuana Business shall submit any applicable tax returns and remit any payments due pursuant to Article 28.8 of Title 39, C.R.S.

C. Proof of Tax Remittance Required. All state tax payments shall require proof of remittance with the State Licensing Authority. A Retail Marijuana Cultivation Facility must maintain records evidencing the payment of all required excise taxes. Proof of retail sales taxes shall be identified in required tax records, tracking systems, and sales receipts provided to consumers.

Basis and Purpose – 3-915

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), and 44-10-1001(1), C.R.S. The Marijuana Code mandates that a Regulated Marijuana Business must pay for an audit when the State Licensing Authority deems an audit necessary. This rule explains when an audit may be deemed necessary and sets forth possible consequences of a Regulated Marijuana Business's refusal to cooperate or pay for the audit. This Rule 3-915 was previously Rules M and R 903, 1 CCR 212-1 and 1 CCR 212-2.

3-915 – Independent Audit May Be Required

A. State Licensing Authority May Require Independent Audit.

1. When the State Licensing Authority deems it necessary, it may require a Regulated Marijuana Business to undergo an audit by an independent accountant. The scope of the audit may include, but need not be limited, to financial transactions and inventory control measures.

2. In such instances, the Division may attempt to mutually agree upon the selection of the independent accountant with a Regulated Marijuana Business. However, the Division always retains the right to select the independent accountant regardless of whether mutual agreement can be reached. The independent accountant shall be a certified public accountant licensed by, and in good standing with, the Colorado State Board of Accountancy.

3. The Regulated Marijuana Business will be responsible for all direct costs associated with the independent audit.

B. When Independent Audit Is Necessary. The State Licensing Authority has discretion to determine when an audit by an independent accountant is necessary. The following is a non-exhaustive list of examples that may justify an independent audit:

1. A Regulated Marijuana Business does not provide requested records to the Division;

2. The Division has reason to believe that the Regulated Marijuana Business does not properly maintain its business records;

3. A Regulated Marijuana Business has a prior violation related to recordkeeping or inventory control;

4. A Regulated Marijuana Business has a prior violation related to diversion.

5. As determined by the Division, the scope of an audit conducted by the Division would be so extensive as to jeopardize the regular duties and responsibilities of the Division's audit or enforcement staff.

C. Compliance Required. A Regulated Marijuana Business must pay for and timely cooperate with the State Licensing Authority's requirement that it undergo an audit in accordance with this Rule.

D. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 3-920

The statutory authority for this rule includes but is not limited to sections 44-10-201(4), 44-10-204(1)(a), 44-10-202(1)(c), 44-10-202(1)(a), 44-10-204(1)(a), 44-10-203(1)(k), 44-10-313(12), and 44-10-701(2)(a), C.R.S. The State Licensing Authority must be able to immediately access information regarding a Regulated Marijuana Business's managing individual. Accordingly, this rule reiterates the statutory mandate that Licensees provide any management change to the Division within seven days of any change, and also clarifies that a Licensee must save a copy of any management change report to the Division, and clarifies that failure to follow this rule can result in discipline.

The State Licensing Authority finds it essential to the stringent and comprehensive enforcement of the Marijuana Code to regulate, monitor, and track all Regulated Marijuana in order to prevent diversion and to ensure that all Regulated Marijuana grown, processed, sold, and disposed of in the Regulated Marijuana market is accounted for transparently in accordance with the Marijuana Code.

Requiring Licensees to report instances when the Regulated Marijuana they cultivate, manufacture, distribute, sell, test, or dispose of is stolen, unlawfully Transferred, or otherwise diverted from the regulated market, or when Licensees discover plans to divert the Regulated Marijuana, emphasizes that Licensees are accountable for their Regulated Marijuana at all times and contributes to the transparency of the regulated market.

In addition to maintaining transparency in the regulated marijuana industry, the State Licensing Authority also must ensure the confidentiality of certain Licensee information and records, including information in the Inventory Tracking System. Requiring Licensees to report instances where the Inventory Tracking System was compromised or planned to be compromised through unlawful access, use for unlawful purposes, the deliberate alteration or deletion of data, or deliberately entering false data, contributes to ensuring the accuracy and transparency of the system and therefore the regulated market, and aids in maintaining the confidentiality of Licensee data.

This Rule 3-920 was previously Rules M and R 904, 1 CCR 212-1 and 1 CCR 212-2.

3-920 – Regulated Marijuana Business Reporting Requirements

A. Management Personnel Change Must Be Reported.

1. When Required. A Regulated Marijuana Business shall provide the Division a written report within seven days after any change in management personnel occurs. In addition, a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer shall report any designation or change of Sampling Manager(s) through the Inventory Tracking System.

2. Licensee Must Maintain Record of Reported Change. A Regulated Marijuana Business must also maintain a copy of this written report with its business records as required in Rule 3-905.

3. Consequence of Failure to Report. Failure to report a change in a timely manner may result in discipline.

B. Reporting of Crime on the Licensed Premises or Otherwise Related to a Regulated Marijuana Business. A Regulated Marijuana Business and all Licensees employed by the Regulated Marijuana Business shall report to the Division any discovered plan or other action of any Person to (1) commit theft, burglary, underage sales, diversion of marijuana or marijuana product, or other crime related to the operation of the subject Regulated Marijuana Business; or (2) compromise the integrity of the Inventory Tracking System. A report shall be made as soon as possible after the discovery of the action, but not later than 14 days. Nothing in this paragraph (B) alters or eliminates any obligation a Regulated Marijuana Business or Licensee may have to report criminal activity to a local law enforcement agency.

C. Adverse Health Event Reporting. If a Regulated Marijuana Business is notified of any possible Adverse Health Event, as defined by Rule 1-115, associated with Regulated Marijuana, it must report the Adverse Health Event to the Division within 48 hours from its receipt of notification of the Adverse Health Event. To the extent known after reasonable diligence to ascertain the information, the report must contain the name and contact information of the complainant, the date the complaint was received, the nature of the complaint, the Production Batch or Harvest Batch number, and any other identifying information found on the label of the Regulated Marijuana. The Regulated Marijuana Business must maintain records of reports of Adverse Health Events in accordance with Business Records Rule 3-905

Basis and Purpose – 3-925

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-204(1)(a), 44-10-203(2)(j), 44-10-203(2)(k), 44-10-203(1)(k), and 44-10-307(1)(e), C.R.S. *See also* articles 21, 22, 26 and 28.8 of title 39, C.R.S. The purpose of this rule is to clarify the Division's authority to provide taxation divisions within the Department copies of or access to reports or other information obtained from or regarding a Licensee, for the purpose of ensuring accurate and complete filing of tax returns and payment of sales, excise and income taxes required by Title 39 of the Colorado Revised Statutes. Such information sharing is for a purpose authorized by the Marijuana Code. This Rule 3-925 was previously Rules M and R 905, 1 CCR 212-1 and 1 CCR 212-2.

3-925 – Department Information Access

A. Department Access to Reports or Other Information. The Division may provide taxation divisions within the Department copies of or access to reports or other information obtained from or regarding a Licensee for the purpose of ensuring accurate and complete filing of tax returns and payment of sales, excise, and income taxes required by Title 39 of the Colorado Revised Statutes.

B. Confidentiality. Reports or other information provided to or accessed by taxation divisions within the Department for the purpose of ensuring accurate and complete filing of tax returns and payment of sales, excise, and income taxes required by Title 39 of the Colorado Revised Statutes shall be considered part of the Department's investigation pursuant to subsection 39-21-113(4)(a), C.R.S., and the Division shall continue to maintain such records and information in its possession or control as confidential pursuant to subsection 44-10-204(1)(a), C.R.S.

Basis and Purpose – 3-930

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-204, 44-10-301, and 44-10-1001(1), C.R.S. This rule identifies the business records a Licensee can request from the Division and how the business records will be provided to the Licensee.

3-930 – Request for Business Records from the Division.

A. A Controlling Beneficial Owner, a Passive Beneficial Owner who is licensed or disclosed to the Division or an authorized representative according to the Division's records may request from the Division a copy of applications which the Controlling Beneficial Owner, the Passive Beneficial Owner or a Regulated Marijuana Business for which the requestor was identified on the ownership structure that has previously been submitted to the Division. The following limitations apply to requests for business records from the Division:

1. Requests for records under this rule are limited to applications submitted by a Licensee in the prior two (2) calendar years during which the requesting Controlling Beneficial Owner or Passive Beneficial Owner that was licensed or disclosed was identified on the Licensee's ownership structure on file with the Division.

2. Applications provided by the Division in response to a request under this rule will not include supporting documents. For example, business records provided by the Division under this rule will not include leases, operating agreements, or premises diagrams.

3. Business records provided to a Controlling Beneficial Owner, Passive Beneficial Owner that was licensed disclosed, or authorized representative under this rule will only be provided in an electronic format and sent only to the Controlling Beneficial Owner, disclosed Passive Beneficial Owner, or to an individual with a valid authorization letter on file with the Division.

B. The Division will not provide any business records or provide business records to any person which could violate the obligation to maintain the confidentiality of documents and information provided by Applicants and Licensees to the State Licensing Authority as provided in Section 44-10-204, C.R.S.

3-1000 Series – Labeling, Packaging, and Product Safety

Basis and Purpose – 3-1005

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(c), 44-10-202(6), 44-10-203(2)(f), 44-10-203(1)(k), 44-10-203(3)(a)-(b), 44-10-601(2)(a), 44-10-601(5), 44-10-603(1)(d), 44-10-603(4)(a), and 44-10-603(8), C.R.S. The purpose of this rule is to define minimum packaging and labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product Transferred between Regulated Marijuana Businesses. The State Licensing Authority finds it essential to regulate and establish labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product and that this is in the interest of the health and safety of the people of Colorado. This rule identifies information that is required on all labels to provide information necessary for the Division to regulate the cultivation, production, and sale of Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product. This rule also seeks to minimize, to the extent practicable, the burden of labeling compliance to Licensees. The labeling requirements in this rule apply to all Containers immediately containing Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product. This Rule 3-1005 was previously Rules M and R 1001-1, 1 CCR 212-1 and 1 CCR 212-2.

3-1005 - Packaging and Labeling: Minimum Requirements Prior to Transfer to a Regulated Marijuana Business, except to a Regulated Marijuana Testing Facility

A. Applicability. This Rule establishes minimum requirements for packaging and labeling Regulated Marijuana prior to Transfer to a Regulated Marijuana Business, except to a Regulated Marijuana Testing Facility. See Rule 3-1025 for minimum requirements for packaging and labeling Regulated Marijuana prior to Transfer to a Regulated Marijuana Testing Facility. The labeling

requirements in this Rule apply to all Containers immediately containing Medical Marijuana, Retail Marijuana, Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, and Retail Marijuana Product.

B. Packaging and Labeling of Regulated Marijuana Flower, Trim, Wet Whole Plant, and Regulated Marijuana Concentrate, Prior to Transfer to a Regulated Marijuana Business. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Medical Marijuana flower, trim, wet whole plant, or Medical Marijuana Concentrate to another Medical Marijuana Business, or Retail Marijuana flower, trim, wet whole plant, or Retail Marijuana Concentrate to another Retail Marijuana Business:

1. Packaging of Regulated Marijuana Flower and Trim, and Regulated Marijuana Concentrate.

   a. Prior to Transfer to a Regulated Marijuana Business, Regulated Marijuana flower, trim, wet whole plant, or Regulated Marijuana Concentrate shall be placed into a Container. The Container may but is not required to be Child-Resistant.

   b. Each Container of Regulated Marijuana flower or trim that is Transferred to a Regulated Marijuana Business shall not exceed 50 pounds of Regulated Marijuana flower or trim, but may include pre-weighed units that are within the sales limit in Rules 5-115(C),6-110(C), and 6-925(G).

   c. A Container of wet whole plant that is Transferred to a Regulated Marijuana Business may exceed 50 pounds, but shall not exceed 100 pounds.

   d. Each Container of Medical Marijuana Concentrate that is Transferred to a Medical Marijuana Business, or Retail Marijuana Concentrate that is Transferred to a Retail Marijuana Business, shall not exceed 50 pounds of Medical Marijuana Concentrate or Retail Marijuana Concentrate, but may include pre-weighed units that are within the applicable sales limit in Rules 5-115(C),6-110(C), and 6-925(G).

2. Labeling of Regulated Marijuana Flower, Trim, Wet Whole Plant, and Regulated Marijuana Concentrate. Prior to Transfer to a Regulated Marijuana Business, every Container of Regulated Marijuana flower, trim, wet whole plant, or Regulated Marijuana Concentrate shall be affixed with a label that includes at least the following information:

   a. The license number of the Medical Marijuana Cultivation Facility where the Medical Marijuana was grown, the Retail Marijuana Cultivation Facility where the Retail Marijuana was grown, or the Accelerator Cultivator where the Retail Marijuana was grown;

   b. The Harvest Batch Number(s) assigned to the Regulated Marijuana or the Production Batch Number(s) assigned to the Regulated Marijuana Concentrate;

   c. If applicable, the license number of the Medical Marijuana Cultivation Facility(ies) that produced the Physical Separation-Based Medical Marijuana Concentrate, the Retail Marijuana Cultivation Facility(ies) that produced the Physical Separation-Based Retail Marijuana Concentrate, or the license number of the Accelerator Cultivator;

   d. If applicable, the license number of the Medical Marijuana Products Manufacturer(s) where the Medical Marijuana Concentrate was produced, the Retail Marijuana Products Manufacturer(s) where the Retail Marijuana

Concentrate was produced, or the Accelerator Manufacturer(s) where the Retail Marijuana Concentrate was produced;

e. The net contents, using a standard of measure compatible with the Inventory Tracking System, of the Regulated Marijuana or Regulated Marijuana Concentrate prior to its placement in the Container; and

f. Potency test results as required to permit the receiving Regulated Marijuana Business to label the Medical Marijuana, Retail Marijuana, Medical Marijuana Concentrate, or Retail Marijuana Concentrate as required by these rules.

g. Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers. A list of all Ingredients, including Additives, used to manufacture the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler.

h. Expiration/Use-By Date. Beginning January 1, 2024, the expiration or use-by date as required in Rule 3-1015.

i. Storage Conditions. Beginning January 1, 2024, if a Licensee establishes a use-by date that is longer than nine months based on shelf stability testing in accordance with Rule 3-1015(B)(2)(a.5), then the label for the Regulated Marijuana shall include storage conditions as determined by the Regulated Marijuana Business that cultivated or manufactured the Regulated Marijuana.

C. Packaging and Labeling of Regulated Marijuana Product Prior to Transfer to a Regulated Marijuana Business. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Medical Marijuana Product to another Medical Marijuana Business, or Transferring Retail Marijuana Product to another Retail Marijuana Business:

1. Packaging of Regulated Marijuana Product.

a. Transfer to a Regulated Marijuana Business Other Than a Medical Marijuana Store or Retail Marijuana Store. Prior to Transfer to a Regulated Marijuana Business other than a Medical Marijuana Store or Retail Marijuana Store, Regulated Marijuana Product shall be placed into a Container. The Container may but is not required to be Child-Resistant.

b. Transfer to a Medical Marijuana Store or Retail Marijuana Store. Prior to Transfer to a Medical Marijuana Store or Retail Marijuana Store, all Regulated Marijuana Product shall be packaged in a Child-Resistant Container that is ready for sale to the patient or consumer as required by the Rule 3-1010(D).

2. Labeling of Regulated Marijuana Product.

a. Transfer to a Regulated Marijuana Business other than a Medical Marijuana Store or Retail Marijuana Store. Prior to Transfer to a Regulated Marijuana Business other than a Medical Marijuana Store or Retail Marijuana Store, every Container of Regulated Marijuana Product shall be affixed with a label that includes at least the following information:

i. The license number of the Regulated Marijuana Cultivation Facility(ies) where the Medical Marijuana or Retail Marijuana was grown;

ii. The license number of the Regulated Marijuana Products Manufacturer that produced the Medical Marijuana Product or Retail Marijuana Product;

iii. The Production Batch Number(s) assigned to the Regulated Marijuana Product;

iv. The net contents, using a standard of measure compatible with the Inventory Tracking System, of the Regulated Marijuana Product prior to its placement in the Container; and

v. Potency test results as required to permit the receiving Regulated Marijuana Business to label the Regulated Marijuana Product as required by these rules.

b. Transfer to a Medical Marijuana Store or Retail Marijuana Store. Prior to Transfer to a Regulated Marijuana Store, every Container of Regulated Marijuana Product shall be affixed with a label ready for sale to the patient or consumer including all information required by Rules 3-1010(D)(2) and 3-1015(B).

D. Packaging and Labeling of Regulated Marijuana Seeds and Immature Plants Prior to Transfer to a Regulated Marijuana Business. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Regulated Marijuana seeds or Immature plants to another Regulated Marijuana Business:

1. Packaging of Regulated Marijuana Seeds.

a. Prior to Transfer to a Regulated Marijuana Business, Regulated Marijuana seeds shall be placed into a Container. The Container may but is not required to be Child-Resistant.

b. Each Container of Regulated Marijuana seeds that is Transferred to a Regulated Marijuana Business shall not exceed 10 pounds of Regulated Marijuana seeds.

2. Packaging of Immature Plants. Prior to Transfer to a Regulated Marijuana Business, Immature plants shall be placed into a receptacle. The receptacle may but is not required to be Child-Resistant.

3. Labeling of Regulated Marijuana Seeds and Immature Plants. Prior to Transfer to a Regulated Marijuana Business, every Container of Regulated Marijuana seeds and all receptacles holding an Immature plant shall be affixed with a label that includes at least the license number of the Regulated Marijuana Cultivation Facility where the Regulated Marijuana that produced the seeds or the Immature plant was grown.

E. Packaging and Labeling of Sampling Units. Regulated Marijuana Cultivation Facilities and Regulated Marijuana Products Manufacturers shall comply with the following minimum packaging and labeling requirements prior to Transferring any Sampling Unit to a Sampling Manager.

1. Packaging of Sampling Units. Prior to Transfer to a Sampling Manager, a Sampling Unit must be placed in a Container. If the Sampling Unit is Regulated Marijuana flower, trim, Medical Marijuana Concentrate, or Retail Marijuana Concentrate, the Container may, but is not required to, be Child-Resistant; however, the Container shall be placed into a Child-Resistant Exit Package at the point of Transfer to the Sampling Manager. If the Sampling Unit is composed of Regulated Marijuana Product, the Sampling Unit shall be packaged in a Child-Resistant Container.

2. Labeling of Sampling Units. Prior to Transfer to a Sampling Manager, every Container for a Sampling Unit shall be affixed with a label that includes at least the following information:

    a. Required License Number. The license number for the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer Transferring the Sampling Unit.

    b. Batch Number(s). The relevant Harvest Batch number and/or Production Batch number from which the Sampling Unit was designated.

    c. Universal Symbol. The Universal Symbol on the front of the Container and any Marketing Layer, no smaller than ½ of an inch by ½ of an inch, with the following statement directly below the Universal Symbol: "**Contains Marijuana. Keep away from children.**"

    d. Required Potency Statement.

        i. For a Sampling Unit composed of Regulated Marijuana, Medical Marijuana Concentrate, or Retail Marijuana Concentrate, the potency of the Sampling Unit's active THC and CBD expressed as a percentage.

        ii. For a Sampling Unit composed of Regulated Marijuana Product, the potency of the Sampling Unit's active THC and CBD expressed in milligrams. If the potency of the Sampling Unit's active THC or CBD is less than 1 milligram, the potency may be expressed as "<1 mg."

        iii. The required potency statement shall be displayed either: (1) In a font that is bold, and enclosed within an outlined shape such as a circle or square; or (2) highlighted with a bright color, such as yellow.

    e. Date of Transfer. The label shall include the date of Transfer to the Sampling Unit.

    f. Patient Number. If the Sampling Unit contains Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana Product, the label must also include the patient registration number of the recipient Sampling Manager.

    g. Required Warning Statements. Either the label affixed to the Container or the Marketing Layer shall include the following information:

        i. "This product was received as a Sampling Unit and may have been produced with undisclosed allergens, solvents, or pesticides, and may pose unknown physical or mental health risks. This product is not for resale and should not be used by anyone else."

F. Prohibited Transfers – All Regulated Marijuana Businesses. A Regulated Marijuana Business shall not Transfer to a Medical Marijuana Store, Retail Marijuana Store, Accelerator Store, or Retail Marijuana Hospitality and Sales Business—and a Medical Marijuana Store, Retail Marijuana Store, Accelerator Store, or Retail Marijuana Hospitality and Sales Business shall not accept nor offer for sale—any Regulated Marijuana that is not packaged and labeled in conformance with the requirements of these rules or that does not provide all information necessary to permit the Medical Marijuana Store, Retail Marijuana Store, Accelerator Store or Retail Marijuana Hospitality and Sales Business to package and label the Regulated Marijuana

prior to Transfer to a patient or consumer. However, a Medical Marijuana Store or Retail Marijuana Store is not required to open any tamper evident Marketing Layer received from a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or a Retail Marijuana Products Manufacturer to verify the Container is Child-Resistant or labeled.

G. Shipping Containers. Licensees may Transfer multiple Containers of Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product to a Regulated Marijuana Business in a Shipping Container.

1. RFID Tag Required. Licensees shall ensure that either the multiple Containers placed within a Shipping Container each have an RFID tag, or the Shipping Container itself must have an RFID tag. If the Licensee elects to place the RFID tag on the Shipping Container, the Shipping Container shall contain only one Harvest Batch of Regulated Marijuana, one Production Batch of Regulated Marijuana Concentrate, or one Production Batch of Regulated Marijuana Product. If a Shipping Container consists of more than one Harvest Batch or Production Batch, then each group of multiple Containers shall be affixed with an RFID tag. *See* Rule 3-805 – Inventory Tracking System; Rule 3-605 – Transport: All Regulated Marijuana Businesses.

2. Labeling of Shipping Containers. Any Shipping Container that will not be displayed to the consumer is not required to be labeled according to these rules.

H. Packaging and Labeling of Regulated Marijuana Flower and Trim Prior to Transfer to a Pesticide Manufacturer or a Marijuana Research and Development Facility. The packaging and labeling requirements in these 3-1000 Series Rules also apply to any Transfer of Regulated Marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Product to a Pesticide Manufacturer or a Marijuana Research and Development Facility.

I. Marijuana Research and Development Facility Transfers to Persons as Part of an Approved Research Project. Any Marijuana Research and Development Facility conducting research as part of an approved Research Project involving human subjects shall comply with all packaging and labeling requirements that are applicable to a Medical Marijuana Store prior to Transfer to a patient, unless the Marijuana Research and Development Facility requests and receives in advance a waiver of specific packaging or labeling requirements in connection with the approved Research Project.

J. Research Transfers Prohibited. A Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store shall not Transfer any Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana Product, Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product to a Pesticide Manufacturer or a Licensed Research Business.

K. Violation Affecting Public Safety. A violation of any rule in these 3-1000 Series Rules may be considered a license violation affecting public safety.

Basis and Purpose – 3-1010

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(c), 44-10-202(6), 44-10-203(2)(f), 44-10-203(1)(k), 44-10-203(3)(a)-(b), 44-10-601(2)(a), 44-10-601(5), 44-10-603(1)(d), 44-10-603(4)(a), and 44-10-603(8), C.R.S. The purpose of this rule is to define general packaging and labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product prior to Transfer to a patient or consumer. The labeling requirements in this rule apply to all Containers immediately containing Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product. The State Licensing Authority finds it essential to regulate and establish labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate,

and Regulated Marijuana Product and that this is in the interest of the health and safety of the people of Colorado. This rule identifies information that is required on all labels to provide necessary information to patients and consumers to make informed decisions and first responders in the event of accidental ingestion, over ingestion or allergic reaction. This rule also seeks to minimize, to the extent practicable, the burden of labeling compliance to Licensees. This Rule 3-1010 was previously Rules M and R 1002-1, 1 CCR 212-1 and 1 CCR 212-2.

3-1010 – Packaging and Labeling: General Requirements Prior to Transfer to a Patient or Consumer

A. Applicability. This Rule establishes general requirements for packaging and labeling Regulated Marijuana prior to Transfer to a patient or consumer. The labeling requirements in this Rule apply to all Containers immediately containing any Regulated Marijuana. The labeling requirements based on intended use in Rule 3-1015 are in addition to, not in lieu of, the requirements in this Rule.

1. Exemption for Transfers to Consumers by a Retail Marijuana Hospitality and Sales Business. Unless otherwise provided by these rules, a Retail Marijuana Hospitality and Sales Business Transferring Retail Marijuana to consumers in compliance with the packaging and labeling requirements of Rule 3-1020 is exempt from the requirements of this Rule.

B. Labeling Requirements – All Regulated Marijuana.

1. Font Size. Required labeling text on the Container and any Marketing Layer must be no smaller than 1/16 of an inch.

2. Labels Shall Not Be Designed to Appeal to Children. A Regulated Marijuana Business shall not place any content on a Container or the Marketing Layer in a manner that reasonably appears to target individuals under the age of 21, including but not limited to, cartoon characters or similar images.

3. False or Misleading Statements. Label(s) on a Container and any Marketing Layer shall not include any false or misleading statements.

4. Trademark Infringement Prohibited. No Container or Marketing Layer shall be intentionally or knowingly labeled so as to cause a reasonable consumer confusion as to whether the Regulated Marijuana is a trademarked product or labeled in a manner that violates any federal trademark law or regulation.

5. Health and Benefit Claims. The label(s) on the Container and any Marketing Layer shall not make any claims regarding health or physical benefits to the patient or consumer.

6. Use of English Language. Labeling text on the Container and any Marketing Layer must be clearly written or printed and in the English language. In addition to the required English label, Licensees may include an additional, accurate foreign language translation on the label that otherwise complies with these rules.

7. Unobstructed and Conspicuous. Labeling text on the Container and any Marketing Layer must be unobstructed and conspicuous. A Licensee may affix multiple labels to the Container, provided that none of the information required by these rules is obstructed and permanently hidden from view. For example and not by means of limitation, labels may be accordion, expandable, extendable or layered to permit labeling of small Containers.

8. Use of the Word “Candy” and/or “Candies” Prohibited.

a. Licensees shall not use the word(s) "candy" and/or "candies" on the label of any Container holding Regulated Marijuana, or of any Marketing Layer.

b. Notwithstanding the requirements of this subparagraph, a Regulated Marijuana Business whose identity statement contains the word(s) "candy" and/or "candies" may place its Identity Statement on the label of the Container holding Regulated Marijuana, or of any Marketing Layer.

9. Child Resistant Certificate(s). A Licensee shall maintain a copy of the certificate showing that each Child-Resistant Container into which the Licensee places Regulated Marijuana is Child-Resistant and complies with the requirements of 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995) in accordance with the requirements of Rule 3-905(A).

a. Note that this Rule does not include any later amendments or editions to the Code of Federal Regulations. The Division has maintained a copy of 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995), which is available to the public for inspection and copying during the Division's regular business hours.

10. Containers and Marketing Layers. The Container and any Marketing Layer shall have a label with all information required by these 3-1000 Series Rules. Any intermediary packaging between the Container and the Marketing Layer is not required to be labeled in accordance with these rules.

11. Exit Packages.

a. Exit Packages Permitted for Child-Resistant Containers. A Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store may but is not required to place a Child-Resistant Container into an Opaque Exit Package at the point of Transfer to the patient or consumer.

b. Exit Packages Required for Regulated Marijuana Flower, Trim, and Seeds. Any Regulated Marijuana flower, trim, or seeds in a Container that is not Child-Resistant shall be placed into a Child-Resistant Exit Package at the point of Transfer to a patient or consumer. The Exit Package is not required to be labeled but may include the Medical Marijuana Store's, Retail Marijuana Store's, or Accelerator Store's Identity Statement and/or Standardized Graphic Symbol.

C. Packaging and Labeling of Regulated Marijuana Flower and Trim, and Regulated Marijuana Concentrate Prior to Transfer to a Patient or Consumer. A Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store shall comply with the following minimum packaging and labeling requirements prior to Transferring Medical Marijuana flower and trim, Retail Marijuana flower and trim, Medical Marijuana Concentrate, or Retail Marijuana Concentrate to a patient or consumer:

1. Packaging of Regulated Marijuana Flower and Trim. Prior to Transfer to a patient or a consumer, Regulated Marijuana flower and trim shall be in a Container that does not exceed the sales limit in Rules 5-115(C) and 6-110(C). The Container may but is not required to be Child-Resistant. Any Regulated Marijuana flower and trim in a Container that is not Child-Resistant shall be placed into a Child-Resistant Exit Package at the point of Transfer to a patient or consumer.

2. Packaging of Regulated Marijuana Concentrate. Prior to Transfer to a patient or consumer, Regulated Marijuana Concentrate shall be in a Child-Resistant Container that does not exceed the sales limit in Rules 5-115(C) and 6-110(C).

a. A Pressurized Metered Dose Inhaler, Vaporizer Delivery Device, or syringe-type device that is within an intended use that is listed in Rule 3-1015(B) and is not an Alternative Use Product need not itself be Child-Resistant but must be placed into a Child-Resistant Container prior to Transfer to a patient or consumer.

b. A Pressurized Metered Dose Inhaler, Vaporizer Delivery Device, or syringe-type device with an intended use that is listed in Rule 3-1015(B) and that is not an Alternative Use Product must be labeled with at least the Universal Symbol, but is not required to include "**Contains Marijuana. Keep away from children.**", prior to Transfer to a patient or consumer. The Universal Symbol shall be legible and no smaller than ¼ of an inch by ¼ of an inch.

c. A Marketing Layer or Container for a Pressurized Metered Dose Inhaler or Vaporizer Delivery Device must be affixed with a label that states "**Not approved by the FDA.**"

d. Nothing in this Rule authorizes the use of a syringe for any type of injection involving a needle piercing the skin.

3. Labeling of Regulated Marijuana Flower and Trim, and Regulated Marijuana Concentrate. Prior to Transfer to a patient or consumer, every Container of Regulated Marijuana flower and trim, or Regulated Marijuana Concentrate and any Marketing Layer shall be affixed with a label that includes at least the following information:

a. Required License Number(s). The license number for each of the following:

i. The Regulated Marijuana Cultivation Facility where the Regulated Marijuana was grown;

ii. If applicable, the Regulated Marijuana Cultivation Facility(ies) where the Physical Separation-Based Medical Marijuana Concentrate or Physical Separation-Based Retail Marijuana Concentrate was produced;

iii. If applicable, the Regulated Marijuana Products Manufacturer where the Medical Marijuana Concentrate or Retail Marijuana Concentrate was produced; and

iv. The Regulated Marijuana Store that sold the Medical Marijuana, Retail Marijuana, Medical Marijuana Concentrate, or Retail Marijuana Concentrate to the patient or consumer, except the Regulated Marijuana Store may affix its license number to the Container or Marketing Layer.

v. Retail Marijuana that was designated as Medical Marijuana pursuant to Rule 5-235, 6-230, 6-730 must be labeled with the license number of the Retail Marijuana Cultivation Facility.

vi. Retail Marijuana Concentrate that was designated as Medical Marijuana Concentrate pursuant to Rule 5-335, 6-335, 6-830 must be labeled with the license number of the Retail Marijuana Products Manufacturer.

b. Batch Numbers. The Harvest Batch Number(s) assigned to the Regulated Marijuana or the Production Batch Number(s) assigned to the Regulated Marijuana Concentrate.

c. Statement of Net Contents. The statement of net contents must identify the net weight of the Regulated Marijuana or net weight or volume of Regulated Marijuana Concentrate prior to its placement in the Container, using a standard of measure compatible with the Inventory Tracking System.

d. Universal Symbol. The Universal Symbol on the front of the Container and any Marketing Layer, no smaller than ½ of an inch by ½ of an inch, with the following statement directly below the Universal Symbol: "**Contains Marijuana. Keep away from children."**

e. Required Potency Statement.

i. The potency of Regulated Marijuana flower or trim shall be expressed as: (1) the percentage of total THC and CBD from the test results for that Harvest Batch, or (2) if the Harvest Batch is not required to be tested, either as: (i) a range of percentages of total THC and CBD that extends from the lowest percentage to the highest percentage for each cannabinoid listed, from every test conducted on that strain of Regulated Marijuana cultivated by the same Regulated Marijuana Cultivation Facility during the preceding six months or (ii) an average for each cannabinoid listed, from every test conducted on that strain of Regulated Marijuana cultivated by the Regulated Marijuana Cultivation Facility during the preceding six months. If CBD is not detected in Harvest Batch, then Total CBD potency is not required.

ii. The potency of Medical Marijuana Concentrate's or Retail Marijuana Concentrate's Total THC and CBD shall be expressed as a percentage. If CBD is not detected in the Production Batch, then Total CBD potency is not required. The potency of Regulated Marijuana, Medical Marijuana Concentrate, and Retail Marijuana Concentrate shall be displayed either: (i) In a font that is bold, and enclosed within an outlined shape such as a circle or square; or (ii) Highlighted with a bright color such as yellow.

f. Date of Sale. The Regulated Marijuana Store shall affix the date of sale to the patient or consumer to the Container or Marketing Layer.

g. Patient Number. The Medical Marijuana Store shall affix the patient's registration number to the Container or Marking Layer at the time of Transfer to the patient.

h. Solvent List. A list of any solvent(s) used to produce any Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate.

i. Ingredient List Including Major Allergens. If applicable, a list of all Ingredients used to manufacture the Regulated Marijuana Concentrate including identification of any major allergens contained in the Regulated Marijuana Concentrate in accordance with the Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010). The Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010) requires disclosure of the following major food allergens: milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat, and soybeans.

i. Note that this Rule does not include any later amendments or editions to the United States Code. The Division maintains a copy of 21 U.S.C. § 343 (2010), which is available to the public for inspection and copying during the Division's regular business hours.

j. Required Warning Statements. Either the label affixed to the Container or the Marketing Layer shall include the following information:

i. "**This product was produced without regulatory oversight for health, safety, or efficacy.**"

ii. "**There may be long term physical or mental health risks from use of marijuana including additional risks for women who are or may become pregnant or are breastfeeding. Use of marijuana may impair your ability to drive a car or operate machinery**."

k. Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers.

i. Ingredient List. A list of all Ingredients, including Additives, used to manufacture the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler.

ii. Expiration Date. Effective July 1, 2022, a Marijuana Products Manufacturer that produces a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler shall include an expiration date pursuant to Rule 3-335(M).

iii. Storage Conditions. Effective July 1, 2022, a Marijuana Products Manufacturer that produces a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler shall include ideal storage conditions for the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler pursuant to Rule 3-335(M).

D. Packaging and Labeling of Regulated Marijuana Product, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, and Audited Product. A Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, Accelerator Manufacturer, Medical Marijuana Store, Retail Marijuana Store, and an Accelerator Store shall comply with the following minimum packaging and labeling requirements prior to Transferring Regulated Marijuana Product:

1. Packaging of Regulated Marijuana Product. Every Regulated Marijuana Product shall be in a Child-Resistant Container at the time of Transfer to a Medical Marijuana Store or Retail Marijuana Store in accordance with the following packaging limits:

a. Regulated Marijuana Product Other than Edible Medical Marijuana Product or Edible Retail Marijuana Product. Medical Marijuana Product that is not Edible Medical Marijuana Product and Retail Marijuana Product that is not Edible Retail Marijuana Product shall be placed into a Child-Resistant Container that does not exceed the sales limit in Rule 5-115(C) and 6-110(C). A Pressurized Metered Dose Inhaler, Vaporizer Delivery Device, or syringe-type device that is within the intended use that is listed in Rule 3-1015(B) and is not an Alternative Use Product need not itself be Child-Resistant but must be placed into a Child-Resistant Container prior to Transfer to a patient or consumer. A Pressurized Metered Dose Inhaler, Vaporizer Delivery Device, or syringe-type device within an intended use that is listed in Rule 3-1015(B) and that is not an Alternative Use Product must be labeled with at least the Universal Symbol, but is not required to include "**Contains Marijuana. Keep away from children.**", prior to Transfer to a patient or consumer. The Universal Symbol shall be legible and no smaller than ¼ of an inch by ¼ of an inch. Nothing in this Rule authorizes the use of a syringe for any type of injection involving a needle piercing the skin.

b. Edible Medical Marijuana Product. Every Edible Medical Marijuana Product including Liquid Edible Medical Marijuana Product shall be in a Child-Resistant Container. If the Edible Medical Marijuana Product contains multiple portions then it shall be placed into a Child-Resistant Container that is Resealable.

c. Edible Retail Marijuana Product. Edible Retail Marijuana Product shall be in a Child-Resistant Container as follows:

i. Single-Serving Edible Retail Marijuana Product. Every Single-Serving Edible Retail Marijuana Product must be placed into a Child-Resistant Container.

ii. Bundled Single-Serving Edible Retail Marijuana Product. Single-Serving Edible Retail Marijuana Products that are placed into a Child-Resistant Container may be bundled into a larger Marketing Layer so long as the total amount of active THC per Marketing Layer does not exceed 100 milligrams.

iii. Multiple-Serving Edible Retail Marijuana Product. Every Multiple-Serving Edible Retail Marijuana Product shall be placed into a Child-Resistant Container that is Resealable and shall not exceed 100 milligrams of active THC per Container.

d. Liquid Edible Medical Marijuana Product and Liquid Edible Retail Marijuana Product. Liquid Edible Medical Marijuana Product and Single-Serving Liquid Edible Retail Marijuana Product shall be packaged in a Child-Resistant Container:

i. Repealed.

ii. Multiple-Serving Liquid Edible Retail Marijuana Product. Each Liquid Edible Retail Marijuana Product that is a Multiple-Serving Edible Retail Marijuana Product shall be:

a. Packaged in a structure that uses a single mechanism to achieve both Child-Resistant properties and accurate pouring measurement of each liquid serving in increments equal to or less than 10 milligrams of active THC per serving, with no more than 100 milligrams of active THC total per Container; and

b. The measurement component is within the Child-Resistant cap or closure of the bottle and is not a separate component.

iii. Multiple-Serving Liquid Edible Medical Marijuana Product. Each Liquid Edible Medical Marijuana Product that is a Multiple-Serving Edible Medical Marijuana Product shall be:

a. Packaged in a structure that uses a single mechanism to achieve both Child-Resistant properties and accurate pouring measurement of each liquid serving; and

b. The measurement component is within the Child-Resistant cap or closure of the bottle, and is not a separate component.

e. Audited Product. The Container containing Audited Product for administration by: (i) metered dose nasal spray or (ii) vaginal administration must be Child Resistant and labeled. A Container holding Audited Product for rectal administration need not be Child-Resistant but must be placed into a Child-Resistant Container prior to Transfer to a patient or consumer.

i. A metered dose nasal spray must be affixed with a label that states: "**Not approved by FDA.**"

ii. The Container holding Audited Product for vaginal administration and rectal administration must be affixed with a label that states: "**Not approved by FDA.**"

iii. For example and not by means of limitation, labels may be affixed using the following methods: accordion, expandable, extendable, layered, tags, or stickers.

2. Labeling of Regulated Marijuana Product. Prior to Transfer to a Regulated Marijuana Store and a patient or consumer, every Container of Regulated Marijuana Product and any Marketing Layer shall be affixed with a label that includes at least the following information:

a. Required License Number(s). The license number for each of the following:

i. The Regulated Marijuana Cultivation Facility where the Medical Marijuana or Retail Marijuana was grown;

ii. The Regulated Marijuana Products Manufacturer where the Medical Marijuana Product or Retail Marijuana Product was produced; and

iii. The Regulated Marijuana Store that sold the Medical Marijuana Product to a patient or consumer, except the Regulated Marijuana Store may affix its license number to the Container or Marketing Layer.

b. Batch Numbers. The Production Batch Number(s) assigned to the Regulated Marijuana Product.

c. Statement of Net Contents. The statement of net contents must identify the net weight, volume, or number of Regulated Marijuana Products prior to its placement in the Container, using a standard of measure compatible with the Inventory Tracking System.

d. Universal Symbol. The Universal Symbol on the front of the Container and any Marketing Layer, no smaller than ½ of an inch by ½ of an inch, with the following statement directly below the Universal Symbol: "**Contains Marijuana. Keep away from children**."

e. Ingredient List Including Major Allergens. A list of all Ingredients used to manufacture the Regulated Marijuana Product including identification of any major allergens contained in the Regulated Marijuana Product in accordance with the Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010). The Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010) requires disclosure of the following major food allergens: milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat, and soybeans.

i. Note that this Rule does not include any later amendments or editions to the United States Code. The Division maintains a copy of 21 U.S.C. § 343 (2010), which is available to the public for inspection and copying during the Division's regular business hours.

f. Required Potency Statement. The Target Potency or potency value determined from testing by a Regulated Marijuana Testing Facility of the Regulated Marijuana Product's active THC and CBD expressed in milligrams. If the Regulated Marijuana Product's Target Potency or potency value of THC or CBD is less than 1 milligram, the potency may be expressed as "<1 mg." If CBD is not detected in the Regulated Marijuana Product, then active CBD potency is not required. The Target Potency or potency value, shall be displayed either:

i. In a font that is bold, and enclosed within an outlined shape such as a circle or square; or

ii. Highlighted with a bright color such as yellow.

g. Solvent List. A list of any solvent(s) used to produce any Solvent-Based Medical Marijuana Concentrate used as a production input in any Medical Marijuana Product, or Solvent-Based Retail Marijuana Concentrate used as a production input in any Retail Marijuana Product.

h. Date of Sale. The Regulated Marijuana Store shall affix the date of sale to the Container or Marketing Layer at the time of Transfer to the patient or consumer.

i. Patient Number. The Medical Marijuana Store shall affix the patient's registration number to the Container or Marking Layer at the time of Transfer to the patient.

j. Required Warning Statements. Either the label affixed to the Container or the Marketing Layer shall include the following information:

i. "**This product was produced without regulatory oversight for health, safety, or efficacy.**"

ii. "**There may be long term physical or mental health risks from use of marijuana including additional risks for women who are or may become pregnant or are breastfeeding. Use of marijuana may impair your ability to drive a car or operate machinery.**"

3. Labeling of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana. Prior to Transfer to a Regulated Marijuana Store and to a patient or consumer, every Container of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana and any Marketing Layer shall be affixed with a label that includes at least the following information:

a. Required License Number(s). The license number for each of the following:

i. The Regulated Marijuana Cultivation Facility where the Medical Marijuana or Retail Marijuana was grown;

ii. The license number of the Regulated Marijuana Business where the Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana was produced; and

iii. The Regulated Marijuana Store that sold the Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana to a patient or consumer, except the

Regulated Marijuana Store may affix its license number to the Container or Marketing Layer.

b. Batch Numbers. The Production Batch Number(s) assigned to the Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana.

c. Statement of Net Contents. The statement of net contents must identify the net weight (excluding the paper, wrapper, filter and/or equivalent) of each Pre-Rolled Marijuana joint or Infused Pre-Rolled Marijuana joint prior to its placement in the Container and the number of joints in each Container of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana, using a standard of measure compatible with the Inventory Tracking System.

d. Universal Symbol. The Universal Symbol on the front of the Container and any Marketing Layer, no smaller than ½ of an inch by ½ of an inch, with the following statement directly below the Universal Symbol: **"Contains Marijuana. Keep away from children."**

e. Solvent List. If applicable, a list of any solvent(s) used to produce any Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate used in the creation of Infused Pre-Rolled Marijuana.

f. Required Potency Statement. The potency of Pre-Rolled Marijuana shall be expressed as: (1) the percentage of total THC and CBD from the test results of each Production Batch, or (2) if each Production Batch is not required to be tested, either as: (i) a range of percentages of total THC and CBD that extends from the lowest percentage to the highest percentage for each cannabinoid listed, from every test conducted for a particular type of Pre-Rolled Marijuana produced by the same Regulated Marijuana Business during the preceding six months or (ii) an average for each cannabinoid listed, from every test conducted for a particular type of Pre-Rolled Marijuana produced by the same Regulated Marijuana Business during the preceding six months. If CBD is not detected in the Production Batch, then Total CBD potency is not required. The potency of Infused Pre-Rolled Marijuana shall be expressed as the percentages of total THC and CBD from the test results of each Production Batch. If CBD is not detected in the Production Batch, then Total CBD potency is not required. The potency of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana shall be displayed either:

i. In a font that is bold, and enclosed within an outlined shape such as a circle or square; or

ii. Highlighted with a bright color such as yellow.

g. Date of Sale. The Regulated Marijuana Store shall affix the date of sale to the Container or Marketing Layer at the time of Transfer to the patient or consumer.

h. Patient Number. The Medical Marijuana Store shall affix the patient's registration number to the Container or Marking Layer at the time of Transfer to the patient.

i. Required Warning Statements. Either the label affixed to the Container or the Marketing Layer shall include the following information:

i. **"This product was produced without regulatory oversight for health, safety, or efficacy."**

ii. **"There may be long term physical or mental health risks from use of marijuana including additional risks for women who are or may become pregnant or are breastfeeding. Use of marijuana may impair your ability to drive a car or operate machinery."**

E. Packaging and Labeling of Seeds and Immature Plants Prior to Transfer to a Patient or Consumer. A Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store shall comply with the following minimum packaging and labeling requirements prior to Transferring seeds or Immature plants to a patient or consumer:

1. Packaging of Regulated Marijuana Seeds. Prior to Transfer to a patient or consumer, Regulated Marijuana seeds shall be in a Container. The Container may but is not required to be Child-Resistant. Any Regulated Marijuana seeds in a Container that is not Child-Resistant shall be placed into a Child-Resistant Exit Package at the point of Transfer to a patient or consumer.

2. Packaging of Immature Plants. Prior to Transfer to a patient or consumer, Immature plants shall be placed into a receptacle. The receptacle may but is not required to be Child-Resistant.

3. Labeling of Seeds and Immature Plants. Prior to Transfer to a patient or consumer, every Container holding Regulated Marijuana seeds and any receptacle containing an Immature plant must be affixed with a label that includes at least the following information:

a. Required License Number(s). The license number for each of the following:

i. The Medical Marijuana Cultivation Facility where the Medical Marijuana that produced the seeds or Immature plant was grown, the Retail Marijuana Cultivation Facility where the Retail Marijuana that produced the seeds or the Immature plant was grown, or the Accelerator Cultivator where the Retail Marijuana that produced the seeds or the Immature plant was grown; and

ii. The Medical Marijuana Store that sold the seeds or Immature plant to the patient, the Retail Marijuana Store that sold the seeds or Immature plant to the consumer, or the Accelerator Store that sold the seeds or Immature plant to the consumer.

b. Universal Symbol. The Universal Symbol on the front of the Container holding seeds and the receptacle containing each Immature plant, no smaller than ½ of an inch by ½ of an inch, with the following statement directly below the Universal Symbol: "**Contains Marijuana. Keep away from children.**"

c. Statement of Net Contents for Seeds. A statement of net contents identifying the number of seeds in the Container.

d. Date of Sale. The Medical Marijuana Store, Retail Marijuana Store, or Accelerator Store shall affix the date of sale to the patient or consumer to the Container or receptacle.

e. Patient Number. The Medical Marijuana Store shall affix the patient's registration number to the Container or receptacle at the time of Transfer to the patient.

f. Required Warning Statements:

i. "**This product was produced without regulatory oversight for health, safety, or efficacy**."

ii. "**There may be long term physical or mental health risks from use of marijuana including additional risks for women who are or may become pregnant or are breastfeeding. Use of marijuana may impair your ability to drive a car or operate machinery**."

F. Permissive Information.

1. Identity Statement. A label affixed to a Container of Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product or any Marketing Layer may include, but is not required to include, the Identity Statement and/or Standardized Graphic Symbol for:

a. The Regulated Marijuana Cultivation Facility(ies) where the Medical Marijuana or Retail Marijuana was grown;

b. The Regulated Marijuana Products Manufacturer that manufactured the Regulated Marijuana Product or Regulated Marijuana Concentrate; and/or

c. The Regulated Marijuana Store that sold the Regulated Marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Product.

2. Nutritional Fact Panel. Label(s) may include, but are not required to include, a nutritional fact panel or dietary supplement fact panel in substantial conformance with 21 CFR 101.9 (2016) or 21 C.F.R. 101.36 (2016) as follows:

a. For Edible Medical Marijuana Products or Edible Retail Marijuana Products other than pills, capsules, and tinctures and Food-Based Medical Marijuana Concentrate or Food-Based Retail Marijuana Concentrate the nutritional fact panel shall be in substantial conformance with the requirements of 21 C.F.R. 101.9(C) (2016) which provides the FDA's nutritional labeling requirements for food;

b. For pills, capsules, and tinctures, the dietary supplement fact panel shall be in substantial conformance with the requirements of 21 C.F.R. 101.36 (2016) which provides the FDA's nutritional labeling requirements for dietary supplements.

i. Note that this Rule does not include any later amendments or editions to the Code of Federal Regulations. The Division maintains copies of 21 C.F.R. 101.9(C) (2016) and 21 C.F.R. 101.36 (2016), which are available to the public for inspection and copying during the Division's regular business hours.

3. Other Permissive Information. The labeling requirements in the 3-1000 Series Rules provide only the minimum labeling requirements. Licensees may include additional information on the label(s) so long as such information is consistent with the requirements of these Rules.

Basis and Purpose – 3-1015

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(c), 44-10-202(6), 44-10-203(2)(d)(IV)(A)-(C), 44-10-203(2)(f), 44-10-203(2)(w), 44-10-203(1)(a), 44-10-601(2)(a), 44-10-603(4)(a), and 44-10-603(8), C.R.S. The purpose of this rule is to define additional

labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and/or Regulated Marijuana Product (except Regulated Marijuana seeds and Immature plants) based on its intended use. These labeling requirements are in addition to, not in lieu of, the labeling requirements in Rule 3-1010. This Rule 3-1015 was previously Rules M and R 1003-1, 1 CCR 212-1 and 1 CCR 212-2. The Division and State Licensing Authority intend to monitor data regarding Regulated Marijuana use-by dates following implementation of these rules, and will make any necessary changes, including but not limited to, reducing the nine months use-by date if Licensees choose not to conduct stabilization studies.

3-1015 – Additional Labeling Requirements Prior to Transfer to a Patient or Consumer

A. Applicability. This Rule establishes additional labeling requirements for Regulated Marijuana (except seeds and Immature plants), Regulated Marijuana Concentrate, and Regulated Marijuana Product prior to Transfer to a patient or consumer. The labeling requirements in this Rule apply to all Containers immediately containing Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product. These labeling requirements based on intended use are in addition to, not in lieu of, the requirements in Rule 3-1010.

1. Exemption for Transfers to Consumers by a Retail Marijuana Hospitality and Sales Business. Unless otherwise provided by these rules, a Retail Marijuana Hospitality and Sales Business Transferring Retail Marijuana to consumers in compliance with the packaging and labeling requirements of Rule 3-1020 is exempt from the requirements of this Rule.

B. Additional Information Required on Every Container (Except Seeds and Immature Plants) Prior to Transfer to a Patient or Consumer. Prior to Transfer to a patient or consumer, every Container of Regulated Marijuana (except seeds and Immature plants), Regulated Marijuana Concentrate, or Regulated Marijuana Product and any Marketing Layer must have a label that includes at least the following additional information.

1. Statement of Intended Use. The Container and any Marketing Layer shall identify one or more intended use(s) for Medical Marijuana, Retail Marijuana, Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, and Retail Marijuana Product from the following exclusive list:

a. Inhaled Product:

i. Flower, shake, or trim;

ii. Pre-Rolled Marijuana and Infused-Pre-Rolled Marijuana;

iii. Solvent-Based Medical Marijuana Concentrate;

iv. Solvent-Based Retail Marijuana Concentrate;

v. Physical Separation-Based Medical Marijuana Concentrate;

vi. Physical Separation-Based Retail Marijuana Concentrate;

vii. Heat/Pressure-Based Medical Marijuana Concentrate;

viii. Heat/Pressure-Based Retail Marijuana Concentrate;

ix. Vaporizer Delivery Device;

x. Pressurized Metered Dose Inhaler.

b. For Oral Consumption:

i. Food or drink infused with Regulated Marijuana;

ii. Regulated Marijuana Concentrate intended to be consumed orally;

iii. Pills and capsules;

iv. Tinctures.

c. Skin and Body Products:

i. Topical;

ii. Transdermal.

d. Audited Product:

i. Metered Dose Nasal Spray;

ii. Vaginal Administration;

iii. Rectal Administration.

2. Inhaled Product. The “Inhaled Product” intended use may be used only for products intended for consumption by smoking or Vaporizer Delivery Device where the product is heated or burned prior to consumption, or through use of a Pressurized Metered Dose Inhaler. The label(s) on all inhaled product intended use shall also include:

a. The potency statement required by Rule 3-1010 for: (1) flower, shake, or trim, (2) Pre-Rolled Marijuana, (3) Infused-Pre-Rolled Marijuana, (4) Solvent-Based Medical Marijuana Concentrate, (5) Solvent-Based Retail Marijuana Concentrate, (6) Physical Separation-Based Medical Marijuana Concentrate, (7) Physical Separation-Based Retail Marijuana Concentrate, (8) Heat/Pressure-Based Medical Marijuana Concentrate, (9) Heat/Pressure-Based Retail Marijuana Concentrate shall be stated as the percentage of Total THC and CBD. If CBD is not detected, then total CBD potency is not required.

a.5. Use-By Date. Effective January 1, 2024, a product use-by date, upon which the Regulated Marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Product will no longer be fit for consumption, or upon which the Regulated Marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Product will no longer be optimally fresh. Once a label with a use-by date has been affixed to a Container containing Regulated Marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Product and any Marketing Layer, a Licensee shall not alter that use-by date or affix a new label with a later use-by date. The use-by date shall not be longer than nine months from the harvest or production date, unless shelf stability testing, including but not limited to potency, microbial, and water activity testing, supports a longer shelf life. All use-by dates must be entered into the Inventory Tracking System prior to Transfer. Prior to Transfer to a patient or consumer, a Regulated Marijuana Store or Accelerator Store must inform the patient or consumer if the Regulated Marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Product is past its use-by date.

b. The potency statement required by Rule 3-1010 for Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers shall be stated as either the percentage of Total THC and CBD, or the number of milligrams of Total THC and CBD, per cartridge, pen, or inhaler. If the potency value for Total THC or CBD of the Vaporizer Delivery Devices or Pressurized Metered Dose Inhalers is less than one milligram, the potency may be expressed as "<1 mg." If CBD is not detected in the Vaporizer Delivery Device or Pressurized Metered Dose Inhaler, then total CBD potency is not required.

c. Additional Labeling Requirement for Regulated Marijuana Concentrate to Promote Consumer Health and Awareness: Effective January 1, 2023, if a Regulated Marijuana Concentrate that is an Inhaled Product cannot easily be measured or separable to the recommended serving size established under Rule 3-335(D)(3)(d) and (f), the Regulated Marijuana Manufacturer that manufacturers the Regulated Marijuana Concentrate must:

i. Affix the Container of Regulated Marijuana Concentrate with a measuring device that permits the patient or consumer to measure each serving in a manner consistent with the recommended serving established under Rule 3-335(D); or

ii. Include a label on the Container of Regulated Marijuana Concentrate that provides instructions to allow the patient or consumer to measure each recommended serving pursuant to Rule 3-335(D).

3. For Oral Consumption. The label(s) on all Edible Medical Marijuana Products and Edible Retail Marijuana Products, including but not limited to confections, liquids, pills, capsules and tinctures, shall also include:

a. Potency Statement. The potency statement required by Rule 3-1010 shall be stated as: (1) milligrams of active THC and CBD per serving and (2) milligrams of active THC and CBD per Container where the Container contains more than one serving. The Target Potency may be used to fulfill the requirement of this Rule. If CBD is not detected, then active CBD potency is not required.

i. If the Edible Medical Marijuana Product's or Edible Retail Marijuana Product's Target Potency or potency value of active THC or CBD is less than one milligram per serving, the potency may be expressed as "<1 mg." If "<1 mg" was used to display the active THC or CBD per serving, then a corresponding statement regarding the total THC or CBD content for the entire Container shall be included on the Container. For example, if there are five servings in the Container, "<5 mg" should be displayed for the active THC or CBD statement that was represented as "<1 mg" per serving.

b. Additional Warning Statement Required. The following additional warning statement shall be included on the label on the Container or Marketing Layer for all Edible Medical Marijuana Product and Edible Retail Marijuana Product: **"The intoxicating effects of this product may be delayed by up to 4 hours.**"

c. Expiration/Use-By Date. A product expiration date, upon which the Edible Medical Marijuana Product or Edible Retail Marijuana Product will no longer be fit for consumption, or a use-by-date, upon which the Edible Medical Marijuana Product or Edible Retail Marijuana Product will no longer be optimally fresh. Once a label with an expiration or use-by date has been affixed to a Container containing an Edible Medical Marijuana Product or Edible Retail Marijuana

Product and any Marketing Layer, a Licensee shall not alter that expiration or use-by date or affix a new label with a later expiration or use-by date. All expiration or use-by dates must be entered into the Inventory Tracking System prior to Transfer. Prior to Transfer to a patient or consumer, a Regulated Marijuana Store or Accelerator Store must inform the patient or consumer if the Edible Medical Marijuana Product or Edible Retail Marijuana Product is past its expiration or use-by date.

d. Production Date. The date on which the Edible Medical Marijuana Product or Edible Retail Marijuana Product was produced which may be included in the Batch Number required by Rule 3-1010.

e. Statement Regarding Refrigeration. If an Edible Medical Marijuana Product or Edible Retail Marijuana Product is perishable, a statement that the product must be refrigerated.

4. Skin and Body Products (Topical and Transdermal). The "Skin and Body Products" intended use may be used only for products intended for consumption by topical or transdermal application, and must be intended for external use only. The label(s) on all skin and body products shall also include:

a. Topical Product Potency Statement. For topical product the potency statement required by Rule 3-1010 shall be stated as the number of milligrams of active THC and CBD per Container. The Target Potency may be used to fulfill the requirement of this Rule. If CBD is not detected, then active CBD potency is not required. If the THC or CBD comprises less than one percent of the total cannabinoids, the potency may be expressed as less than one percent of the total cannabinoids.

b. Transdermal Product Potency Statement. For transdermal product, the potency statement required by Rule 3-1010 shall be stated as the number of milligrams of active THC and CBD per transdermal product, and the total number of milligrams of active THC and CBD per Container. The Target Potency may be used to fulfill the requirement of this Rule. If CBD is not detected, then active CBD potency is not required.

i. If the transdermal product's Target Potency or potency value of active THC or CBD is less than one milligram per transdermal product, the potency may be expressed as "<1 mg." If "<1 mg" was used to display the active THC or CBD per transdermal product, then a corresponding statement regarding the total THC or CBD content for the entire Container shall be included on the Container. For example, if there are five servings in the Container, "<5 mg" should be displayed for the active THC or CBD statement that was represented as "<1 mg" per serving.

c. Expiration/Use-By Date. A product expiration or use-by date, after which the skin and body product will no longer be fit for use. Once a label with an expiration or use-by date has been affixed to any Container holding a skin and body product and any Marketing Layer, a Licensee shall not alter that expiration or use-by date or affix a new label with a later expiration or use-by date. All expiration or use-by dates must be entered into the Inventory Tracking System prior to Transfer. Prior to Transfer to a patient or consumer, a Regulated Marijuana Store or Accelerator Store must inform the patient or consumer if the skin and body product is past its expiration or use-by date.

d. Production Date. The date on which the skin and body product was produced which may be included in the Batch Number required by Rule 3-1010.

5. Audited Product. Packaging and labeling for all Audited Products: (i) metered dose nasal spray, (ii) vaginal administration, or (iii) rectal administration shall include:

a. All packaging and labeling requirements required by this 3-1000 Series for Regulated Marijuana Products; except Rules 5-325 and 6-325 control where the context otherwise clearly requires.

b. Audited Product shall be packaged and labeled for Transfer to a patient or consumer prior to Transfer from a Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer.

c. Expiration/Use-By Date. A product expiration date that is appropriate for the Audited Product when stored at room temperature as verified by testing required by Rules 5-325 and 6-325. Once a label with an expiration date has been affixed to a Container containing an Audited Product, a Licensee shall not alter that expiration date, or affix a new label with a later expiration date. All expiration or use-by dates must be entered into the Inventory Tracking System prior to Transfer. Prior to Transfer to a patient or consumer, a Regulated Marijuana Store or Accelerator Store must inform the patient or consumer if the Audited Product is past its expiration or use-by date.

d. Production Date. The date on which the Audited Product was produced, which may be included in the Batch Number required by Rule 3-1010.

C. No Other Intended Use Permitted. No intended use other than those identified in this Rule shall be identified on any label, except as permitted by an Alternative Use Designation approved by the State Licensing Authority pursuant to Rules 5-325 and 6-325. Licensees shall accurately identify all intended use(s) from the exclusive list of intended uses in this Rule, or as required by the Alternative Use Designation, on the label.

1. Alternative Use Product. No Regulated Marijuana Business shall Transfer or accept an Alternative Use Product unless the Alternative Use Product received an Alternative Use Designation in accordance with Rules 5-325 and 6-325 and complied with all the requirements of Rules 5-325, 6-325, and 3-1005 through 3-1015, and with any additional packaging and labeling requirements identified in the Alternative Use Designation. At a minimum the label(s) on all Alternative Use Products shall include:

a. All packaging and labeling requirements applicable to the Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer by these 3-1000 Series Rules unless inconsistent with the Alternative Use Designation in which case the Alternative Use Designation shall control.

b. Expiration/Use-By Date. A product expiration date that is appropriate for the Alternative Use Product when stored at room temperature as verified by a Regulated Marijuana Testing Facility. Once a label with an expiration date has been affixed to a Container containing Alternative Use Product, a Licensee shall not alter that expiration date, or affix a new label with a later expiration date.

c. Production Date. The date on which the Alternative Use Product was produced, which may be included in the Batch Number required by Rule 3-1010.

d. All other requirements identified by the Alternative Use Designation.

D. Multiple Intended Uses. Any Regulated Marijuana having more than one intended use shall identify every intended use on the label and shall comply with all labeling requirements for each intended use. If there is any conflict between the labeling requirements for multiple intended uses, the most restrictive labeling requirements shall be followed. Licensees shall not counsel or advise any patient or consumer to use Regulated Marijuana other than in accordance with the intended use(s) identified on the label.

Basis and Purpose – 3-1020

The statutory authority for this rule includes but is not limited to 44-10-202(1)(a), 44-10-202(1)(c), 44-10-202(6), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to define minimum packaging and labeling requirements for Retail Marijuana Hospitality and Sales Businesses.

3-1020 – Packaging and Labeling: Requirements for Transfers to a Consumer at a Retail Marijuana Hospitality and Sales Business

A. Applicability. This Rule establishes minimum requirements for packaging and labeling Retail Marijuana Transferred to a consumer at a Retail Marijuana Hospitality and Sales Business.

B. Packaging and Labeling Exemptions and Minimum Requirements. A Retail Marijuana Hospitality and Sales Business may Transfer Retail Marijuana to a consumer without packaging and labeling under the following conditions:

1. The consumer intends to consume the Retail Marijuana on the Licensed Premises of the Retail Marijuana Hospitality and Sales Business;

2. At the time of Transfer to a consumer, the Retail Marijuana Hospitality and Sales Business provides the consumer with a written statement of the potency of the Retail Marijuana's active THC and CBD, which shall be expressed as a percentage for Retail Marijuana and Retail Marijuana Concentrate, and expressed in milligrams for Retail Marijuana Product. If CBD is not detected in the Retail Marijuana, then active CBD potency is not required;

3. The Retail Marijuana Hospitality and Sales Business maintains within the Restricted Access Area of the Licensed Premises—and makes available to the consumer upon request—written or electronic documentation reflecting all relevant information required in Rules 3-1010 and 3-1015; and

4. For Multiple-Serving Edible Retail Marijuana Product or Multiple-Serving Liquid Edible Retail Marijuana Product, the Retail Marijuana Hospitality and Sales Business shall at the time of Transfer to the consumer provide a measurement device necessary for the consumer to achieve accurate measurements of each serving in increments equal to or less than 10 milligrams of active THC per serving.

C. Packaging and Labeling Required Before Retail Marijuana is Removed from the Licensed Premises. Prior to a consumer removing any unconsumed Retail Marijuana from the Licensed Premises, the Retail Marijuana Hospitality and Sales Business shall:

1. Provide the consumer with written or electronic documentation reflecting all relevant information required in Rules 3-1010 and 3-1015; and

2. Place the unconsumed Retail Marijuana into a Child-Resistant Container, or if the Container is not Child-Resistant, a Child-Resistant Exit Package. The Container must be affixed with a label that includes at least the following:

i. Universal Symbol. The Universal Symbol on the Container, no smaller than ½ inch by ½ inch, with the following statement directly below the Universal Symbol: "**Contains Marijuana. Keep away from children.**"; and

ii. Required Potency Statement. A written statement of the potency of the Retail Marijuana's total THC and CBD expressed as a percentage. A written statement of the potency of the Retail Marijuana Product's active THC and CBD expressed in milligrams. If the potency of the Regulated Marijuana Product's active THC or CBD is less than 1 milligram, the potency may be expressed as "<1 mg." If CBD is not detected in the Retail Marijuana, then active CBD potency is not required.

iii. For Multiple-Serving Edible Retail Marijuana Product or Multiple-Serving Liquid Edible Retail Marijuana Product, the Retail Marijuana Hospitality and Sales Business shall provide a measurement device necessary for the consumer to achieve accurate measurements of each serving in increments equal to or less than 10 milligrams of active THC per serving.

D. Additional Packaging and Labeling Requirements for Retail Marijuana Hospitality and Sales Businesses.

1. Font Size. Required labeling text on the Container must be no smaller than 1/16 of an inch.

2. Labels Shall Not Be Designed to Appeal to Children. A Retail Marijuana Hospitality and Sales Business shall not place any content on a Container that reasonably appears to target individuals under the age of 21, including but not limited to, cartoon characters or similar images.

3. False or Misleading Statements. Label(s) on a Container shall not include any false or misleading statements.

4. Trademark Infringement Prohibited. No Container shall be intentionally or knowingly labeled so as to cause a reasonable consumer confusion as to whether the Retail Marijuana is a trademarked product or labeled in a manner that violates any federal trademark law or regulation.

5. Health and Benefit Claims. The label(s) on the Container shall not make any claims regarding health or physical benefits to the consumer.

6. Use of English Language. Labeling text on the Container must be clearly written or printed and in the English language. In addition to the required English label, Licensees may include an additional, accurate foreign language translation on the label that otherwise complies with these rules.

7. Unobstructed and Conspicuous. Labeling text on the Container must be unobstructed and conspicuous. A Licensee may affix multiple labels to the Container, provided that none of the information required by these rules is obstructed. For example and not by means of limitation, labels may be accordion, expandable, extendable or layered to permit labeling of small Containers.

8. Use of the Word "Candy" and/or "Candies" Prohibited. Licensees shall not use the word(s) "candy" and/or "candies" on the label of any Container.

9. Child Resistant Certificate(s). A Licensee shall maintain a copy of the certificate showing that each Child-Resistant Container into which the Licensee places Retail Marijuana is

Child-Resistant and complies with the requirements of 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995) in accordance with the requirements of Rule 3-905(A). Note that this Rule does not include any later amendments or editions to the Code of Federal Regulations. The Division has maintained a copy of 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995), which is available to the public for inspection and copying during the Division's regular business hours.

Basis and Purpose – 3-1025

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(c), 44-10-202(6), 44-10-203(2)(f), 44-10-203(1)(k), 44-10-203(3)(a)-(b) The purpose of this rule is to define minimum packaging and labeling requirements for Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product Transferred to a Regulated Marijuana Testing Facility. The labeling requirements in this rule apply to all Containers immediately containing Regulated Marijuana, Regulated Marijuana Concentrate, and Regulated Marijuana Product being Transferred to a Regulated Marijuana Testing Facility.

3-1025 – Packaging and Labeling: Minimum Requirements for Test Batch Transfers to a Regulated Marijuana Testing Facility

A. Applicability. This Rule establishes minimum requirements for packaging and labeling of Regulated Marijuana Test Batches prior to Transfer to a Regulated Marijuana Testing Facility. The labeling requirements in this Rule apply to all Containers immediately containing Medical Marijuana, Retail Marijuana, Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, and Retail Marijuana Product.

B. Packaging and Labeling of Test Batches of Regulated Marijuana Flower, Trim, Wet Whole Plant, and Regulated Marijuana Concentrate, Prior to Transfer to a Regulated Marijuana Testing Facility. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Test Batches of Medical Marijuana flower, trim, wet whole plant, or Medical Marijuana Concentrate to a Medical Marijuana Testing Facility, and prior to Transferring Test Batches of Retail Marijuana flower, trim, wet whole plant, or Retail Marijuana Concentrate to a Retail Marijuana Testing Facility:

1. Packaging of Test Batches of Regulated Marijuana Flower, Trim, Wet Whole Plant and Regulated Marijuana Concentrate.

   a. A Licensee shall submit Test Batches of Regulated Marijuana flower, trim, wet whole plant, or Regulated Marijuana Concentrate in a transparent Container to allow for the Samples of the Test Batch to be photo documented.

   b. Each Container containing a Test Batch of Regulated Marijuana flower, trim, or wet whole plant shall have at least 20% empty space. Test Batch Containers shall not be completely full so that individual Samples of the Test Batch can be photo documented.

   c. Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers. Test Batches from Production Batches of Vaporizer Delivery Devices and Pressurized Metered Dose Inhalers must be packaged in the hardware or inhaler, respectively, that allows for the consumption.

2. Labeling of Test Batches of Regulated Marijuana Flower, Trim, Wet Whole Plant and Regulated Marijuana Concentrate. Prior to Transfer to a Regulated Marijuana Testing Facility, every Container containing a Test Batch of Regulated Marijuana flower, trim, wet whole plant, or Regulated Marijuana Concentrate shall be affixed with a label that

includes at least the following information, some of which may be included on the Inventory Tracking System RFID Tag:

a. For Test Batches from Harvest Batches, the license number of the Medical Marijuana Cultivation Facility where the Medical Marijuana was grown, or the Retail Marijuana Cultivation Facility where the Retail Marijuana was grown;

b. For Test Batches of Concentrates from Production Batches, the license number of the Medical Marijuana Products Manufacturer(s) where the Medical Concentrate was produced, or the Retail Marijuana Products Manufacturer(s) where the Retail Marijuana Concentrate was produced; and

c. The net contents, using a standard of measure compatible with the Inventory Tracking System, of the Regulated Marijuana or Regulated Marijuana Concentrate prior to its placement in the Container.

C. Packaging and Labeling of Test Batches of Regulated Marijuana Product Prior to Transfer to a Regulated Marijuana Testing Facility. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Test Batches of Regulated Marijuana Product to a Regulated Marijuana Testing Facility:

1. Packaging Test Batches of Regulated Marijuana Product.

a. Prior to any Transfer of a Test Batch to a Regulated Marijuana Testing Facility, the Test Batch of Regulated Marijuana Product subject to testing shall be placed into the Container(s) in which the rest of the Production Batch will be sold. The Container may but is not required to be Child-Resistant.

2. Labeling of Test Batches of Regulated Marijuana Product. Prior to Transfer to a Regulated Marijuana Testing Facility, every Container containing a Test Batch of Regulated Marijuana Product shall be affixed with a label, which can be noted on the Inventory Tracking System RFID Tag, that includes at least the following information:

a. The license number of the Medical Marijuana Products Manufacturer or the Retail Marijuana Products Manufacturer that produced the Regulated Marijuana Product;

b. The Production Batch Number(s) assigned to the Regulated Marijuana Product;

c. The net contents, using a standard of measure compatible with the Inventory Tracking System, of the Regulated Marijuana Product prior to its placement in the Container; and

d. The serving size, number of serving per package, and the Target Potency as required for a Regulated Marijuana Testing Facility to assess potency variance.

D. Packaging and Labeling of Test Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana, Prior to Transfer to a Regulated Marijuana Testing Facility. A Regulated Marijuana Business shall comply with the following minimum packaging and labeling requirements prior to Transferring Test Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana to a Medical Marijuana Testing Facility, and prior to Transferring Test Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana to a Retail Marijuana Testing Facility:

1. Packaging of Test Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana.

a. Prior to any Transfer of a Test Batch to a Regulated Marijuana Testing Facility, the Test Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana subject to testing shall be placed into the Container(s) in which the rest of the Production Batch will be sold. The Container may but is not required to be Child-Resistant.

2. Labeling of Test Batches of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana. Prior to Transfer to a Regulated Marijuana Testing Facility, every Container containing a Test Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana shall be affixed with a label that includes at least the following information, some of which may be included on the Inventory Tracking System RFID Tag:

a. For Test Batches from Harvest Batches, the license number of the Medical Marijuana Cultivation Facility where the Medical Marijuana was grown, or the Retail Marijuana Cultivation Facility where the Retail Marijuana was grown which was used to create Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana;

b. For Test Batches of Concentrates from Production Batches, the license number of the Medical Marijuana Products Manufacturer(s) where the Medical Concentrate was produced, or the Retail Marijuana Products Manufacturer(s) where the Retail Marijuana Concentrate was produced which was used to create Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana;

c. The Production Batch Number(s) assigned to the Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana; and

d. The net contents, using a standard of measure compatible with the Inventory Tracking System, of the Regulated Marijuana or Regulated Marijuana Concentrate prior to its placement in the Container.

3-1100 Series – Accelerator Program Operations

Basis and Purpose – 3-1105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(aa), 44-10-310(2), and 44-10-311(2), C.R.S. The purpose of this rule is to establish requirements for Accelerator-Endorsed Licensees and Accelerator Licensees participating in the accelerator program. The Accelerator Program permits different structures. The first option is for the Accelerator-Endorsed Licensee and the Accelerator Licensee to have a mentor/apprentice relationship at the same premises pursuant to Rules 3-1105 and 3-1110. The second option is for the Accelerator-Endorsed Licensee and the Accelerator Licensee to have a separate premises relationship pursuant to Rules 3-1105 and 3-1115.

3-1105 – Accelerator Program Participation and Privileges

A. Licensed Premises. An Accelerator Licensee may share a Licensed Premises or operate at a separate premises of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, or Retail Marijuana Store that is an Accelerator-Endorsed Licensee.

1. Shared Premises. An Accelerator Licensee may share the Licensed Premises of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, or Retail Marijuana Store pursuant to this Rule 3-1105 and Rule 3-1110.

2. Separate Premises. An Accelerator Licensee participating in the accelerator program may operate at a separate premises of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, or Retail Marijuana Store pursuant to this Rule 3-1105 and Rule 3-1115.

B. Number of Licenses held by an Accelerator Licensee.

1. An Accelerator Licensee may initially apply to be an Accelerator Cultivator, Accelerator Manufacturer or Accelerator Store and hold a single license.

2. After 180 days of demonstrated operations, an Accelerator Licensee may apply for additional accelerator licenses, which may include different accelerator license types. An Accelerator Licensee may not apply for more than one accelerator license until at least 180 days of demonstrated operations.

3. A Controlling Beneficial Owner who holds an accelerator license shall not have an Owner's Interest in more than three of the same accelerator license type. No Controlling Beneficial Owner shall have an Owner's Interest in more than nine total accelerator licenses.

C. Accelerator-Endorsed Licensee Required Equity Assistance Proposal.

1. An Accelerator-Endorsed Licensee must disclose its equity assistance proposal to the Division and to any prospective Social Equity Licensee pursuant to Rule 2-285 and these 3-1100 Series Rules prior to entering any contractual agreements with an Accelerator Licensee.

2. Required Information. An equity assistance proposal must detail the technical, compliance, and/or capital assistance the Accelerator-Endorsed Licensee intends to provide an Accelerator Licensee. All equity assistance proposals must, at a minimum, including the following:

a. The types of assistance the Accelerator-Endorsed Licensee intends to provide, which may include but is not limited to, the following types of assistance:

i. Accounting;

ii. Business services (e.g. sales and marketing);

iii. Financial or capital support;

iv. Information technology support;

v. Access to legal services from an attorney licensed in the state of Colorado; or

vi. Regulatory compliance support.

b. Whether the Accelerator-Endorsed Licensee intends to subcontract with any third parties to provide technical or compliance assistance, and the identity of the prospective third parties, if known;

c. Any applicable timelines associated with the provisions of the assistance the Accelerator-Endorsed Licensee intends to provide;

d. Whether the Accelerator-Endorsed Licensee intends to charge rent for a prospective Accelerator Licensee's use of the premises, and the amount of rent and required deposits, if applicable;

e. How the Accelerator-Endorsed Licensee plans to protect or minimize disruptions on a prospective Accelerator Licensee in the event of a change of Controlling Beneficial Owner of the Accelerator-Endorsed Licensee's license; and

f. Whether the Accelerator-Endorsed Licensee has been subject to any administrative action by the State Licensing Authority or the Local Jurisdiction within the preceding two years and, if so, whether there are any restrictions on the Licensee as a result of such administrative action.

3. Voluntary Information. An equity assistance proposal may, but is not required to, include additional information about the Accelerator-Endorsed Licensee, including but not limited to the following:

a. The Accelerator-Endorsed Licensee's business objectives and organizational values;

b. A description of the Accelerator-Endorsed Licensee's work environment;

c. Information regarding the Accelerator-Endorsed Licensee's business profile, including company size, revenue, and distribution capabilities;

d. Any educational or training assistance provided to the Accelerator Licensee in navigating human resources matters; and

e. Any other information that may be useful to informing prospective Accelerator Licensees and determining compatibility between an Accelerator-Endorsed Licensee and Accelerator Licensee.

4. Modification of Equity Assistance Proposal. Nothing in these rules shall preclude an Accelerator-Endorsed Licensee from amending or modifying its equity assistance proposal. The Accelerator-Endorsed Licensee shall submit the updated equity assistance proposal to the Division within 30 days of finalizing any such amendments or modifications.

5. The Accelerator-Endorsed Licensee may request that a prospective Social Equity Licensee enter into a non-disclosure agreement prior to providing the prospective Social Equity Licensee a copy of the Accelerator-Endorsed Licensee's equity assistance proposal in order to ensure the information remains confidential.

D. Equity Partnership Agreement – General Requirements. Prior to hosting or offering technical and/or capital support to an Accelerator Licensee, an Accelerator-Endorsed Licensee must first enter into an equity partnership agreement with the Accelerator Licensee. In addition to any other requirements in Rules 3-1110 and 3-1115, an equity partnership agreement must include the following minimum requirements:

1. The equity partnership agreement must be executed by both the Accelerator-Endorsed Licensee and the Accelerator Licensee.

2. The executed equity partnership agreement must represent the full legal and business relationship between the Accelerator-Endorsed Licensee and Accelerator Licensee unless additional agreements are permitted or required pursuant to Rules 3-1110 or Rule 3-1115.

3. The executed equity partnership agreement shall at a minimum, include the following:

a. A description of the types of technical, compliance, and/or capital assistance the Accelerator-Endorsed Licensee is providing to the Accelerator Licensee;

b. The timeline associate with the assistance the Accelerator-Endorsed Licensee is providing;

c. If the Accelerator-Endorsed Licensee is charging rent for the Accelerator Licensee's use of the Licensed Premises, the rent amount, any required deposits, and length of lease;

d. How the Accelerator-Endorsed Licensee will protect or minimize disruptions to the Accelerator Licensee in the event of a change of owner of the Accelerator-Endorsed Licensee's license;

e. Conditions for amendments to the equity partnership agreement; and

f. Conditions for dissolution of the equity partnership agreement.

4. An Accelerator-Endorsed Licensee must provide technical, compliance, and/or capital assistance to an Accelerator Licensee pursuant to its equity partnership agreement with an Accelerator Licensee. An Accelerator-Endorsed Licensee may provide technical and/or compliance assistance to an Accelerator Licensee through third parties. However, an equity partnership agreement cannot require an Accelerator Licensee to receive such assistance from a specific provider unless permitted pursuant to Rule 3-1115.

E. There shall not be any agreement(s) or contracts between the Accelerator-Endorsed Licensee and the Accelerator Licensee that are not disclosed to the Division.

F. Dissolution of Business Relationship. If the business relationship between the Accelerator-Endorsed Licensee and Accelerator Licensee dissolves, both parties must notify the Division within 10 days. The notification of dissolution must include the reasons for the dissolution of the business relationship between the Accelerator-Endorsed Licensee and Accelerator Licensee.

1. The Accelerator Licensee will have until renewal of the Accelerator License to identify a new Accelerator-Endorsed Licensee or apply for a new Regulated Marijuana Business license unless this deadline is extended by the Division. The Division may waive or reduce the application and/or licensing fees affiliated with the application. However, the Accelerator Licensee cannot operate without a Licensed Premises or an executed and valid equity partnership agreement with an Accelerator-Endorsed Licensee.

2. Upon notification of dissolution of the accelerator business relationship, the Division will determine whether the Accelerator-Endorsed Licensee retains the social equity leader designation for that calendar year.

G. Additional Privileges for Accelerator-Endorsed Licensees.

1. Social Equity Leader Designation. A Retail Marijuana Store, Retail Marijuana Cultivation Facility, or Retail Marijuana Products Manufacturer that is an Accelerator-Endorsed Licensee and that is operating under an equity partnership agreement with an Accelerator Licensee may be designated by the Division as a social equity leader for each year the Accelerator-Endorsed Licensee hosts an Accelerator Licensee on its premises. A social equity leader may use a logo or symbol created or approved by the Division to indicate its leadership status. The Accelerator-Endorsed Licensee may only use the social equity leader logo or symbol while the designation remains valid.

2. Mitigation. The Division and the State Licensing Authority may consider a social equity leader designation as a mitigating factor when determining the initiation of administrative action or assessment of penalties.

3. Compliance Assistance and Education Engagement. For an Accelerator-Endorsed Licensee operating under an equity partnership agreement with an Accelerator Licensee, the Division will conduct an on-site compliance assistance and education engagement with the Accelerator-Endorsed Licensee for purposes of supporting the Licensee's activities as an Accelerator-Endorsed Licensee.

4. Application and License Fee Exemptions. An Accelerator-Endorsed Licensee may submit a request to the State Licensing Authority for an exemption from application and license fees for a change of Controlling Beneficial Owner, change of location, or modification of premises that is directly related to its participation in the accelerator program.

    a. The request for an exemption may be included with the submission of the application for which it is requesting an exemption from fees. The request for exemption must include any information demonstrating the application is related to its participation in the accelerator program, including but not limited to, the positive impact to the Accelerator Licensee.

    b. If a request for an exemption is denied, the Applicant shall submit required fees within 10 days from notice that the fee exemption request was denied. Failure to submit required fees may result in denial of the application.

Basis and Purpose – 3-1110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(aa), 44-10-310(2), and 44-10-311(2), C.R.S. The purpose of this rule is to establish requirements for Accelerator-Endorsed Licensees and Social Equity Licensees to participate in the accelerator program. This option is for the Accelerator-Endorsed Licensee and the Social Equity Licensee to have a mentor/apprentice type relationship pursuant to Rules 3-1105 and 3-1110.

3-1110 – Accelerator Shared Premises

A. Equity Assistance Plan – Additional Requirements. In addition to all equity assistance proposal requirements outlined in Rule 3-1105(C)(1), an Accelerator-Endorsed Licensee intending to share its Licensed Premises with an Accelerator Licensee must also include the following in tis equity assistance proposal:

    1. How the Accelerator-Endorsed Licensee will protect or minimize disruptions to a prospective Accelerator Licensee in the event of a change of location of the Accelerator-Endorsed Licensee's Licensed Premises;

    2. The extent to which the Accelerator-Endorsed Licensee will provide equipment, ingredients, or other resources to an Accelerator Licensee pursuant to an equity partnership agreement.

B. Equity Partnership Agreement – Additional Requirements. An Accelerator-Endorsed Licensee's equity assistance proposal that includes the information required by Rule 3-1105 and this Rule 3-1110 may also serve as the equity partnership agreement.

    1. How the Accelerator-Endorsed Licensee will protect or minimize disruptions to the Accelerator Licensee in the event of a change of location of the Accelerator-Endorsed Licensee's Licensed Premises;

2. Any intellectual property protections or restrictions;

3. Any agreements about operational control of any shared equipment, premises, or shared personnel;

4. Any agreements related to division of liability pursuant this Rule; and

5. Any non-disclosure agreements.

C. Division of Liability.

1. Shared Equipment. An Accelerator-Endorsed Licensee and Accelerator Licensee may share equipment in the same Licensed Premises if they have standard operating procedures addressing the following:

   a. Rotational/time schedule for utilizing equipment;

   b. Changes to the schedule; and

   c. Sanitizing equipment.

2. Shared Ingredients and/or Co-Mingling of Inventory. An Accelerator-Endorsed Licensee and Accelerator Licensee may share non-marijuana ingredients such as soil, growing medium, fertilizers, sugar, flour, etc. If the Accelerator-Endorsed Licensee and the Accelerator Licensee share non-marijuana ingredients, they must have standard operating procedures for the protection, use, and maintenance of such products.

3. Inventory Tracking and Record Keeping. Both the Accelerator-Endorsed Licensee and the Accelerator Licensee are each required to comply with the Inventory Tracking Requirements in the 3-800 Series Rules and all business records requirements in the 3-900 Series Rules. Nothing in this Rule prohibits an Accelerator-Endorsed Licensee from providing the Accelerator Licensee financial support to comply with these requirements such as purchasing RFID tags for use by the Accelerator Licensee.

4. Security and Surveillance. Both the Accelerator-Endorsed Licensee and the Accelerator Licensee are each required to comply with security and surveillance requirements in the 3-220 Series Rules. Nothing in this Rule prohibits an Accelerator-Endorsed Licensee from providing the Accelerator Licensee financial support to comply with these requirements.

5. Other. Both the Accelerator-Endorsed Licensee and the Accelerator Licensee will be jointly liable for any violations related to the Licensed Premises, security requirements, video surveillance requirements, health and safety requirements, possession limits, and waste rules, unless the Licensees have expressly established severed liability in the equity partnership agreement. It may be considered mitigation if the Accelerator-Endorsed Licensee demonstrated the Accelerator Licensee failed to comply with the standard operating procedures.

D. Accelerator License Operational Control. The Accelerator-Endorsed Licensee and the Accelerator Licensee may define the division of operational control of equipment in the shared premises.

E. Intellectual Property Protections. The Accelerator-Endorsed Licensee and the Accelerator Licensee shall maintain control over their individual intellectual property unless expressly agreed to in the equity partnership agreement.

Basis and Purpose – 3-1115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(aa), 44-10-310(2), and 44-10-311(2), C.R.S. The purpose of this rule is to establish requirements for Accelerator-Endorsed Licensees and Social Equity Licensees participating in the accelerator program. This option allows the Accelerator-Endorsed Licensee and the Social Equity Licensee to have a separate premises relationship pursuant to Rules 3-1105 and 3-1115.

3-1115 – Accelerator Separate Premises

A. Equity Assistance Proposal – Additional Requirements. In addition to all equity assistance proposal requirements outlined in Rule 3-1105(C)(1), an Accelerator-Endorsed Licensee intending to share a separate premises in its possession or control with an Accelerator Licensee must also include the following in its equity assistance proposal:

1. Estimate of the Accelerator Licensee's initial investment, if any;

2. Estimate of the Accelerator-Endorsed Licensee's initial investment;

3. Any anticipated application and/or licensing fees for which the Accelerator Licensee will be responsible;

4. Restrictions on the Accelerator Licensee's business (including any restrictions on sources of products or required vendors);

5. Assistance provided by the Accelerator-Endorsed Licensee to the Accelerator Licensee (including assistance in installing required security; hiring and training employees; providing necessary equipment; establishing prices; establishing administrative, bookkeeping, accounting, and inventory control procedures; etc.);

6. Advertising that will benefit the Accelerator Licensee;

7. Use of the Accelerator-Endorsed Licensee's brand, trade name, or trademarks;

8. Total number of licenses and locations of businesses the Accelerator-Endorsed License owns, operates, or is affiliated with;

9. Anticipated terms of the financing agreement, including leases and installment contracts offered directly or indirectly to the Accelerator Licensee;

10. Terms of renewal, termination, transfer, and dispute resolution procedures;

11. All proposed agreements, including any property or equipment leases;

12. The Accelerator-Endorsed Licensee's total annual revenue and fair financial projections of the Accelerator Licensee; and

13. The anticipated annual fee or percentage of profits the Accelerator Licensee will be required to pay the Accelerator-Endorsed Licensee for use of the Accelerator-Endorsed Licensee's brand, trade name, or trademarks.

B. Equity Partnership Agreement – Additional Requirements. In addition to all equity partnership agreement requirements outlined in Rule 3-1105, an equity partnership agreement between an Accelerator-Endorsed Licensee and Accelerator Licensee who is operating on a separate premises from the Accelerator-Endorsed Licensee must include the following:

1. Initial Investment.

    a. The Accelerator Licensee's initial business investment, if any; and

    b. The Accelerator-Endorsed Licensees initial business investment.

2. Fees. The fees, if any, the Accelerator Licensee and the Accelerator-Endorsed Licensee will be responsible for, which may include, but need not be limited to:

    a. Application and license fees;

    b. Assistance with legal fees, if any; and

    c. The annual fee or percentage of profits the Accelerator Licensee will be required to pay the Accelerator-Endorsed Licensee for use of the Accelerator-Endorsed Licensee's brand, trade name, or trademarks.

3. Restrictions on Accelerator Licensee Business Operations. Any restrictions placed on the Accelerator Licensee's business operations, which may include, but are not limited to:

    a. Ingredients, formulas, and processes the Accelerator Licensee is required to use;

    b. Sources of products;

    c. Advertising; and

    d. Third party vendors the Accelerator-Endorsed Licensee contracted with that the Accelerator Licensee will also be required to utilize;

4. Accelerator-Endorsed Licensee Obligations. All assistance the Accelerator-Endorsed Licensee will provide which may include, but is not limited to:

    a. Assistance in hiring and training of employees;

    b. Establishing prices;

    c. Establishing administrative, bookkeeping, accounting, and inventory control procedures;

    d. Resolving operating problems; and

    e. Licensed Premises and equipment buildout.

5. Accelerator Licensee Obligations. If the Accelerator Licensee will be required to:

    a. Comply with branding;

    b. Utilize only the intellectual property of the Accelerator-Endorsed Licensee;

    c. Use of identified third-party vendors; and

    d. Selling product to specific purchasers.

6. Terms of Renewal, Termination, and Dispute Resolution. Any terms regarding renewal of the business relationship, termination of the business relationship, and dispute resolution.

Any dispute resolution terms may not require Division or State Licensing Authority involvement.

7. Advertising. Any terms regarding advertising including the amount and methods of advertising, the distribution of costs for advertising, whether the Accelerator Licensee may do its own advertising, and how the costs of advertising will be distributed.

8. Agreements. All agreements between the Accelerator-Endorsed Licensee and Accelerator Licensee, including leases for property or equipment and any nondisclosure agreements.

C. Division of Liability.

1. Equipment. The Accelerator-Endorsed Licensee and the Accelerator licensee are individually and separately responsible for their own equipment.

2. Ingredients. The Accelerator-Endorsed Licensee and the Accelerator Licensee are individually and separately responsible for their own ingredients, unless otherwise expressly agreed to in the equity partnership agreement.

3. Inventory Tracking and Record Keeping. Both the Accelerator-Endorsed Licensee and the Accelerator Licensee are each required to comply with the Inventory Tracking Requirements in the 3-800 Series Rules and the Business Records in the 3-900 Series Rules. Nothing in this Rule prohibits an Accelerator-Endorsed Licensee from providing the Accelerator Licensee financial support to comply with these requirements such as purchasing RFID tags for use by the Accelerator Licensee.

4. Security and Surveillance. The Accelerator-Endorsed Licensee and the Accelerator Licensee are individually and separately required to comply with security and surveillance requirements in the 3-200 Series Rules. Nothing in this Rule prohibits an Accelerator-Endorsed Licensee from providing the Accelerator Licensee financial support to comply with these requirements.

5. Other.

a. Accelerator Licensee Liability. An Accelerator Licensee is solely liable and responsible for all conduct and any violations that occur on the Accelerator Licensee's Licensed Premises.

b. Accelerator-Endorsed Licensee Liability. An Accelerator-Endorsed Licensee that makes available a separate premises in the Accelerator-Endorsed Licensee's possession to an Accelerator Licensee and who is in compliance with the Marijuana Code and these Rules will only be liable and responsible for conduct and any violations that occur on the Accelerator-Endorsed Licensee's Licensed Premises.

D. Operational Control. The Accelerator-Endorsed Licensee and the Accelerator Licensee are each responsible for the operational control at their separate Licensed Premises.

E. Intellectual Property. An Accelerator-Endorsed Licensee must permit and require the Accelerator Licensee to use the Accelerator-Endorsed Licensee's intellectual property. The Accelerator-Endorsed Licensee will maintain ownership and control of its intellectual property. The Accelerator Licensee shall maintain ownership and control of intellectual property it creates.

Part 4 – Regulated Marijuana Testing Program

Basis and Purpose – 4-105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing the mandatory testing portion of the Division's Regulated Marijuana sampling and testing program. This Rule 4-105 was previously Rules M and R 1502, 1 CCR 212-1 and 1 CCR 212-2.

4-105 – Regulated Marijuana Testing Program: Mandatory Testing

A. Required Sample Submission. A Regulated Marijuana Business may be required by the Division to submit a Sample(s) of Regulated Marijuana it possesses to a Medical Marijuana Testing Facility or a Retail Marijuana Testing Facility at any time regardless of whether it has achieved a Reduced Testing Allowance and without notice.

1. Samples collected pursuant to this Rule may be tested for potency or contaminants which may include, but is not be limited to, Pesticide, microbials, mycotoxin, molds, elemental impurities, residual solvents, biological contaminants, and chemical contaminants.

2. When a Sample(s) is required to be submitted for testing, the Regulated Marijuana Business may not Transfer or process into a Medical Marijuana Concentrate or Medical Marijuana Product any Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana Product, or Transfer or process into a Retail Marijuana Concentrate or Retail Marijuana Product any Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product, from the Inventory Tracking System package, Harvest Batch or Production Batch from which the Sample was taken, until it passes all required testing.

B. Methods for Determining Required Testing.

1. Random Testing. The Division may require Samples to be submitted for testing through any one or more of the following processes: random process, risk-based process, or other internally developed process, regardless of whether a Regulated Marijuana Business has achieved a Reduced Testing Allowance.

2. Inspection or Enforcement Tests. In addition, the Division may require a Regulated Marijuana Business to submit a Sample for testing if the Division has reasonable grounds to believe that:

a. Regulated Marijuana is contaminated or mislabeled;

b. A Regulated Marijuana Business is in violation of any product safety, health or sanitary statute, rule or regulation; or

c. The results of a test would further an investigation by the Division into a violation of any statute, rule, or regulation.

3. Beta Testing. The Division may require a Regulated Marijuana Business to submit Samples from certain randomly selected Harvest Batches or Production Batches for potency or contaminant testing prior to implementing mandatory testing.

C. Minimum Testing Standards. The testing requirements contained in this 4-100 Series are the minimum required testing standards. Regulated Marijuana Businesses are responsible for

ensuring adequate testing on any Regulated Marijuana they produce or Transfer to ensure safety for human consumption.

D. Additional Sample Types. The Division may also require a Regulated Marijuana Business to submit Samples comprised of items other than Regulated Marijuana to be tested for contaminants which may include, but may not be limited to, Pesticide, microbials, molds, elemental impurities, residual solvents, biological contaminants, and chemical contaminants. The following is a non-exhaustive list of the types of Samples that may be required to be submitted for contaminant testing:

1. Specific Regulated Marijuana plant(s) or any portion of a Regulated Marijuana plant(s);

2. Any growing medium, water, or other substance used in the cultivation process;

3. Any water, solvent, or other substance used in the processing of a Regulated Marijuana Concentrate;

4. Any Ingredient or substance used in the manufacturing of a Regulated Marijuana Product; or

5. Swab of any equipment or surface.

E. R&D Testing.

1. R&D Tests. A Regulated Marijuana Business may submit Test Batches from a Harvest or Production Batch for R&D testing. R&D testing may be performed for any test required by these 4-100 Series Rules or any other test.

a. Passing R&D Test Results. If a Harvest or Production Batch passes an R&D test it shall not constitute a pass for the purposes of compliance with required contaminant or potency testing. If a Harvest or Production Batch passes an R&D test it shall not constitute a pass for purposes of achieving or maintaining a Reduced Testing Allowance. *See* Rules 4-120 and 4-125.

b. Failed R&D Test Results. If a Harvest or Production Batch fails an R&D test, it does not require compliance with failed test procedures. *See* Rule 4-135.

c. Failed R&D Test Results – Reduced Testing Allowance. A failing R&D test that is a contaminant or potency test required by these Rules shall be considered a failing result for the purposes of achieving or maintaining a Reduced Testing Allowance.

i. If a Regulated Marijuana Business that is actively working to achieve a Reduced Testing Allowance fails a R&D test, it must restart the process of achieving Reduced Testing Allowance.

ii. If a Regulated Marijuana Business that has achieved and maintained a Reduced Testing Allowance fails a R&D test for a test type required by these Rules, it must follow the appropriate Reduced Testing Allowance re-authorization procedure for the failed test type to maintain that Reduced Testing Allowance. *See* Rules 4-120(F)(2)(b), 4-121(H), and 4-125(H)(2)(b).

F. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing sampling procedures and rules for the Division's Regulated Marijuana sampling and testing program. This Rule 4-110 was previously Rules M and R 1504, 1 CCR 212-1 and 1 CCR 212-2.

4-110 – Regulated Marijuana Testing Program: Sampling Procedures

A. Collection of Samples.

1. Sample Increment Collection. All Samples submitted for testing pursuant to this Rule must be collected by Division representatives or in accordance with the Division's sampling policy reflected in the marijuana laboratory testing reference library available at the Colorado Department of Public Health and Environment's website. This reference library may be continuously updated as new materials become available in accordance with section 25-1.5-106(3.5)(d), C.R.S.

2. Sample Increment Selection. The Division may elect, at its sole direction, to assign Division representatives to collect Sample Increments, or may otherwise direct Sample Increment selection, including, but not limited to, through Division designation of a Harvest Batch or Production Batch in the Inventory Tracking System from which a Regulated Marijuana Business shall select Samples for testing. A Regulated Marijuana Business, its Controlling Beneficial Owners, Passive Beneficial Owners, and employees shall not attempt to influence the Sample Increments selected by Division representatives. If the Division does not select the Harvest Batch or Production Batch to be tested, a Regulated Marijuana Business must collect and submit Sample Increments that are representative of the Harvest Batch or Production Batch being tested.

3. Adulteration or Alteration Prohibited. Pursuant to section 44-10-701(3)(b) and (9), C.R.S., it is unlawful for a Licensee or its agent to knowingly adulterate or alter, or attempt to adulterate or alter, any Sample Increments or Test Batches of Regulated Marijuana. The Sample Increments collected and submitted for testing must be representative of the Harvest Batch or Production Batch being tested. A violation of this sub-paragraph (A)(3) shall be considered a license violation affecting public safety and the person who commits adulteration or alteration of Sample Increments or Test Batches commits a class 2 misdemeanor and may be punished as provided in section 18-1.3-501, C.R.S.

4. Timing of Sample Increments for Harvest Batches and Production Batches. A Licensee shall not collect Sample Increments or submit Test Batches for testing until the Test Batch has completed all required steps and is in its final form as outlined in the standard operating procedures of the Licensee submitting the Test Batch, with the exception of packaging and labeling requirements which shall comply with Rule 3-1025.

    a. The following examples illustrate various methods, which are not limited to those listed herein, that a Licensee's standard operating procedures may include to verify a Test Batch completed all required steps and is in its final form pursuant to this Rule:

        i. The Licensee's standard operating procedures may include procedures that ensure the addition of all Ingredients or Additives has occurred and

that the Harvest Batch or Production Batch associated with the Test Batch is completely ready to be packaged pending results of testing required by these Rules. This also includes creating Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana;

ii. For a Production Batch of Concentrate, the Licensee's standard operating procedure may include procedures that ensure the entire Production Batch associated with the Test Batch has completed all sifting, extracting, purging, winterizing, and steps to remove plant pigments and ensuring the addition of all Ingredients and Additives has occurred.

iii. For a Production Batch of Regulated Marijuana Product, the Licensee's standard operating procedure may include procedures that ensure the addition of all Ingredients and Additives has occurred and the Production Batch associated with the Test Batch is completely ready to be packaged pending results of testing required by these Rules.

b. A Test Batch from a Harvest Batch or Production Batch shall be packaged and labeled according to Series 3-1025 prior to Transfer to a Regulated Marijuana Testing Facility.

c. This Rule 4-110(A)(4) does not apply for the submission of Test Batches submitted for R&D testing.

5. Vaporizer Delivery Device. This subsection (A)(5) is effective January 1, 2022. Retail Marijuana Concentrate that has been placed into a Vaporizer Delivery Device must be sampled and tested using a methodology that allows the laboratory to analyze the emission of the contents of the Vaporizer Delivery Device.

B. Designated Test Batch Collector Training, Documentation, and Designation.

1. Required Sample Increment Collection Training. To become a Designated Test Batch Collector an Owner Licensee or Employee Licensee involved in the Sample Increment Collection of Regulated Marijuana must be designated by a manager or Owner Licensee as such and must also complete either in-house training provided by the Regulated Marijuana Business or training from a third-party vendor. Nothing in this rule requires a Designated Test Batch Collector to be employed by the Regulated Marijuana Business making the designation.

2. Designated Test Batch Collection Training Required Topics. The training required to become a Designated Test Batch Collector must include at least the following topics:

a. Part 4–100 Series Rules - Regulated Marijuana Testing Program;

b. The Marijuana Business's standard operating procedures on creating a Sampling Plan and Test Batches, and the CDPHE's Sampling Procedures.

c. "Guidance on Marijuana Sampling Procedures" Training Video or an equivalent training covering the following subjects:

i. Introduction to Sample Increment Collection:

A. Cross contamination as it relates to Sample Increment Collection;

B. Sample Increment Collection and how it works;

C. Sample Increment Collection documentation and record keeping requirements;

D. Penalties for Sample Increment or Test Batch adulteration or alteration;

E. Use of and disinfection of the Designated Test Batch Collection Area; and

F. Use of the Sample Plan.

3. Documentation of Designated Test Batch Collector Training. Any individual receiving the Designated Test Batch Collector training must sign and date a document which shall be maintained by the Regulated Marijuana Business as a business record pursuant to Rule 3-905. The document must acknowledge the following:

a. The identity of the Person that created the training, such as the Regulated Marijuana Business or a third-party vendor; and

b. That all required topics of the training identified in this Rule have been reviewed and understood by the Owner Licensee or Employee Licensee.

C. Test Batch Collection Requirements.

1. Required Minimum of Two Test Batch Collectors. At a minimum, two Designated Test Batch Collectors shall be involved in the collection of Sample Increments such that at least one Designated Test Batch Collector is responsible for collecting the Sample Increments and another Designated Test Batch Collector is responsible for reviewing documentation associated with the collection of Sample Increments in a timely manner and prior to any Transfer of the Production Batch or Harvest Batch from which Sample Increments were collected. This review can be completed in person or may be completed remotely by reviewing image(s) of the Test Batch and associated documentation.

2. Sample Plan Required. A Designated Test Batch Collector must establish a Sample Plan consistent with the Regulated Marijuana Business's Standard Operating Procedure for Sample Increment Collection. At a minimum, a Sample Plan must include the following:

a. The date, amount or weight, and specific location for each Sample Increment collected;

b. Identification of and acknowledgements from all Designated Test Batch Collectors involved in the Sample Increment Collection; and

c. If applicable, the strain name(s) for each Harvest Batch from which Sample Increments are collected.

D. Minimum Number of Sample Increments Per Test Batch Submission. These sampling rules shall apply until such time as the State Licensing Authority revises these rules to implement a statistical sampling model. Unless a greater amount is required to comply with these rules or is required by a Regulated Marijuana Testing Facility to perform all requested testing, each Test Batch of Regulated Marijuana must contain at least the number of Sample Increments prescribed by this Section.

1. A Test Batch of Regulated Marijuana must be packaged and labeled according to Rule 3-1025.

2. The minimum number of Sample Increments required to be collected for each Test Batch from a Harvest Batch of Retail Marijuana or Medical Marijuana shall be determined by Table 4-110.D.2.T.

3. The minimum number of Sample Increments required to be collected for each Test Batch from a Production Batch of Regulated Marijuana Product, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, Audited Product and Alternative Use Product shall be determined by Table 4-110.D.2.T.

    a. The Retail Marijuana Products Manufacturer or Medical Marijuana Products Manufacturer shall determine what constitutes a “Serving” and thus how many Servings are contained in a Production Batch of Regulated Marijuana Product, except that no serving of Edible Retail Marijuana Product can contain more than 10mg of active THC

    b. Because all Test Batches of Regulated Marijuana Product, Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana are required to be submitted for testing in their final form, in the event the required number of Sample Increments does not match up within a finished package, the manufacturer must increase the number of Sample Increments collected for the Test Batch such that only finished packages of Regulated Marijuana Products, Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana are submitted for testing. For example, if a Production Batch of 4000 chocolate bars is manufactured, with each bar containing 100 mg THC and 10 servings per bar, the Production Batch would contain 40,000 Sample Increments which would require collection of at least 33 Sample Increments per Test Batch. But in this case, the manufacturer would have to collect 40 Sample Increments for testing (4 complete chocolate bars in final form).

    c. No matter how small the Production Batch of Regulated Marijuana Product, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana a minimum of two finished packages in final form must be submitted for a Test Batch.

4. The minimum number of Sample Increments required to be collected for each Test Batch from a Production Batch of Retail Marijuana Concentrate or Medical Marijuana Concentrate shall be determined by Table 4-110.D.2.T.

    a. Because all Test Batches of Retail Marijuana Concentrate and Medical Marijuana Concentrate are required to be submitted for testing in their final form, in the event the required number of Sample Increments does not match up with the number of Sample Increments in a finished package, the manufacturer must increase the number of Sample Increments collected for the Test Batch such that only finished packages of Marijuana Concentrate are submitted for testing. For example, if a Production Batch of 4,000 Vaporizer Delivery Devices is manufactured, with each Vaporizer Delivery Device containing 500 milligrams of Marijuana Concentrate, the Production Batch would contain 2,000 grams of Marijuana Concentrate, which would require collection of at least 15 Sample Increments per Test Batch. But in this case, the manufacturer would have to collect 16 Sample Increments for testing (8 vaporizer Delivery Devices in final form).

b. No matter how small the Production Batch of Retail Marijuana Concentrate or Medical Marijuana Concentrate, a minimum of two finished packages must be submitted for a Test Batch.

Table 4-110.D.2.T

Minimum Number of Sample Increments Required to be Collected per Test Batch	**Regulated Marijuana (Sample Increment = 0.5 grams)**		
	Total Weight of Harvest Batch (lbs)	Total Weight of Harvest Batch (grams)	**Minimum Weight of Test Batch (grams)**
5	0.000 -0.999	0.0 -453.5	**2.50**
8	1.00 -9.999	453.6 -4535.9	**4.00**
15	10.000 -19.999	4536.0 - 9071.8	**7.50**
22	20.000 -39.999	9071.9 - 18143.6	**11.00**
33	40.000 -99.999	18143.7 - 45359.2	**16.50**
43	100.000 - 199.999	45359.3 - 90718.4	**21.50**
53	200.000 - 499.999	90718.5 -226796.1	**26.50**
80	500 or more	226796.2 or more	**40.00**

Minimum Number of Sample Increments Required to be Collected per Test Batch	**Regulated Marijuana Concentrate (Sample Increment = 0.25 g)**		
	Total Weight of Production Batch (lbs)	Total Weight of Production Batch (grams)	**Minimum Weight of Test Batch (grams)**
5	0.000 -0.999	0.0-453.5	**1.25**
8	1.00 - 1.999	453.6-907.1	**2.00**
15	2.00 - 4.999	907.2-2267.9	**3.75**
22	5.000 - 14.999	2268.0-6803.8	**5.50**
33	15.000 – 49.999	6803.9-22679.6	**8.25**
43	50.000 – 99.999	22679.7-45359.2	**10.75**
53	100.000 – 249.999	45359.3-113398.0	**13.25**
80	250 or more	113398.1 or more	**20.00**

Minimum Number of Sample Increments Required to be Collected per Test Batch	**Regulated Marijuana Products (Sample Increment = 1 Serving)**				
	Number of Servings within Production Batch	**Minimum Number of Units for a Test Batch for a 5-Serving Unit***	**Minimum Number of Units for a Test Batch for a 10-Serving Unit***	**Minimum Number of Units for a Test Batch for a 20-Serving Unit***	**Minimum Number of Units for a Test Batch for a 100-Serving Unit***
5	0 - 99	**2**	**2**	**2**	**2**
8	100 - 999	**2**	**2**	**2**	**2**
15	1000 - 4999	**3**	**2**	**2**	**2**
22	5000 - 9999	**5**	**3**	**2**	**2**
33	10000 - 49999	**7**	**4**	**2**	**2**
43	50000 - 99999	**9**	**5**	**3**	**3**
53	100000 - 249999	**11**	**6**	**3**	**3**
80	250000 or more	**16**	**8**	**4**	**4**
*Other serving amounts per unit are acceptable. These are provided as examples.					

Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana								
Minimum Number of Sample Increments Required to be Collected per Test Batch	**Number of Pre-Rolls within the Production Batch**	**Minimum Number of Pre-Rolls for a Test Batch when each Pre-Roll is**						
		< or = 0.39 g	**0.40g to 0.50g**	**0.51g to 0.75g**	**0.76g - 1.00g**	**1.01g - 2.00g**	**2.01g - 3.00g**	**3.01g +**
5	0 - 99	5	4	3	2	2	2	2
8	100 - 999	8	5	4	3	2	2	2
15	1000 - 4999	15	10	8	5	4	2	2
22	5000 - 9999	22	14	11	8	6	3	2
33	10000 - 49999	33	21	17	11	9	5	3
43	50000 - 99999	43	27	22	15	11	6	4

53	100000 - 249999	53	34	26	18	14	7	5
80	250000 or more	80	50	40	27	20	10	7

E. Regulated Marijuana Testing Facility Selection. Unless otherwise restricted or prohibited by these rules or ordered by the State Licensing Authority, a Regulated Marijuana Business may select which Medical Marijuana Testing Facility or Retail Marijuana Testing Facility will test a Test Batch made up of Sample Increments collected pursuant to this Rule. However, the Division may elect, at its sole discretion, to assign a Regulated Marijuana Testing Facility to which a Regulated Marijuana Business must submit for testing any Test Batch made up of Sample Increments collected pursuant to this Rule.

F. Industrial Hemp Product Sampling Procedures. Absent sampling and testing standards established by the Colorado Department of Public Health and Environment for the sampling and testing of Industrial Hemp Product, a Person Transferring an Industrial Hemp Product to a Licensee pursuant to the Marijuana Code and these Rules shall comply with the sampling and testing standards set forth in these 4-100 Series Rules – Regulated Marijuana Testing Program and as required by these Rules.

G. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish the portion of the Division's mandatory testing and sampling program that is applicable to Regulated Marijuana Businesses, and specifically Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities. While the Marijuana Code requires the State Licensing Authority to establish acceptable limits of potential contaminants, it also requires the State Licensing Authority to enact a plus or minus 15 percent potency variance, which is also included in this rule. This Rule 4-115 was previously Rules M and R 712, 1 CCR 212-1 and 1 CCR 212-2.

4-115 – Regulated Marijuana Testing Program: Sampling and Testing Program

A. Division Authority. The Division may require that a Test Batch be submitted to a specific Regulated Marijuana Testing Facility for testing to verify compliance, perform investigations, compile data or address a public health and safety concern.

1. Independent Third Party Review. The Division may require Regulated Marijuana to undergo an independent third-party review to verify that the Regulated Marijuana does not pose a threat to public health and safety when the Division, in consultation with the Colorado Department of Public Health and Environment, has objective and reasonable grounds to believe and finds, upon a full investigation, one of the following:

a. The Regulated Marijuana contains one or more substances known to cause harm; or

b. The Regulated Marijuana contains one or more substances that could be toxic as consumed or applied in accordance with the intended use.

2. The fact that Regulated Marijuana contains marijuana shall not constitute grounds to require an independent third-party review. Ingredients Generally Recognized as Safe by the U.S. Food & Drug Administration or that are regulated by the U.S. Food & Drug Administration under the Dietary Supplement Health and Education Act of 1994 that are included in Edible Medical Marijuana Product or Edible Retail Marijuana Product shall not constitute grounds to require an independent third-party review.

3. Quarantine. In addition to any other remedies provided by law, the Division may immediately quarantine Regulated Marijuana pursuant to Rule 4-135(A) in any one of the following circumstances:

   a. The Division has objective and reasonable grounds to believe and finds, upon a full investigation, that a Regulated Marijuana Business has been guilty of deliberate and willful violations of these rules;

   b. The Regulated Marijuana or Alternative Use Product poses a potential threat to public health and safety;

   c. The Division has received one or more reports of an adverse event related to Regulated Marijuana or Alternative Use Product. For purpose of this Rule, adverse event means any untoward medical occurrence associated with the use of Regulated Marijuana or Alternative Use Product—this could include any unfavorable and unintended sign (including hospitalization, emergency department visit, doctor's visit, abnormal laboratory finding), symptom, or disease temporally associated with the use of a Regulated Marijuana or Alternative Use Product;

   d. The Division determines the independent third-party audit submitted pursuant to Rules 5-325(B) or 6-325(B) does not meet the requirements of Rules 5-325 or 6-325; or

   e. The Regulated Marijuana Products Manufacturer has violated or is not in compliance with all of the requirements in Rules 5-325 or 6-325.

4. Any quarantine pursuant to subparagraph (A)(3) above shall remain in effect unless the Regulated Marijuana undergoes an independent third-party review to verify the Regulated Marijuana does not pose a risk to public health and safety.

5. For the purpose of this Rule, full investigation means a reasonable ascertainment of the underlying facts on which the agency action is based.

B. Standard Minimum Weight of Test Batches and Photo Documentation.

1. Standard Minimum Weight of Test Batches.

   a. Regulated Marijuana and Regulated Marijuana Concentrate. A Medical Marijuana Testing Facility must establish a standard minimum weight of Medical Marijuana and Medical Marijuana Concentrate, and a Retail Marijuana Testing Facility must establish a standard minimum weight of Retail Marijuana and Retail Marijuana Concentrate that must be included in a Test Batch for every type of test that it conducts.

   b. Regulated Marijuana Product, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana. Regulated Marijuana Testing Facilities must establish a standard number of Samples required to be included in each Test Batch of Regulated

Marijuana Product, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana for every type of test that it conducts. *See* Rule 4-110 – Regulated Marijuana Testing Program – Sampling Procedures.

2. Photo Documentation of Test Batches.

a. A Regulated Marijuana Testing Facility shall digitally photograph each Test Batch it receives to document the Sample Increments collected, condition of the Test Batch, and compliance with these rules.

b. The Regulated Marijuana Testing Facility must maintain the digital photographs of each Test Batch as business records. *See* Rule 3-905 - Required Business Records.

c. Upon request by the Division, a Regulated Marijuana Testing Facility must provide copies of the digital photographs of Test Batches within seven days of the request unless a different deadline is agreed to.

C. Rejection of Test Batches.

1. A Regulated Marijuana Testing Facility shall not accept a Test Batch that is smaller than its standard minimum amount.

2. A Regulated Marijuana Testing Facility shall not accept a Test Batch that does not contain the minimum number and weight of Sample Increments, or the Regulated Marijuana Testing Facility has reason to believe it was not collected in accordance with Test Batch collection requirements in Rule 4-110.

3. Effective July 1, 2023, if a Regulated Marijuana Testing Facility suspects or has reason to suspect a Sample Increment or Test Batch has been adulterated, the Regulated Marijuana Testing Facility must:

a. Notify the Division; and

b. Quarantine the Sample Increment or Test Batch for a minimum of 48 hours from the time of notification to the Division before proceeding with any testing.

D. Permissible Levels of Contaminants. If Regulated Marijuana is found to have a contaminant in levels exceeding those established as permissible under this Rule, then it shall be considered to have failed contaminant testing. Notwithstanding the permissible levels established in this Rule, the Division reserves the right to determine, upon good cause and reasonable grounds, that a particular Test Batch presents a risk to the public health or safety and therefore shall be considered to have failed a contaminant test.

1. Microbials (Bacteria, Fungus)

Substance	**Acceptable Limits**	**Product to be Tested**
–Shiga-toxin producing *Escherichia coli* (STEC)*- Bacteria	Absent in 1 g	• Regulated Marijuana flower, shake, and trim (other than wet whole plant allocated for extraction); • Regulated Marijuana Products (other than Audited Product);
Salmonella species* – Bacteria	Absent in 1 g	
*Aspergillus (A. fumigatus, A. flavus, A. niger, A. terreus)***	Absent in 1 g	

Total Yeast and Mold	< 1.0 x 10^4 Colony Forming Unit (CFU) per 1 ml or 1 g	• Pre-Rolled Marijuana; • Infused Pre-Rolled Marijuana; • Physical Separation-Based, Heat/Pressure-Based, and Food-Based Medical Marijuana Concentrate; • Physical Separation-Based, Heat/Pressure-Based, and Food-Based Retail Marijuana Concentrate; • Industrial Hemp Products; • Pressurized Metered Dose Inhalers; • Vaporizer Delivery Device; • Solvent-Based Medical Marijuana Concentrate produced through Remediation; • Solvent-Based Retail Marijuana Concentrate produced through Remediation; • Solvent-Based Medical Marijuana Concentrate produced from Regulated Marijuana wet whole plant that was not tested for microbials; • Solvent-Based Retail Marijuana Concentrate produced from Regulated Marijuana wet whole plant that was not tested for microbials; • Re-testing of Regulated Marijuana flower, shake, and trim that has undergone Decontamination.
	≤ 1.0 x 10^1 CFU/ml or ≤ 1.0 x 10^1 CFU/g	Audited Product: administration by metered dose nasal spray or vaginal administration
	≤ 1.0 x 10^2 CFU/ml or ≤ 1.0 x 10^2 CFU/g	Audited Product: rectal administration
Total aerobic microbial count	≤ 1.0 x 10^2 CFU/ml or ≤ 1.0 x 10^2 CFU/g	Audited Product: administration by metered dose nasal spray or vaginal administration
	≤ 1.0 x 10^3 CFU/ml or ≤ 1.0 x 10^3 CFU/g	Audited Product: rectal administration
Staphylococcus aureus	Absent in 1 ml or 1 g	Audited Product: administration by metered dose nasal spray or vaginal administration
Pseudomonas aeruginosa	Absent in 1 ml or 1 g	Audited Product: administration by metered dose nasal spray or vaginal administration

Bile tolerant gram negative bacteria	Absent in 1 ml or 1 g	Audited Product: administration by metered dose nasal spray
Candida albicans	Absent in 1 ml or 1 g	Audited Product: vaginal administration

*The Regulated Marijuana Testing Facility shall contact the Colorado Department of Public Health and Environment when STEC and Salmonella are detected beyond the acceptable limits.

** Regulated Marijuana Products with intended use for oral consumption or skin and body products are exempt from required aspergillus testing.

1.5 Water Activity

Substance	**Acceptable Limits**	**Product to be Tested**
Water Activity	0.65 aW	• Regulated Marijuana flower shake, and trim (other than wet whole plant); • Retesting of Regulated Marijuana flower, shake, and trim that has undergone Decontamination; • Pre-Rolled Marijuana; • Infused Pre-Rolled Marijuana.

2. Mycotoxins

Substance	**Acceptable Limits**	**Product to be Tested**
Aflatoxins (B1, B2, G1, and G2)	< 20 Parts Per Billion (PPB) (total of B1 + B2 + G1 + G2)	• Solvent-Based Medical Marijuana Concentrate manufactured from Medical Marijuana flower or trim that failed microbial testing; • Solvent-Based Retail Marijuana Concentrate manufactured from Retail Marijuana flower or trim that failed microbial testing; • Solvent-Based Medical Marijuana Concentrate produced from Regulated Marijuana wet whole plant that was not tested for microbials; • Solvent-Based Retail Marijuana Concentrate produced from Regulated Marijuana wet whole plant that was not tested for microbials; • Regulated Marijuana flower, shake, and trim that has undergone Decontamination.
Ochratoxin A	< 20 PPB	

3. Residual Solvents

Substance	**Acceptable Limits**	**Product to be Tested**
Acetone	< 1,000 Parts Per Million (PPM)	• Solvent-Based Medical Marijuana Concentrate; • Solvent-Based Retail Marijuana Concentrate; • Industrial Hemp Product (if a solvent was used)
Butanes	< 1,000 PPM	
Ethanol***	< 1,000 PPM	
Heptanes	< 1,000 PPM	
Isopropyl Alcohol	< 1,000 PPM	
Propane	< 1,000 PPM	
Benzene**	< 2 PPM	
Toluene**	< 180 PPM	
Pentane	< 1,000 PPM	
Hexane**	< 60 PPM	
Total Xylenes (m,p, o-xylenes)**	< 430 PPM	
Methanol**	< 600 PPM	
Ethyl Acetate	< 1000 PPM	
Any other solvent not permitted for use pursuant to Rules 5-315 and 6-315.	None Detected	

** Note: These solvents are not approved for use. Due to their possible presence in the solvents approved for use per Rule 6-315, limits have been listed here accordingly.

***Note: Solvent-Based Medical Marijuana Concentrate and Solvent-Based Retail Marijuana Concentrate that exceeds the acceptable limit for ethanol may only be used in Medical Marijuana Concentrate or Medical Marijuana Product, or Retail Marijuana Concentrate or Retail Marijuana Product, which intended use is oral consumption, skin and body products, a vaporizer delivery device, pressurized metered dose inhaler, or Audited Product.

4. Elemental Impurities

Substance	**Acceptable Limits Based on Intended Use**	**Product to be Tested**
Elemental Impurities (Arsenic, Cadmium, Lead and Mercury)	**Inhaled Product or Audited Product: administration by metered dose nasal spray** Lead – Max Limit: < .5 PPM Arsenic – Max Limit: < 0.2 PPM Cadmium – Max Limit: < 0.2 PPM Mercury – Max Limit: < 0.1 PPM	• Regulated Marijuana flower, shake, trim, and wet whole plant; • Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Medical Marijuana Concentrate; • Physical Separation-Based, Food-Based, Heat/Pressure-Based
	Topical and/or Transdermal Lead – Max Limit: < 10 PPM Arsenic – Max Limit: < 3 PPM Cadmium – Max Limit: < 3 PPM Mercury – Max Limit: < 1 PPM	

	Oral Consumption or Audited Product: rectal or vaginal administration Lead – Max Limit: < 1 PPM Arsenic – Max Limit: < 1.5 PPM Cadmium – Max Limit: < 0.5 PPM Mercury – Max Limit: < 1.5 PPM	and Solvent Based Retail Marijuana Concentrate; • Regulated Marijuana Product; • Pre-Rolled Marijuana; • Infused Pre-Rolled

5. Pesticides.

a. Effective January 1, 2023, the following pesticides are currently subject to required testing, at the associated action limits:

Substance	**Action Limit**	**Product to be Tested**
Abamectin (Avermectins: B1a & B1b)	< 0.1 PPM	• Regulated Marijuana flower, shake, trim, and wet whole plant; • Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Medical Marijuana Concentrate; • Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Retail Marijuana Concentrate; • Pre-Rolled Marijuana; • Infused Pre-Rolled Marijuana. • Industrial Hemp Product
Azoxystrobin	< 0.02 PPM	
Bifenazate	< 0.02 PPM	
Etoxazole	< 0.02 PPM	
Imazalil	< 0.05 PPM	
Imidacloprid	< 0.02 PPM	
Malathion	< 0.02 PPM	
Myclobutanil	< 0.02 PPM	
Permethrin (mix of isomers)	< 0.5 PPM	
Spinosad (Mixture of A and D)	< 0.1 PPM	
Spiromesifen	< 3.0 PPM	
Spirotetramat	< 0.02 PPM	
Tebuconazole	< 0.05 PPM	

b. Effective July 1, 2023, the following pesticides will be subject to required testing, at the associated action limits:

Substance	**Action Limit**	**Product To Be Tested**

Abamectin (Avermectins B1a & B1b)	< 0.1 PPM	• Regulated Marijuana flower, shake, trim, and wet whole plant; • Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Medical Marijuana Concentrate; • Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Retail Marijuana Concentrate; • Pre-Rolled Marijuana; • Infused Pre-Rolled Marijuana. • Industrial Hemp Product
Azoxystrobin	< 0.02 PPM	
Bifenthrin	< 1.0 PPM	
Bifenazate	< 0.02 PPM	
Boscalid	< 0.02 PPM	
Carbaryl	< 0.05 PPM	
Chlorpyrifos	< 0.04 PPM	
Clothianidin	< 0.05 PPM	
Cyhalothrin lambda	< 0.25 PPM	
Dichlorvos	< 0.1 PPM	
Dimethoate	< 0.02 PPM	
Dinotefuran	< 0.1 PPM	
Diuron	< 0.125 PPM	
Etoxazole	< 0.02 PPM	
Imazalil	< 0.05 PPM	
Imidacloprid	< 0.02 PPM	
Malathion	< 0.02 PPM	
Metalaxyl	< 0.02 PPM	
Myclobutanil	< 0.02 PPM	
Permethrins	< 0.5 PPM	
Propiconazole	< 0.1 PPM	
Pyriproxyfen	< 0.01 PPM	
Spinosad	< 0.1 PPM	
Spriomesifen	< 3.0 PPM	
Spirotetramat	< 0.02 PPM	
Tebuconazole	< 0.05 PPM	
Thiabendazole	< 0.02 PPM	
Thiamethoxam	< 0.02 PPM	

c. Effective July 1, 2024, the following pesticides will be subject to required testing, at the associated action limits:

Substance	**Action Limit**	**Product To Be Tested**
Abamectin (Avermectins B1a & B1b)	< 0.1 PPM	• Regulated Marijuana flower, shake, trim, and wet whole plant;
Acephate	< 0.02 PPM	

Acequinocyl	< 0.03 PPM	• Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Medical Marijuana Concentrate; • Physical Separation-Based, Food-Based, Heat/Pressure-Based, and Solvent-Based Retail Marijuana Concentrate; • Pre-Rolled Marijuana; • Infused Pre-Rolled Marijuana. • Industrial Hemp Product
Acetamiprid	< 0.1 PPM	
Aldicarb	< 1.0 PPM	
Allethrin	< 0.2 PPM	
Atrazine	< 0.025 PPM	
Azoxystrobin	< 0.02 PPM	
Benzovindiflupyr	< 0.02 PPM	
Bifenazate	< 0.02 PPM	
Bifenthrin	< 1.0 PPM	
Boscalid	< 0.02 PPM	
Buprofezin	< 0.02 PPM	
Carbaryl	< 0.05 PPM	
Carbofuran	< 0.02 PPM	
Chlorantraniliprole	< 0.02 PPM	
Chlorphenapyr	< 0.05 PPM	
Chlorpyrifos	< 0.04 PPM	
Clofentezine	< 0.02 PPM	
Clothianidin	< 0.05 PPM	
Coumaphos	< 0.02 PPM	
Cyantraniliprole	< 0.02 PPM	
Cyfluthrin	< 0.2 PPM	
Cyhalothrin lambda	< 0.25 PPM	
Cypermethrin	< 0.3 PPM	
Cyprodinil	< 0.25 PPM	
Daminozide	< 0.1 PPM	
Deltamethrin	< 0.5 PPM	
Diazinon	< 0.02 PPM	
Dichlorvos	<.01 PPM	
Dimethoate	< 0.02 PPM	
Dimethomorph	< 0.05 PPM	
Dinotefuran	< 0.1 PPM	
Diuron	< 0.125 PPM	
Dodemorph	< 0.05 PPM	
Endosulfan sulfate	< 0.05 PPM	
Endosulfan-alpha	< 0.2 PPM	

Endosulfan-beta	< 0.05 PPM	
Ethoprophos	< 0.02 PPM	
Etofenprox	< 0.05 PPM	
Etoxazole	< 0.02 PPM	
Etridiazole	< 0.03 PPM	
Fenhexamid	< 0.125 PPM	
Fenoxycarb	< 0.02 PPM	
Fenpyroximate	< 0.02 PPM	
Fensulfothion	< 0.02 PPM	
Fenthion	< 0.02 PPM	
Fenvalerate	< 0.1 PPM	
Fipronil	< 0.06 PPM	
Flonicamid	< 0.05 PPM	
Fludioxonil	< 0.02 PPM	
Fluopyram	< 0.02 PPM	
Hexythiazox	< 0.01 PPM	
Imazalil	< 0.05 PPM	
Imidacloprid	< 0.02 PPM	
Iprodione	< 1.0 PPM	
Kinoprene	< 0.5 PPM	
Krosoxim-methyl	< 0.02 PPM	
Malathion	< 0.02 PPM	
Metalaxyl	< 0.02 PPM	
Methiocarb	< 0.02 PPM	
Methomyl	< 0.05 PPM	
Methoprene	< 2.0 PPM	
Mevinphos	< 0.05 PPM	
MGK-264	< 0.05 PPM	
Myclobutanil	< 0.02 PPM	
Naled	< 0.1 PPM	
Novaluron	< 0.05 PPM	
Oxamyl	< 3.0 PPM	
Paclobutrazol	< 0.02 PPM	
Parathion-methyl	< 0.05 PPM	
Permethrins	< 0.5 PPM	

Phenothrin	< 0.05 PPM	
Phosmet	< 0.02 PPM	
Pirimicarb	< 0.02 PPM	
Prallethrin	< 0.05 PPM	
Propiconazole	< 0.1 PPM	
Propoxur	< 0.02 PPM	
Pyraclostrobin	< 0.02 PPM	
Pyridaben	< 0.05 PPM	
Pyriproxyfen	< 0.01 PPM	
Quintozene	< 0.02 PPM	
Resmethrin	< 0.1 PPM	
Spinetoram	< 0.02 PPM	
Spinosad	< 0.1 PPM	
Spirodiclofen	< 0.25 PPM	
Spriomesifen	< 3.0 PPM	
Spirotetramat	< 0.02 PPM	
Spiroxamine	< 0.1 PPM	
Tebuconazole	< 0.05 PPM	
Tebuenozide	< 0.02 PPM	
Teflubenzuron	< 0.05 PPM	
Tetrachlorvinphos	< 0.02 PPM	
Tetramethrin	< 0.1 PPM	
Thiabendazole	< 0.02 PPM	
Thiacloprid	< 0.02 PPM	
Thiamethoxam	< 0.02 PPM	
Thiophanate-methyl	< 0.05 PPM	
Trifloxystrobin	< 0.02 PPM	

6. Other Contaminants. If any Test Batch is found to contain levels of any microorganism, chemical, elemental impurity, or pesticides that could be toxic if consumed or present, then the Regulated Marijuana Testing Facility must notify the Regulated Marijuana Business and the Division, in accordance with subparagraph (7) of this Rule, and initiate corrective actions with all parties.

7. Division Notification. A Regulated Marijuana Testing Facility must notify the Division by timely input in the Inventory Tracking System if a Test Batch is found to contain levels of a contaminant not listed within this Rule that could be injurious to human health if consumed. *See* Rule 3-825.

E. Potency Testing.

1. Cannabinoids Potency Profiles. A Regulated Marijuana Testing Facility may test and report results for any Cannabinoid provided the test is conducted in accordance with the Regulated Marijuana Testing Facility's standard operating procedure.

2. Reporting of Results.

    a. For potency tests on Regulated Marijuana, Regulated Marijuana Concentrate, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana, results must be reported by listing a single percentage concentration for each Cannabinoid that represents an average of all Samples within the Test Batch. This includes reporting the Total THC in addition to each Cannabinoid required in Rule 4-125.

    b. For potency tests conducted on Regulated Marijuana Product, whether conducted on each individual Production Batch or via a Reduced Testing Allowance per Rule 4-125, results must be reported by listing the total number of milligrams contained within a single Regulated Marijuana Product unit for sale for each Cannabinoid and stating whether the THC content is homogenous as defined in Paragraphs 3 and 4 of this subparagraph E.

    c. Effective Date for Reporting D8-THC, D10-THC, and Exo-THC. Requirements for reporting potency test results for D8-THC, D10-THC, and Exo-THC shall take effect on July 1, 2022.

3. Failed Potency Tests for Medical Marijuana Product.

    a. If the Cannabinoid content of Medical Marijuana Product is determined not to be homogeneous, then it shall be considered to have failed potency testing. A Production Batch of Medical Marijuana Product shall be considered homogeneous if a minimum of a total of four servings from two packaged units of a Test Batch has a relative standard deviation of less than 10 percent for each Cannabinoid listed on the label. A Production Batch of Medical Marijuana Product shall be considered homogenous if a minimum of a total of four servings from four individual single serve packaged units of a Test Batch has a relative standard deviation of less than 10 percent for each Cannabinoid listed on the label.

        i. The four servings must also test within the allowed potency variance set forth in subparagraph E(5) of this Rule 4-115.

        ii. Any Cannabinoid that makes up less than 10 percent of the total amount of Cannabinoids in the Medical Marijuana Product shall not be subject to the requirements set forth in this subparagraph (E)(3).

    b. If an individually packaged Edible Medical Marijuana Product is determined to have more than the total milligrams of THC stated on the Container, or less than the total milligrams of THC stated on the Container, then the Test Batch shall be considered to have failed potency testing. Except that the potency variance provided for in subparagraph (E)(5) of this Rule 4-115 shall apply to potency testing.

4. Failed Potency Tests for Retail Marijuana Product.

    a. If the Cannabinoid content of Retail Marijuana Product is determined not to be homogeneous, then it shall be considered to have failed potency testing. A Production Batch of Retail Marijuana Product shall be considered homogeneous

if a minimum of a total of four servings from two packaged units of a Test Batch has a relative standard deviation of less than 10 percent for each Cannabinoid listed on the label. A Production Batch of Retail Marijuana Product shall be considered homogenous if a minimum of a total of four servings from four individual single serve packaged units of a Test Batch has a relative standard deviation of less than 10 percent for each Cannabinoid listed on the label.

i. The four servings must also test within the allowed potency variance set forth in subparagraph E(5) of this Rule 4-115.

ii. Any Cannabinoid that makes up less than 10 percent of the total amount of Cannabinoids in the Retail Marijuana Product shall not be subject to the requirements set forth in this subparagraph (E)(4).

b. If an individually packaged Edible Retail Marijuana Product is determined to have more than 100 milligrams of THC within it, then the Test Batch shall be considered to have failed potency testing. If an individually packaged Edible Retail Marijuana Product is determined to have more than the total milligrams of THC stated on the Container, or less than the total milligrams of THC stated on the Container, then the Test Batch shall be considered to have failed potency testing. If a single serving in an individually packaged Edible Retail Marijuana Product is determined to have more than 10 milligrams of THC then the Test Batch shall be considered to have failed potency testing. Except that the potency variance provided for in subparagraph (E)(5) of this Rule 4-115 shall apply to potency testing.

5. Potency Variance. Regulated Marijuana Product provided to the Regulated Marijuana Testing Facility must comply with the following potency variance:

a. For Regulated Marijuana Product with a Target Potency or making a potency claim for any cannabinoid of more than 2.5 milligrams per serving the potency variance shall differ no more than plus or minus 15 percent.

b. For Regulated Marijuana Product with a Target Potency or making a potency claim for any cannabinoid of 2.5 milligrams or less per serving the potency variance shall differ no more than the greater of plus or minus 0.5 mg or 40 percent per serving.

F. Testing Regulated Marijuana Ready for Transfer. All tests must occur at the time the Regulated Marijuana is ready for Transfer to another Regulated Marijuana Business, according to the required steps outlined in the standard operating procedures of the Licensee submitting the Test Batch.

G. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-120

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing the contaminant testing and related Reduced Testing Allowance portion

of the Division's Regulated Marijuana sampling and testing program. This Rule 4-120 was previously Rules M and R 1501, 1 CCR 212-1 and 1 CCR 212-2.

4-120 – Regulated Marijuana Testing Program: Contaminant Testing

A. Contaminant Testing Required.

1. A Regulated Marijuana Business shall not Transfer or process Regulated Marijuana, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, Regulated Marijuana Concentrate or Regulated Marijuana Product unless Test Batches from each Harvest Batch or Production Batch from which that Regulated Marijuana was derived has been tested by a Regulated Marijuana Testing Facility for contaminants and passed all contaminant tests required by this Rule, except as permitted in Rule 5-205(C), 6-205(C), or the cultivation or production process has achieved a Reduced Testing Allowance under this Rule.

B. Reduced Testing Allowance and Ongoing Testing – Contaminant Testing.

1. Regulated Marijuana. A Regulated Marijuana Cultivation Facility's cultivation process may achieve a Reduced Testing Allowance for contaminant testing if every Harvest Batch that it produced during at least a six-week period (minimum 42 days) but no longer than a 12-week period (maximum 84 days) passed all contaminant tests required by Paragraph (C) of this Rule. This must include at least six Test Batches. The period begins from the date of the creation of the first Harvest Batch that passed reduced testing allowance testing. A Medical Marijuana Cultivation Facility, a Retail Marijuana Cultivation Facility, or an Accelerator Cultivator can achieve a Reduced Testing Allowance for all contaminants listed in paragraph (C) of this Rule at the same time or separately for each contaminant.

    a. Visual Microbial Growth. If a Regulated Marijuana Cultivation Facility is aware that a Harvest Batch contains visual microbial contamination, the Regulated Marijuana Cultivation Facility shall subject the Harvest Batch to microbial contaminant testing pursuant to Rule 4-120(C)(1). If the Test Batch fails testing, then the Harvest Batch shall be subject to the requirements in Rule 4-135(C). The Licensees must also follow Rule 4-120(F)(2).

2. Regulated Marijuana Concentrate, Regulated Marijuana Product, Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana. A Regulated Marijuana Business's production process may achieve a Reduced Testing Allowance for contaminant testing if for a particular type of Regulated Marijuana Concentrate, Regulated Marijuana Product, or Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana every Production Batch that it produced during at least a four-week period (minimum 28 days) but no longer than an eight-week period (maximum 56 days) passed all contaminant tests required by Paragraph (C) of this Rule. This must include Test Batches from at least four Production Batches. This period begins from the date of the creation of the first Production Bach that passed reduced testing allowance testing. If a Regulated Marijuana Concentrate or Regulated Marijuana Product is manufactured using a different extraction process or infusion process or using any different Additives or Botanically Derived Compounds, it will be considered a different type of Regulated Marijuana Concentrate or Regulated Marijuana Product and therefore must separately achieve a Reduced Testing Allowance. If Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana is produced using different input materials, such as a different marijuana category (e.g. flower or trim), different wrapper materials, different processes, or different equipment, they must achieve separate Reduced Testing Allowances.

3. Reduced Testing Allowances are Effective for One Year. Once a Regulated Marijuana Business has successfully achieved a Reduced Testing Allowance for each of the contaminants listed in paragraph (C) of this Rule, the Reduced Testing Allowance is

effective for one year (365 days inclusive, or 366 days inclusive during a leap year) from the date of the first passing harvest date or production date required to satisfy the Reduced Testing Allowance requirements.

4. Regulated Marijuana Ongoing Contaminant Testing. After successfully achieving a Reduced Testing Allowance, once every 30 days a Regulated Marijuana Business shall subject at least one Harvest Batch to all contaminant testing required by Paragraph (C) of this Rule. If during any 30-day period the Regulated Marijuana Business does not possess a Harvest Batch that is ready for testing, the Regulated Marijuana Business must subject its first Harvest Batch that is ready for testing to the required contaminant testing prior to Transfer or processing of the Regulated Marijuana. If a Harvest Batch subject to ongoing contaminant testing fails contaminant testing, the Regulated Marijuana Business shall follow the procedure in Paragraph (F)(2) of this Rule. Ongoing contaminant testing pursuant to this Rule 4-120 shall be subject to the requirements in Rule 4-110. *See* Rule 4-110(A) – Collection of Samples.

   a. The Division may reduce the frequency of ongoing contaminant testing required if the Division has reasonable grounds to believe Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities have reached maximum capacity to perform testing required by this Rule. The Division will provide notification of any reduction to the frequency of ongoing contaminant testing to the Licensee's last electronic mailing address provided to the Division.

   b. If the Licensee fails to comply with paragraph (B)(4) of this Rule, the Regulated Marijuana Business is no longer authorized a Reduced Testing Allowance.

5. Regulated Marijuana Concentrate, Regulated Marijuana Product, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana Ongoing Contaminant Testing. After successfully achieving a Reduced Testing Allowance, once every 30 days the Regulated Marijuana Business shall subject at least one Production Batch of each particular type of Regulated Marijuana Concentrate, Regulated Marijuana Product, Pre-Rolled Marijuana, or Infused Pre-Rolled Marijuana for which it has achieved a Reduced Testing Allowance to all contaminant testing required by Paragraph (C) of this Rule. If during any 30-day period the Regulated Marijuana Business does not possess a Production Batch that is ready for testing, the Regulated Marijuana Business must subject its first Production Batch that is ready for testing to the required contaminant testing prior to Transfer or processing of the Regulated Marijuana. If a Production Batch submitted for ongoing contaminant testing fails contaminant testing, the Regulated Marijuana Business shall follow the procedure in Paragraph (F)(2) of this Rule.

   a. The Division may reduce the frequency of ongoing contaminant testing required if the Division has reasonable grounds to believe Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities have reached maximum capacity to perform testing required by this Rule. The Division will provide notification of any reduction to the frequency of ongoing contaminant testing to the Licensee's last electronic mailing address provided to the Division.

   b. If the Licensee fails to comply with paragraph (B)(5) of this Rule, the Regulated Marijuana Business is no longer authorized under a Reduced Testing Allowance.

C. Required Contaminant Tests.

1. Microbial Contaminant Testing. Harvest Batches of Regulated Marijuana, flower, shake, and trim, re-testing of Regulated Marijuana flower, shake, and/or trim that has undergone Decontamination, Production Batches of Physical Separation-, Heat/Pressure-, or Food-Based Medical Marijuana Concentrate, Production Batches of Physical Separation-,

Heat/Pressure-, or Food-Based Retail Marijuana Concentrate, Solvent-Based Medical Marijuana Concentrate produced through Remediation, Solvent-Based Retail Marijuana Concentrate produced through Remediation, Regulated Marijuana Product, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, Industrial Hemp Products, Pressurized Metered Dose Inhalers, Vaporizer Delivery Devices, and Audited Product must be tested for microbial contamination by a Regulated Marijuana Testing Facility at the frequency established by Paragraphs (A) and (B) of this Rule. The microbial contamination test must include, but need not be limited to, testing to determine the presence of and/or amounts present of microbial contaminants listed in Rule 4-115(D)(1): Shiga-toxin producing Escherichia coli (STEC)*- Bacteria, *Aspergillus (A. fumigatus, A. flavus, A. niger, A. terreus),* Salmonella species* – Bacteria, Total Yeast and Mold, Total aerobic microbial count, *Staphylococcus Aureus, Pseudomonas aeruginosa, Bile tolerant gram negative bacteria and Candida albicans*.

a. Effective Date for Required *Aspergillus* Testing. Requirements for *Aspergillus* testing pursuant to this rule shall take effect on July 1, 2022.

1.5 Water Activity Testing. Harvest Batches of Regulated Marijuana, flower, shake, and trim (other than wet whole plant), re-testing of Regulated Marijuana flower, shake, and/or trim that has undergone Decontamination, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana at the frequency established by Paragraphs (A) and (B) of this Rule.

2. Residual Solvent Contaminant Testing. Production Batches of Solvent-Based Medical Marijuana Concentrate, Solvent-Based Retail Marijuana Concentrate, and Audited Product that contains any Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate produced by a Regulated Marijuana Products Manufacturer must be tested by a Regulated Marijuana Testing Facility for residual solvent contamination at the frequency established by Paragraphs (A) and (B) of this Rule. The residual solvent contamination test must include, but need not be limited to, testing to determine the presence of, and amounts present of acetone, butane, ethanol, heptanes, isopropyl alcohol, propane, benzene*, toluene*, pentane, hexane*, methanol*, ethyl acetate, and total xylenes* (m, p, o – xylenes).

* Note: These solvents are not approved for use. Testing is required for these solvents due to their possible presence in the solvents approved for use per Rule 5-315 and 6-315.

3. Mycotoxin Contaminant Testing. As part of Remediation, each Production Batch of Solvent-Based Medical Marijuana Concentrate produced by a Medical Marijuana Products Manufacturer or Solvent-Based Retail Marijuana Concentrate produced by a Regulated Marijuana Products Manufacturer from Regulated Marijuana that failed microbial contaminant testing produced must be tested by a Regulated Marijuana Testing Facility for mycotoxin contamination. Each failed Harvest Batch of Regulated Marijuana flower, shake, and/or trim and each failed Production Batch of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana that has undergone Decontamination must be tested by a Regulated Marijuana Testing Facility for mycotoxin contamination. Each Production Batch of Regulated Marijuana Concentrate produced from wet whole plant that was not tested for microbial contamination must be tested for mycotoxin contamination. The mycotoxin contaminant test must include, but need not be limited to, testing to determine the presence of, and amounts present of, aflatoxins (B1, B2, G1, and G2) and ochratoxin A. This is in addition to all other contaminant testing required by this Paragraph (C). This contaminant test cannot be exempt from testing by a Reduced Testing Allowance in accordance with subparagraph (B)(2) of this Rule, except Regulated Marijuana Concentrate produced from wet whole plant that was not tested for microbial contamination pursuant to Rule 4-121.

4. Pesticide Contaminant Testing. Harvest Batches of Regulated Marijuana, Production Batches of Regulated Marijuana Concentrate, Production Batches of Pre-Rolled Marijuana, and Production Batches of Infused Pre-Rolled Marijuana must be tested for Pesticide contamination by a Regulated Marijuana Testing Facility at the frequency established by this Rule 4-120(A) and (B). The Pesticide contamination test must include, but need not be limited to, testing to determine the presence of, and amounts present of, the Pesticides listed in Rule 4-115(E)(5).

    a. Effective Date for Required Pesticide Contaminant Testing for Production Batches of Regulated Marijuana Concentrate: Requirements for Pesticide contaminant testing for Production Batches of Regulated Marijuana Concentrate pursuant to this rule shall take effect on July 1, 2021.

5. Elemental Impurities Testing.

    a. Each Harvest Batch and Production Batch of Regulated Marijuana must be tested for elemental impurities by a Regulated Marijuana Testing Facility at the frequency established in paragraphs (A) and (B) of this Rule. The elemental impurities test must include, but need not be limited to, testing to determine the presence of, and amounts present of, arsenic, cadmium, lead, and mercury.

    b. Emissions Testing. This subsection (C)(5)(b) is effective January 1, 2022. Each Harvest Batch and Production Batch of Regulated Marijuana Concentrate in a Vaporized Delivery Device must be tested for elemental impurities via emissions testing by a Regulated Marijuana Testing Facility at the frequency established in subparagraphs (A) and (B) of this Rule. The elemental impurities test must include, but need not be limited to, testing to determine the presence and amounts of arsenic, cadmium, lead, and mercury.

D. Additional Required Tests. The Division may require additional tests to be conducted on a Harvest Batch or Production Batch prior to a Regulated Marijuana Cultivation Facility or Regulated Marijuana Products Manufacturer Transferring or processing any Regulated Marijuana from that Harvest Batch or Production into a Regulated Marijuana Concentrate or Regulated Marijuana Product. Additional tests may include, but need not be limited to, screening for Pesticide, chemical contaminants, biological contaminants, or other types of microbials, molds, elemental impurities, or residual solvents.

E. Exemptions.

1. Medical Marijuana Concentrate.

    a. A Medical Marijuana Products Manufacturer who combines multiple Production Batches of Solvent-Based Medical Marijuana Concentrate into a Production Batch of Solvent-Based Medical Marijuana Concentrate shall be considered exempt from residual solvent testing pursuant to this Rule only if all original Production Batches passed residual solvent testing. This does not apply if a solvent, Additive, or any other Ingredient was introduced during the combination of the Production Batches.

    b. A Production Batch of Medical Marijuana Concentrate shall be considered exempt from contaminant testing requirements pursuant to this Rule if the Medical Marijuana Products Manufacturer that produced it does not Transfer any portion of the Production Batch and uses the entire Production Batch to manufacture Medical Marijuana Product, except that a Solvent-Based Medical Marijuana Concentrate must still be submitted for residual solvent contaminant

testing and Medical Marijuana Concentrate must still be submitted for pesticide contaminant testing. The manufactured Medical Marijuana Product shall be subject to mandatory testing under this Rule.

2. Retail Marijuana Concentrate.

a. A Retail Marijuana Products Manufacturer or Accelerator Manufacturer who combines multiple Production Batches of Solvent-Based Retail Marijuana Concentrate into a Production Batch of Solvent-Based Retail Marijuana Concentrate shall be considered exempt from residual solvent testing pursuant to this Rule only if all original Production Batches passed residual solvent testing. This does not apply if a solvent, Additive or any other Ingredient was introduced during the combination of the Production Batches.

b. A Production Batch of Retail Marijuana Concentrate shall be considered exempt from contaminant testing requirements pursuant to this Rule if the Retail Marijuana Products Manufacturer that produced it does not Transfer any portion of the Production Batch and uses the entire Production Batch to manufacture Retail Marijuana Product, except that a Solvent-Based Retail Marijuana Concentrate must still be submitted for residual solvent contaminant testing and Retail Marijuana Concentrate must still be submitted for pesticide contaminant testing. The manufactured Retail Marijuana Product shall be subject to testing under this Rule.

3. Regulated Marijuana Product. A Regulated Marijuana Business that produces Regulated Marijuana Products with intended use for oral consumption or skin and body products, is exempt from aspergillus testing as required by these 4-100 Series Rules.

F. Events Requiring Re-Authorization for a Reduced Testing Allowance - Contaminants.

1. Material Change. If a Licensee makes a Material Change to its cultivation or production process or its standard operating procedures , then it must have the first five Harvest Batches or Production Batches produced using the new procedures tested for all of the contaminants required by Paragraph (C) of this Rule regardless of whether its process has previously achieved a Reduced Testing Allowance regarding contaminants. If any of those tests fail, then the Regulated Marijuana Business's process must achieve a new Reduced Testing Allowance.

a. Pesticide or other Agricultural Substances. It is a Material Change if a Regulated Marijuana Cultivation Facility begins using a new or different Pesticide or other agricultural substances (e.g. nutrients, fertilizers) during its cultivation process.

b. Solvents. It is a Material Change if a Regulated Marijuana Products Manufacturer begins using a new or different solvent or combination of solvents or changes any parameters for equipment related to the solvent purging process, including but not limited to, time, temperature, or pressure.

c. Cultivation. It is a Material Change if a Regulated Marijuana Cultivation Facility begins using a new or different method for any material part of the cultivation process, including, but not limited to, changing from one growing medium to another.

d. Environmental Conditions. It is a Material Change if a Regulated Marijuana Cultivation Facility changes parameters associated with environmental conditions, including temperature, humidity, or lighting.

e. Cleaning and Sanitation. It is a Material Change if a Regulated Marijuana Cultivation Facility makes changes to cleaning or sanitation processes.

f. Inputs and Contact Surfaces. It is a Material Change if a Regulated Marijuana Cultivation Facility changes materials that have direct contact with product components, including but not limited to, ingredients, additives, or hardware such as Vaporizer Delivery Devices.

g. Testing Required Prior to Transfer or Processing. When a Harvest Batch or Production Batch is required to be submitted for testing pursuant to this Rule, the Licensee that produced it may not Transfer or process Regulated Marijuana, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana, Regulated Marijuana Concentrate or Regulated Marijuana Product unless the Harvest Batch or Production Batch passes all required testing.

2. Failed Contaminant Testing and Reduced Testing Allowance. Failed contaminant testing may constitute a violation of these rules.

a. If a Test Batch is required to be tested by these Rules or required to be tested by the Division pursuant to Rule 4-120(A) and fails contaminant testing, the Licensee shall follow the procedures in Rule 4-135(B) for any Inventory Tracking System package, Harvest Batch, or Production Batch from which the failed Sample was taken.

b. The Licensee shall also submit Test Batches from three new Harvest Batches or Production Batches of the Regulated Marijuana for contaminant testing by a Regulated Marijuana Testing Facility within no more than 30 days. If any one of the three submitted Test Batches fails contaminant testing, the Licensee shall achieve a new Reduced Testing Allowance for contaminants.

G. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-121

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish requirements and exemptions for contaminant testing for wet whole plant.

4-121 – Regulated Marijuana Testing Program: Wet Whole Plant Contaminant Testing

A. Microbial Contaminant Testing. A Regulated Marijuana Cultivation Facility shall not Transfer wet whole plant or process wet whole plant into Regulated Marijuana Concentrate unless Test Batches from each Harvest Batch of Regulated Marijuana wet whole plant were tested for microbial contamination by a Regulated Marijuana Testing Facility and passed all microbial contaminant tests except as permitted in Rules 5-205(C), 6-205(C), or the cultivation process has achieved a Reduced Testing Allowance under this Rule. The microbial contamination test must include, but need not be limited to, testing to determine the presence of and/or amounts present of microbial contaminants listed in Rule 4-115(D)(1): Shiga-toxin producing Escherichia coli (STEC)*- Bacteria, *Aspergillus (A. fumigatus, A. flavus, A. niger, A. terreus),* Salmonella species* – Bacteria, Total Yeast and Mold.

B. Reduced Testing Allowance and Ongoing Testing – Microbial Contaminant Testing. A Regulated Marijuana Cultivation Facility's cultivation process for wet whole plant shall be deemed acceptable for a Reduced Testing Allowance for microbial contaminant testing if every Harvest Batch of wet whole plant that it produced during at least a three-week (minimum 21 days) period but no longer than a 12-week (maximum 84 days) period passed all microbial contaminant tests required by this Rule. This must include at least six Test Batches. A Medical Marijuana Cultivation Facility, a Retail Marijuana Cultivation Facility, or an Accelerator Cultivator can achieve a Reduced Testing Allowance for contaminants listed in this Rule 4-121.

C. Reduced Testing Allowances are Effective for One Year. Once a Regulated Marijuana Business has successfully achieved a Reduced Testing Allowance for a contaminant test, the Reduced Testing Allowance is effective for one year (365 days inclusive, or 366 days inclusive during a leap year) from the date of the first passing harvest date or required to satisfy the Reduced Testing Allowance requirements.

D. Regulated Marijuana Ongoing Contaminant Testing. After successfully achieving a Reduced Testing Allowance, once every 30 days a Regulated Marijuana Cultivation Facility shall subject at least one Harvest Batch of wet whole plant to microbial contaminant testing. If during any 30-day period a Regulated Marijuana Cultivation Facility does not possess a Harvest Batch of wet whole plant that is ready for testing, the Regulated Marijuana Cultivation Facility must subject its first Harvest Batch of wet whole plant that is ready for testing to a microbial contaminant testing prior to Transfer or processing of the Regulated Marijuana wet whole plant. If a Harvest Batch of wet whole plant subject to ongoing contaminant testing fails contaminant testing, the Regulated Marijuana Cultivation Facility shall follow the procedure in Paragraph (F)(2) of Rule 4-120. Ongoing contaminant testing pursuant to this Rule shall be subject to the requirements in Rule 4-110. *See* Rule 4-110(A) – Collection of Samples.

1. The Division may reduce the frequency of ongoing contaminant testing required if the Division has reasonable grounds to believe Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities have reached maximum capacity to perform testing required by this Rule. The Division will provide notification of any reduction to the frequency of ongoing contaminant testing to the Licensee's last electronic mailing address provided to the Division.

2. If the Licensee fails to comply with Paragraph (D) of this Rule, the Regulated Marijuana Cultivation Facility is no longer authorized a Reduced Testing Allowance.

E. Testing Exemptions for Wet Whole Plant.

1. Harvest Batches of Regulated Marijuana wet whole plant are exempt from required water activity testing.

2. Harvest Batches of Regulated Marijuana wet whole plant is exempt from required microbial contaminant testing if a Regulated Marijuana Cultivation Facility Transfers the Regulated Marijuana wet whole plant for the purposes of extraction to a Regulated Marijuana Business with at least one identical Controlling Beneficial Owner and in accordance with this Rule. If a Regulated Marijuana wet whole plant Harvest Batch is not tested for microbial contamination, each resulting Regulated Marijuana Concentrate Production Batch shall be tested for microbial contamination pursuant to Rule 4-120.

F. Regulated Marijuana Concentrate Produced from Wet Whole Plant That Was Not Tested for Microbial Contaminants.

1. Required Testing. Each Production Batch of Regulated Marijuana Concentrate produced from wet whole plant that was not tested for microbial contaminants in accordance with

the exemption in paragraph (E)(2) of this Rule must be tested for microbial contaminants and mycotoxins. In addition, the Regulated Marijuana Concentrate must be tested in accordance with Rule 4-120 for other contaminants, including pesticides, elemental impurities, and residual solvents if applicable.

2. Regulated Marijuana Concentrate Produced from Wet Whole Plant Not Tested for Microbial Contamination. A Regulated Marijuana Business that produces Regulated Marijuana Concentrate may achieve a Reduced Testing Allowance for a Regulated Marijuana Concentrate produced from wet whole plant that was not tested for microbial contamination, subject to the following requirements:

   a. Qualification Form. The Regulated Marijuana Business that produces Regulated Marijuana Concentrate from wet whole plant not tested for microbial contamination shall obtain a completed qualification form from the Regulated Marijuana Business that cultivated the wet whole plant. The qualification form must detail the following information related to the cultivation of the wet whole plant:

      i. Implemented quality management systems;

      ii. Record keeping;

      iii. Notification of Material Change;

      iv. Notification of a wet whole plant microbial Test Batch failure;

      v. Cultivation and post-harvest procedures;

      vi. Cleaning; and

      vii. Corrective action and preventative action.

   b. Completion Required. The Regulated Marijuana Business that wishes to Transfer the wet whole plant that was not tested for microbial contamination must provide a completed qualification form detailing the information listed above.

   c. Approval. The Regulated Marijuana Business that receives a Transfer of wet whole plant is responsible for ensuring it conforms with specified approval requirements, which shall include but is not limited to the following:

      i. The receiving Regulated Marijuana Business has confirmed it has not received notification by the Regulated Marijuana Cultivation Facility of a Material Change to its cultivation process;

      ii. The receiving Regulated Marijuana Business has inspected the wet whole plant Harvest Batch for visual microbial contamination. If visual microbial contamination is identified in the Harvest Batch of wet whole plant, the Licensee shall subject the Harvest Batch to microbial contaminant testing pursuant to Rule 4-121. If the Test Batch fails testing, then the Harvest Batch shall be subject to the requirements in Rule 4-135(C).; and

      iii. The receiving Regulated Marijuana Business has obtained evidence of compliance with testing requirements for the wet whole plant and proof of any Reduced Testing Allowances, if appliable.

d. Origin Verification. Verification of the Regulated Marijuana Business that cultivated the wet whole plant used to manufacture the Regulated Marijuana Concentrate.

3. Recordkeeping Requirements. A Regulated Marijuana Business shall maintain copies of documents and other records evidencing compliance with this Rule as part of its business books and records. *See* Rule 3-905 – Business Records Required.

G. Pesticide and Elemental Impurities Testing for Regulated Marijuana Wet Whole Plant. Each Harvest Batch of Regulated Marijuana wet whole plant must be tested for Pesticide and Elemental Impurities testing in accordance with Rule 4-120.

H. Events Requiring Re-Authorization for a Reduced Testing Allowance. A Regulated Marijuana Cultivation Facility must follow Rule 4-120 for any events that would require a Re-Authorization for a Reduced Testing Allowance. That may include a failed test or a Material Change described in Rule 4-120 (F). The Licensee must act in accordance with Rule 4-120 (F)(2) if either scenario occurs.

I. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-125

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing the potency testing and related Reduced Testing Allowance portion of the Division's Regulated Marijuana sampling and testing program. This Rule 4-125 was previously Rules M and R 1503, 1 CCR 212-1 and 1 CCR 212-2.

4-125 – Regulated Marijuana Testing Program: Potency Testing

A. Potency Testing – General.

1. Test Batches. A Test Batch submitted for potency testing may only be comprised of sample increments that are of the same strain of Medical Marijuana or Retail Marijuana or from the same Production Batch of Medical Marijuana Concentrate or Medical Marijuana Product, or from the same Production Batch of Retail Marijuana Concentrate or Retail Marijuana Product, or from the same Production Batch of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana.

2. Cannabinoid Profile. A potency test conducted pursuant to this Rule must at least determine the level of concentration of D8-THC, D9-THC, D-10 THC, Exo-THC, THCA, CBD, CBDA, and CBN.

B. Potency Testing for Regulated Marijuana.

1. Initial Potency Testing. A Regulated Marijuana Cultivation Facility must have potency tests conducted by a Regulated Marijuana Testing Facility on four Harvest Batches, created a minimum of one week apart, for each strain of Regulated Marijuana that it cultivates. *See* Rule 4-105(B).

a. The first potency test must be conducted on each strain prior to the Regulated Marijuana Cultivation Facility Transferring or processing into a Medical Marijuana Concentrate any Medical Marijuana of that strain, or into a Retail Marijuana Concentrate any Retail Marijuana of that strain.

b. All four potency tests must be conducted on each strain no later than December 1, 2014 or six months after the Regulated Marijuana Cultivation Facility begins cultivating that strain, whichever is later.

2. Ongoing Potency Testing. After the initial four potency tests, a Regulated Marijuana Cultivation Facility shall have each strain of Regulated Marijuana that it cultivates tested for potency at least once per quarter.

a. If the Licensee fails to comply with paragraph (B)(2) of this Rule, the Regulated Marijuana Cultivation Facility is no longer authorized for a Reduced Testing Allowance.

C. Potency Testing for Regulated Marijuana Concentrate except Kief.

1. A Medical Marijuana Cultivation Facility or a Medical Marijuana Products Manufacturer must have a potency test conducted by a Medical Marijuana Testing Facility on every Production Batch of Medical Marijuana Concentrate that it produces prior to Transferring or processing into a Medical Marijuana Product any of the Medical Marijuana Concentrate from that Production Batch.

2. A Retail Marijuana Cultivation Facility, Accelerator Cultivator, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer must have a potency test conducted by a Retail Marijuana Testing Facility on every Production Batch of Retail Marijuana Concentrate that it produces prior to Transferring or processing into a Retail Marijuana Product any of the Retail Marijuana Concentrate from that Production Batch.

D. Repealed.

E. Potency Testing for Regulated Marijuana Product.

1. Potency Testing Required for Regulated Marijuana Product. A Regulated Marijuana Products Manufacturer shall have potency tests conducted by a Regulated Marijuana Testing Facility on every Production Batch of each type of Regulated Marijuana Product that it produces prior to Transferring any of the Regulated Marijuana Product from that Production Batch, unless the Regulated Marijuana Products Manufacturer has successfully achieved a Reduced Testing Allowance for potency and homogeneity for the particular type of Regulated Marijuana Product.

2. Required Tests. Potency and homogeneity tests conducted on Regulated Marijuana Product must determine the level of concentration of the required Cannabinoids and whether or not THC is homogeneously distributed throughout the product.

3. Partially Infused Regulated Marijuana Products. If only a portion of a Regulated Marijuana Product is infused with Regulated Marijuana, then the Regulated Marijuana Products Manufacturer must inform the Regulated Marijuana Testing Facility of exactly which portions of the Regulated Marijuana Product are infused and which portions are not infused.

E.1. Potency Testing Required for Pre-Rolled Marijuana.

1. A Regulated Marijuana Business shall have potency tests conducted by a Regulated Marijuana Testing Facility on every Production Batch of each type of Pre-Rolled Marijuana product that it produces prior to Transferring or selling any of the Pre-Rolled Marijuana from that Production Batch if the Regulated Marijuana Business is using multiple strains from different sources (e.g. self-grown source, wholesale source) and/or selecting only a part of the Harvest Batch(es) that is not representative of the entire Harvest Batch each time they produce a certain type of Pre-Rolled Marijuana (e.g. using only the shake/trim out of a Harvest Batch).

2. If each type of Pre-Rolled Marijuana is created using select parts of a single strain (e.g. flower only, shake/trim only) or a specific ratio of strains from specified sources (e.g. self-grown source, wholesale source) defined by the Regulated Marijuana Business' standard operating procedures, a Regulated Marijuana Business shall have potency tests conducted according to paragraph (E.1)(2)(a) and (b) of this Rule by a Regulated Marijuana Testing Facility for each type of Pre-Rolled Marijuana product that it produces prior to Transferring or selling any of the Pre-Rolled Marijuana from a Production Batch.

    a. Initial Potency Testing. Initial potency tests shall be conducted by a Regulated Marijuana Testing Facility on four Production Batches, created a minimum of one week apart, for each type of Pre-Rolled Marijuana that is created using a single strain or a specific ratio of strains defined by the Regulated Marijuana Business' standard operating procedures.

    b. Ongoing Potency Testing. After the initial four potency tests, ongoing potency tests shall be conducted by a Regulated Marijuana Testing Facility at least once per quarter for each type of Pre-Rolled Marijuana that is created using a single strain or a specific ratio of strains defined by the Regulated Marijuana Business' standard operating procedures.

3. A Regulated Marijuana Business shall be considered exempt from potency testing if the Pre-Rolled Marijuana Production Batch uses a single strain and uses all parts of the Harvest Batch that were included in the potency testing of the Harvest Batch prior to creating the Pre-Rolled Marijuana Production Batches. In this case, the potency test results of the Harvest Batch shall be used for the Pre-Rolled Marijuana Production Batch.

4. Production Batches of Pre-Rolled Marijuana are exempt from homogeneity testing.

E.2. Potency Testing Required for Infused Pre-Rolled Marijuana.

1. A Regulated Marijuana Business shall have potency tests conducted by a Regulated Marijuana Testing Facility on every Production Batch of Infused Pre-Rolled Marijuana product that it produces prior to Transferring any of the Infused Pre-Rolled Marijuana from that Production Batch.

2. Production Batches of Infused Pre-Rolled Marijuana are exempt from homogeneity testing.

F. Reduced Testing Allowance - Potency and Homogeneity.

1. A Retail Marijuana Products Manufacturer or Accelerator Manufacturer may achieve a Reduced Testing Allowance for potency and homogeneity for each type of Retail Marijuana Product it manufactures.

    a. For Edible Retail Marijuana Products a potency test result that is within 15 percent of the target potency will count towards a Reduced Testing Allowance.

i. For Edible Retail Marijuana Products that contain 2.5 milligrams of THC or less per serving, a potency test result that is within the greater of plus or minus 0.5 milligrams or 40 percent per serving will count towards a Reduced Testing Allowance.

2. A Medical Marijuana Products Manufacturer may achieve a Reduced Testing Allowance for potency and homogeneity for each type of non-Edible Medical Marijuana Product and each type of Edible Medical Marijuana Product that it manufactures.

a. For Edible Medical Marijuana Products that contain 100 milligrams of THC or less per Container, a potency test result that is within 15 percent of the target potency will count towards a Reduced Testing Allowance.

i. For Edible Medical Marijuana Products that contain 2.5 milligrams of THC or less per serving and less than 100 milligrams of THC per Container, a potency test result that is within the greater of plus or minus 0.5 milligrams or 40 percent per serving will count towards a Reduced Testing Allowance.

b. For Edible Medical Marijuana Products that contain between 101 and 500 milligrams of THC per Container, a potency test result that is within 10 percent of the target potency will count towards a Reduced Testing Allowance.

c. For Edible Medical Marijuana Products that contain 501 milligrams of THC or more per Container, a potency test result that is within 5 percent of the target potency will count towards a Reduced Testing Allowance.

3. A Regulated Marijuana Products Manufacturer's production process for a particular type of Regulated Marijuana Product shall be deemed acceptable for a Reduced Testing Allowance for potency and homogeneity testing if every Production Batch that it produces for that particular type of Regulated Marijuana Product during at least a four-week period but no longer than an eight-week period passes all potency and homogeneity tests required by Rule 4-125. This must include at least four Test Batches.

4. Expiration of a Reduced Testing Allowance. A Regulated Marijuana Products Manufacturer is required to achieve a new Reduced Testing Allowance every 12 months from the date the Reduced Testing Allowance is achieved (365 days inclusive, or 366 days inclusive during a leap year from the date of the first Production Batch utilized to initiate establishing a Reduced Testing Allowance), after which point the Reduced Testing Allowance expires. When the Reduced Testing Allowance expires, the Regulated Marijuana Business shall comply with the requirements of this Rule.

5. Regulated Marijuana Product Ongoing Potency and Homogeneity Testing. After successfully achieving a Reduced Testing Allowance, once per quarter a Regulated Marijuana Products Manufacturer shall subject at least one Production Batch of each type of Medical Marijuana Product or Retail Marijuana Product that it produces to potency and homogeneity testing required by Paragraph (D) of this Rule. If during any quarter the Regulated Marijuana Products Manufacturer does not possess a Production Batch that is ready for testing, the Licensee must subject its first Production Batch that is ready for testing to the required potency and homogeneity testing prior to Transfer or processing of the Regulated Marijuana. If a Test Batch submitted for ongoing potency and homogeneity testing fails potency and homogeneity testing, the Licensee shall follow the procedure in Paragraph (H) of this Rule. Ongoing potency and homogeneity testing pursuant to this Rule 4-125 shall be subject to the requirements in Rule 4-110. *See* Rule 4-110(A) – Collection of Samples.

a. The Division may reduce the frequency of ongoing potency and homogeneity testing required if the Division has reasonable grounds to believe Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities have reached maximum capacity to perform testing required by this Rule. The Division will provide notification of any reduction to the frequency of ongoing potency and homogeneity testing to the Licensee's last electronic mailing address provided to the Division.

b. If the Licensee fails to comply with paragraph (F)(5) of this Rule, the Regulated Marijuana Cultivation Facility is no longer authorized for a Reduced Testing Allowance.

G. Exemption. Any Regulated Marijuana that will be allocated for extraction in the Inventory Tracking System shall be considered exempt from potency testing pursuant to this Rule.

H. Events Requiring Re-Authorization for a Reduced Testing Allowance - Potency and Homogeneity - Regulated Marijuana Product.

1. Material Change. If a Regulated Marijuana Products Manufacturer elects to achieve a Reduced Testing Allowance for any Regulated Marijuana Products for potency and homogeneity and it makes a Material Change to its production process for that particular type of Regulated Marijuana Product, then the Regulated Marijuana Products Manufacturer shall achieve a new Reduced Testing Allowance.

a. New Equipment. It is a Material Change if the Regulated Marijuana Products Manufacturer begins using new or different equipment for any material part of the production process.

b. Repealed.

c. Testing Required Prior to Transfer. When a Production Batch is required to be submitted for testing pursuant to this Rule, the Regulated Marijuana Products Manufacturer that produced it may not Transfer Regulated Marijuana Product from that Production Batch unless it obtains a passing test.

2. Failed Potency Testing. Failed potency testing may constitute a violation of these rules.

a. If a Test Batch is required to be tested by these Rules or required to be tested by the Division pursuant to Rule 4-115(A) and fails potency testing, the Regulated Marijuana Products Manufacturer shall follow the procedures in Rule 4-135(C) for any Inventory Tracking System package or Production Batch associated with the failed Sample.

b. The Regulated Marijuana Products Manufacturer shall also submit Test Batches from three new Production Batches of the Regulated Marijuana Product t for potency testing by a Regulated Marijuana Testing Facility within no more than 30 days. If any one of the three submitted Test Batches fails potency testing, the Regulated Marijuana Products Manufacturer shall achieve a new Reduced Testing Allowance.

I. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-130

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing rules requiring Regulated Marijuana Businesses to cover certain costs associated with the Division's Regulated Marijuana Sampling and Testing Program. This Rule 4-130 was previously Rules M and R 1506, 1 CCR 212-1 and 1 CCR 212-2.

4-130 – Regulated Marijuana Testing Program: Costs

The cost for all sampling and tests conducted pursuant to these rules shall be the financial responsibility of the Regulated Marijuana Business that is required to submit the Sample for testing.

Basis and Purpose – 4-135

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing rules governing the quarantining of potentially contaminated product and the destruction of product that failed contaminant or potency testing for Division's Regulated Marijuana Sampling and Testing Program. This Rule 4-135 was previously Rules M and R 1507, 1 CCR 212-1 and 1 CCR 212-2.

4-135 – Regulated Marijuana Testing Program: Contaminated Product and Failed Test Results and Procedures

A. Quarantining of Product.

1. If the Division has reasonable grounds to believe that a particular Harvest Batch, Production Batch, or Inventory Tracking System package of Regulated Marijuana is contaminated or presents a risk to public safety, then the Division may require a Regulated Marijuana Business to quarantine it until the completion of the Division's investigation, which may include, but is not limited to, the receipt of any test results.

2. If a Regulated Marijuana Business is notified by any local or state agency, or by a Regulated Marijuana Testing Facility that a Test Batch failed a contaminant or potency testing, then the Regulated Marijuana Business shall quarantine any Regulated Marijuana from any Inventory Tracking System package, Harvest Batch or Production Batch associated with that failed Test Batch and must follow the procedures established pursuant to this Rule.

3. Except as provided by this Rule, Regulated Marijuana that has been quarantined pursuant to this Rule must be physically separated from all other inventory and the Licensee may not Transfer or further process the Regulated Marijuana.

4. In addition to any other method authorized by law, the Division may implement the quarantine through the Inventory Tracking System by (a) indicating failed test results and (b) limiting the Licensee's ability to Transfer the quarantined Regulated Marijuana unless otherwise permitted by these rules.

B. Failed Contaminant Testing: All Contaminant Testing Except Microbial and Water Activity Testing of Regulated Marijuana Flower, Trim, Pre-Rolled Marijuana, Infused Pre-Rolled Marijuana,

Pesticide Testing, and Elemental Impurities Testing of Regulated Marijuana Flower or Trim. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch failed contaminant testing (except microbial and water activity testing of Regulated Marijuana flower or trim, Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana, Pesticide testing, and elemental impurities testing of Regulated Marijuana flower or trim), then for each Inventory Tracking System package, Harvest Batch, or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch or Production Batch pursuant to Rule 3-230 – Waste Disposal;

2. Decontaminate the Inventory Tracking System package, Harvest Batch, or Production Batch, if possible, and create two new Test Batches, each containing the requisite number of Samples, and have those Test Batches tested for the required contaminant test that failed. Such testing must comport with the sampling procedures under Rule 4-110.

    a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Medical Marijuana Testing Facilities or Retail Marijuana Testing Facilities;

    b. If both new Test Batches pass the required contaminant testing, then the Inventory Tracking System package, Harvest Batch, or Production Batch of Regulated Marijuana or Regulated Marijuana Product associated with each Test Batch may be Transferred or processed into a Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, or Retail Marijuana Product;

    c. If one or both of the Test Batches do not pass contaminant testing, then the Regulated Marijuana Business must destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch included in that Test Batch pursuant to Rule 3-230 – Waste Disposal.

3. The Regulated Marijuana Business may Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch that failed contaminant testing to another Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer for Decontamination, if possible, and create two new Test Batches after Decontamination has occurred, each containing the requisite number of Samples, and have those Test Batches tested for the required contaminant test that failed. Such testing must comport with the sampling procedures under Rule 4-110.

    a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Medical Marijuana Testing Facilities or Retail Marijuana Testing Facilities;

    b. If both new Test Batches pass the required contaminant testing, then the Inventory Tracking System package, Harvest Batch, or Production Batch of Regulated Marijuana or Regulated Marijuana Product associated with each Test Batch may be Transferred or processed into a Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, or Retail Marijuana Product;

c. If one or both of the Test Batches do not pass contaminant testing, then the Regulated Marijuana Business must destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch included in that Test Batch pursuant to Rule 3-230 – Waste Disposal.

C. Failed Contaminant Testing: Microbial Testing of Regulated Marijuana Flower, Wet Whole Plant, Trim, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch of Regulated Marijuana flower, wet whole plant, trim, Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana failed microbial testing, then for each Inventory Tracking System package, Harvest Batch, or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 2-230 – Waste Disposal;

2. Decontaminate the Inventory Tracking System package, Harvest Batch, or Production Batch, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments, and submit those Test Batches for microbial contaminant testing. Such testing must comply with the sampling procedures under Rule 4-110. If the Inventory Tracking System package, Harvest Batch, or Production Batch has undergone Decontamination, then it must also pass a mycotoxin and water activity test prior to Transfer. The mycotoxin and water activity testing is not required to occur until after the Inventory Tracking System package, Harvest Batch, or Production Batch has passed microbial testing. If a Test Batch fails mycotoxin or water activity testing the Regulated Marijuana Business must follow the failed contaminant testing procedures pursuant to Paragraph (B) above. Pursuant to Rule 4-120(C), wet whole plant is exempt from water activity testing.

   a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Regulated Marijuana Testing Facilities.

   b. If both Test Batches pass the required microbial testing, then the Inventory Tracking System package, Harvest Batch, or Production Batch associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

   c. If one or both of the Test Batches do not pass microbial testing, then the Regulated Marijuana Business must:

      i. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 – Waste Disposal;

      ii. Decontaminate and re-test in accordance with this Paragraph (C)(2); or

      iii. Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch for Decontamination or Remediation pursuant to Paragraph (C)(3)(b) below.

3. In lieu of Decontamination pursuant to Paragraph (C)(2) above, the Regulated Marijuana Business may Transfer all Regulated Marijuana from the Inventory Tracking System packages, Harvest Batches, and Production Batches associated with that failed Test Batch to a Regulated Marijuana Cultivation Facility for Decontamination, or may Transfer

such Regulated Marijuana to a Regulated Marijuana Products Manufacturer for Decontamination and/or Remediation. If the Regulated Marijuana Business receiving the Regulated Marijuana for Decontamination will Transfer the Regulated Marijuana back to the originating Regulated Marijuana Business following the Decontamination procedures, then the originating Regulated Marijuana Business is responsible for all required testing. If the Regulated Marijuana Business receiving the Regulated Marijuana for Decontamination will Transfer the Regulated Marijuana to a different Regulated Marijuana Business or further processes the Regulated Marijuana following Decontamination, then the receiving Regulated Marijuana Business that performed the Decontamination is responsible for all required testing.

a. Decontamination. The Regulated Marijuana Business may Decontaminate the Inventory Tracking System package, Harvest Batch, or Production Batch, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments, and submit those Test Batches for microbial contaminant testing. Such testing must comply with the sampling procedures under Rule 4-110. If the Inventory Tracking System package, Harvest Batch, or Production Batch has undergone Decontamination, then it must also pass a mycotoxin and water activity test prior to Transfer. The mycotoxin and water activity testing is not required to occur until after the Inventory Tracking System package, Harvest Batch, or Production Batch has passed microbial testing. If a Test Batch fails mycotoxin or water activity testing the Regulated Marijuana Business must follow the failed contaminant testing procedures pursuant to Paragraph (B) above. Pursuant to Rule 4-120(C), wet whole plant is exempt from water activity testing.

   i. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Medical Marijuana Testing Facilities or Retail Marijuana Testing Facilities

   ii. If both Test Batches pass the required microbial testing, then the Inventory Tracking System packages, Harvest Batch, or Production Batch associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

   iii. If one or both of the Test Batches that were created from Harvest Batches or Production Batches pursuant to Paragraph (C)(3)(a) do not pass microbial testing, the Regulated Marijuana Business must either:

      A. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 Waste Disposal;

      B. Decontaminate and re-test in accordance with this paragraph;

      C. Attempt Remediation pursuant to Paragraph (C)(3)(b), except for Production Batches of Infused Pre-Rolled Marijuana; or

      D. Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana for Decontamination or Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana for Remediation pursuant to Paragraph (C)(3)(b).

b. Remediation. The Regulated Marijuana Products Manufacturer may Remediate the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments. The new Test Batches are required to be re-tested for Microbial, Mycotoxin, and Water Activity contaminant testing. Such testing must comport with sampling procedures under Rule 4-110.

i. For Remediation, the Regulated Marijuana Business shall process the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana associated with the failed Test Batch into a Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate.

ii. The Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate that was manufactured pursuant to Paragraph (C)(3)(b) shall undergo all required contaminant testing pursuant to Rule 4-120(C) – Regulated Marijuana Testing Program – Contaminant Testing, potency testing pursuant to Rule 4-125 – Regulated Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Marijuana Code or these rules, including but not limited to microbial and mycotoxins contamination. Such testing must comport with the sampling procedures under Rule 4-110.

iii. If the Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate that was manufactured pursuant to Paragraph (C)(3)(b) fails contaminant testing, the Regulated Marijuana Business shall destroy and document the destruction of the Inventory Tracking System package(s) or Production Batch(es) of Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate pursuant to Rule 3-230 – Waste Disposal.

4. Nothing in this Rule removes or alters the responsibility of the Retail Marijuana Business Transferring the Retail Marijuana that failed microbial testing from complying with the requirement to pay excise tax pursuant to article 28.8 of title 39, C.R.S.

C.5. Failed Contaminant Testing: Water Activity Testing. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch of Regulated Marijuana flower, trim, Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana failed water activity testing, then for each Inventory Tracking System package, Harvest Batch, or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 2-230 – Waste Disposal; or

2. Decontaminate the Inventory Tracking System package, Harvest Batch, or Production Batch, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments, and submit those Test Batches for water activity testing. Such testing must comply with the sampling procedures under Rule 4-110. If the Inventory Tracking System package, Harvest Batch, or Production Batch has undergone Decontamination, then it must also pass a microbial contaminant test prior to Transfer. The microbial contaminant test is not required to occur until after the Inventory Tracking System package, Harvest Batch, or Production Batch has passed water activity testing. If a Test Batch fails microbial contaminant testing the Regulated Marijuana Business must follow the failed contaminant testing procedures pursuant to Paragraph (C) above. Pursuant to Rule 4-120(E), wet whole plant is exempt from water activity testing.

a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Regulated Marijuana Testing Facilities.

b. If both Test Batches pass the required water activity testing, then the Inventory Tracking System package, Harvest Batch, or Production Batch associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

c. If one or both of the Test Batches do not pass water activity testing, then the Regulated Marijuana Business must:

i. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 – Waste Disposal;

ii. Decontaminate and re-test in accordance with this Paragraph (C.5)(2); or

iii. Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch for Decontamination or Remediation pursuant to Paragraph (C)(3)(b) below.

3. In lieu of Decontamination pursuant to Paragraph (C.5)(2) above, the Regulated Marijuana Business may Transfer all Regulated Marijuana from the Inventory Tracking System packages, Harvest Batches, or Production Batches associated with that failed Test Batch to a Regulated Marijuana Cultivation Facility for Decontamination, or may Transfer such Regulated Marijuana to a Regulated Marijuana Products Manufacturer for Decontamination and/or Remediation. If the Regulated Marijuana Business receiving the Regulated Marijuana for Decontamination will Transfer the Regulated Marijuana back to the originating Regulated Marijuana Business following the Decontamination procedures, then the originating Regulated Marijuana Business is responsible for all required testing. If the Regulated Marijuana Business receiving the Regulated Marijuana for Decontamination will Transfer the Regulated Marijuana to a different Regulated Marijuana Business or further process the Regulated Marijuana following Decontamination, then the receiving Regulated Marijuana Business that performed the Decontamination is responsible for all required testing.

a. Decontamination. The Regulated Marijuana Business may Decontaminate the Inventory Tracking System package, Harvest Batch, or Production Batch, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments, and submit those Test Batches for water activity testing. Such testing must comply with the sampling procedures under Rule 4-110. If the Inventory Tracking System package, Harvest Batch, or Production Batch has undergone Decontamination, then it must also pass a microbial contaminant test prior to Transfer. The microbial contaminant testing is not required to occur until after the Inventory Tracking System package, Harvest Batch, or Production Batch has passed water activity testing. If a Test Batch fails microbial contaminant testing the Regulated Marijuana Business must follow the failed contaminant testing procedures pursuant to Paragraph (C) above. Pursuant to Rule 4-120(C), wet whole plant is exempt from water activity testing.

i. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Medical Marijuana Testing Facilities or Retail Marijuana Testing Facilities

ii. If both Test Batches pass the required testing, then the Inventory Tracking System packages, Harvest Batch, or Production Batch associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

iii. If one or both of the Test Batches that were created from Harvest Batches or Production Batches pursuant to Paragraph (C.5)(3)(a) do not pass water activity testing, the Regulated Marijuana Business must either:

A. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 Waste Disposal;

B. Decontaminate and re-test in accordance with this paragraph;

C. Attempt Remediation pursuant to Paragraph (C.5)(3)(b), except for Production Batches of Infused Pre-Rolled Marijuana; or

D. Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana for Decontamination or Transfer the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana for Remediation pursuant to Paragraph (C.5)(3)(b).

b. Remediation. The Regulated Marijuana Products Manufacturer may Remediate the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments. The new Test Batches are required to be re-tested for Microbial, Mycotoxin, and Water Activity contaminant testing. Such testing must comport with sampling procedures under Rule 4-110.

i. For Remediation, the Regulated Marijuana Business shall process the Inventory Tracking System package, Harvest Batch, or Production Batch of Pre-Rolled Marijuana associated with the failed Test Batch into a Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate.

ii. The Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate that was manufactured pursuant to Paragraph (C)(3)(b) shall undergo all required contaminant testing pursuant to Rule 4-120(C) – Regulated Marijuana Testing Program – Contaminant Testing, potency testing pursuant to Rule 4-125 – Regulated Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Marijuana Code or these rules, including but not limited to microbial and mycotoxins contamination. Such testing must comport with the sampling procedures under Rule 4-110.

iii. If the Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate that was manufactured pursuant to Paragraph (C.5)(3)(b) fails contaminant testing, the Regulated Marijuana Business shall destroy and document the destruction of the Inventory Tracking System package(s) or Production Batch(es) of Solvent-Based

Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate pursuant to Rule 3-230 – Waste Disposal.

4. Nothing in this Rule removes or alters the responsibility of the Retail Marijuana Business Transferring the Retail Marijuana that failed microbial testing from complying with the requirement to pay excise tax pursuant to article 28.8 of title 39, C.R.S.

D. Failed Contaminant Testing: Pesticide Testing. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch failed Pesticide testing, then for each Inventory Tracking System package, Harvest Batch, or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 – Waste Disposal; or

2. Request that the Regulated Marijuana Testing Facility that reported the original fail conduct two additional analyses of the original Test Batch submitted in accordance with Rule 4-110.

a. If both retesting analyses pass the required Pesticide testing, then the Inventory Tracking System package, Harvest Batch, or Production Batch of Regulated Marijuana, Regulated Marijuana Concentrate, Regulated Marijuana Product, Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

b. If one or both of the retesting analyses do not pass Pesticide testing, then the Regulated Marijuana Business must destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 – Waste Disposal.

D.1. Failed Contaminant Testing: Elemental Impurities Testing of Regulated Marijuana Flower, Wet Whole Plant, and Trim. If a Regulated Marijuana Business is notified by the Division or a Testing Facility that a Test Batch of Regulated Marijuana flower, wet whole plant, or trim failed elemental impurities testing, then for each Inventory Tracking System package or Harvest Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package or Harvest Batch pursuant to Rule 3-230 Waste Disposal.

2. Request that the Regulated Marijuana Testing Facility that reported the original fail conduct two additional analyses of the original Test Batch submitted in accordance with Rule 4-110.

a. If both retesting analyses pass the required elemental impurities testing, then the Inventory Tracking System package or Harvest Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

b. If one or both of the retesting analyses do not pass elemental impurities testing, then the Regulated Marijuana Business must either destroy and document the destruction of the Inventory Tracking System package or Harvest Batch pursuant to Rule 3-230 – Waste Disposal or Remediate the Inventory Tracking System package or Harvest Batch pursuant to Paragraph (3).

3. If the failed Test Batch is not deemed hazardous waste per the Resource Conservation and Recovery Act or other applicable federal, state, or local regulations, then the Regulated Marijuana Business may Transfer all Regulated Marijuana from the Inventory Tracking System packages or Harvest Batch associated with that failed Test Batch to a Regulated Marijuana Products Manufacturer for Remediation.

    a. The Regulated Marijuana Business that Transfers the Retail Marijuana that failed elemental impurities testing must comply with the requirement to pay excise tax pursuant to article 28.8 of title 39, C.R.S.

    b. The Regulated Marijuana Products Manufacturer may Remediate the Inventory Tracking System package or Harvest Batch associated with the failed Test Batch by processing it into a Regulated Marijuana Concentrate. The Regulated Marijuana Products Manufacturer is prohibited from adding any other Regulated Marijuana to the Regulated Marijuana Concentrate it manufactures pursuant to this Rule.

    c. In addition to all applicable regulations, the Regulated Marijuana Products Manufacturer must comply with 3-230 (C)(1), 5-315(D)(9), and 6-315 (D)(9).

    d. The Regulated Marijuana Concentrate that was manufactured pursuant to Paragraph (D.1)(3)(b) shall undergo all required contaminant testing pursuant to Rule 4-120(C) Regulated Marijuana Testing Program Contaminant Testing, potency testing pursuant to Rule 4-125 - Regulated Marijuana Testing Program - Potency Testing, and any other testing required or allowed by the Marijuana Code or these rules, including but not limited to elemental impurities testing. Such testing must comport with the sampling procedures under Rule 4- 110.

    e. For elemental impurities testing, the Regulated Marijuana Business must create two new Test Batches from the Remediated Production Batch, each containing the requisite number of Samples, and have those Test Batches tested. Such testing must comport with the sampling procedures under Rule 4-110.

        i. A Licensee must either (1) submit both new Test Batches to the same Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Marijuana Testing Facilities.

        ii. If both Test Batches pass the required elemental impurities testing, then the Inventory Tracking System package or Harvest Batch associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

        iii. If one or both of the Test Batches do not pass elemental impurities testing, then the Regulated Marijuana Business must destroy and document the destruction of the Inventory Tracking System package or Harvest Batch pursuant to Rule 3-230 - Waste Disposal.

    f. All Production Batches undergoing Remediation for elemental impurities must be tested and are not eligible for a Reduced Testing Allowance or otherwise exempt from required testing.

4. Nothing in this Rule eliminates or alters the responsibility of the Retail Marijuana Business Transferring the Retail Marijuana that failed elemental impurities testing from

complying with the requirement to pay excise tax pursuant to article 28.8 of Title 39, C.R.S.

E. Failed Potency Testing. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch of Regulated Marijuana Product failed potency testing, then for each Inventory Tracking System package or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package or Production Batch pursuant to Rule 3-230 – Waste Disposal; or

2. Attempt corrective measures, if possible, and create two new Test Batches each containing the requisite number of Samples, and have those Test Batches tested for the required potency test that failed. Such testing must comport with the sampling procedures under Rule 4-110.

a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Regulated Marijuana Testing Facilities.

b. If both new Test Batches pass potency testing, then the Inventory Tracking System package or Production Batch associated with each Test Batch may be Transferred.

c. If one or both of the Test Batches do not pass potency testing, then the Regulated Marijuana Products Manufacturer must destroy and document the destruction of Inventory Tracking System package or Production Batch pursuant to Rule 3-230 – Waste Disposal.

F. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Part 5 – Medical Marijuana Business License Types

5-100 Series – Medical Marijuana Stores

Basis and Purpose – 5-105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(d)(I)-(VI), 44-10-313(7), 44-10-313(4), 44-10-313(14), 44-10-401(2)(a)(I), 44-10-501, and 44-10-505, C.R.S. The purpose of this rule is to establish a Medical Marijuana Store's license privileges. This Rule 5-105 was previously Rule M 401, 1 CCR 212-1.

5-105 – Medical Marijuana Store: License Privileges

A. Licensed Premises. To the extent authorized by Rule 3-215 – Medical Marijuana Business and Retail Marijuana Business – Shared Licensed Premises and Operational Separation, a Medical Marijuana Store may share a Licensed Premises with a commonly-owned Retail Marijuana Store. However, a separate license is required for each specific business or business entity, regardless of geographical location.

B. Authorized Sources of Medical Marijuana. A Medical Marijuana Store may only Transfer Medical Marijuana that was obtained from a Medical Marijuana Business.

C. Authorized Transfers. A Medical Marijuana Store may only Transfer Medical Marijuana to a patient, a primary caregiver, another Medical Marijuana Store, a Medical Marijuana Cultivation Facility, a Medical Marijuana Products Manufacturer, or a Medical Marijuana Testing Facility.

D. Samples Provided for Testing. A Medical Marijuana Store may provide Samples of its products to a Medical Marijuana Testing Facility for testing and research purposes. The Medical Marijuana Store shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

E. Authorized On-Premises Storage. A Medical Marijuana Store is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.

F. Authorized Marijuana Transport. A Medical Marijuana Store is authorized to utilize a licensed Medical Marijuana Transporter for transportation of its Medical Marijuana so long as the place where transportation orders are taken and delivered is a licensed Medical Marijuana Business. Nothing in this Rule prevents a Medical Marijuana Store from transporting its own Medical Marijuana.

G. Performance-Based Incentives. A Medical Marijuana Store may compensate its employees using performance-based incentives, including sales-based performance-based incentives.

H. Authorized Transfers of Industrial Hemp Products. This rule is effective July 1, 2020. A Medical Marijuana Store may Transfer Industrial Hemp Product to a patient only after it has verified:

1. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Medical Marijuana Testing Facility; and

2. That the Person Transferring the Industrial Hemp Product to the Medical Marijuana Store is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

I. Medical Marijuana Store Delivery Permit. A Medical Marijuana Store with a valid delivery permit may accept delivery orders and deliver Medical Marijuana to a patient who is 21 years of age or older, or the patient's parent or guardian who is also the patient's primary caregiver pursuant to Rule 3-615. A Medical Marijuana Store that does not possess a valid delivery permit cannot deliver Medical Marijuana to a patient, parent, or guardian.

J. Automated Dispensing Machines. A Medical Marijuana Store may use an automated machine in the Restricted Access Area of its Licensed Premises to dispense Regulated Marijuana to patients without interaction with an Owner Licensee or Employee Licensee if the automated machine is reasonably monitored and complies with all requirements of these rules including but not limited to:

1. Health and safety standards,

2. Testing,

3. Packaging and labeling requirements,

4. Inventory tracking,

5. Identification requirements, and

6. Transfer limits to patients.

K. Walk-up or Drive-Up Window. A Medical Marijuana Store may serve patients through a walk-up window or drive-up window pursuant to the requirements of this rule.

1. Modification of Premises Required. Before accepting orders for sales of Medical Marijuana to a patient through either a walk-up window or a drive-up window, a Medical Marijuana Store shall apply for, and obtain approval of, an application for a modification of its Licensed Premises for the addition of a walk-up window or a drive-up window.

2. The area immediately outside the walk-up window or drive-up window must be under the Licensee's possession and control and cannot include any public property such as public streets, public sidewalks, or public parking lots.

3. Order and Identification Requirements.

a. Prior to accepting an order or Transferring Medical Marijuana to a patient, the Employee Licensee or Owner Licensee must physically view and inspect the patient's identification and the patient's registry identification card.

b. The Medical Marijuana Store may accept internet or telephone orders or may accept orders from the patient at the walk-up or drive-up window.

c. All orders received through a walk-up window or drive-up window must be placed by the patient from a menu. The Medical Marijuana Store may not display Medical Marijuana at the walk-up window or drive-up window.

4. Payment Requirements. Cash, credit, debit, cashless ATM, or other payment methods are permitted for payment for Medical Marijuana at the walk-up window or drive-up window.

5. Video Surveillance Requirements. For every Transfer of Regulated Marijuana through either a walk-up window or drive-up window, the Medical Marijuana Store's video surveillance must enable the recording of the patient's identity (and patient's vehicle in the event of drive-up window), and must enable the recording of the Licensee verifying the patient's identification, registry identification card, and completion of the transaction through the Transfer of Regulated Marijuana.

6. Packaging and Labeling Requirements. A Medical Marijuana Store utilizing a walk-up or drive-up window must ensure that all Medical Marijuana is packaged and labeled in accordance with Rules 3-1010 and Rule 3-1015 prior to Transfer to the patient.

7. Local Restrictions. Transfers of Regulated Marijuana using a walk-up window or drive-up window are subject to requirements and restrictions imposed by the relevant Local Licensing Authority.

Basis and Purpose – 5-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-313(7), 44-10-313(4), 44-10-401(2)(a)(I), and 44-10-501, C.R.S. The purpose of this rule is to establish the requirements and processes applicable to a Medical Marijuana Store registering patients for primary store purposes. This Rule 5-110 was previously Rule M 402, 1 CCR 212-1.

5-110 – Registration of a Primary Medical Marijuana Store

A. Patient Designation Required. A Medical Marijuana Store may possess in the aggregate, only the amount of Medical Marijuana permitted by Rule 5-115 for each patient who has designated the Medical Marijuana Store as being his or her primary store. A patient's designation of a Medical Marijuana Store as his or her primary Medical Marijuana Store in accordance with these Rules establishes the Medical Marijuana Store registration requirements set forth in section 25-1.5-106(8)(f), C.R.S.

B. Change Only Allowed Every 30 Days. A Medical Marijuana Store shall not register a patient as being the patient's primary store if the patient has designated another Medical Marijuana Store as his or her primary store in the preceding 30 days. The Medical Marijuana Store and its employees must require a patient to sign in writing that he or she has not designated another Medical Marijuana Store as his or her primary store before including that patient's Medical Marijuana in its maximum allowed on-hand Medical Marijuana inventory calculation under Rule 5-115.

C. Notification to Former Medical Marijuana Store. A Medical Marijuana Store must maintain a copy of a written or electronic notification that it provided to a patient's former primary Medical Marijuana Store advising that the Medical Marijuana Store has been designated as the patient's new primary Medical Marijuana Store.

D. Documents Required. In addition to all records required to be maintained by Rule 3-905 – Business Records Required, the new primary Medical Marijuana Store shall maintain:

1. Written authorization from the patient;

2. A hard or electronic copy of the patient's registry card;

3. A copy of the patient's proof of identification; and.

4. The physician certification and, if authorized for sales exceeding the statutory daily limits the patient's uniform certification form.

E. Violation Affecting Public Safety. Notwithstanding the provisions in Rule 5-110(B), it may be considered a violation affecting public safety for a Medical Marijuana Store and its employees to become a patient's primary store when the patient already had designated one or more other Medical Marijuana Stores as his or her primary store.

Basis and Purpose – 5-115

The statutory authority for this includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-313(7), 44-10-313(4), 44-10-401(2)(a)(I), 44-10-501, and 44-10-505, 44-10-501(10) C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 14(4). The purpose of this rule is to clarify those acts that are prohibited, or limited in some fashion, by a licensed Medical Marijuana Store.

The sales limitations provision reflects the sales limitation imposed by statute. Clarifying the limitations on sales provides Medical Marijuana Stores and their employees with necessary information to avoid being complicit in a patient acquiring more Medical Marijuana than is lawful under the Colorado Constitution pursuant to Article XVIII, Subsection 14(4).

This Rule 5-115 was previously Rule M 403, 1 CCR 212-1.

5-115 – Medical Marijuana Sales: General Limitations or Prohibited Acts

A. Possession Limits. A Medical Marijuana Store may only possess at its Licensed Premises the number of ounces of Medical Marijuana (excluding Medical Marijuana Products and Medical Marijuana Concentrate) that equals the greater of: 1) twice the total, aggregate ounces of Medical

Marijuana all of its registered patients are allowed to possess, or 2) the total, aggregate ounces of Medical Marijuana that the Medical Marijuana Store Transferred to patients in the thirty (30) previous calendar days. Under no circumstance shall a Medical Marijuana Store possess more Medical Marijuana than permitted by this subparagraph.

B. Medical Marijuana Products Manufacturers. A Medical Marijuana Store may also contract for the manufacture of Medical Marijuana Product with Medical Marijuana Products Manufacturer Licensees utilizing a contract as provided for in Rule 5-310 – Medical Marijuana Products Manufacturer: General Limitations or Prohibited Acts (Infused Product Contracts). Medical Marijuana distributed to a Medical Marijuana Products Manufacturer by a Medical Marijuana Store pursuant to such a contract for use solely in Medical Marijuana Product(s) that are returned to the contracting Medical Marijuana Store shall not be included for purposes of determining compliance with paragraph A.

B.5 Standard Operating Procedures. A Medical Marijuana Store must establish written standard operating procedures for the management and storage of Medical Marijuana inventory and the sale of Medical Marijuana to patients. A written copy of the standard operating procedures must be maintained on the Licensed Premises.

1. A Medical Marijuana Store must provide adequate training to every Owner Licensee and Employee Licensee who performs a task or set of tasks that are referenced in the standard operating procedures. Adequate training must include, but need not be limited to, providing a copy of the standard operating procedures for that Licensed Premises detailing at least all of the topics required to be included in the standard operating procedures.

C. Patient Sales Requirements. A Medical Marijuana Store shall comply with the sales and Inventory Tracking requirements in Rule 5-125.

C.5. Educational Resource. When completing a sale of Medical Marijuana Concentrate, a Medical Marijuana Store shall provide the patient with the tangible educational resource created by the State Licensing Authority regarding the use of Regulated Marijuana Concentrate

D. Repealed.

E. Transfer Restriction.

1. Sampling Units. A Medical Marijuana Store may not possess or Transfer Sampling Units.

2. Research Transfers Prohibited. A Medical Marijuana Store shall not Transfer any Medical Marijuana to a Pesticide Manufacturer or a Marijuana Research and Development Facility.

F. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to Transfer Medical Marijuana to a patient.

G. Delivery Outside Colorado Prohibited. A Medical Marijuana Store holding a valid delivery permit shall not deliver Medical Marijuana to an address that is outside the state of Colorado.

H. Storage and Display Limitations. A Medical Marijuana Store shall not display Medical Marijuana outside of a designated Restricted Access Area or in a manner in which Medical Marijuana can be seen from outside the Licensed Premises. Storage of Medical Marijuana shall otherwise be maintained in Limited Access Areas or Restricted Access Area.

I. Transfer of Expired Product Prohibited. A Medical Marijuana Store shall not Transfer any expired Medical Marijuana Product to a patient.

J. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit.

1. The Transfer of Edible Medical Marijuana Product in the following shapes is prohibited:

a. The distinct shape of a human, animal, or fruit; or

b. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

2. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Medical Marijuana Business. Nothing in this subparagraph (L)(2) alters or eliminates a Licensee's obligation to comply with the requirements of the 3-1000 Series Rules – Packaging, Labeling, and Product Safety.

3. Edible Medical Marijuana Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and

4. Edible Medical Marijuana Products that are manufactured in the shape of a marijuana leaf are permissible.

K. Adverse Health Event Reporting. A Medical Marijuana Store must report Adverse Health Events pursuant to Rule 3-920.

L. Corrective and Preventive Action. This paragraph L shall be effective January 1, 2021. A Medical Marijuana Store shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

M. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-120

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(b), 44-10-203(1)(k), and 44-10-203(3)(h), C.R.S. The purpose of this rule is to establish that a Medical Marijuana Store must control and safeguard access to certain areas where Medical Marijuana will be sold, and to prevent diversion to non-patients. This Rule 5-120 was previously Rule M 404, 1 CCR 212-1.

5-120 – Point of Sale: Restricted Access Area

A. Identification of Restricted Access Area. All areas where Medical Marijuana is sold, possessed for sale, displayed, or dispensed for sale shall be identified as a Restricted Access Area and shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Restricted Access Area – Only Medical Marijuana Patients Allowed."

B. Patients in Restricted Access Area. The Restricted Access Area must be supervised by a Licensee at all times to ensure that only persons with a valid patient registry card, primary caregivers of minors with a valid patient registry card (which may include guardians or parents of minors), advising caregivers who accompany patients that hold a valid registry card and whom they are advising, or transporting caregivers permitted to deliver Medical Marijuana to homebound patients as permitted by section 25-1.5-106(9)(e), C.R.S., are present in the Restricted Access Area. When allowing a patient or caregiver access to a Restricted Access Area, Employee Licensees shall make reasonable efforts to limit the number of patients and caregivers in relation to the number of Employee Licensees in the Restricted Access Area at any time.

C. Display of Medical Marijuana. The display of Medical Marijuana for sale is allowed only in Restricted Access Areas. Any product displays that are readily accessible to the patient must be supervised by the Employee Licensee at all times when patients are present.

D. Pregnancy Warning. Medical Marijuana Stores must post, at all times and in a prominent place inside the Restricted Access Area, a warning that is at minimum three inches high and six inches wide that reads:

> **WARNING:** Using marijuana, in any form, while you are pregnant or breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of marijuana use during pregnancy or breastfeeding.

Basis and Purpose– 5-125

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(d)(I)-(VI), 44-10-313(7), 44-10-313(4), 44-10-401(2)(a)(I), 44-10-501, and 44-10-505, C.R.S. The purpose of this rule is to identify Medical Marijuana Store sales requirements including patient quantity limits, Inventory Tracking System requirements to identify discrepancies with daily authorized quantity limits and THC potency authorizations and to require that Medical Marijuana Stores provide an educational resource to patients regarding the use of Medical Marijuana Concentrate.

5-125 – Patient Sale Requirements

A. Sales Limitations.

1. A Medical Marijuana Store and its employees shall not sell to a patient in a single business day, individually or in any combination, more than:

   a. Two ounces of medical marijuana flower; or

   b. Eight grams of Medical Marijuana Concentrate for a patient 21 years old of age or older, or two grams of Medical Marijuana Concentrate for a patient between 18 and 20 years old; or

   c. Medical Marijuana Products containing a combined total of 20,000 mg.

2. A Medical Marijuana Store and its employees shall not sell more than:

   a. Six Immature plants unless the patient has designated the Medical Marijuana Store as his or her primary store and supplied it with documentation from the patient's physician allowing the patient more than six plants;

   b. One half of the patient's extended plant count to a patient who has designated the Medical Marijuana Store as his or her primary store and supplied it with documentation from the patient's physician allowing the patient more than six plants; or

   c. Six Medical Marijuana plant seeds unless the patient has designated the Medical Marijuana Store as his or her primary store and supplied it with documentation from the patient's physician allowing the patient more than six Medical Marijuana seeds. One Medical Marijuana plant is equivalent to one Medical Marijuana seed.

3. Exemptions to Sales Limitations.

   a. A Medical Marijuana Store may sell Medical Marijuana or Medical Marijuana Product in an amount that exceeds the sales limitation in subparagraph (C)(1) of this Rule if:

      i. The patient has received a physician recommendation for more than two ounces of Medical Marijuana flower and the patient has designated the Medical Marijuana Store as his or her primary store;

      ii. The patient has received a physician recommendation exempting the patient from the Medical Marijuana Product sales limitation and the patient has designated the Medical Marijuana Store as his or her primary store;

      iii. The patient has designated the Medical Marijuana Store as his or her primary store and the patient has received a physician recommendation exempting the patient from the Medical Marijuana Concentrate sales limitation because:

         A. Repealed;

         B. The uniform certification form specifically states that the patient needs more than eight grams of Medical Marijuana Concentrate if a patient is 21 years or age or older, or two grams of Medical

Marijuana Concentrate if the patient is between 18 and 20 years old;

C. It would be a significant Physical or Geographic Hardship for the patient to make a daily purchase; or

D. The patient had a registry identification card prior to 18 years of age.

iv. If the patient is homebound, with a physician recommendation exempting the patient from the Medical Marijuana Concentrate sales limitation, the patient is not required to register with a Medical Marijuana Store.

b. Significant Physical Hardship: A patient's physician who has a bona fide patient-physician relationship may provide an exemption to the patient's daily Medical Marijuana Concentrate sales limits based on the physician's determination that the patient has a significant physical hardship. The physician's determination of a significant physical hardship must be documented on the patient's uniform certification form which must be signed by the patient's physician. The circumstances that constitute a significant physical hardship are as follows:

i. The patient has been diagnosed with a chronic or debilitating disease or disabling medical condition or limited physical condition that restricts the mobility of the patient;

ii. The patient does not have the ability to obtain a driver's license based on the patient's medical condition; or

iii. The patient cannot use, or it would be onerous for the patient to use, public transportation or another ride sharing service based on the patient's medical condition.

c. Significant Geographic Hardship: A patient's physician who has a bona fide patient-physician relationship may provide an exemption to the patient's daily Medical Marijuana Concentrate sales limits based on the physician's determination that the patient has a significant geographic hardship. The physician's determination of a significant geographic hardship must be documented on the patient's uniform certification form which must be signed by the patient's physician. The circumstances that constitute a significant geographic hardship are as follows:

i. The patient does not reside in the following counties: Adams, Arapahoe, Boulder, Denver, Douglas, El Paso, Jefferson, Larimer, or Pueblo; and

ii. At least one of the following circumstances:

A. The patient resides in a county that does not permit the operation of Medical Marijuana Stores and that county is not listed above; or

B. The patient does not have a means of transportation and resides in an area without public transportation or Medical Marijuana Stores cannot be accessed by a patient using public transportation; or

C. The physician recommended a Medical Marijuana Concentrate that is not available from a Medical Marijuana Store located in the patient's county of residence.

B. Multiple Transactions. For purposes of Rule 5-125(A), a single transaction to a patient includes multiple Transfers to the same patient during the same business day where the Medical Marijuana Store employee knows or reasonably should know that such Transfer would result in the patient possessing more than the quantities of Medical Marijuana set forth above. In determining the imposition of any penalty for violation of this Rule 5-125(A), the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235(C).

C. Inventory Tracking Requirements.

1. Before Completing a Transfer of Medical Marijuana to a patient, a Medical Marijuana Store and its Employee Licensee shall access and retrieve real-time sales data based on the patient identification number to verify that a sale to the patient will not exceed the daily authorized sales limit. The Medical Marijuana Store and Employee Licensee shall decline to complete the Transfer of Medical Marijuana to the patient if it would exceed the patient's daily authorized purchase limit which may be determined by a user error message from the Inventory Tracking System.

2. At the time of the sale to the patient the Medical Marijuana Store and its Employee Licensee shall record the sale in real time in the Inventory Tracking System. A Medical Marijuana Store may use a secondary software platform to transmit patient sale data to the Inventory Tracking system.

3. Temporary Outage of Inventory Tracking System. A Medical Marijuana Store may rely on the uniform certification form and is not responsible for any unintentional sale in excess of the authorized Medical Marijuana quantity limit that occurs during the outage, provided that the Medical Marijuana Store uploads its sales data into the Inventory Tracking System as soon as reasonably practicable after the end of the outage. A temporary outage is any event in which there is a technology-related inability to enter or retrieve real time sales data from the Inventory Tracking System.

D. Educational Resource. When completing a sale of Medical Marijuana Concentrate, a Medical Marijuana Store shall provide the patient with the tangible educational resource created by the State Licensing Authority regarding the use of Regulated Marijuana Concentrate.

E. Confidentiality. All data collected pursuant to Rule, including any personal identifying patient information, is subject to the confidentiality requirements of 44-10-204, C.R.S.

F. Violation Affecting Public Safety. Violation of this Rule may be considered a license violation affecting public safety

5-200 Series – Medical Marijuana Cultivation Facility: License Privileges

Basis and Purpose – 5-205

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-401(2)(a)(II), 44-10-313, 44-10-502, and 44-10-503, C.R.S. The purpose of this rule is to establish a Medical Marijuana Cultivation Facility's license privileges in addition to the privileges outlined in these rules. This Rule 5-205 was previously Rule M 501, 1 CCR 212-1.

5-205 – Medical Marijuana Cultivation Facility: License Privileges

A. Licensed Premises. To the extent authorized by Rule 3-215 – Regulated Marijuana Business – Shared Licensed Premises and Operational Separation, a Medical Marijuana Cultivation Facility may share a Licensed Premises with a commonly owned Retail Marijuana Cultivation Facility. However, a separate license is required for each specific business entity regardless of geographical location. In addition, a Medical Marijuana Cultivation Facility may share and operate at the same Licensed Premises as a Marijuana Research and Development Facility so long as:

1. Each business or business entity holds a separate license;

2. The Marijuana Research and Development Facility obtains an R&D Co-Location Permit;

3. Both the Marijuana Research and Development Facility and the Medical Marijuana Cultivation Facility comply with all terms and conditions of the R&D Co-Location Permit; and

4. Both the Marijuana Research and Development Facility and the Medical Marijuana Cultivation Facility comply with all applicable rules. *See* 5-700 Series Rules.

B. Cultivation of Medical Marijuana and Production of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Medical Marijuana Concentrate Authorized. A Medical Marijuana Cultivation Facility may propagate, cultivate, harvest, prepare, cure, package, store, and label Medical Marijuana and Physical Separation-Based Medical Marijuana Concentrate. A Medical Marijuana Cultivation Facility may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Medical Marijuana Concentrate.

C. Authorized Transfers. A Medical Marijuana Cultivation Facility may Transfer Medical Marijuana and Physical Separation-Based Medical Marijuana Concentrate to another Medical Marijuana Cultivation Facility, a Medical Marijuana Store, a Medical Marijuana Products Manufacturer, a Medical Marijuana Testing Facility, a Marijuana Research and Development Facility, or a Pesticide Manufacturer.

1. A Medical Marijuana Cultivation Facility shall not Transfer Flowering plants. A Medical Marijuana Cultivation Facility may only Transfer Vegetative plants as authorized pursuant to Rule 3-605.

2. A Medical Marijuana Cultivation Facility may Transfer Sampling Units of Medical Marijuana or Medical Marijuana Concentrate to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-502(5), C.R.S., and Rule 5-230.

3. A Medical Marijuana Cultivation Facility may Transfer Medical Marijuana or Medical Marijuana Concentrate to another Medical Marijuana Cultivation Facility prior to testing required by these rules only if such Transfer is in accordance with one of the two options below.

   a. The Medical Marijuana Cultivation Facility may Transfer Medical Marijuana or Medical Marijuana Concentrate to another Medical Marijuana Cultivation Facility prior to testing if such Transfer is for the purpose of Decontamination and only after all other steps outlined in the Medical Marijuana Cultivation Facility's standard operating procedures have been completed, including but not limited to drying, curing, and trimming; or

   b. The Medical Marijuana Cultivation Facility may Transfer Medical Marijuana or Medical Marijuana Concentrate to another Medical Marijuana Cultivation Facility prior to testing, drying, curing, trimming, or completion of any other steps in the

Medical Marijuana Cultivation Facility's standard operating procedures, subject to the following additional requirements:

i. The Medical Marijuana Cultivation Facility receiving the Transfer is identified as a centralized processing hub in the Inventory Tracking System and must have identical Controlling Beneficial Owner(s) with the originating Medical Marijuana Cultivation Facility;

ii. An originating Medical Marijuana Cultivation Facility may only Transfer Medical Marijuana to one receiving Medical Marijuana Cultivation Facility that will be serving as a centralized processing hub.

iii. The Medical Marijuana or Medical Marijuana Concentrate is weighed prior to leaving the originating Medical Marijuana Cultivation Facility and immediately upon receipt at the receiving Medical Marijuana Cultivation Facility and in accordance with Rule 3-605;

iv. The Transfer, weighing and entry into the Inventory Tracking System are all completed within 24 hours from initiating the Transfer;

v. The receiving Medical Marijuana Cultivation Facility is responsible for compliance with all testing requirements regardless of any testing performed prior to Transfer. If the receiving Medical Marijuana Cultivation Facility is pursuing a Reduced Testing Allowance, a Reduced Testing Allowance must be achieved separately for Medical Marijuana received from each originating Medical Marijuana Cultivation Facility. A Medical Marijuana Cultivation Facility that has achieved a Reduced Testing Allowance must maintain and produce complete testing records that can verify that facility's compliance with testing and Reduced Testing Allowance requirements; and

vi. The standard operating procedures for the originating Medical Marijuana Cultivation Facility and receiving Medical Marijuana Cultivation Facility clearly reflect the steps taken by each facility to Transfer, transport, receive, process, and test Harvest Batches.

4. A Medical Marijuana Cultivation Facility may Transfer Medical Marijuana to a Retail Marijuana Cultivation Facility or Accelerator Cultivator in accordance with Rules 5-235, 6-230, and 6-730.

D. Packaging Processed Medical Marijuana. Processed Medical Marijuana plants shall be packaged in units of ten pounds or less and labeled pursuant to the 3-1000 Series Rules – Labeling, Packaging, and Product Safety, and securely sealed in a tamper-evident manner.

E. Authorized Marijuana Transport. A Medical Marijuana Cultivation Facility is authorized to utilize a licensed Medical Marijuana Transporter for transportation of its Medical Marijuana so long as the place where transportation orders are taken is a Medical Marijuana Business and the transportation order is delivered to a licensed Medical Marijuana Business or Pesticide Manufacturer. Nothing in this Rule prevents a Medical Marijuana Cultivation Facility from transporting its own Medical Marijuana.

F. Performance-Based Incentives. A Medical Marijuana Cultivation Facility may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, a Medical Marijuana Cultivation Facility may not compensate a Sampling Manager using Sampling Units. *See* Rule 5-230 – Sampling Unit Protocols.

G. Authorized Sources of Medical Marijuana, Seeds, and Immature Plants. A Medical Marijuana Cultivation Facility shall only obtain Medical Marijuana seeds or Immature Plants from its own Medical Marijuana, properly Transferred Retail Marijuana cultivated at a Retail Marijuana Cultivation Facility with at least one identical Controlling Beneficial Owner, or properly Transferred from another Medical Marijuana Business pursuant to the inventory tracking requirements in the Rule 3-800 Series. A Medical Marijuana Cultivation Facility may also receive Transfers of Retail Marijuana from a Retail Marijuana Cultivation Facility or Accelerator Cultivator in compliance with Rules 5-235, 6-230, and 6-730. A Medical Marijuana Cultivation facility may not bring seeds, Immature Plants, or other marijuana that is not Regulated Marijuana onto the Licensed Premises at any time.

H. Centralized Distribution Permit. A Medical Marijuana Cultivation Facility may apply to the State Licensing Authority for a Centralized Distribution Permit for authorization to temporarily store Medical Marijuana Concentrate and Medical Marijuana Product received from a Medical Marijuana Products Manufacturer for the sole purpose of Transfer to commonly owned Medical Marijuana Stores.

1. For purposes of a Centralized Distribution Permit only, the term “commonly owned” means at least one natural person who is disclosed to the Division who has a minimum of five percent ownership in both the Medical Marijuana Cultivation Facility possessing a Centralized Distribution Permit and the Medical Marijuana Store to which the Medical Marijuana Concentrate and Medical Marijuana Product will be Transferred.

2. To apply for a Centralized Distribution Permit, a Medical Marijuana Cultivation Facility may submit an addendum to its new or renewal application or a separate addendum prior to a renewal application on forms prepared by the Division to request a Centralized Distribution Permit. The Medical Marijuana Cultivation Facility shall send a copy of its Centralized Distribution Permit addendum to the Local Licensing Authority in the jurisdiction in which the Centralized Distribution Permit is proposed at the same time it submits the addendum to the State Licensing Authority.

3. A Medical Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit and has obtained all required approvals from the local licensing jurisdiction where it is located, if any, may accept Transfers of Medical Marijuana Concentrate and Medical Marijuana Product from a Medical Marijuana Products Manufacturer for the sole purpose of temporary storage and Transfer to commonly owned Medical Marijuana Stores.

    a. A Medical Marijuana Cultivation Facility may only accept Medical Marijuana Concentrate and Medical Marijuana Product that is packaged and labeled for sale to a patient pursuant to the 3-1000 Series Rules.

    b. A Medical Marijuana Cultivation Facility storing Medical Marijuana Concentrate and Medical Marijuana Product pursuant to a Centralized Distribution Permit shall not store such Medical Marijuana Concentrate or Medical Marijuana Product on the Medical Marijuana Cultivation Facility’s Licensed Premises for more than 90 days from the date of receipt.

    c. All Transfers of Medical Marijuana Concentrate and Medical Marijuana Product by a Medical Marijuana Cultivation Facility shall be without consideration.

4. All security and surveillance requirements that apply to a Medical Marijuana Cultivation Facility apply to activities conducted pursuant to the privileges of a Centralized Distribution Permit.

I. Transition Permit. A Medical Marijuana Cultivation Facility may only operate at two geographical locations pursuant to Rule 2-255(D).

Basis and Purpose – 5-210

The statutory authority for this rule includes but is not limited to sections 44-10-201, 44-10-202(1)(c), 44-10-203(1)(k), 44-10-313, 44-10-401(2)(a)(II), 44-10-501, 44-10-502, 44-10-503, and 44-10-505, C.R.S. The purpose of this rule is to clarify what activity is or is not allowed at a Medical Marijuana Cultivation Facility. This Rule 5-210 was previously Rule M 502, 1 CCR 212-1.

5-210 – Medical Marijuana Cultivation Facility: General Limitations or Prohibited Acts

A. Packaging and Labeling Standards Required. A Medical Marijuana Cultivation Facility is prohibited from Transferring Medical Marijuana and Medical Marijuana Concentrate that is not packaged and labeled in accordance with these rules. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

B. Transfer to Patient Prohibited. A Medical Marijuana Cultivation Facility is prohibited from Transferring Medical Marijuana to a patient. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-502(5), C.R.S., and Rule 5-230.

C. Inventory Limit. A Medical Marijuana Cultivation Facility shall not possess more plants than it is permitted to possess based on its production management class. *See* Rule 5-225 – Medical Marijuana Cultivation Facility: Production Management.

D. Corrective and Preventive Action. This paragraph D shall be effective January 1, 2021. A Medical Marijuana Cultivation Facility shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

E. Adverse Health Event Reporting. A Medical Marijuana Cultivation Facility must report Adverse Health Events pursuant to Rule 3-920.

Basis and Purpose – 5-215

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(i), 44-10-203(2)(d)(I)-(VI), 44-10-502(3), and 44-10-401(2)(a)(II), C.R.S. The purpose of this rule is to permit laboratory testing of Medical Marijuana for Medical Marijuana Cultivation Facilities. The State Licensing Authority intends this rule to help maintain the integrity of Colorado's Medical Marijuana Businesses. This Rule 5-215 was previously Rule M 505, 1 CCR 212-1.

5-215 – Medical Marijuana Cultivation Facility: Testing

A. Samples on Demand. Medical Marijuana Cultivation Facility shall, upon request of the Division, submit a sufficient quantity of Medical Marijuana to a Medical Marijuana Testing Facility to enable laboratory or chemical analysis thereof. The Division will notify the Licensee of the results of the analysis. *See* Rule 3-805 – Regulated Marijuana Business: Inventory Tracking System and Rule 3-405 – Business Records Required.

B. Samples Provided for Testing. A Medical Marijuana Cultivation Facility may provide Samples of its Medical Marijuana to a Medical Marijuana Testing Facility for testing and research purposes. The Medical Marijuana Cultivation Facility shall maintain the testing results as part of its business books and records. *See* Rule 3-405 – Business Records Required.

Basis and Purpose – 5-220

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(d), 44-10-203(1)(k), 44-10-203(1)(c), 44-10-203(2)(d)(I)-(VI), and 44-10-401(2)(a)(II), C.R.S. The purpose of this rule is to establish the categories of Medical Marijuana Concentrate that may be produced at a Medical Marijuana Cultivation Facility and standards for the production of those concentrate. This Rule 5-220 was previously Rule M 506, 1 CCR 212-1.

5-220 – Medical Marijuana Cultivation Facility: Medical Marijuana Concentrate Production

A. Permitted Production of Certain Categories of Medical Marijuana Concentrate. A Medical Marijuana Cultivation Facility may only produce Physical Separation-Based Medical Marijuana Concentrate on its Licensed Premises and only in an area clearly designated as a Limited Access Area. *See* Rule 3-405- Business Records Required. No other method of production or extraction for Medical Marijuana Concentrate may be conducted within the Licensed Premises of a Medical Marijuana Cultivation Facility unless the Controlling Beneficial Owner(s) of the Medical Marijuana Cultivation Facility also has a valid Medical Marijuana Products Manufacturer license and the room in which Medical Marijuana Concentrate is to be produced is physically separated from all cultivation areas and has clear signage identifying the room.

B. Safety and Sanitary Requirements for Concentrate Production. If a Medical Marijuana Cultivation Facility produces Physical Separation-Based Medical Marijuana Concentrate, then all areas in which those concentrates are produced and all Owner Licensees and Employees Licensees engaged in the production of those concentrate shall be subject to all of requirements imposed upon a Medical Marijuana Products Manufacturer that produces Medical Marijuana Concentrate, including general requirements. *See* 3-300 Series Rules – Health and Safety Regulations and

Rule 5-315 Medical Marijuana Products Manufacturer: Medical Marijuana Concentrate Production.

C. Possession of Other Categories of Medical Marijuana Concentrate.

1. It shall be considered a violation of this Rule if a Medical Marijuana Cultivation Facility possesses a Medical Marijuana Concentrate other than a Physical Separation-Based Medical Marijuana Concentrate on its Licensed Premises unless: the Controlling Beneficial Owner(s) of the Medical Marijuana Cultivation Facility also has a valid Medical Marijuana Products Manufacturer license, or the Medical Marijuana Cultivation Facility has been issued a Centralized Distribution Permit and is in possession of the Medical Marijuana Concentrate in compliance with Rule 5-205(H).

2. Notwithstanding subparagraph (C)(1) of this Rule 5-220, a Medical Marijuana Cultivation Facility shall be permitted to possess Solvent-Based Medical Marijuana Concentrate only when the possession is due to the Transfer of Medical Marijuana flower or trim that failed microbial testing to a Medical Marijuana Products Manufacturing Facility for processing into a Solvent-Based Medical Marijuana Concentrate, and the Medical Marijuana Products Manufacturer Transfers the resultant Solvent-Based Medical Marijuana Concentrate back to the originating Medical Marijuana Cultivation Facility.

a. The Medical Marijuana Cultivation Facility shall comply with all requirements in Rule 4-135(C) when having Solvent-Based Medical Marijuana Concentrate manufactured out of Medical Marijuana flower or trim that failed microbial testing.

b. The Medical Marijuana Cultivation Facility is responsible for submitting the Solvent-Based Medical Marijuana Concentrate for all required testing for contaminants pursuant to Rule 4-120 – Medical Marijuana Testing Program – Contaminant Testing, for potency pursuant to Rule 4-125 – Medical Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Marijuana Rules or Marijuana Code.

D. Production of Alternative Use Product or Audited Product Prohibited. A Medical Marijuana Cultivation Facility shall not produce an Alternative Use Product or Audited Product.

E. Possession of Alternative Use Product or Audited Product. A Medical Marijuana Cultivation Facility is authorized to possess or Transfer Alternative Use Product and/or Audited Product only if the Medical Marijuana Cultivation Facility received the Alternative Use Product and/or Audited Product pursuant to a Centralized Distribution Permit from a Medical Marijuana Products Manufacturer that is manufacturing and Transferring the Alternative Use Product or Audited Product in accordance with Rule 5-325.

Basis and Purpose – 5-225

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(5), 44-10-401(2)(a)(II), 44-10-502, C.R.S. The rule establishes a means by which to manage the overall production of Medical Marijuana. The intent of this rule is to encourage responsible production to meet demand for Medical Marijuana, while also avoiding overproduction or underproduction. The establishment of production management is necessary to ensure there is not significant under or over production, either of which will increase incentives to engage in diversion and facilitate the sale of illegal marijuana. This Rule 5-225 was previously Rule M 507, 1 CCR 212-1.

5-225 – Medical Marijuana Cultivation Facility: Production Management

A. One Medical Marijuana Cultivation Facility per Licensed Premises. Except as permitted by subparagraph (B)(1)(b), a Licensed Premises shall only have one Medical Marijuana Cultivation Facility license and each Licensed Premises must be located at a distinct address recognized by the local jurisdiction.

1. Existing Medical Marijuana Cultivation Facilities that have Multiple Licenses at a single Licensed Premises.

a. Mandatory Collapse for Licenses with Identical Controlling Beneficial Owner Percentages.

i. Medical Marijuana Cultivation Facilities that have multiple licenses at a single Licensed Premises and that have identical Controlling Beneficial Owners holding identical ownership percentages are subject to mandatory collapse. Such Licensees shall notify the Division prior to June 30, 2019 which Medical Marijuana Cultivation Facility license they desire to survive. The Medical Marijuana Cultivation Facility license identified as the surviving license will remain active after July 1, 2019; all other Medical Marijuana Cultivation Facility licenses shall be surrendered effective July 1, 2019.

ii. The production management class for the surviving Medical Marijuana Cultivation Facility license will be calculated pursuant to subparagraph (B)(3) below using the aggregate average plants actually cultivated by all Medical Marijuana Cultivation Facility licenses that were located at the Licensed Premises during the period January 1, 2018 to December 31, 2018.

b. Optional Collapse for Licenses with Non-Identical Controlling Beneficial Owner Percentages. Medical Marijuana Cultivation Facilities that have multiple licenses at a single Licensed Premises and that do not have identical Controlling Beneficial Owners holding identical ownership percentages as of July 1, 2019, may continue operating all Medical Marijuana Cultivation Facility licenses that existed at that Licensed Premises prior to July 1, 2019. The maximum plant count for each such Medical Marijuana Cultivation Facility will be calculated pursuant to subparagraph (B)(3) below based on the number of average plants actually cultivated by that Medical Marijuana Cultivation Facility during the period January 1, 2018 to December 31, 2018.

i. Medical Marijuana Cultivation Facilities that are permitted to continue operating multiple licenses at a single Licensed Premises after July 1, 2019, may collapse through one or more approved change of ownership applications, or one or more voluntary license surrenders, establishing identical Controlling Beneficial Owners holding identical ownership percentages for all Medical Marijuana Cultivation Facilities at the single Licensed Premises.

ii. For any change of ownership application or voluntary license surrender seeking collapse after July 1, 2019, the Medical Marijuana Cultivation Facility shall identify the license that will survive. The Medical Marijuana Cultivation Facility license identified as the surviving license will remain after collapse; all other Medical Marijuana Cultivation Facility licenses will be surrendered at the time of collapse.

iii. The class for the surviving Medical Marijuana Cultivation Facility license will be determined according to subparagraph (B)(3) below based on the

aggregate average number of Medical Marijuana plants actually cultivated by all Medical Marijuana Cultivation Facility Licensees that were located at the Licensed Premises during the 180 days prior to the collapse.

2. Collapse after July 1, 2019. After July 1, 2019, Medical Marijuana Cultivation Facility licenses shall be permitted to collapse at a single Licensed Premises through an approved change of location application if all Medical Marijuana Cultivation Facility licenses for which collapse is sought meet the following requirements:

   a. All Medical Marijuana Cultivation Facility licenses sought to be collapsed have been consistently operating for at least 180 days prior to the proposed collapse;

   b. All Medical Marijuana Cultivation Facility licenses sought to be collapsed have identical Controlling Beneficial Owners holding identical ownership percentages;

   c. There is no pending administrative action regarding any of Medical Marijuana Cultivation Facility licenses sought to be collapsed;

   d. The class for the surviving Medical Marijuana Cultivation Facility license has not been decreased in the 180 days prior to the change of location application;

   e. All Medical Marijuana Cultivation Facility Licensees identify the desired surviving license and agree that all other Medical Marijuana Cultivation Facility licenses will be surrendered at the time of collapse; and

   f. Determining Class for Surviving License.

      i. Surviving License Class Will Not Decrease. The class for the surviving license will not be decreased as a result of any approved change of location application.

      ii. Surrendered License is Class 1, Class 2, or Class 3. For the surviving license to increase one class or one increment of 3,000 plants if already higher than class 3, during the 180 days prior to the change of location application, the surrendered license must have cultivated at least 50% of the maximum authorized plant count and Transferred at least 85% of the inventory it produced during that time.

      iii. Surrendered License is Higher than Class 3. For the surviving license to increase by the maximum authorized plant count of the surrendered license, during the 180 days prior to the change of location application the surrendered license must have cultivated at least 50% of the maximum authorized plant count and Transferred at least 85% of the inventory it produced during that time. If during the 180 days prior to the change of location application, the surrendering license did not cultivate at least 50% of the maximum authorized plant count and Transfer at least 85% of the inventory it produced, the surviving license will only increase one class or one increment of 3,000 plants if already higher than class 3.

      iv. Division Determination of Class. If a collapse results in a maximum authorized plant count in the middle of a class, the surviving license's maximum authorized plant count will be rounded up to the top of that class.

B. Production Management.

1. Production Management Classes.

a. Class 1: 1 – 500 plants

b. Class 2: 501 – 1,500 plants

c. Class 3: 1,501 – 3,000 plants

i. The maximum authorized plant count above 3,000 plants shall increase in one or two increments of 3,000 plants. A Medical Marijuana Cultivation Facility may be allowed to increase its maximum authorized plant count one or two increments of 3,000 plants at a time upon application and approval by the Division pursuant to the requirements of paragraph (E) of this Rule 5-225.

2. All initial Medical Marijuana Cultivation Facility licenses issued on or after July 1, 2019 will be issued as a Class 1 License.

3. Each Medical Marijuana Cultivation Facility with a license(s) granted before July 1, 2019, at a minimum, will be placed into the production management class that includes the average number of plants it cultivated during the period January 1, 2018 to December 31, 2018.

a. Medical Marijuana Cultivation Facilities with less than 180 days of consistent cultivation history will be placed into the class 1 production management class.

b. Any Medical Marijuana Cultivation Facility that artificially increases plant count or otherwise misrepresents any data in connection with its plant count will be placed into the class the Division determines it would have been placed into without the artificial increase or misrepresentation. In addition, any such artificial increase of plant count or other misrepresentation is a public safety violation that may result in administrative action.

4. Immature Plants. For purposes of calculating the maximum number of authorized plants, Immature Plants are excluded but must be fully accounted for in the Inventory Tracking System.

5. Ground for Denial. The Division may deny an application for additional plants pursuant to paragraph E of this Rule if the Licensee exceeded the authorized plant count during the relevant time period for production.

6. Violation Affecting Public Safety. It may be considered a license violation affecting public safety for a Licensee to exceed the authorized plant count pursuant to these Rules.

C. Inventory Management.

1. Inventory Management for Medical Marijuana Cultivation Facilities that Have One or Two Harvest Seasons a Year. Beginning the 721st day from the commencement of its first cultivation activities, a Medical Marijuana Cultivation Facility that has one or two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Medical Marijuana flower and trim the Licensee produced that was Transferred to another Medical Marijuana Business in the previous 720 days.

2. Inventory Management for Medical Marijuana Cultivation Facilities That Have More Than Two Harvest Seasons a Year. Beginning the 181st day from the commencement of its first cultivation activities, a Medical Marijuana Cultivation Facility that has more than two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Medical Marijuana flower and trim the Licensee produced that was Transferred to another Medical Marijuana Business in the previous 180 days.

D. Class Decrease. For any Medical Marijuana Cultivation Facility that is authorized to cultivate more than 500 plants, the Division may review the purchases, Transfers, and cultivated plant count in connection with the license renewal process or after an investigation. Based on the Division's review, it may reduce the Licensee's maximum allowed plant count to a lower production management class identified in subparagraph (B)(1) of this Rule 5-225. When determining whether to reduce the maximum authorized plant count, the Division may consider the following non-exhaustive factors including but not limited to:

1. The Licensee Transferred less than 70% of the inventory it reported as packaged in the Inventory Tracking System during any 180 day review period;

2. On average during the previous 180 days, the Licensee actually cultivated less than 90% of the maximum number of plants authorized by the next lower production management class;

3. Whether the plants/inventory suffered a catastrophic event during the review period;

4. Existing inventory and inventory history;

5. Sales contracts;

6 Number of patients registered to any commonly owned Medical Marijuana Store; and

7. Any other factors relevant to ensuring responsible cultivation, production, and inventory management.

E. Application for Additional Plants.

1. Medical Marijuana Cultivation Facilities That Have One or Two Harvest Seasons Per Year.

a. After one harvest season during which the Medical Marijuana Cultivation Facility Transferred and consistently cultivated, the Licensee may apply to the Division for a production management class increase to be authorized to cultivate the number of plants in the next highest production management class. The Licensee must demonstrate:

i. That during the previous harvest season, prior to the class increase application, it consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count;

ii. That the Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System in the previous 360 days to another Medical Marijuana Business;

iii. The Division may consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the

previous 360 days, if the Licensee cultivated between 75% and 85% of its maximum authorized plant count; and

iv. Any other information requested to aid the Division in its evaluation of the production management class increase application.

b. If the Division approves the production management class increase application, the Licensee shall pay the applicable Expanded Production Management Class Fee prior to cultivating the additional authorized plants. *See* Rule 2-205 – Fees.

c. For a Licensee with an authorized plant count in Classes 2 or 3 to continue producing at its expanded authorized plant count, the Licensee shall pay the requisite Medical Marijuana Cultivation Facility license fee and the applicable expanded production management class fee at license renewal. *See* Rule 2-205 – Fees.

d. After one harvest season during which the Medical Marijuana Cultivation Facility Transferred and consistently cultivated the Licensee may apply to increase its authorized plant count by: (a) two production management classes, or (b) if already authorized to cultivate at a class 3, two increments of 3,000 plants (6,000 plants total), every 360 days. It is within the Division's discretion to determine whether or not to grant the requested two classes or two increments of 3,000 plant (6,000 plants total).

i. The Licensee must demonstrate:

A. That the Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count, and

B. That the Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Medical Marijuana Business;

C. If the Medical Marijuana Cultivation Facility cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a package in the Inventory Tracking System during that time period and/or Transfers into the Medical Marijuana Cultivation Facility or related Medical Marijuana Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Medical Marijuana Cultivation Facility currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two classes or two increments of 3,000 plants;

B. The Medical Marijuana Cultivation Facility cultivated on average at least 90% of its authorized plant count and during the preceding 360 days the Medical Marijuana Cultivation Facility and/or one or more commonly owned Medical Marijuana Stores

Transferred in Medical Marijuana from one or more unrelated Medical Marijuana Cultivation Facility(ies);

C. The Medical Marijuana Cultivation Facility has entered into written agreement(s) or contract(s) for the sale of Medical Marijuana in the next 360 days supporting the requested two production management class increase or two increments of 3,000 plants; or

D. An established history of responsible cultivation and Transfer by the Medical Marijuana Cultivation Facility;

E. Any history of noncompliance with the Medical Code, Marijuana Code, and/or Rules by the Medical Marijuana Cultivation Facility, or any commonly owned Medical Marijuana Business, and/or any investigation of, or administrative action against, the Medical Marijuana Cultivation Facility or any commonly owned Medical Marijuana Business; or

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

2. Medical Marijuana Cultivation Facilities That Have More Than Two Harvest Seasons per Year.

a. After a 180-day period during which the Medical Marijuana Cultivation Facility Transferred and consistently cultivated, the Licensee may apply to the Division for a production management class increase to be authorized to cultivate the number of plants in the next highest production management class. The Division may consider the following in determining whether to approve the production management class increase:

i. That for the 180 days prior to the production management class increase application, the Licensee consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count, and

ii. That the Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Medical Marijuana Business.

iii. The Division may also consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the 180-day time period, if the Licensee cultivated between 75% and 85% of its maximum authorized plant count.

iv. Any other information requested to aid the Division in its evaluation of the production management class increase application.

b. If the Division approves the production management class increase application, the Licensee shall pay the applicable Expanded Production Management class License Fee prior to cultivating the additional authorized plants. *See* Rule 2-205 – Fees.

c. For a Licensee with an authorized plant count in Class 2 or Class 3 to continue producing at its expanded authorized plant count, the Licensee shall pay the

requisite Medical Marijuana Cultivation Facility license fee and the applicable expanded production management class fee at license renewal. *See* Rule 2-205 – Fees.

d. After accruing 180 days during which the Medical Marijuana Cultivation Facility Transferred and consistently cultivated the Licensee may apply to increase its authorized plant count by: (a) two production management classes, or (b) if already authorized to cultivate at a class 3, two increments of 3,000 plants (6,000 plants total) every 180 days. It is within the Division's discretion to determine whether or not to grant the requested two classes or increments of 3,000 plants (6,000 plants total).

i. The Licensee must demonstrate:

A. That the Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count; and

B. That the Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Medical Marijuana Business;

C. If the Medical Marijuana Cultivation Facility cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a packing in the Inventory Tracking System during that time period and/or Transfers into the Medical Marijuana Cultivation Facility or related Medical Marijuana Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Medical Marijuana Cultivation Facility currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two classes or two increments of 3,000 plants;

B. The Medical Marijuana Cultivation Facility cultivated on average at least 90% of its authorized plant count and during the preceding 180 days the Medical Marijuana Cultivation Facility and/or one or more commonly owned Medical Marijuana Stores Transferred in Medical Marijuana from one or more unrelated Medical Marijuana Cultivation Facility(ies);

C. The Medical Marijuana Cultivation Facility has entered into a written agreement(s) or contract(s) for the sale of Medical Marijuana in the next 180 days supporting the requested two production management class increase or two increments of 3,000 plants;

D. An established history of responsible cultivation and Transfer by the Medical Marijuana Cultivation Facility;

E. Any history of noncompliance with the Medical Code, Marijuana Code, and/or Rules by the Medical Marijuana Cultivation Facility, or any commonly owned Medical Marijuana Business, and/or any investigation of, or administrative action against, the Medical Marijuana Cultivation Facility or any commonly owned Medical Marijuana Business; or

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

e. A Medical Marijuana Cultivation Facility that does not have 180 days of cultivating history may apply to increase its plant count to a Class 2 or Class 3 pursuant only to this subparagraph (E)(2)(e). A Medical Marijuana Cultivation Facility applying for a production management class increase request under this subparagraph (E)(2)(e) must demonstrate all of the following at the time of application:

i. The Medical Marijuana Cultivation Facility making the class increase request also owns at least three Medical Marijuana Stores with identical Controlling Beneficial Owners;

ii. The Controlling Beneficial Owners of the Medical Marijuana Cultivation Facility and three Medical Marijuana Stores used to support the class increase request have owned the aforementioned Medical Marijuana Store licenses for at least the preceding 180 days;

iii. The three Medical Marijuana Stores used to support the class increase request have consistently Transferred Regulated Marijuana to consumers in the preceding 180 days and have a history of wholesale purchases that justify the need for a class increase above a class 1;

iv. In the 180 days preceding the Licensee's class increase request pursuant to this subparagraph (e), the Medical Marijuana Cultivation Facility, three Medical Marijuana Stores, and identical Controlling Beneficial Owners have not been subject to administrative action by the State Licensing Authority;

v. The Medical Marijuana Cultivation Facility making the class increase request has an established history of responsible cultivation and Transfers of its Regulated Marijuana inventory; and

vi. The Medical Marijuana Cultivation Facility subject to the class increase request has not previously requested a class increase pursuant to this subparagraph (e).

3. Application for Class Increase. Applications for a class increase shall be submitted on Division forms, and shall be complete and accurate. Applications for a class increase that include any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation will be denied. In addition to denial, any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation is a public safety violation that may result in administrative action.

F. Maximum Allowed Medical Marijuana Cultivation Facility Licenses.

1. A Person that is a Controlling Beneficial Owner with an Interest in Three or More Medical Marijuana Cultivation Facility Licenses. For every multiple of three Medical Marijuana Cultivation Facility licenses in which a Person is a Controlling Beneficial Owner, the Person must also be a Controlling Beneficial Owner in at least one Medical Marijuana Store. For example: (1) a Person that is a Controlling Beneficial Owner in three, four, or five Medical Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least one Medical Marijuana Store; (2) a Person that is a Controlling Beneficial Owner in six, seven, or eight Medical Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least two Medical Marijuana Stores; (3) a Person that is a Controlling Beneficial Owner in nine, ten, or eleven Medical Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least three Medical Marijuana Stores; etcetera.

2. A Person that is a Controlling Beneficial Owner in Less than Three Medical Marijuana Cultivation Facility Licenses. A Person that is a Controlling Beneficial Owner in less than three Medical Marijuana Cultivation Facility licenses shall not be required to be a Controlling Beneficial Owner in a Medical Marijuana Store.

G. The State Licensing Authority, in his or her sole discretion, may adjust any of the plant limits described in this Rule 5-225 on an industry-wide aggregate basis for all Medical Marijuana Cultivation Facilities subject to that limitation.

Basis and Purpose – 5-230

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(a)(II), and 44-10-502(5), C.R.S. The purpose of this rule is to establish the circumstances under which a Medical Marijuana Cultivation Facility may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's regulated Medical Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting and recordkeeping requirements on a Medical Marijuana Cultivation Facility that Transfer Sampling Units. This Rule 5-230 was previously Rule M 508, 1 CCR 212-1.

5-230 – Medical Marijuana Cultivation Facility: Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, a Medical Marijuana Cultivation Facility may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Medical Marijuana Cultivation Facility who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. An individual designated as a Sampling Manager by a Medical Marijuana Cultivation Facility must possess a valid patient registry card.

3. An individual may be designated as a Sampling Manager by more than one Regulated Marijuana Business.

4. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

5. A Medical Marijuana Cultivation Facility that wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-502(5), C.R.S., the

personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 5-230. *See also* Rule 3-905 – Business Records Required. A Medical Marijuana Cultivation Facility shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Harvest Batch or Production Batch. A Sampling Unit shall not be designated until the Harvest Batch or Production Batch has satisfied the testing requirements in 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Medical Marijuana flower or trim shall not exceed one gram.

2. A Sampling Unit of Medical Marijuana Concentrate shall not exceed one-quarter of one gram; except that a Sampling Unit of Medical Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Medical Marijuana Cultivation Facility as a Sampling Manager for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than one ounce of Medical Marijuana or fifteen grams of Medical Marijuana Concentrate.

4. The monthly limit established in subparagraph (C)(3) applies to each Sampling Manager, regardless of the number of Medical Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (C)(3). Before Transferring any Sampling Units, a Medical Marijuana Cultivation Facility shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limits established in subparagraph (C)(3).

6. A Sampling Manager shall not Transfer any Sampling unit to any other Person, including but not limited to any other Person designated as a Sampling Manager.

D. Compensation Prohibited. A Medical Marijuana Cultivation Facility may not use Sampling Units to compensate a Sampling Manager.

E. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

F. Acceptable Purposes. Sampling Units shall only be designated and Transferred for purposes of quality control and product development in accordance with section 44-10-502(5), C.R.S.

G. Recordkeeping Requirements. A Medical Marijuana Cultivation Facility shall maintain copies of any material documents created regarding the quality control and product development

purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, a Medical Marijuana Cultivation Facility shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of either quality control or product development. A Medical Marijuana Cultivation Facility shall also maintain copies of the Medical Marijuana Cultivation Facility's standard operating procedures provided to Sampling Managers.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-235

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(a)(II), 44-10-502(9)(a)-(c), 44-10-502(9.5), and 39-28.8-297, C.R.S. The purpose of this rule is to allow a Medical Marijuana Cultivation Facility to receive Transfers of Retail Marijuana from a Retail Marijuana Cultivation Facility in order to change its designation from "Retail" to "Medical."

5-235 – Medical Marijuana Cultivation Facility: Ability to Change Designation of Regulated Marijuana

A. Changing Designation from Retail Marijuana to Medical Marijuana. Beginning July 1, 2022, a Medical Marijuana Cultivation Facility may accept Retail Marijuana from a Retail Marijuana Cultivation Facility in order to change its designation from Retail Marijuana to Medical Marijuana pursuant to the following requirements:

1. The Medical Marijuana Cultivation Facility may only accept Retail Marijuana that has passed all required testing;

2. The Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility are co-located;

3. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility have at least one identical Controlling Beneficial Owner;

4. The Medical Marijuana Cultivation Facility must receive the Transfer and designate the inventory as Medical Marijuana in the Inventory Tracking System the same day. The Medical Marijuana Cultivation Facility must assign and attach an RFID tag reflecting its Medical Marijuana license number to the Medical Marijuana following completion of the Transfer in the Inventory Tracking System;

5. After the designation change, the Medical Marijuana cannot be Transferred to the originating or any other Retail Marijuana Business or otherwise treated as Retail Marijuana. The inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules;

6. Both the Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility must remain at, or under, its inventory limit before and after the Retail Marijuana changes its designation to Medical Marijuana; and

7. The Transfer and change of designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change of designation.

B. Changing Designation from Medical Marijuana to Retail Marijuana. Beginning January 1, 2023, a Medical Marijuana Cultivation Facility may Transfer Medical Marijuana to a Retail Marijuana

Cultivation Facility or Accelerator Cultivator in order to change its designation from Medical Marijuana to Retail Marijuana pursuant to the following requirements:

1. The Medical Marijuana Cultivation Facility may only Transfer Medical Marijuana that has passed all required testing in accordance with the 4-100 Series Rules – Regulated Marijuana Testing Program;

2. The Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility or Accelerator Cultivator share a Licensed Premises in accordance with Rule 3-215, unless:

    a. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility or Accelerator Cultivator have at least one identical Controlling Beneficial Owner; and

    b. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility or Accelerator Cultivator cannot share a Licensed Premises because the Local Licensing Authority or Local Jurisdiction prohibits the operation of either a Medical Marijuana Cultivation Facility or a Retail Marijuana Cultivation Facility.

3. The Medical Marijuana Cultivation Facility must report the Transfer in the Inventory Tracking System the same day that the change in designation from Medical Marijuana to Retail Marijuana occurs;

4. After the designation change, the Retail Marijuana cannot be Transferred to the originating or any other Medical Marijuana Business or otherwise be treated as Medical Marijuana. The inventory is Retail Marijuana and is subject to all permissions and limitations in the 6-200 Series Rules;

5. Both the Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility or Accelerator Cultivator must remain at, or under, its respective inventory limit before and after the Medical Marijuana changes its designation to Retail Marijuana;

6. The Retail Marijuana Cultivation Facility or Accelerator Cultivator shall pay any Retail Marijuana excise tax that is imposed pursuant to section 39-28.8-302, C.R.S.;

7. The Retail Marijuana Cultivation Facility or Accelerator Cultivator shall notify the Local Licensing Authority or Local Jurisdiction where the Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility or Accelerator Cultivator operate and pay any applicable excise tax on the Retail Marijuana in the manner determined by the Local Licensing Authority or Local Jurisdiction; and

8. Pursuant to the requirements of this subparagraph (B), a Medical Marijuana Cultivation Facility may make a virtual Transfer of Medical Marijuana that is reflected in the Inventory Tracking System even if the Medical Marijuana is not physically moved prior to the change of designation to Retail Marijuana.

Basis and Purpose – 5-240

The Statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(j.5), 44-10-203(1)(k), 44-10-401(2)(a)(II), and 44-10-502(10)(a)-(c). The purpose of this rule is to allow a Medical Marijuana Cultivation Facility Licensee that plans to cultivate Medical Marijuana outdoors to submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event.

5-240 Medical Marijuana Cultivation Facility: Contingency Plan for Outdoor Cultivation

A. Submission of Contingency Plan.

1. Beginning January 1, 2022, Medical Marijuana Cultivation Facility Licensees that plan to cultivate Medical Marijuana outdoors may submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event. The Medical Marijuana Cultivation Facility shall also submit a copy of the plan to the Local Licensing Authority in the local jurisdiction where the Licensee operates, and if Transferring Medical Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

2. A Medical Marijuana Cultivation Facility may submit a contingency plan at any time, but it must be filed at least 7 days prior to taking action pursuant to the contingency plan and must be approved by the State Licensing Authority prior to taking action pursuant to the contingency plan.

3. After initial submission and approval of a contingency plan, a contingency plan must be submitted with the Medical Marijuana Cultivation Facility's license renewal application. Any material change to a contingency plan prior to a renewal application must be submitted for review and approval pursuant to subsection (A)(2) above prior to taking action pursuant to the revised contingency plan.

4. The Division shall notify the appropriate Local Licensing Authorities of the approval of the contingency plan.

B. Requirements for Outdoor Contingency Plans.

1. Identification of the type of Adverse Weather Event that the plan applies to, including any deviations based on the type of Adverse Weather Event.

2. Primary Contact. A primary contact for the Medical Marijuana Cultivation Facility must be identified on the contingency plan, including the: name, title, phone number, and email address of the primary contact. The Medical Marijuana Cultivation Facility shall notify the Division of any change to the primary contact or required contact information within 48 hours of the change.

3. Transport Manifest. If the contingency plan provides for the Transfer of Medical Marijuana, a Medical Marijuana Cultivation Facility shall submit a standing transport manifest that could be used by a Licensee upon approval during an Adverse Weather Event if creating a transport manifest through the Inventory Tracking System is impracticable. The standing transport manifest shall include: identification and address of the receiving Licensee.

4. Disclosure of Receiving Licensed Premises.

   a. Medical Marijuana may only be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or an off-premises storage facility.

   b. If Medical Marijuana will be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility pursuant to a contingency plan, that plan must include the name, ownership, and address of the receiving Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises

storage facility, along with a diagram of the proposed receiving Licensed Premises.

c. The receiving Licensed Premises shall be an existing location that currently holds an approved state and local license or an off-premises storage facility permit. The receiving Licensee is not required to share any Controlling Beneficial Owners with the Transferring Medical Marijuana Cultivation Facility.

d. A Medical Marijuana Cultivation Facility that cultivates outdoors may identify and Transfer Medical Marijuana to no more than five receiving Licensed Premises' as part of a contingency plan.

5. Disclosure of Modifications to the Premises and Security and Surveillance. Proposed modifications to the Licensed Premises and any anticipated impacts to compliance with security and surveillance requirements pursuant to Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6).

C. License Requirements when Acting Pursuant to a Contingency Plan. To the extent that this subsection (C) conflicts with other rule sections, this subsection shall control during the time that a Licensee is acting pursuant to a contingency plan.

1. Notification.

a. Notification of action pursuant to an approved contingency plan shall be made to the Division within 24 hours after initiating action pursuant to a contingency plan. A Medical Marijuana Cultivation Facility that cultivates outdoors must also notify the Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Medical Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

b. Notification of ceasing action pursuant to the approved contingency plan shall be made to the Division within 24 hours of returning to normal business operations. If action will continue more than 7 days after initiating action pursuant to a contingency plan the licensee shall contact the Division and explain why they cannot return to normal business operations.

c. Any notification shall be made in writing and can be made by email to the Division.

2. Production Management. Medical Marijuana Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility pursuant to a contingency plan is not included in the receiving Licensed Premises' inventory limit until the Medical Marijuana Cultivation Facility acting pursuant to the contingency plan returns to normal business operations.

3. Modification of Premises. An application for a modification of a Licensed Premises is not required as part of a contingency plan unless the modification or change in premises becomes a permanent modification. If that change becomes a permanent change, a modification of premises application must be submitted within 14 days.

4. Security Requirements. All security and surveillance requirements that apply to a Medical Marijuana Cultivation Facility apply to activities conducted pursuant to the contingency plan. If the contingency plan does not require the Transfer of Regulated Marijuana to

another Licensed Premises, but requires plants to be covered or video surveillance to be otherwise temporarily obstructed, exemptions to the video surveillance requirements in Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6) may be approved as part of the contingency plan.

5. Inventory Tracking Requirements. Licensees must use the Inventory Tracking System to ensure Medical Marijuana is identified and tracked during all times that action is being taken pursuant to a contingency plan. If a Medical Marijuana Cultivation Facility harvests, Transfers, or packages Medical Marijuana it must be fully reconciled in the Inventory Tracking System within 48 hours of initiating action pursuant to the contingency plan.

    a. Harvest Requirements. If Medical Marijuana is harvested, the weight of Medical Marijuana can be captured on a per harvest level and equally applied to individual plants rather than requiring the initial wet weight of each plant. This initial harvest weight may be captured at a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility upon arrival at the Licensed Premises approved as part of the contingency plan. Harvest Batches and Inventory Tracking System packages must be reported by the Medical Marijuana Cultivation Facility acting pursuant to the contingency plan in the Inventory Tracking System.

    b. Transport Manifest. The Medical Marijuana Cultivation Facility acting pursuant to the contingency plan must report all Medical Marijuana that is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility on a transport manifest.

        i. A Licensee may use the approved standing transport manifest during an Adverse Weather Event only when using the Inventory Tracking System is not possible.

        ii. The Licensee shall manually fill out the dates, times, and individual transporting Medical Marijuana on a copy of the standing transport manifest.

        iii. The Licensee shall ensure the standing transport manifest and copy of the approved Contingency plan remain in the Licensee's possession during any transport of Medical Marijuana when it is not possible to use an Inventory Tracking System generated transportation manifest at the time of the Adverse Weather Event.

6. Transfers. If Medical Marijuana is Transferred to another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility it is exempted from the packaging and labeling requirements in Rule 3-1005(B).

7. Virtual and Physical Separation. If Medical Marijuana is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility that inventory must be virtually separated by Harvest Batch and must also be virtually and physically separated from the receiving Licensee's inventory. Harvest Batches must also be clearly identified at the receiving Licensed Premises with the Harvest Batch name and date of harvest.

8. Finishing Product. After Transferring Medical Marijuana to another Licensed Premises, a Medical Marijuana Cultivation Facility may finish that harvest at the receiving Licensed

Premises if all Medical Marijuana is accounted for in the Inventory Tracking System and the Licensed Premises is in compliance with all surveillance requirements.

9. Testing. The originating Licensee acting pursuant to a contingency plan is responsible for the submission of Test Batch(es).

    a. Each Harvest Batch or Production Batch Transferred pursuant to a contingency plan must be submitted for all required tests and is not eligible for a Reduced Testing Allowance or otherwise exempt from required testing.

    b. Any passing or failing tests of a Harvest Batch or Production Batch Transferred pursuant to a contingency plan will not count for or against a Licensee's Reduced Testing Allowance.

5-300 Series – Medical Marijuana Products Manufacturers

Basis and Purpose – 5-305

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(d)(I)-(VI), 44-10-313(14), and 44-10-503, C.R.S. The purpose of this rule is to establish a Medical Marijuana Products Manufacturer's license privileges. This Rule 5-305 was previously Rule M 601, 1 CCR 212-1.

5-305 – Medical Marijuana Products Manufacturer: License Privileges

A. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Products Manufacturer may share and operate at the same Licensed Premises with a commonly owned Medical Marijuana Products Manufacturer. However, a separate license is required for each specific business or business entity, regardless of geographical location. In addition, a Medical Marijuana Products Manufacturer may share, and operate at, the same Licensed Premises as a Marijuana Research and Development Facility so long as:

    1. Each business or business entity holds a separate license;

    2. The Marijuana Research and Development Facility obtains an R&D Co-Location Permit;

    3. Both the Marijuana Research and Development Facility and the Medical Marijuana Products Manufacturer comply with all terms and conditions of the R&D Co-Location Permit; and

    4. Both the Marijuana Research and Development Facility and the Medical Marijuana Products Manufacturer comply with all applicable rules. *See* 5-700 Series Rules.

B. Authorized Transfers. A Medical Marijuana Products Manufacturer is authorized to Transfer Medical Marijuana as follows:

    1. Medical Marijuana Concentrate and Medical Marijuana Product.

        a. A Medical Marijuana Products Manufacturer may Transfer its own Medical Marijuana Product and Medical Marijuana Concentrate to Medical Marijuana Stores, other Medical Marijuana Products Manufacturers, Medical Marijuana Testing Facility, Marijuana Research and Development Facility and Pesticide Manufactures.

b. A Medical Marijuana Products Manufacturer may Transfer Medical Marijuana Product and Medical Marijuana Concentrate to a Medical Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit.

i. Prior to any Transfer pursuant to this Rule 5-305(B)(1)(b), a Medical Marijuana Products Manufacturer shall verify Medical Marijuana Cultivation Facility possesses a valid Centralized Distribution Permit. *See* Rule 5-205 – Medical Marijuana Cultivation Facility: License Privileges.

ii. For any Transfer pursuant to this Rule 5-305(B)(1)(b), A Medical Marijuana Products Manufacturer shall only Transfer Medical Marijuana Product and Medical Marijuana Concentrate that is packaged and labeled for Transfer to a patient. *See* 3-1000 Series Rules.

2. Medical Marijuana.

a. A Medical Marijuana Products Manufacturer may Transfer Medical Marijuana to another Medical Marijuana Products Manufacturer, a Medical Marijuana Store, a Marijuana Research and Development Facility or a Pesticide Manufacturer.

3. Sampling Units. A Medical Marijuana Products Manufacturer may also Transfer Sampling Units of its own Medical Marijuana Products and Medical Marijuana Concentrate to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-503(10), C.R.S., and Rule 5-320.

C. Manufacture of Medical Marijuana Concentrate, Medical Marijuana Product, Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana Authorized. A Medical Marijuana Products Manufacturer may manufacture, prepare, package, and label Medical Marijuana Concentrate Medical Marijuana Product comprised of Medical Marijuana and other Ingredients intended for use or consumption, such as Edible Medical Marijuana Products, ointments, or tinctures. A Medical Marijuana Products Manufacturer may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana.

1. Industrial Hemp Product Authorized. This subparagraph (C)(1) is effective July 1, 2020. A Medical Marijuana Products Manufacturer that uses Industrial Hemp Product as an Ingredient in the manufacture and preparation of Medical Marijuana Product must comply with this subparagraph (C)(1) of this Rule.

a. Prior to accepting and taking possession of any Industrial Hemp Product for use as an Ingredient in a Medical Marijuana Product the Medical Marijuana Products Manufacturer shall verify the following:

i. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Medical Marijuana Testing Facility; and

ii. That the Person Transferring the Industrial Hemp Product to the Medical Marijuana Products Manufacturer is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

D. Location Prohibited. A Medical Marijuana Products Manufacturer may not manufacture, prepare, package, store, or label Medical Marijuana Product in a location that is operating as a retail food establishment.

E. Samples Provided for Testing.

1. A Medical Marijuana Products Manufacturer may provide samples of its Medical Marijuana Concentrate or Medical Marijuana Product to a Medical Marijuana Testing Facility for testing and research purposes. The Medical Marijuana Products Manufacturer shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

F. Authorized Marijuana Transport. A Medical Marijuana Products Manufacturer is authorized to utilize a Medical Marijuana Transporter for transportation of its Medical Marijuana Product or Medical Marijuana Concentrate so long as the place where transportation orders are taken is a licensed Medical Marijuana Business and the transportation order is delivered to a Medical Marijuana Business, or Pesticide Manufacturer. Nothing in this Rule prevents a Medical Marijuana Products Manufacturer from transporting its own Medical Marijuana or Medical Marijuana Concentrate.

G. Performance-Based Incentives. A Medical Marijuana Products Manufacturer may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, a Medical Marijuana Products Manufacturer may not compensate a Sampling Manager using Sampling Units. *See* Rule 5-320 – Sampling Unit Protocols.

H. Receipt of Retail Marijuana Concentrate. A Medical Marijuana Products Manufacturer may receive a Transfer of Retail Marijuana Concentrate in compliance with Rules 5-335, 6-335, and 6-730.

Basis and Purpose – 5-310

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-401(2)(a)(III), and 44-10-503, C.R.S. The Marijuana Code sets forth minimum requirements for written agreements between Medical Marijuana Products Manufacturers and Medical Marijuana Stores. Specifically, the written agreements must set forth the total amount of Medical Marijuana obtained from a Medical Marijuana Store to be used in the manufacturing process, and the total amount of Medical Marijuana Product to be manufactured from the Medical Marijuana obtained from the Medical Marijuana Store. This rule clarifies that the Division must approve such written agreements to ensure they meet those requirements. This rule also provides those acts that are generally limited or prohibited. This Rule 5-310 was previously Rule M 602, 1 CCR 212-1.

5-310 – Medical Marijuana Products Manufacturer: General Limitations or Prohibited Acts

A. Contract Required. Any contract required pursuant to section 44-10-503(3), C.R.S., shall contain such minimum requirements as to form and substance as required by statute. All contracts need to be current and available for inspection on the Licensed Premises by the Division when requested. *See* Rule 3-905 – Business Records and Reporting.

B. Packaging and Labeling Standards Required. A Medical Marijuana Products Manufacturer is prohibited from Transferring Medical Marijuana Concentrate or Medical Marijuana Product that are not properly packaged and labeled. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety

C. Transfer to Patient Prohibited. A Medical Marijuana Products Manufacturer is prohibited from Transferring Medical Marijuana to a patient. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-503(10), C.R.S., and Rule 5-320.

D. Adequate Care of Perishable Product. A Medical Marijuana Products Manufacturer must provide adequate refrigeration for perishable Medical Marijuana Product that will be consumed and shall utilize adequate storage facilities and transport methods.

E. Homogeneity of Edible Medical Marijuana Product. A Medical Marijuana Products Manufacturer must ensure that its manufacturing processes are designed so that the Cannabinoid content of any Edible Medical Marijuana Product is homogenous.

F. Use of Ingredients. A Medical Marijuana Products Manufacturer must obtain and maintain certificates of analysis or other records demonstrating the full composition of each Ingredient used in the manufacture of Vaporizer Delivery Devices or Pressurized Metered Dose Inhalers.

G. Corrective and Preventive Action. This paragraph G shall be effective January 1, 2021. A Medical Marijuana Products Manufacturer shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

H. Adverse Health Event Reporting. A Medical Marijuana Products Manufacturer must report Adverse Health Events pursuant to Rule 3-920.

Basis and Purpose – 5-315

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(i), 44-10-401(2)(a)(III), and 44-10-503, C.R.S. The purpose of this rule is to establish the categories of Medical Marijuana Concentrate that may be produced at a Medical Marijuana Products Manufacturer and establish standards for the production of those concentrate. Nothing in this

rule authorizes the unlicensed practice of engineering under Article 25 of Title 12, C.R.S. This Rule 5-315 was previously Rule M 605, 1 CCR 212-1.

5-315 – Medical Marijuana Products Manufacturer: Medical Marijuana Concentrate Production.

A. Permitted Categories of Medical Marijuana Concentrate Production.

1. A Medical Marijuana Products Manufacturer may produce Physical Separation-Based Medical Marijuana Concentrate, Food-Based Medical Marijuana Concentrate, and Heat/Pressure-Based Medical Marijuana Concentrate

2. A Medical Marijuana Products Manufacturer may also produce Solvent-Based Medical Marijuana Concentrate using only the following solvents: butane, propane, CO_2, ethanol, isopropanol, acetone, heptane, ethyl acetate, and pentane. The use of any other solvent is expressly prohibited unless it is approved by the Division.

3. A Medical Marijuana Products Manufacturer may submit a request to the Division to consider the approval of solvents not permitted for use under this Rule during the next formal rulemaking.

B. General Applicability. A Medical Marijuana Products Manufacturer that engages in the production of Medical Marijuana Concentrate, regardless of the method of extraction or category of concentrate being produced, must:

1. Ensure that the space in which any Medical Marijuana Concentrate is to be produced is a fully enclosed room and clearly designated on the current diagram of the Licensed Premises. *See* Rule 3-905 – Business Records Required.

2. Ensure that all applicable sanitary rules are followed. *See* 3-300 Series Rules.

3. Ensure that the standard operating procedure for each method used to produce a Medical Marijuana Concentrate includes, but need not be limited to, step-by-step instructions on how to safely and appropriately:

a. Conduct all necessary safety checks prior to commencing production;

b. Prepare Medical Marijuana for processing;

c. Extract Cannabinoids and other essential components of Medical Marijuana;

d. Purge any solvent or other unwanted components from a Medical Marijuana Concentrate,

e. Clean all equipment, counters and surfaces thoroughly; and

f. Dispose of any waste produced during the processing of Medical Marijuana in accordance with all applicable local, state and federal laws, rules and regulations. *See* Rule 3-230 – Waste Disposal.

4. Establish written and documentable quality control procedures designed to maximize safety for Owner Licensees and Employee Licensees and minimize potential product contamination.

5. Establish written emergency procedures to be followed by Owner Licensees or Employee Licensees in case of a fire, chemical spill or other emergency.

6. Have a comprehensive training manual that provides step-by-step instructions for each method used to produce a Medical Marijuana Concentrate. The training manual must include, but need not be limited to, the following topics:

    a. All standard operating procedures for each method of concentrate production used;

    b. The Medical Marijuana Products Manufacturer's quality control procedures;

    c. The emergency procedures;

    d. The appropriate use of any necessary safety or sanitary equipment;

    e. The hazards presented by all solvents used as described in the safety data sheet for each solvent;

    f. Clear instructions on the safe use of all equipment involved in each process and in accordance with manufacturer's instructions, where applicable; and

    g. Any additional periodic cleaning required to comply with all applicable sanitary rules.

7. Provide adequate training to every Owner Licensee or Employee Licensee prior to that individual undertaking any step in the process of producing a Medical Marijuana Concentrate.

    a. Adequate training must include, but need not be limited to, providing a copy of the training manual for that Licensed Premises and live, in-person instruction detailing at least all of the topics required to be included in the training manual.

    b. The individual training an Owner Licensee or Employee Licensee must sign and date a document attesting that all required aspects of training were conducted and that he or she is confident that the Owner Licensee or Employee Licensee can safely produce a Medical Marijuana Concentrate. *See* Rule 3-905 – Business Records Required.

    c. The Owner Licensee or Employee Licensee that received the training must sign and date a document attesting that he or she can safely implement all standard operating procedures, quality control procedures, and emergency procedures, operate all closed-loop extraction systems, use all safety, sanitary and other equipment and understands all hazards presented by the solvents to be used within the Licensed Premises and any additional periodic cleaning required to maintain compliance with all applicable sanitary rules. *See* Rule 3-905 – Business Records Required.

8. Maintain clear and comprehensive records of the name, signature and Owner Licensee or Employee License number of every individual who engaged in any step related to the creation of a Production Batch of Medical Marijuana Concentrate and the step that individual performed. *See* Rule 3-905 – Business Records Required.

C. Physical Separation-Based Medical Marijuana Concentrate, Food-Based Medical Marijuana Concentrate, and Heat/Pressure-Based Medical Marijuana Concentrate. Medical Marijuana Products Manufacturer that engages in the production of a Medical Marijuana Concentrate must:

1. Ensure that all equipment, counters, and surfaces used in the production of a Medical Marijuana Concentrate is food-grade including ensuring that all counters and surface areas were constructed in such a manner that it reduces the potential for the development of microbials, molds and fungi and can be easily cleaned.

2. Ensure that all equipment, counters, and surfaces used in the production of a Medical Marijuana Concentrate are thoroughly cleaned after the completion of each Production Batch.

3. Ensure that any room in which dry ice is stored or used in processing Medical Marijuana into a Medical Marijuana Concentrate is well ventilated to prevent against the accumulation of dangerous levels of CO_2.

4. Ensure that the appropriate safety or sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Medical Marijuana Concentrate.

5. Ensure that only finished drinking water and ice made from finished drinking water is used in the production of a Physical Separation-Based Medical Marijuana Concentrate.

6. Ensure that if propylene glycol or glycerin is used in the production of a Food-Based Medical Marijuana Concentrate, then the propylene glycol or glycerin to be used is food-grade.

7. Follow all of the rules related to the production of a Solvent-Based Medical Marijuana Concentrate if a pressurized system is used in the production of a Medical Marijuana Concentrate.

D. Solvent-Based Medical Marijuana Concentrate. A Medical Marijuana Products Manufacturer that engages in the production of Solvent-Based Medical Marijuana Concentrate must:

1. Obtain a report from an Industrial Hygienist or a Professional Engineer that certifies that the equipment, Licensed Premises and standard operating procedures comply with these rules and all applicable local and state building codes, fire codes, electrical codes and other laws. If a local jurisdiction has not adopted a local building code or fire code or if local regulations do not address a specific issue, then the Industrial Hygienist or Professional Engineer shall certify compliance with the International Building Code of 2012 (http://www.iccsafe.org), the International Fire Code of 2012 (http://www.iccsafe.org) or the National Electric Code of 2014 (http://www.nfpa.org), as appropriate. Note that this Rule does not include any later amendments or editions to each Code. The Division has maintained a copy of each code, which are available to the public;

    a. Flammable Solvent Determinations. If a Flammable Solvent is to be used in the processing of Medical Marijuana into a Medical Marijuana Concentrate, then the Industrial Hygienist or Professional Engineer must:

        i. Establish a maximum amount of Flammable Solvents and other flammable materials that may be stored within that Licensed Premises in accordance with applicable laws, rules, and regulations.

        ii. Determine what type of electrical equipment, which may include but need not be limited to outlets, lights, junction boxes, must be installed within the room in which Medical Marijuana Concentrate are to be produced or Flammable Solvents are to be stored in accordance with applicable laws, rules, and regulations.

iii. Determine whether a gas monitoring system must be installed within the room in which Medical Marijuana Concentrate are to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules, and regulations.

iv. Determine whether fire suppression system must be installed within the room in which Medical Marijuana Concentrate are to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules, and regulations.

b. CO_2 Solvent Determination. If CO_2 is used as solvent at the Licensed Premises, then the Industrial Hygienist or Professional Engineer must determine whether a CO_2 gas monitoring system must be installed within the room in which Medical Marijuana Concentrate are to be produced or CO_2 is stored, and if required the system's specifications, in accordance with applicable laws, rules, and regulations.

c. Exhaust System Determination. The Industrial Hygienist or Professional Engineer must determine whether a fume vent hood or exhaust system must be installed within the room in which Medical Marijuana Concentrate are to be produced, and if required the system's specifications, in accordance with applicable laws, rules, and regulations.

d. Material Change. If a Medical Marijuana Products Manufacturer makes a Material Change to its equipment or a concentrate production procedure, in addition to all other requirements, it must obtain a report from an Industrial Hygienist or Professional Engineer re-certifying its standard operating procedures and, if changed, its equipment as well.

e. Manufacturer's Instructions. The Industrial Hygienist or Professional Engineer may review and consider any information provided to the Medical Marijuana Products Manufacturer by the designer or manufacturer of any equipment used in the processing of Medical Marijuana into a Medical Marijuana Concentrate.

f. Records Retention. A Medical Marijuana Products Manufacturer must maintain copy of all reports received from an Industrial Hygienist and Professional Engineer on its Licensed Premises. Notwithstanding any other law, rule, or regulation, compliance with this Rule is not satisfied by storing these reports outside of the Licensed Premises. Instead the reports must be maintained on the Licensed Premises until the Licensee ceases production of Medical Marijuana Concentrate.

2. Ensure that all equipment, counters, and surfaces used in the production of a Solvent-Based Medical Marijuana Concentrate must be food-grade and must not react adversely with any of the solvents to be used in the Licensed Premises. Additionally, all counters and surface areas must be constructed in a manner that reduces the potential development of microbials, molds, and fungi and can be easily cleaned;

3. Ensure that the room in which Solvent-Based Medical Marijuana Concentrate shall be produced must contain an emergency eye-wash station;

4. Ensure that a professional grade, closed-loop extraction system capable of recovering the solvent is used to produce Solvent-Based Medical Marijuana Concentrate;

a. UL or ETL Listing.

i. If the system is UL or ETL listed, then a Medical Marijuana Products Manufacturer may use the system in accordance with the manufacturer's instructions.

ii. If the system is UL or ETL listed but the Medical Marijuana Products Manufacturer intends to use a solvent in the system that is not listed in the manufacturer's instructions for use in the system, then, prior to using the unlisted solvent within the system, the Medical Marijuana Products Manufacturer must obtain written approval for use of the non-listed solvent in the system from either the system's manufacturer or a Professional Engineer after the Professional Engineer has conducted a peer review of the system. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

iii. If the system is not UL or ETL listed, then there must a designer of record. If the designer of record is not a Professional Engineer, then the system must be peer reviewed by a Professional Engineer. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

b. Ethanol or Isopropanol. A Medical Marijuana Products Manufacturer Facility need not use a professional grade, closed-loop system extraction system capable of recovering the solvent for the production of a Solvent-Based Medical Marijuana Concentrate if ethanol or isopropanol are the only solvents being used in the production process.

5. Ensure that all solvents used in the extraction process are food-grade or at least 99% pure;

a. A Medical Marijuana Products Manufacturer must obtain a safety data sheet for each solvent used or stored on the Licensed Premises. A Medical Marijuana Products Manufacturer must maintain a current copy of the safety data sheet and a receipt of purchase for all solvents used or to be used in an extraction process. *See* Rule 3-905 – Business Records Required.

b. A Medical Marijuana Products Manufacturer is prohibited from using denatured alcohol to produce a Medical Marijuana Concentrate, unless the denaturant is an approved solvent listed in Rule 5-315(A)(2) and the alcohol and the denaturant meet all other requirements set forth in this Rule.

6. Ensure that all Flammable Solvents or other flammable materials, chemicals and waste are stored in accordance with all applicable laws, rules and regulations. At no time may a Medical Marijuana Products Manufacturer store more Flammable Solvent on its Licensed Premises than the maximum amount established for that Licensed Premises by the Industrial Hygienist or Professional Engineer;

7. Ensure that the appropriate safety and sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Solvent-Based Medical Marijuana Concentrate; and

8. Ensure that a trained Owner Licensee or Employee Licensee is present at all times during the production of a Solvent-Based Medical Marijuana Concentrate whenever an extraction process requires the use of pressurized equipment.

9. Medical Marijuana Products Manufacturers Engaged in the Remediation of Medical Marijuana for elemental impurities. Medical Marijuana Products Manufacturers engaged in the Remediation of Medical Marijuana for elemental impurities shall:

    a. Implement effective cleaning procedures, additional testing plans, and other measures that will be performed to prevent cross contamination.

        i. If potentially contaminated equipment, ingredients, or solvents used in the Remediation process are used for processing other 'non Remediated' material, the subsequent Production Batch made using the equipment, ingredients, or solvent must then be tested for elemental impurities, and the Production Batch made using that equipment, ingredients, or solvents is not eligible for testing exemptions through a Reduced Testing Allowance or otherwise exempt from required testing.

        ii. Manufacturers must document the equipment and lots of ingredients/solvents used in Remediation to ensure this requirement is met.

    b. Register as a hazardous waste generator, obtain a U.S. Environmental Protection Agency ID number for manifesting hazardous waste, and must have a disposal contract in place with a hazardous waste management company prior to attempting Remediation.

    c. Have a staff member who has received basic training in hazardous waste identification, storage, and disposal procedures, or hire a consultant who satisfies this criteria.

    d. Regardless of which type of analyte, if the Medical Marijuana flower, wet whole plant, or trim has failed elemental impurities testing, the Licensee must implement Standard Operating Procedures to ensure:

        i. That contaminated material is stored in a labelled container identifying the material as potentially hazardous, and that the container seals in such a way to prevent the risk of cross contamination or inhalation of dusts.

        ii. That when material is removed from the sealed container and handled in any fashion (preparation, the extraction or other Remediation process, wasting, etc.), any workers exposed to dusts or particulates generated from the material must wear appropriate personal protective equipment (PPE), including at minimum: gloves, American National Standards Institute (ANSI) Z87.1 safety glasses, and a respirator rated to protect them from airborne dusts or particulates that may contain elemental impurities. Respirators should utilize National Institute for Occupational Safety and Health rated particulate filters of sufficient grade to prevent exposure to airborne dusts that could contain elemental impurities.

            A. Workers utilizing a respirator must comply with applicable Occupational Safety and Health Administration regulations regarding respirator use before handling contaminated material. This includes receiving respirator clearance from a qualified professional and passing a respirator fit test before using a respirator.

e. Additional forms of environmental airborne particulate control, such as industrial air filtration systems, handling material inside of enclosures, etc. must be implemented by the Licensee to minimize the risk of exposure or cross contamination of contaminated dusts.

f. These steps must be documented in the Licensee's respiratory protection program that all employees exposed to plant material or waste products contaminated with elemental impurities must be trained on.

g. The Licensee must establish and train employees on standard operating procedures designed to safely handle this contaminated material and prevent cross contamination.

h. Mercury poses additional workplaces hazards since it is easily volatilized and since mercury vapor is highly toxic. Before attempting to remediate any Regulated Marijuana flower, wet whole plant, or trim that has failed elemental impurities testing and contains mercury, Licensees must additionally:

i. Work with a certified industrial hygienist to develop and implement some form of monitoring program that is capable of detecting mercury vapor concentrations in the areas where material contaminated with mercury will be processed and can be used to generate time weighted average exposures to mercury vapor. The monitoring system must be sufficient to ensure airborne concentrations of mercury do not exceed Occupational Safety and Health Administration Permissible Exposure Limits for Airborne Contaminants.

ii. Have a certified industrial hygienist approve the Licensee's air handling system for managing mercury vapors in a fashion that is compliant with the Occupational Safety and Health Administration, and other applicable federal, state, and local regulations.

iii. Utilize a National Institute for Occupational Safety and Health rated half mask respirator with cartridges rated specifically for mercury vapor.

i. A Licensee must ensure their processes and safety practices comply with applicable federal, state, and local environmental health and safety regulations.

10. Medical Marijuana Products Manufacturer Engaged in the Remediation of Medical Marijuana for Microbial Contamination. Medical Marijuana Products Manufacturers engaged in the Remediation of Medical Marijuana for microbial contamination shall:

a. Implement effective cleaning procedures, additional testing plans, and other measures that will be performed to prevent cross contamination.

b. Ensure that contaminated material is stored in a labeled container identifying the material as potentially hazardous, and that the container seals in such a way to prevent the risk of cross contamination or inhalation of dusts.

c. Ensure that when material is removed from the sealed container and handled in any fashion (preparation, the extraction or other Remediation process, wasting, etc.), any workers exposed to dusts or particulates generated from the material must wear appropriate personal protective equipment (PPE), including at minimum: gloves, American National Standards (ANSI) Z87.1 safety glasses, and a respirator rated to protect them from airborne dusts or particulates that may

contain elemental impurities. Respirators should utilize National Institute for Occupational Safety and Health rated particulate filters of sufficient grade to prevent exposure to airborne dusts that could contain elemental impurities.

i. Workers utilizing a respirator must comply with applicable Occupational Safety and Health Administration regulations regarding respirator use before handling contaminated material. This includes receiving respirator clearance from a qualified professional and passing a respirator fit test before using a respirator.

d. Implement additional forms of environmental airborne particulate control, such as industrial air filtration systems, handling material inside of enclosures, etc. must be implemented by the Licensee to minimize the risk of exposure or cross contamination of contaminated dusts.

e. These steps must be documented in the Licensee's respiratory protection program that all employees exposed to plant material or waste products contaminated with elemental impurities must be trained on.

f. The Licensee must establish and train employees on standard operating procedures designed to safely handle this contaminated material and prevent cross contamination.

g. The Licensee must ensure their processes and safety practices comply with applicable federal, state, and local environmental health and safety regulations.

E. Ethanol and Isopropanol. If a Medical Marijuana Products Manufacturer only produces Solvent-Based Medical Marijuana Concentrate using ethanol or isopropanol at its Licensed Premises and no other solvent, then it shall be considered exempt from the requirements in paragraph D of this Rule and instead must follow the requirements in paragraph C of this Rule. Regardless of which rule is followed, the ethanol or isopropanol must be food grade or at least 99% pure and denatured alcohol cannot be used. The Medical Marijuana Products Manufacturer shall comply with contaminant testing required in Rule 4-120(C)(3).

F. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-320

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(a)(III), and 44-10-503 C.R.S. The purpose of this rule is to establish the circumstances under which a Medical Marijuana Products Manufacturer may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's regulated Medical Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting, and recordkeeping requirements on a Medical Marijuana Products Manufacturer that Transfer Sampling Units. This Rule 5-320 was previously Rule M 606, 1 CCR 212-1.

5-320 – Medical Marijuana Products Manufacturer: Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, a Medical Marijuana Products Manufacturer may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Medical Marijuana Products Manufacturer who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. An individual designated as a Sampling Manager by a Medical Marijuana Products Manufacturer must possess a valid patient registry card.

3. An individual may be designated as a Sampling Manager by more than one Medical Marijuana Business.

4. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

5. A Medical Marijuana Products Manufacturer that wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-503(10), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 5-320. *See also* Rule 3-905 – Business Records Required. A Medical Marijuana Products Manufacturer shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Production Batch. A Sampling Unit shall not be designated until the Production Batch has satisfied the testing requirements in 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Edible Medical Marijuana Product shall not exceed one serving size. Before designating any Sampling Units, a Medical Marijuana Products Manufacturer shall establish the specific serving size for each Edible Medical Marijuana Product it produces and maintain a record of the serving size in its standard operating procedures provided pursuant to subparagraph (A)(5).

2. A Sampling Unit of non-Edible Medical Marijuana Product shall not exceed the equivalent of one serving size. Before designating any Sampling Units, a Medical Marijuana Products Manufacturer shall establish the specific serving size for each non-Edible Medical Marijuana Product it produces and maintain a record of the serving size in its standard operating procedures provided pursuant to subparagraph (A)(5).

3. A Sampling Unit of Medical Marijuana Concentrate shall not exceed one-quarter of one gram; except that a Sampling Unit of Medical Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Medical Marijuana Products Manufacturer as a Sampling Manager for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than:

    a. Fourteen servings of Medical Marijuana Products; and

    b. Fifteen grams of Medical Marijuana Concentrate.

4. The monthly limit established in subparagraph (C)(3) applies to each Sampling Manager, regardless of the number of Medical Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (C)(3). Before Transferring any Sampling Units, a Medical Marijuana Products Manufacturer shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limit established in subparagraph (C)(3).

6. A Sampling Manager shall not Transfer any Sampling Unit to any other Person, including but not limited to any Person designated as a Sampling Manager.

D. Compensation Prohibited. A Medical Marijuana Products Manufacturer may not use Sampling Units to compensate a Sampling Manager.

E. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

F. Acceptable Purposes. Sampling Units shall only be designated and Transferred for purposes of quality control and product development in accordance with section 44-10-503(10), C.R.S.

G. Record keeping requirements. A Medical Marijuana Products Manufacturer shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, A Medical Marijuana Products Manufacturer shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of either quality control or product development. A Medical Marijuana Products Manufacturer shall also maintain copies of the Medical Marijuana Products Manufacturer's standard operating procedures provided to Sampling Managers.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-325

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(i), 44-10-203(3)(b), 44-10-203(2)(d), 44-10-203(3)(a), 44-10-401(2)(a)(III), 44-10-503, and 44-10-701(3)(c), C.R.S. The purpose of this rule is to define requirements for manufacture of Audited Product for administration by: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration which may raise public health concerns. This rule defines audit, insurance, minimum product requirements, minimum production process requirements, and pre-production testing requirements for Medical Marijuana Products Manufacturers that manufacture Audited Products. The purpose of this rule further recognizes that Alternative Use Product not within an intended use identified in Rule 3-1015 may raise public health concerns that outweigh its manufacturer or Transfer entirely or that require additional safeguards to protect public health and safety prior to manufacturer or Transfer. This rule identifies general requirements for Medical Marijuana Products Manufacturer to seek an Alternative Use Designation from the State Licensing Authority to manufacture any type of Medical Marijuana Product

that is not within an intended use identified in Rule 3-1015. This Rule 5-325 was previously Rule M 607, 1 CCR 212-1.

5-325 – Medical Marijuana Products Manufacturer: Audited Product and Alternative Use Product

A. General Rule. A Medical Marijuana Products Manufacturer shall not Transfer Audited Product to a Medical Marijuana Store, another Medical Marijuana Products Manufacturer, or a Medical Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit except in accordance with all requirements of this Rule 5-325. The requirements of this Rule 5-325 are in addition to all other Rules that apply to Medical Marijuana Products Manufacturers; except where the context otherwise clearly requires this Rule 5-325 controls.

B. Audited Products – Mandatory Audit Prior to Transfer. Following submission of an independent third-party audit to the Division and to the Local Licensing Authority as required by this Rule, a Medical Marijuana Products Manufacturer may Transfer Audited Product with an intended use of: (1) metered dose nasal spray, (2) vaginal administration, or (4) rectal administration to another Medical Marijuana Products Manufacturer, a Medical Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit, or a Medical Marijuana Store.

1. A written audit report from an independent third-party auditor that was completed within the last twenty-four (24) months shall be submitted to the Division and to the Local Licensing Authority: (i) before the first Transfer of Audited Product to any Medical Marijuana Store, (ii) prior to Transfer of any Audited Product following a Material Change to any standard operating procedure or master formulation record regarding the Audited Product, and (iii) with the Medical Marijuana Products Manufacturer's renewal application if the Medical Marijuana Products Manufacturer will Transfer Audited Product after renewal.

2. The independent third-party audit shall be performed by either a certified quality auditor or a certified GMP auditor. The Medical Marijuana Products Manufacturer shall be responsible for all costs associated with obtaining the independent third-party audit.

3. The independent third-party written audit report shall include the following minimum requirements:

    a. The independent third-party auditor's qualifications and an attestation that the certified quality auditor or certified GMP auditor has no conflict of interest;

    b. Establish that the Medical Marijuana Products Manufacturer and the Audited Product meet all requirements of this Rule 5-325, including but not limited to the specific requirements of this Rule 5-325(C), 5-325(D), 5-325(E), 5-325(G), and 5-325(H);

    c. Verify the written standard operating procedure(s) for Audited Product include sufficient and detailed step-by-step instructions on how to produce the Audited Product in a manner that prevents contamination and protects the public health and safety;

    d. Verify, based upon a physical inspection, the manufacture of Audited Product by the Medical Marijuana Products Manufacturer adheres to all applicable standard operating procedures;

    e. Verify, based upon a physical inspection, of any Licensed Premises that such Licensed Premises complies with the requirements of this Rule 5-325(E),

including any Limited Access Area where the Audited Product is to be manufactured;

f. Include the independent third-party auditor's findings;

g. Include the plan of correction identifying any corrective actions and/or preventative actions implemented as a result of the findings of the independent third-party audit; and

h. Include the independent third-party auditor's assessment that the Medical Marijuana Products Manufacturer demonstrated compliance with all requirements of Rule 5-325 and with the requirements of all standard operating procedures, master formulation records, and Batch manufacturing records that apply to the Audited Product.

C. Products Liability Insurance. Any Medical Marijuana Products Manufacturer that intends to Transfer Audited Product shall first obtain products liability insurance providing coverage for liability arising from manufacture or Transfer of Audited Product and shall provide an unredacted certificate of product liability insurance to the Division and the independent third-party auditor.

D. Audited Product Requirements. Audited Product shall meet the following minimum product requirements:

1. Inactive Ingredients. Audited Product must meet the requirements outlined in Rule 3-335 – Production of Regulated Marijuana Products.

a. If the Audited Product contains a fungicidal or bactericidal Ingredient listed in, and with a concentration that is at or below the maximum concentration permitted in, the Federal Food and Drug Administration Inactive Ingredients Database, https://www.accessdata.fda.gov/scripts/cder/iig/index.cfm, the Audited Product is not required to undergo microbial contaminant testing required by Rules 4-115 and 4-120.

2. Required Product Development Testing. The Medical Marijuana Products Manufacturer must establish the Audited Product meets the following through independent third-party testing:

a. The Audited Product must deliver the amount of each cannabinoid identified on the label throughout the entire volume of the Audited Product using the intended delivery device and in accordance with the instructions provided by the Medical Marijuana Products Manufacturer, as demonstrated by testing at a Medical Marijuana Testing Facility.

i. For Audited Product with an intended use of metered dose nasal spray, compliance with this requirement shall be established by test results verifying the delivered dose of each cannabinoid identified on the label using the methods described in The United States Pharmacopeia Physical Test and Determination Chapter 601, *Aerosols, Nasal Sprays, Metered-Dose Inhalers, and Dry Powder Inhalers*.

ii. For Audited Product with an intended use of either vaginal administration or rectal administration, compliance with this testing requirement shall be established by test results demonstrating that each cannabinoid identified on the label is within +/- 15% of the amount identified on the label.

b. The expiration date identified on the label of the Audited Product is appropriate when the Audited Product is stored at room temperature, as demonstrated by testing from a Medical Marijuana Testing Facility.

c. Identification of all non-marijuana derived Ingredients and constituents in the Audited Product at concentrations of 1%, which verification is obtained from one or more of the following:

i. Testing by a Medical Marijuana Testing Facility;

ii. Testing by a laboratory that is ISO 17025 accredited but is not a Medical Marijuana Testing Facility, except that no Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana Product may be Transferred to such a laboratory; and/or

iii. One or more certificate(s) of analysis from the manufacturer of any Ingredient or constituent included in the Audited Product.

E. Additional Production Requirements for Audited Product. In addition to all other requirements applicable to Medical Marijuana Products Manufacturers, a Medical Marijuana Products Manufacturer that manufactures and Transfers Audited Product shall meet the following additional requirements:

1. Personnel Training. All personnel directly involved in the manufacture and handling of Audited Product must be trained, must demonstrate competency, and must undergo annual refresher training, which shall be documented and maintained at the Medical Marijuana Products Manufacturer's Licensed Premises. Personnel directly involved in the manufacture and handling of Audited Product must be trained and demonstrate proficiency in hand hygiene, cleaning and sanitizing, performing necessary calculations, measuring and mixing, and documenting the manufacturing process including master formulation records and batch manufacturing records.

2. Facility Requirements. A Medical Marijuana Products Manufacturer must have a space that is specifically designated for the manufacture of Audited Products that is designed and operated to prevent cross contamination from other areas of the Licensed Premises. The surfaces, walls, floors, fixtures, shelving, work surfaces, and cabinets in this designated area must be non-porous and cleanable.

3. Cleaning and Sanitizing. A Medical Marijuana Products Manufacturer must clean and sanitize surfaces where Audited Product is manufactured and handled on a regular basis and at a minimum, work surfaces and floors must be cleaned and sanitized daily. All other surfaces must be cleaned and sanitized at least every three months. A Medical Marijuana Products Manufacturer must clean and sanitize all surfaces when a spill occurs and when surfaces, floors, and walls are visibly soiled.

4. Hand Hygiene. Hand hygiene is required when entering and re-entering any area where Audited Product is manufactured and handled. Hand hygiene includes washing hands and forearms up to the elbows with soap and water for at least 30 seconds followed by drying completely with disposable towels. Alcohol hand sanitizers alone are not sufficient.

a. Gloves are required to be worn for all mixing activities. Other garb such as shoe covers, head and facial hair covers, face masks, and gowns must be worn as appropriate to protect Employee Licensees and/or prevent contamination of the Audited Product.

5. Equipment. Mechanical, electronic, and other types of equipment used in mixing, measuring, or testing of Audited Product must be inspected prior to use and verified for accuracy at the frequency recommended by the manufacturer, and at least annually.

6. Ingredient Quality. All Ingredients used to manufacture Audited Product must be handled and stored in accordance with the manufacturer's instructions. Ingredients that lack a manufacturer's expiration date shall not be used if a reasonable manufacturer would not use the Ingredient or after 1 year from the date of receipt, whichever period is shorter.

7. Master Formulation Record. A master formulation record must be prepared and maintained for each unique Audited Product a Medical Marijuana Products Manufacturer manufactures. A master formulation record must include at least the following information:

    a. Name of the Audited Product;

    b. Ingredient identities and amounts;

    c. Specifications on the delivery device (if applicable);

    d. Complete instructions for preparing the Audited Product, including equipment, supplies, and description of the manufacturing steps;

    e. Quality control procedures; and

    f. Any other information needed to describe the Medical Marijuana Products Manufacturer's production and ensure its repeatability.

8. Batch Manufacturing Records. A batch manufacturing record shall be created for each Production Batch of Audited Product. This record shall include at the least the following information:

    a. Name of the Audited Product;

    b. Master formulation record reference for the Audited Product;

    c. Date and time of preparation of the Audited Product;

    d. Production Batch number;

    e. Signature or initials of individuals involved in each manufacturing step;

    f. Name, vendor, or manufacturer, Production Batch number, and expiration date of each Ingredient;

    g. Weight or measurement of each Ingredient;

    h. Documentation of quality control procedures;

    i. Any deviations from the master formulation record, and any problems or errors experienced during the manufacture; and

    j. Total quantity of the Audited Product manufactured.

F. Audited Product Testing. For each Production Batch, the Audited Product shall undergo all required testing in the 4-100 Series Rules for Medical Marijuana Product and/or Audited Product. *See also* Rule 4-115 – Regulated Marijuana Testing Program: Sampling and Testing Program.

G. Packaging and Labeling of Audited Product. Audited Product must be packaged and labeled in accordance with all requirements of the 3-1000 Series Rules regarding packaging and labeling for Transfer to a patient prior to any Transfer.

H. Adverse Event Reporting. A Medical Marijuana Products Manufacturer must report Adverse Health Events pursuant to Rule 3-920.

I. Alternative Use Designation – Any Other Method of Consumption or Administration. A Medical Marijuana Products Manufacturer shall not Transfer to a Medical Marijuana Store, to another Medical Marijuana Products Manufacturer, or a Medical Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit any Medical Marijuana Concentrate or Medical Marijuana Product that is not within any intended use identified in Rule 3-1015(B) until it applies for and receives an Alternative Use Designation from the State Licensing Authority in consultation with the Colorado Department of Public Health and Environment. In the process of applying for an Alternative Use Designation, the Medical Marijuana Products Manufacturer shall work with the Division and the Colorado Department of Public Health and Environment to determine whether the proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when particular independent review factors, safeguards, and tests are in place. The following are minimum requirements for any application for an Alternative Use Designation:

1. The Medical Marijuana Products Manufacturer shall identify provisions of this Rule 5-325 that apply to its Alternative Use Product, any proposed additional or alternative requirements, and how any proposed alternatives protect public health and safety. The Medical Marijuana Products Manufacturer shall also provide any additional information as may be requested by the Division, in consultation with the Colorado Department of Public Health and Environment.

2. The Medical Marijuana Products Manufacturer bears the burden of proving its proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when the identified independent review factors, safeguards and tests are in place.

3. A Medical Marijuana Products Manufacturer seeking an Alternative Use Designation shall cooperate with the Division. Failure to cooperate with the Division is grounds for denial of an Alternative Use Designation.

4. The granting of an Alternative Use Designation shall rest in the discretion of the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment. The State Licensing Authority may in his or her discretion deny an Alternative Use Designation where the Medical Marijuana Products Manufacturer does not meet the burden established in this Rule 5-325.

J. Alternative Use Designation – Packaging and Labeling Requirements. If the Division recommends, and the State Licensing Authority grants, an Alternative Use Designation, the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment shall provide the Medical Marijuana Products Manufacturer the appropriate statement of intended use label to be affixed to the Alternative Use Product, and any additional or distinct packaging and labeling requirements applicable to the Alternative Use Product. *See* Rules 3-1010 and 3-1015.

K. Required Records. A Medical Marijuana Products Manufacturer manufacturing or Transferring Audited Product and/or Alternative Use Product shall maintain accurate and comprehensive records on the Licensed Premises regarding the manufacturing process, a list of all active and inactive Ingredients used in the Audited Product and/or Alternative Use Product, and such other documentation as required by this Rule 5-325. *See* Rule 3-905 – Business Records Required.

5-330 – Recall of Medical Marijuana Concentrate or Medical Marijuana Product – Repealed effective January 1, 2021.

Basis and Purpose – 5-335

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-401(2)(a)(III), and 44-10-503, 44-10-503(12)(a)-(b), and 39-28.8-297, C.R.S. The purpose of this rule is to allow a Medical Marijuana Products Manufacturer to receive Transfers of Retail Marijuana Concentrate from a Retail Marijuana Products Manufacturer in order to change its designation from "Retail" to "Medical."

5-335 – Medical Marijuana Products Manufacturer: Ability to Change Designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate.

A. Changing Designation: Beginning July 1, 2022, a Medical Marijuana Products Manufacturer may accept Retail Marijuana Concentrate from a Retail Marijuana Products Manufacturer in order to change its designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate pursuant to the following requirements:

1. The Medical Marijuana Products Manufacturer may only accept Retail Marijuana Concentrate that has passed all required testing;

2. The Medical Marijuana Products Manufacturer and the Retail Marijuana Products Manufacturer share a Licensed Premises in accordance with Rule 3-215;

3. The Medical Marijuana Products Manufacturer and Retail Marijuana Products Manufacturer have at least one identical Controlling Beneficial Owner;

4. The Medical Marijuana Products Manufacturer must receive the Transfer and designate the inventory as Medical Marijuana Concentrate in the Inventory Tracking System the same day. The Medical Marijuana Products Manufacturer must assign and attach an RFID tag reflecting its Medical Marijuana Products Manufacturer license number to the Medical Marijuana Concentrate following completion of the Transfer in the Inventory Tracking System;

5. After the designation change, the Medical Marijuana Concentrate cannot be Transferred to the originating or any other Retail Marijuana Business or otherwise treated as Retail Marijuana. The inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules; and

6. The Transfer and change of designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change of designation.

5-400 Series – Medical Marijuana Testing Facilities

Basis and Purpose – 5-405

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(h), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f)(II), 44-10-203(2)(f)

(IV), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-313(8)(a), 44-10-313(14), 44-10-401(2)(a)(IV), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1), and 44-10-504(2), C.R.S. The purpose of this rule is to establish the license privileges of a Medical Marijuana Testing Facility. This Rule 5-405 was previously Rule M 701.5, 1 CCR 212-1.

5-405 - Medical Marijuana Testing Facilities: License Privileges

A. Licensed Premises. A separate License is required for each specific Medical Marijuana Testing Facility and only those privileges granted by the Marijuana Code and any rules promulgated pursuant to it may be exercised on the Licensed Premises. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Medical Marijuana Testing Facility may share and operate at the same Licensed Premises with a Retail Marijuana Testing Facility with identical ownership.

B. Testing of Medical Marijuana Authorized. A Medical Marijuana Testing Facility may accept Samples of Medical Marijuana from Medical Marijuana Businesses for testing and research purposes only, which purposes may include the provision of testing services for Samples submitted by a Medical Marijuana Business for the purpose of product development. The Division may require a Medical Marijuana Business to submit a Sample of Medical Marijuana to a Medical Marijuana Testing Facility upon demand.

C. Testing of Industrial Hemp Product Authorized.

1. A Medical Marijuana Testing Facility may accept and test samples of Industrial Hemp Products.

2. Before a Medical Marijuana Testing Facility accepts a sample of Industrial Hemp Product, the Medical Marijuana Testing Facility shall verify that the Person submitting the sample is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

3. A Medical Marijuana Testing Facility is responsible for entering and tracking samples of Industrial Hemp Product in the inventory tracking system pursuant to the 3-800 Series Rules.

4. A Medical Marijuana Testing Facility shall be permitted to test Industrial Hemp Product only in the category(ies) that the Medical Marijuana Testing Facility is certified to perform testing in pursuant to Rule 5-415 – Medical Marijuana Testing Facilities: Certification Requirements.

5. A Medical Marijuana Testing Facility may provide the results of any testing performed on Industrial Hemp Product to the Person submitting the sample of Industrial Hemp Product.

6. Nothing in these rules shall be construed to require a Medical Marijuana Testing Facility to accept and/or test samples of Industrial Hemp Product.

D. Testing Medical Marijuana for Patients in Research Project. A Medical Marijuana Testing Facility is authorized to accept Samples of Medical Marijuana from an individual person for testing under only the following conditions:

1. The individual person is:

a. A currently registered patient pursuant to section 25-1.5-106, C.R.S.; and

b. A participant in an approved clinical or observational study conducted by a Marijuana Research and Development Facility.

2. The Medical Marijuana Testing Facility shall require the patient to produce a valid patient registry card and a current and valid photo identification. *See* Rule 3-405(A) – Acceptable Forms of Identification.

3. The Medical Marijuana Testing Facility shall require the patient to produce verification on a form approved by the Division from the Marijuana Research and Development Facility that the patient is a participant in an approved clinical or observational Research Project conducted by the Marijuana Research and Development Facility and that the testing will be in furtherance of the approved Research Project.

4. A primary caregiver may transport Medical Marijuana on behalf of a patient to the Medical Marijuana Testing Facility. A Medical Marijuana Testing Facility shall require the following documentation before accepting Medical Marijuana from a primary caregiver:

a. A copy of the patient registry card and valid photo identification for the patient;

b. A copy of the caregiver's registration with the State Department of Health pursuant to section 25-1.5-106, C.R.S. and a current and valid photo identification, *see* Rule 3-405 – Acceptable Forms of Identification; and

c. A copy of the Marijuana Research and Development Facility's verification on a form approved by the Division that the patient is participating in an approved clinical or observational Research Project being conducted by the Marijuana Research and Development Facility and that the testing will be in furtherance of the approved Research Project.

5. The Medical Marijuana Testing Facility shall report all results of testing performed pursuant to this Paragraph (C.5) to the Marijuana Research and Development Facility identified in the verification form submitted pursuant to Paragraph (D)(3) or (4)(c), or as otherwise directed by the approved Research Project being conducted by the Marijuana Research and Development Facility. Testing result reporting shall conform with the requirements under these Rules.

E. Product Development Authorized. A Medical Marijuana Testing Facility may develop Medical Marijuana Product, but is not authorized to engage in the manufacturing privileges described in section 44-10-503, C.R.S. and Rule 5-305 – Medical Marijuana Products Manufacturer: License Privileges.

F. Transferring Samples to Another Licensed and Certified Medical Marijuana Testing Facility. A Medical Marijuana Testing Facility may Transfer Samples to another Medical Marijuana Testing Facility for testing. All laboratory reports provided to or by a Medical Marijuana Business, or to a patient or primary caregiver must identify the Medical Marijuana Testing Facility that actually conducted the test.

G. Authorized Medical Marijuana Transport. A Medical Marijuana Testing Facility is authorized to utilize a licensed Medical Marijuana Transporter to transport Samples of Medical Marijuana for testing, in accordance with the Marijuana Code and the rules adopted pursuant thereto, between the originating Medical Marijuana Business requesting testing services and the destination Medical Marijuana Testing Facility performing testing services. Nothing in this Rule requires a Medical Marijuana Business to utilize a Medical Marijuana Transporter to transport Samples of Medical Marijuana for testing.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-410

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(h), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f)(II), 44-10-203(2)(f)(IV), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-313(8)(a), 44-10-401(2)(a)(IV), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1), and 44-10-504(2), 44-10-701, and 35-61-105.5, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Medical Marijuana Testing Facility. This Rule 5-410 was previously Rule M 702, 1 CCR 212-1.

5-410 – Medical Marijuana Testing Facilities: General Limitations or Prohibited Acts

A. Prohibited Financial Interest. A Person who is a Controlling Beneficial Owner or Passive Beneficial Owner of a Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturing Facility, Medical Marijuana Store, Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, or a Retail Marijuana Store shall not be a Controlling Beneficial Owner or Passive Beneficial Owner of a Medical Marijuana Testing Facility.

B. Conflicts of Interest. The Medical Marijuana Testing Facility shall establish policies to prevent the existence of or appearance of undue commercial, financial, or other influences that may diminish the competency, impartiality, and integrity of the Medical Marijuana Testing Facility's testing processes or results, or that may diminish public confidence in the competency, impartiality, and integrity of the Medical Marijuana Testing Facility's testing processes or results. At a minimum, employees, owners or agents of a Medical Marijuana Testing Facility who participate in any aspect of the analysis and results of a Sample are prohibited from improperly influencing the testing process, improperly manipulating data, or improperly benefiting from any on-going financial, employment, personal or business relationship with the Medical Marijuana Business that provided the Sample.

C. Transfer of Medical Marijuana Prohibited. A Medical Marijuana Testing Facility shall not Transfer Medical Marijuana to a Medical Marijuana Business, a consumer, a patient, or primary caregiver, except that a Medical Marijuana Testing Facility may Transfer a Sample to another Medical Marijuana Testing Facility.

D. Destruction of Received Samples. A Medical Marijuana Testing Facility shall properly dispose of all Samples it receives, that are not Transferred to another Medical Marijuana Testing Facility, after all necessary tests have been conducted and any required period of storage. *See* Rule 3-230 – Waste Disposal.

E. Sample Rejection. A Medical Marijuana Testing Facility shall reject any Sample where the condition of the Sample at receipt indicates that that the Sample may have been tampered with.

F. Medical Marijuana Business Requirements Applicable. A Medical Marijuana Testing Facility shall be considered a Licensed Premises. A Medical Marijuana Testing Facility shall be subject to all requirements applicable to Medical Marijuana Businesses.

G. Medical Marijuana Testing Facility – Inventory Tracking System Required. A Medical Marijuana Testing Facility must use the Inventory Tracking System to ensure all Test Batches or Samples containing Medical Marijuana are identified and tracked from the point they are Transferred from a Medical Marijuana Business, a patient, or a patient's primary caregiver through the point of Transfer, destruction, or disposal. The Inventory Tracking System reporting shall include the results of any tests that are conducted on Medical Marijuana. *See* Rule 3-805 – Regulated Marijuana Business: Inventory Tracking System, Rule 3-825 – Reporting and Inventory Tracking

System, and Rule 5-405(D)(5). The Medical Marijuana Testing Facility must have the ability to reconcile its Sample records with the Inventory Tracking System and the associated transaction history. *See* Rule 3-905 – Business Records Required and Rule 3-825 Reporting and Inventory Tracking

H. Industrial Hemp Testing Prohibited. A Medical Marijuana Testing Facility shall not perform testing on Industrial Hemp.

I. Testing of Unregistered or Untracked Industrial Hemp Products Prohibited. A Medical Marijuana Testing Facility is authorized to accept or test Industrial Hemp Product only if (1) the entity providing the Samples of Industrial Hemp Product is registered and regulated pursuant to Article 4 or Title 25, C.R.S., and (2) the Industrial Hemp Product being submitted for testing is tracked in the Inventory Tracking System.

J. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-415

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(h), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f)(II), 44-10-203(2)(f)(IV), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-313(8)(a), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish a frame work for certification for Medical Marijuana Testing Facilities. This Rule 5-415 was previously Rule M 703, 1 CCR 212-1.

5-415 – Medical Marijuana Testing Facilities: Certification Requirements

A. Certification Types. If certification in a testing category is required by the Division, then the Medical Marijuana Testing Facility must be certified in the category in order to perform that type of testing.

1. Microbials;

2. Mycotoxins;

3. Residual solvents;

4. Pesticides;

5. THC and other Cannabinoid potency;

6. Elemental Impurities; and

7. Water Activity.

B. In order to obtain certification for Pesticide testing, a Medical Marijuana Testing Facility must also obtain certification for mycotoxin testing.

C. Certification Procedures. The Medical Marijuana Testing Facility certification program is contingent upon successful on-site inspection, successful participation in Proficiency Testing, and ongoing compliance with the applicable requirements in this Rule.

1. Certification Inspection. A Medical Marijuana Testing Facility must be inspected prior to initial certification and annually thereafter by an inspector approved by the Division.

2. Standards for Certification. A Medical Marijuana Testing Facility must meet standards of performance, as established by these rules, in order to obtain and maintain certification. Standards of performance include but are not limited to: personnel qualifications, standard operating procedure manual, analytical processes, Proficiency Testing, quality control, quality assurance, security, chain of custody, Sample retention, space, records, and results reporting. In addition, a Medical Marijuana Testing Facility must be accredited under the International Organization for Standardization/International Electrotechnical Commission 17025:2005 Standard, or any subsequent superseding ISO/IEC 17025 standard. In order to obtain certification in a testing category from the Division, the Medical Marijuana Testing Facility's scope of accreditation must specify that particular testing category.

    a. Subsequent to initial approval of a Medical Marijuana Testing Facility License, the Division may grant provisional certification if the Applicant has not yet obtained ISO/IEC 17025:2005 accreditation, but meets all other Division requirements. Such provisional certification shall be for a period not to exceed twelve months.

3. Personnel Qualifications.

    a. Laboratory Director. A Medical Marijuana Testing Facility must employ, at a minimum, a laboratory director with sufficient education and experience in a regulated laboratory environment in order to obtain and maintain certification. *See* Rule 5-420 – Medical Marijuana Testing Facilities: Personnel.

    b. Employee Competency. A Medical Marijuana Testing Facility must have a written and documented system to evaluate and document the competency in performing authorized tests for employees. Prior to independently analyzing Samples, testing personnel must demonstrate acceptable performance on precision, accuracy, specificity, reportable ranges, blanks, and unknown challenge samples (proficiency samples or internally generated quality controls).

4. Standard Operating Procedure Manual. A Medical Marijuana Testing Facility must have a written standard operating procedure manual meeting the minimum standards set forth in these rules detailing the performance of all methods employed by the facility used to test the analytes it reports and made available for testing analysts to follow at all times.

    a. The current laboratory director must approve, sign and date each procedure. If any modifications are made to those procedures, the laboratory director must approve, sign and date the revised version prior to use.

    b. A Medical Marijuana Testing Facility must maintain a copy of all standard operating procedures to include any revised copies for a minimum of three years. *See* Rule 5-450 – Medical Marijuana Testing Facilities: Records Retention and Rule 3-905 – Business Records Required.

5. Analytical Processes. A Medical Marijuana Testing Facility must maintain a listing of all analytical methods used and all analytes tested and reported. The Medical Marijuana Testing Facility must provide this listing to the Division upon request.

6. Proficiency Testing. A Medical Marijuana Testing Facility must successfully participate in a Division approved Proficiency Testing program in order to obtain and maintain certification.

7. Quality Assurance and Quality Control. A Medical Marijuana Testing Facility must establish and follow a quality assurance and quality control program to ensure sufficient monitoring of laboratory processes and quality of results reported.

8. Security. A Medical Marijuana Testing Facility must be located in a secure setting as to prevent unauthorized persons from gaining access to the testing and storage areas of the laboratory.

9. Chain of Custody. A Medical Marijuana Testing Facility must establish a system to document the complete chain of custody for Samples from receipt through disposal.

10. Space. A Medical Marijuana Testing Facility must be located in a fixed structure that provides adequate infrastructure to perform analysis in a safe and compliant manner consistent with federal, state and local requirements.

11. Records. A Medical Marijuana Testing Facility must establish a system to retain and maintain all required records. *See* Rule 5-450 – Medical Marijuana Testing Facilities: Records Retention and Rule 3-905 – Business Records Required.

12. Results Reporting. A Medical Marijuana Testing Facility must establish processes to ensure results are reported in a timely and accurate manner. *See* Rule 3-825 – Reporting and Inventory Tracking System. A Medical Marijuana Testing Facility's process may require that the Regulated Marijuana Business remit payment for any test conducted by the Testing Facility prior to entry of the results of that test into the Inventory Tracking System. A Medical Marijuana Testing Facility's process established under this subparagraph (12) must be maintained on the Licensed Premises of the Medical Marijuana Testing Facility.

13. Conduct While Seeking Certification. A Medical Marijuana Testing Facility, and its agents and employees, shall provide all documents and information required or requested by the Colorado Department of Public Health and Environment and its employees, and the Division and its employees in a full, faithful, truthful, and fair manner.

D. Violation Affecting Public Safety. A violation of this Rule may be considered a license violation affecting public safety.

Basis and Purpose – 5-420

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(h), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f)(II), 44-10-203(2)(f)(IV), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-313(8)(a), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish personnel standards for the operation of a Medical Marijuana Testing Facility. This Rule 5-420 was previously Rule M 704, 1 CCR 212-1.

5-420 – Medical Marijuana Testing Facilities: Personnel

A. Laboratory Director. The laboratory director is responsible for the overall analytical operation and quality of the results reported by the Medical Marijuana Testing Facility, including the employment of personnel who are competent to perform test procedures, and record and report test results promptly, accurately, and proficiently and for assuring compliance with the standards set forth in this Rule.

1. The laboratory director may also serve as a supervisory analyst or testing analyst, or both, for a Medical Marijuana Testing Facility.

2. The laboratory director for a Medical Marijuana Testing Facility must meet one of the following qualification requirements:

    a. The laboratory director must be a Medical Doctor (M.D.) licensed to practice medicine in Colorado and have at least three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body;

    b. The laboratory director must hold a doctoral degree in one of the natural sciences and have at least three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body;

    c. The laboratory director must hold a master's degree in one of the natural sciences and have at least five years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body; or

    d. The laboratory director must hold a bachelor's degree in one of the natural sciences and have at least seven years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body.

B. What the Laboratory Director May Delegate. The laboratory director may delegate the responsibilities assigned under this Rule to a qualified supervisory analyst, provided that such delegation is made in writing and a record of the delegation is maintained. *See* Rule 3-905 – Business Records Required. Despite the designation of a responsibility, the laboratory director remains responsible for ensuring that all duties are properly performed.

C. Responsibilities of the Laboratory Director. The laboratory director must:

1. Ensure that the Medical Marijuana Testing Facility has adequate space, equipment, materials, and controls available to perform the tests reported;

2. Establish and adhere to a written standard operating procedure used to perform the tests reported;

3. Ensure that testing systems developed and used for each of the tests performed in the laboratory provide quality laboratory services for all aspects of test performance, which includes the preanalytic, analytic, and postanalytic phases of testing;

4. Ensure that the physical location and environmental conditions of the laboratory are appropriate for the testing performed and provide a safe environment in which employees are protected from physical, chemical, and biological hazards;

5. Ensure that the test methodologies selected have the capability of providing the quality of results required for the level of testing the laboratory is certified to perform;

6. Ensure that validation and verification test methods used are adequate to determine the accuracy, precision, and other pertinent performance characteristics of the method;

7. Ensure that testing analysts perform the test methods as required for accurate and reliable results;

8. Ensure that the laboratory is enrolled in and successfully participates in a Division approved Proficiency Testing program;

9. Ensure that the quality control and quality assessment programs are established and maintained to assure the quality of laboratory services provided and to identify failures in quality as they occur;

10. Ensure the establishment and maintenance of acceptable levels of analytical performance for each test system;

11. Ensure that all necessary remedial actions are taken and documented whenever significant deviations from the laboratory's established performance specifications are identified, and that test results are reported only when the system is functioning properly;

12. Ensure that reports of test results include pertinent information required for interpretation;

13. Ensure that consultation is available to the laboratory's clients on matters relating to the quality of the test results reported and their interpretation of said results;

14. Employ a sufficient number of laboratory personnel who meet the qualification requirements and provide appropriate consultation, properly supervise, and ensure accurate performance of tests and reporting of test results;

15. Ensure that prior to testing any samples, all testing analysts receive the appropriate training for the type and complexity of tests performed, and have demonstrated and documented that they can perform all testing operations reliably to provide and report accurate results;

16. Ensure that policies and procedures are established for monitoring individuals who conduct preanalytical, analytical, and postanalytical phases of testing to assure that they are competent and maintain their competency to process Samples, perform test procedures and report test results promptly and proficiently, avoid actual and apparent conflicts of interest, and whenever necessary, identify needs for remedial training or continuing education to improve skills;

17. Ensure that an approved standard operating procedure manual is available to all personnel responsible for any aspect of the testing process; and

18. Specify, in writing, the responsibilities and duties of each person engaged in the performance of the preanalytic, analytic, and postanalytic phases of testing, that identifies which examinations and procedures each individual is authorized to perform, whether supervision is required for Sample processing, test performance or results reporting, and whether consultant or laboratory director review is required prior to reporting test results.

D. Change in Laboratory Director. In the event that the laboratory director leaves employment at the Medical Marijuana Testing Facility, the Medical Marijuana Testing Facility shall:

1. Provide written notice to the Colorado Department of Public Health and Environment and the Division within seven days of the laboratory director’s departure; and

2. Designate an interim laboratory director within seven days of the laboratory director’s departure. At a minimum, the interim laboratory director must meet the qualifications of a supervisory analyst.

3. The Medical Marijuana Testing Facility must hire a permanent laboratory director within 60 days from the date of the previous laboratory director's departure.

4. Notwithstanding the requirement of subparagraph (D)(3), the Medical Marijuana Testing Facility may submit a waiver request to the Division Director to receive an additional 60 days to hire a permanent laboratory director provided that the Medical Marijuana Testing Facility submits a detailed oversight plan along with the waiver request.

E. Supervisory Analyst. Supervisory analysts must meet one of the qualifications for a laboratory director or have at least a bachelor's degree in one of the natural sciences and two years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body. A combination of education and experience may substitute for the two years of full-time laboratory experience.

F. Laboratory Testing Analyst.

1. Educational Requirements. An individual designated as a testing analyst must meet one of the qualifications for a laboratory director or supervisory analyst or:

a. Have at least a bachelor's degree in one of the natural sciences and one year of full-time experience in laboratory testing;

b. Have a least a bachelor's degree in one of the natural sciences;

c. Have earned an associated degree in a laboratory science from an accredited institution; or

d. Have education and training equivalent to that specified in subparagraph (F)(1) of this Rule that includes at least 60 semester hours, or equivalent, from an accredited institution that, at a minimum, include:

i. 24 semester hours of science courses that include six semester hours of chemistry, six semester hours of biology, and twelve semester hours of chemistry, biology, or cannabis laboratory sciences in any combination; and

ii. Have a laboratory training that includes at least three months documented laboratory training each testing category in which the individual performs testing; or

e. Have at least five years of full time experience in laboratory testing and have laboratory training that includes at least three months documented laboratory training in each testing category in which the individual performs testing.

2. Responsibilities. In order to independently perform any test for a Medical Marijuana Testing Facility, an individual must at least meet the educational requirements for a testing analyst.

G. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-425

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish standard operating procedures manual

standards for the operation of a Medical Marijuana Testing Facility. This Rule 5-425 was previously Rule M 705, 1 CCR 212-1.

5-425 – Medical Marijuana Testing Facilities: Standard Operating Procedure Manual

A. A standard operating procedure manual must include, but need not be limited to, procedures for:

1. Test Batch receiving;

2. Test Batch accessioning;

3. Test Batch storage;

4. Identifying, rejecting, and reporting unacceptable Test Batches;

5. Recording and reporting discrepancies during Test Batch receiving and accessioning;

6. Security of Test Batches, aliquots and extracts and records;

7. Validating a new or revised method prior to testing of Test Batches to include: accuracy, precision, analytical sensitivity, analytical specificity (interferences), LOD, LOQ, and verification of the reportable range;

8. Test Batch preparation, including but not limited to, sub-sampling for testing, homogenization, and aliquoting Test Batches to avoid contamination and carry-over;

9. Test Batch archive retention to assure stability, as follows:

   a. For Test Batches submitted for testing other than Pesticide contaminant testing, Test Batch archive retention for 14 days;

   b. For Test Batches submitted for Pesticide contaminant testing, Test Batch retention for 90 days.

10. Disposal of Test Batches;

11. The theory and principles behind each assay;

12. Preparation and identification of reagents, standards, calibrators and controls and ensure all standards are traceable to National Institute of Standards of Technology (“NIST”);

13. Special requirements and safety precautions involved in performing assays;

14. Frequency and number of control and calibration materials;

15. Recording and reporting assay results;

16. Protocol and criteria for accepting or rejecting analytical procedure to verify the accuracy of the final report;

17. Pertinent literature references for each method;

18. Current step-by-step instructions with sufficient detail to perform the assay to include equipment operation and any abbreviated versions used by a testing analyst;

19. Acceptability criteria for the results of calibration standards and controls as well as between two aliquots or columns;

20. A documented system for reviewing the results of testing calibrators, controls, standards, and Test Batch results, as well as reviewing for clerical errors, analytical errors and any unusual analytical results and are corrective actions implemented and documented, and does the laboratory contact the requesting entity;

21. Policies and procedures to follow when Test Batches are requested for referral and testing by another certified Medical Marijuana Testing Facility or an approved local state agency's laboratory;

22. Investigating and documenting existing or potential Nonconformances and implementing Corrective Actions and/or Preventive Actions;

23. Contacting the requesting entity about existing Nonconformances; and

24. Retesting or additional analyses of Test Batches, including but ne not be limited to, when it is appropriate to retest or perform an additional analysis of the Test Batch, when it is appropriate for the requesting entity to request retesting (e.g., after failing Pesticide testing or elemental impurity testing on Regulated Marijuana flower, trim, shake, or wet whole plant as permitted by Rule 4-135(D) and 4-135(D.1)).

B. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-430

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish analytical processes standards for the operation of a Medical Marijuana Testing Facility. This Rule 5-430 was previously Rule M 706, 1 CCR 212-1.

5-430 – Medical Marijuana Testing Facilities: Analytical Processes

A. Gas Chromatography ("GC"). A Medical Marijuana Testing Facility using GC must:

1. Document the conditions of the gas chromatograph, including the detector response;

2. Perform and document preventive maintenance as required by the manufacturer;

3. Ensure that records are maintained and readily available to the staff operating the equipment;

4. Document the performance of new columns before use;

5. Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified;

6. Establish criteria of acceptability for variances between different aliquots and different columns; and

7. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.

B. Gas Chromatography Mass Spectrometry ("GC/MS"). A Medical Marijuana Testing Facility using GC/MS must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Document the changes of septa as specified in the standard operating procedure;

3. Document liners being cleaned or replaced as specified in the standard operating procedure;

4. Ensure that records are maintained and readily available to the staff operating the equipment;

5. Maintain records of mass spectrometric tuning;

6. Establish written criteria for an acceptable mass-spectrometric tune;

7. Document corrective actions if a mass-spectrometric tune is unacceptable;

8. Monitor analytic analyses to check for contamination and carry-over;

9. Use selected ion monitoring within each run to assure that the laboratory compares ion ratios and retention times between calibrators, controls and samples for identification of an analyte;

10. Use an internal standard for qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified and is isotopically labeled when available or appropriate for the assay;

11. Document the monitoring of the response (area or peak height) for the internal standard to ensure consistency overtime of the analytical system;

12. Define the criteria for designating qualitative results as positive;

13. When a library is used to qualitatively identify an analyte, the identity of the analyte must be confirmed before reporting results by comparing the relative retention time and mass spectrum to that of a known standard or control run on the same system; and

14. Evaluate the performance of the instrument after routine and preventive maintenance (*e.g.* clipping or replacing the column or cleaning the source) prior to analyzing subject Samples.

C. Immunoassays. A Medical Marijuana Testing Facility using Immunoassays must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Validate any changes or modifications to a manufacturer's approved assays or testing methods when a sample is not included within the types of samples approved by the manufacturer; and

4. Define acceptable separation or measurement units (absorbance intensity or counts per minute) for each assay, which must be consistent with manufacturer's instructions.

D. Thin Layer Chromatography ("TLC"). A Medical Marijuana Testing Facility using TLC must:

1. Apply unextracted standards to each thin layer chromatographic plate;

2. Include in their written procedure the preparation of mixed solvent systems, spray reagents and designation of lifetime;

3. Include in their written procedure the storage of unused thin layer chromatographic plates;

4. Evaluate, establish, and document acceptable performance for new thin layer chromatographic plates before placing them into service;

5. Verify that the spotting technique used precludes the possibility of contamination and carry-over;

6. Measure all appropriate RF values for qualitative identification purposes;

7. Use and record sequential color reactions, when applicable;

8. Maintain records of thin layer chromatographic plates; and

9. Analyze an appropriate matrix blank with each batch of samples analyzed.

E. High Performance Liquid Chromatography ("HPLC"). A Medical Marijuana Testing Facility using HPLC must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Monitor and document the performance of the HPLC instrument each day of testing;

4. Evaluate the performance of new columns before use;

5. Create written standards for acceptability when eluting solvents are recycled;

6. Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified when available or appropriate for the assay; and

7. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.

F. Liquid Chromatography Mass Spectroscopy ("LC/MS"). A Medical Marijuana Testing Facility using LC/MS must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Maintain records of mass spectrometric tuning;

4. Document corrective actions if a mass-spectrometric tune is unacceptable;

5. Use an internal standard with each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified and is isotopically labeled when available or appropriate for the assay;

6. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system;

7. Compare two transitions and retention times between calibrators, controls and samples within each run;

8. Document and maintain records when changes in source, source conditions, eluent, or column are made to the instrument; and

9. Evaluate the performance of the instrument when changes in: source, source conditions, eluent, or column are made prior to reporting test results.

G. Microbial Assays. A Medical Marijuana Testing Facility using microbial assays must:

1. Perform and document preventive maintenance as required by the manufacturer and standard operating procedures;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Validate any changes or modifications to a manufacturer's approved assays or testing methods when a test sample submitted for testing is not included within the types of Test Batches approved by the manufacturer;

4. Verify the method at the action levels for each analyte. Verification at the qualitative presence/absence limit shall include a fractional recovery study unless otherwise completed by the manufacturer and approved by an independent scientific body.

5. Include controls for each batch of test samples. Quantitative microbial methods shall use controls of a specific known value or set of values that lies within the quantifiable range of the method;

6. For molecular methods, the Medical Marijuana Testing Facility shall include controls for each individual analytical run. Quantitative molecular methods shall use controls of a specific known value or set of values that lies within the quantifiable range of the method;

7. PCR-based and qPCR-based methods must include validated internal amplification controls;

8. Microbial methods must include steps to confirm presumptive positive results; confirmation methods may be molecular or cultural or both. Confirmation methods must include quality controls that match the organism which is being confirmed.

H. Water Activity. A Medical Marijuana Testing Facility analyzing water activity must:

1. Perform and document preventive maintenance as required by the manufacturer and standard operating procedures;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Specify all unique method parameters, such as temperature, test sample surface area, volatile compound interferences, including but not limited to temperature;

4. Evaluate the performance of the method after routine and preventive maintenance prior to analyzing the Test Batch;

5. Establish criteria for acceptable instrument performance.

I. Analytical Methodology. A Medical Marijuana Testing Facility must validate new methodology and revalidate any changes to approved methodology prior to testing Test Batches. A Medical Marijuana Testing Facility must:

1. Implement a performance based measurement system for the selected methodology and validate the method following good laboratory practices prior to reporting results. Validation of other or new methodology must include when applicable, but is not limited to:

a. Verification of Accuracy

b. Verification of Precision

c. Verification of Analytical Sensitivity

d. Verification of Analytical Specificity

e. Verification of the LOD

f. Verification of the LOQ

g. Verification of the Reportable Range

h. Identification of Interfering Substances

2. Validation of the other or new methodology must be documented.

3. Prior to use, other or new methodology must have a standard operating procedure approved and signed by the laboratory director.

4. Testing analysts must have documentation of competency assessment prior to testing samples.

5. Any changes to the approved other or new methodology must be revalidated and documented prior to testing samples.

J. Testing and Validation of Complex Matrices. A Medical Marijuana Testing Facility must include a variety of matrices as part of the validation/verification process. During method validation/verification, a Medical Marijuana Testing Facility must:

1. Select matrices which best represent each category of products to be tested as listed in Rule 4-115(D). The laboratory shall independently determine the category of matrix a product falls within; properties to consider include fat content, cannabinoid content, pH,

salt content, sugar content, water activity, the presence of know chemical compounds, microbial flora and antimicrobial compounds.

2. Perform a new matrix validation, prior to reporting results, on matrices which are either a new category of matrix or are considerably different from the original matrix validated within the category.

    a. For example, the Medical Marijuana Testing Facility intends to receive the topical product “bath bombs” for testing, but previous validation studies for topical product included lotion and massage oil. A new validation should be performed for the product prior to testing since salt content and other properties differ vastly from the original matrices validated.

3. Perform a matrix verification (a client matrix spike or similar consisting of the target analyte(s) at the time of analysis) on matrices submitted for testing which differ slightly from those initially validated but which fall within a category already validated.

    a. For example, the Medical Marijuana Testing Facility laboratory receives a new edible type matrix for testing (snickerdoodle cookies) but previous validation included gummies and hard candy. A spike of a portion of the submitted material must be analyzed prior to, or at the time of, sample analysis.

K. All Test Batches and Industrial Hemp Product must be tested as received, must not be manipulated, and tested in a manner that ensures results are representative of sample as received.

L. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-435

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish a proficiency testing program for Medical Marijuana Testing Facilities. This Rule 5-435 was previously Rule M 707, 1 CCR 212-1.

5-435 – Medical Marijuana Testing Facilities: Proficiency Testing

A. Proficiency Testing Required. A Medical Marijuana Testing Facility must participate in a Proficiency Testing Program for each approved category in which it seeks certification under Rule 5-415 – Medical Marijuana Testing Facilities: Certification Requirements.

B. Participation in Designated Proficiency Testing Event. If required by the Division as part of certification, the Medical Marijuana Testing Facility must have successfully participated in a proficiency test in the category for which it seeks certification, within the preceding 12 months.

C. Continued Certification. To maintain continued certification, a Medical Marijuana Testing Facility must participate in the designated proficiency testing program with continued satisfactory performance as determined by the Division as part of certification. The Division may designate a local agency, state agency, or independent third-party to provide Proficiency Testing.

D. Analyzing Proficiency Testing Samples. A Medical Marijuana Testing Facility must analyze Proficiency Testing Samples using the same procedures with the same number of replicate analyses, standards, testing analysts, and equipment as used in its standard operating procedures.

E. Proficiency Testing Attestation. The laboratory director and all testing analysts that participated in a Proficiency Testing must sign corresponding attestation statements.

F. Laboratory Director Must Review Results. The laboratory director must review and evaluate all Proficiency Testing results.

G. Remedial Action. A Medical Marijuana Testing Facility must take and document remedial action when a score of less than 100% is achieved on any test during a Proficiency Test. Remedial action documentation must include a review of Samples tested and results reported since the last successful proficiency testing event. A requirement to take remedial action does not necessarily indicate unsatisfactory participation in a Proficiency Testing event.

H. Unsatisfactory Participation in Proficiency Testing Event. Unless the Medical Marijuana Testing Facility positively identifies at least 80% of the target analytes tested, participation in the Proficiency Testing will be considered unsatisfactory. A positive identification must include accurate quantitative and qualitative results as applicable. Any false positive results reported will be considered an unsatisfactory score for the proficiency testing event.

I. Consequence of Unsatisfactory Participation in Proficiency Testing Event. Unsuccessful participation in a Proficiency Testing event may result in limitation, suspension or revocation of Rule 5-415 certification.

J. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-440

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish quality assurance and quality assurance standards for a Medical Marijuana Testing Facility. This Rule 5-440 was previously Rule M 708, 1 CCR 212-1.

5-440 – Medical Marijuana Testing Facilities: Quality Assurance and Quality Control

A. Quality Assurance Program Required. A Medical Marijuana Testing Facility must establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory preanalytic, analytic and postanalytic systems when they occur and must include, but is not limited to:

1. Review of instrument preventive maintenance, repair, troubleshooting and corrective actions documentation must be performed by the laboratory director or designated supervisory analyst on an ongoing basis to ensure the effectiveness of actions taken over time;

2. Review by the laboratory director or designated supervisory analyst of all ongoing quality assurance; and

3. Review of the performance of validated methods used by the Medical Marijuana Testing Facility to include calibration standards, controls and the standard operating procedures used for analysis on an ongoing basis to ensure quality improvements are made when problems are identified or as needed.

B. Quality Control Measures Required. A Medical Marijuana Testing Facility must establish, monitor, and document on an ongoing basis the quality control measures taken by the laboratory to ensure the proper functioning of equipment, validity of standard operating procedures and

accuracy of results reported. Such quality control measures must include, but shall not be limited to:

1. Documentation of instrument preventive maintenance, repair, troubleshooting and corrective actions taken when performance does not meet established levels of quality;

2. Review and documentation of the accuracy of automatic and adjustable pipettes and other measuring devices when placed into service and annually thereafter;

3. Cleaning, maintaining and calibrating as needed the analytical balances and in addition, verifying the performance of the balance annually using certified weights to include three or more weights bracketing the ranges of measurement used by the laboratory;

4. Annually verifying and documenting the accuracy of thermometers using a NIST traceable reference thermometer;

5. Recording temperatures on all equipment when in use where temperature control is specified in the standard operating procedures manual, such as water baths, heating blocks, incubators, ovens, refrigerators, and freezers;

6. Properly labeling reagents as to the identity, the concentration, date of preparation, storage conditions, lot number tracking, expiration date and the identity of the preparer;

7. Avoiding mixing different lots of reagents in the same analytical run;

8. Performing and documenting a calibration curve with each analysis using at minimum three calibrators throughout the reporting range;

9. For qualitative analyses, analyzing, at minimum, a negative and a positive control with each batch of samples analyzed;

10. For quantitative analyses, analyzing, at minimum, a negative and two levels of controls that challenge the linearity of the entire curve;

11. Using a control material or materials that differ in either source or, lot number, or concentration from the calibration material used with each analytical run;

12. For multi-analyte assays, performing and documenting calibration curves and controls specific to each analyte, or at minimum, one with similar chemical properties as reported in the analytical run;

13. Analyzing an appropriate matrix blank and control with each analytical run, when available;

14. Analyzing calibrators and controls in the same manner as unknowns;

15. Documenting the performance of calibration standards and controls for each analytical run to ensure the acceptability criteria as defined in the Standard Operating Procedure is met;

16. Documenting all corrective actions taken when unacceptable calibration, control, and standard or instrument performance does not meet acceptability criteria as defined in the Standard Operating Procedure;

17. Maintaining records of validation data for any new or modified methods to include; accuracy, precision, analytical specificity (interferences), LOD, LOQ, and verification of the linear range; and

18. Performing testing analysts that follow the current standard operating procedures manual for the test or tests to be performed.

C. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-445

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish chain of custody standards for a Medical Marijuana Testing Facility. In addition, it establishes the requirement that a Medical Marijuana Testing Facility follow an adequate chain of custody for Samples it maintains. This Rule 5-445 was previously Rule M 709, 1 CCR 212-1.

5-445 – Medical Marijuana Testing Facilities: Chain of Custody

A. General Requirements. A Medical Marijuana Testing Facility must establish an adequate chain of custody and Test Batch requirement instructions that must include, but not be limited to;

1. Issue instructions for the minimum Test Batch requirements and storage requirements;

2. Document the condition of the external package and integrity seals utilized to prevent contamination of, or tampering with, the Test Batch;

3. Document the condition and amount of Test Batch provided at the time of receipt;

4. Document all persons handling the original Test Batches, aliquots, and extracts;

5. Document all Transfers of Test Batches, aliquots, and extracts referred to another certified Medical Marijuana Testing Facility Licensee for additional testing or whenever requested by a client;

6. Maintain a current list of authorized personnel and restrict entry to the laboratory to only those authorized;

7. Secure the Laboratory during non-working hours;

8. Secure short and long-term storage areas when not in use;

9. Utilize a secured area to log-in and aliquot Test Batches;

10. Ensure Test Batches are stored appropriately;

11. Document the disposal of Test Batches, aliquots, and extracts; and

12. Document the License number, Inventory Tracking System number, photograph(s), and the reason for rejection of Test Batches that were rejected to the Division within 7 days of Test Batch submission.

B. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-450

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(d), 44-10-401(2)(a)(IV), and 44-10-504, C.R.S. The purpose of this rule is to establish records retention standards for a Medical Marijuana Testing Facility. This Rule 5-450 was previously Rule M 710, 1 CCR 212-1.

5-450 – Medical Marijuana Testing Facilities: Records Retention

A. General Requirement. A Medical Marijuana Testing Facility must maintain all required business records. *See* Rule 3-905 - Business Records Required.

B. Specific Business Records Required: Records Retention. A Medical Marijuana Testing Facility must establish processes to preserve records in accordance with Rule 3-905 that includes, but is not limited to;

1. Test Results, including final and amended reports, and identification of analyst and date of analysis;

2. Quality Control and Quality Assurance Records, including accession numbers, Test Batch type, and acceptable reference range parameters;

3. Standard Operating Procedures;

4. Personnel Records;

5. Chain of Custody Records, including documentation of rejected Test Batches;

6. Proficiency Testing Records; and

7. Analytical Data to include data generated by the instrumentation, raw data calibration standards, and curves.

C. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-455

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(h), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f)(II), 44-10-203(2)(f)(IV), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-313(8)(a), 44-10-401(2)(a)(IV), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1), and 44-10-504(2), C.R.S. The purpose of this rule is to require Medical Marijuana Testing Facilities to provide failed test results to the Medical Marijuana Business or Person submitting the sample and to report any failed test result in the inventory tracking system. This Rule 5-455 was previously Rule M 712(D), 1 CCR 212-1.

5-455 – Notification of Medical Marijuana Business

If Medical Marijuana failed a contaminant test, then the Medical Marijuana Testing Facility must immediately (1) notify the Medical Marijuana Business that submitted the Test Batch or Sample for testing and any Person as directed by an approved Research Project being conducted by a Marijuana Research and Development Facility; and (2) report the failure in accordance with the Inventory Tracking System reporting requirements in Rule 3-825(C).

Basis and Purpose – 5-460

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(4), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(3)(c), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish a framework for suspending and reinstating a testing category certification for Medical Marijuana Testing Facilities. This rule also provides the ability for a Medical Marijuana Testing Facility to request a hearing following suspension of a testing category certification.

5-460 – Medical Marijuana Testing Facilities: Certification Suspension, Recertification, and Request for Hearing

A. Certification Suspension. When the Division has objective and reasonable grounds to believe and finds that a Medical Marijuana Testing Facility has been guilty of deliberate and willful violation(s) or that the public health, safety, or welfare imperatively require emergency action, the Division may immediately suspend the Medical Marijuana Testing Facility's testing category certification in accordance with section 24-4-104, C.R.S., and the 8-200 Series Rules.

B. Re-certification. A Medical Marijuana Testing Facility must provide evidence of corrective actions taken to resolve the certification suspension and may request that the Division re-certify the Medical Marijuana Testing Facility for a particular testing category in accordance with the requirements in Rule 5-415, if the Medical Marijuana Testing Facility provides documentation requested by the Division and/or the CDPHE demonstrating such corrective actions.

5-500 Series – Medical Marijuana Transporters

Basis and Purpose – 5-505

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-313(14), 44-10-401(2)(a)(V), 44-10-505, C.R.S. The purpose of this rule is to establish the license privileges of Medical Marijuana Transporter licensees. This Rule 5-505 was previously Rule M 1601, 1 CCR 212-1.

5-505 – Medical Marijuana Transporter: License Privileges

A. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Medical Marijuana Transporter may share a location with an identically owned Retail Marijuana Transporter. However, a separate license is required for each specific business or business entity, regardless of geographical location.

B. Transportation of Medical Marijuana and Medical Marijuana Product Authorized. A Medical Marijuana Transporter may take transportation orders, receive, transport, temporarily store, and deliver Medical Marijuana to a Medical Marijuana Business, a Retail Marijuana Cultivation Facility or Accelerator Cultivator in accordance with Rules 5-235, 6-230, and 6-730, or to a Pesticide Manufacturer. A Medical Marijuana Transporter may not sell, give away, buy, or receive complimentary Medical Marijuana under any circumstances. A Medical Marijuana Transporter does not include a Licensee that transports its own Medical Marijuana.

C. Authorized Sources of Medical Marijuana. A Medical Marijuana Transporter may only transport and store Medical Marijuana that it receives directly from a Medical Marijuana Business in accordance with the 3-600 Series Rules.

D. Authorized On-Premises Storage. A Medical Marijuana Transporter is authorized to store transported Medical Marijuana on its Licensed Premises or permitted off-premises storage facility.

All transported Medical Marijuana must be secured in a Limited Access Area, and tracked consistently with the inventory tracking rules.

E. Delivery to Patients Pursuant to Delivery Permit.

1. Prior to January 2, 2021, all Medical Marijuana Transporters are prohibited from delivering Regulated Marijuana to patients.

2. After January 2, 2021, only Medical Marijuana Transporters that possess a valid delivery permit may deliver Medical Marijuana pursuant to contracts with Medical Marijuana Stores that also possess valid delivery permits. All deliveries of Medical Marijuana to patients must comply with all requirements of Rule 3-615.

3. License Violation Affecting Public Safety. Any violation of subparagraph E of this Rule is a license violation affecting public safety.

Basis and Purpose – 5-510

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-401(2)(a)(V), 44-10-505, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion or prohibited by a Medical Marijuana Transporter. This Rule 5-510 was previously Rule M 1602, 1 CCR 212-1.

5-510 – Medical Marijuana Transporter: General Limitations or Prohibited Acts

A. Sales, Liens, and Secured Interests Prohibited. A Medical Marijuana Transporter is prohibited from buying, selling, or giving away Medical Marijuana or from receiving complimentary Medical Marijuana. A Medical Marijuana Transporter shall not place or hold a lien or secured interest on Medical Marijuana.

B. Licensed Premises Permitted. A Medical Marijuana Transporter shall maintain a Licensed Premises if it: (1) temporarily stores any Medical Marijuana, or (2) modifies any information in the Inventory Tracking System generated transport manifest. The Licensed Premises shall be in a local jurisdiction that authorizes the operation of Medical Marijuana Stores. If a Medical Marijuana Transporter Licensed Premises is shared with a Retail Marijuana Transporter Licensed Premises, then the combined Licensed Premises shall be in a local jurisdiction that authorizes the operation of both Medical Marijuana Stores and Retail Marijuana Stores.

C. Off-Premises Storage Permit. A Medical Marijuana Transporter may maintain one or more permitted off-premises storage facilities. *See* Rule 3-610 – Off-Premises Storage of Regulated Marijuana and Regulated Marijuana Product: All Regulated Marijuana Businesses.

D. Storage Duration. A Medical Marijuana Transporter shall not store Medical Marijuana for longer than seven days from receiving it at its Licensed Premises or off-premises storage facility. The total allowable seven day storage duration begins and applies regardless of which of the Medical Marijuana Transporter's premises receives the Medical Marijuana first, (i.e. the Medical Marijuana Transporter's Licensed Premises, or any of its off-premises storage facilities). A Medical Marijuana Transporter with a valid delivery permit may store Medical Marijuana for delivery to patients pursuant to the delivery permit for no longer than seven days from receipt at its Licensed Premises or off-premises storage facility.

E. Control of Medical Marijuana. A Medical Marijuana Transporter is responsible for the Medical Marijuana once it takes control of the Medical Marijuana and until the Medical Marijuana Transporter delivers it to another Medical Marijuana Business, Retail Marijuana Cultivation Facility or Accelerator Cultivator in accordance with Rules 5-235, 6-230, and 6-730, Pesticide

Manufacturer, or deliveries to a patient, parent, or guardian pursuant to a valid delivery permit. For purposes of this Rule, taking control of the Medical Marijuana means removing it from the Medical Marijuana Business's Licensed Premises and placing the Medical Marijuana in the transport vehicle or the Delivery Motor Vehicle.

F. Location of Orders Taken and Delivered. A Medical Marijuana Transporter is permitted to take orders on the Licensed Premises of any Medical Marijuana Business to transport Medical Marijuana between Medical Marijuana Businesses. The Medical Marijuana Transporter shall deliver the Medical Marijuana to the Licensed Premises of a licensed Medical Marijuana Business, or Pesticide Manufacturer. A Medical Marijuana Transporter may also deliver Medical Marijuana to patients, parents, or guardians pursuant to a contract with a Medical Marijuana Store if it possesses a valid delivery permit.

G. A Medical Marijuana Transporter shall receive Medical Marijuana from the originating Licensee packaged in the way that it is intended to be delivered to the final destination Licensee, or Pesticide Manufacturer. The Medical Marijuana Transporter shall deliver the Medical Marijuana in the same, unaltered packaging to the final destination Licensee.

H. A Medical Marijuana Transporter with a valid delivery permit shall receive Medical Marijuana that has been weighed, packaged, prepared, and labeled for delivery on the Licensed Premises of a Medical Marijuana Store or at the Medical Marijuana Store's off-premises storage facility after receipt of a delivery order. Medical Marijuana cannot be placed into a Delivery Motor Vehicle until after an order has been received and the Medical Marijuana has been packaged and labeled for delivery to the patient, parent, or guardian as required by the 3-1000 Series Rules.

I. A Medical Marijuana Transporter must not deliver Medical Marijuana to patients, parents, or guardians while also transporting Regulated Marijuana between Licensed Premises in the Delivery Motor Vehicle.

J. Opening of Sealed Packages or Containers and Re-Packaging Prohibited. A Medical Marijuana Transporter shall not open Containers of Medical Marijuana. Medical Marijuana Transporters are prohibited from re-packaging Medical Marijuana.

K. Temperature-Controlled Transport Vehicles. A Medical Marijuana Transporter shall utilize temperature-controlled transport vehicles when necessary to prevent spoilage of the transported Medical Marijuana.

L. Damaged, Refused, or Undeliverable Medical Marijuana. Any damaged Medical Marijuana that is undeliverable to the final destination Medical Marijuana Business, or any Medical Marijuana that is refused by the final destination Medical Marijuana Business shall be transported back to the originating Medical Marijuana Business. Any Medical Marijuana that cannot be delivered to the patient, parent, or guardian pursuant to a valid delivery permit shall be returned to the originating Medical Marijuana Store or the Medical Marijuana Store's off-premises storage facility within the same business day or pursuant to paragraph D of this Rule.

M. Transport of Medical Marijuana Vegetative Plants Authorized. Medical Marijuana Vegetative plants may only be transported between Licensed Premises and such transport shall only be permitted due to an approved change of location pursuant to Rule 2-255 or due to a one-time Transfer pursuant to Rule 3-805. Transportation of Vegetative plants to a permitted off-premises storage facility shall not be allowed. This restriction shall not apply to Immature plants.

5-600 Series – Medical Marijuana Business Operators

Basis and Purpose – 5-605

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(o), 44-10-401(2)(a)(VI), and 44-10-506, C.R.S. The purpose of this rule is to establish the license privileges of a Medical Marijuana Business Operator license. This Rule 5-605 was previously Rule M 1701, 1 CCR 212-1.

5-605 – Medical Marijuana Business Operator: License Privileges

A. Privileges Granted. A Medical Marijuana Business Operator shall only exercise those privileges granted to it by the Marijuana Code, the rules promulgated pursuant thereto and the State Licensing Authority. A Medical Marijuana Business Operator may exercise those privileges only on behalf of the Medical Marijuana Business(es) it operates. A Medical Marijuana Business shall not contract to have more than one Medical Marijuana Business Operator providing services to the Medical Marijuana Business at any given time. A Medical Marijuana Business Operator may not provide any operational services to a Marijuana Research and Development Facility.

B. Licensed Premises of the Medical Marijuana Business(es) Operated. A separate license is required for each specific Medical Marijuana Business Operator, and each licensed or registered Medical Marijuana Business Operator may operate one or more other Medical Marijuana Business(es). A Medical Marijuana Business Operator shall not have its own Licensed Premises, but shall maintain its own place of business, and may exercise the privileges of a Medical Marijuana Business Operator at the Licensed Premises of the Medical Marijuana Business(es) it operates.

C. Entities Eligible to Hold Medical Marijuana Business Operator License or Registration. A Medical Marijuana Business Operator license may be held only by a business entity, including, but not limited to, a corporation, limited liability company, partnership, or sole proprietorship.

D. Separate Place of Business. A Medical Marijuana Business Operator shall designate and maintain a place of business separate from the Licensed Premises of any Medical Marijuana Business(es) it operates. A Medical Marijuana Business Operator's separate place of business shall not be considered a Licensed Premises, and shall not be subject to the requirements applicable to the Licensed Premises of other Medical Marijuana Businesses, except as set forth in Rules 5-610 and 5-620. Possession, storage, use, cultivation, manufacture, sale, distribution, or testing of Medical Marijuana or Medical Marijuana Product is prohibited at a Medical Marijuana Business Operator's separate place of business.

E. Agency Relationship and Discipline for Violations. A Medical Marijuana Business Operator and each of its Controlling Beneficial Owners required to hold an Owner License, as well as the agents and employees of the Medical Marijuana Business Operator, shall be agents of the Medical Marijuana Business(es) the Medical Marijuana Business Operator is contracted to operate, when engaged in activities related, directly or indirectly, to the operation of such Medical Marijuana Business(es), including for purposes of taking administrative action against the Medical Marijuana Business being operated. *See* § 44-10-901(1), C.R.S. Similarly, a Medical Marijuana Business Operator and its Controlling Beneficial Owners required to hold an Owner License, as well as the officers, agents and employees of the Medical Marijuana Business Operator, may be disciplined for violations committed by the Controlling Beneficial Owners, agents or employees of the Medical Marijuana Business acting under their direction or control. A Medical Marijuana Business Operator may also be disciplined for violations not directly related to a Medical Marijuana Business it is operating.

F. Compliance with Applicable State and Local Law, Ordinances, Rules, and Regulations. A Medical Marijuana Business Operator, and each of its Controlling Beneficial Owners, agents and employees engaged, directly or indirectly, in the operation of the Medical Marijuana Business(es) it operates, shall comply with all state and local laws, ordinances, rules, and regulations applicable to the Medical Marijuana Business(es) being operated.

Basis and Purpose – 5-610

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(o), 44-10-401(2)(a)(VI), and 44-10-506, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Medical Marijuana Business Operator. This Rule 5-610 was previously Rule M 1702, 1 CCR 212-1.

5-610 – Medical Marijuana Business Operators: General Limitations or Prohibited Acts

A. Financial Interest. A Person who holds an Owner's Interest in a Medical Marijuana Business Operator may also hold an Owner's Interest in another Medical Marijuana Business. A Medical Marijuana Business may be operated by a Medical Marijuana Business Operator where each has one or more Controlling Beneficial Owners or Passive Beneficial Owners in common. A Person may receive compensation for services provided by a Medical Marijuana Business Operator in accordance with these rules.

B. Sale of Marijuana Prohibited. A Medical Marijuana Business Operator is prohibited from selling, distributing, or Transferring Medical Marijuana to another Medical Marijuana Business, a patient, or a consumer, except when acting as an agent of a Medical Marijuana Business(es) operated by the Medical Marijuana Business Operator.

C. Consumption Prohibited. A Medical Marijuana Business Operator, and its Controlling Beneficial Owners, Passive Beneficial Owners, agents and employees, shall not permit the consumption of marijuana or marijuana products at its separate place of business.

D. Inventory Tracking System. A Medical Marijuana Business Operator, and any of its Controlling Beneficial Owners, agents, or employees engaged in the operation of the Medical Marijuana Business(es) it operates, must use the Inventory Tracking System account of the Medical Marijuana Business(es) it operates, in accordance with all requirements, limitations, and prohibitions applicable to the Medical Marijuana Business(es) it operates.

E. Compliance with Requirements and Limitations Applicable to the Medical Marijuana Business(es) Operated. In operating any other Medical Marijuana Business(es), a Medical Marijuana Business Operator, and its Controlling Beneficial Owners, agents and employees, shall comply with all requirements, limitations and prohibitions applicable to the type(s) of Medical Marijuana Business(es) being operated, under state and local laws, ordinances, rules, and regulations, and may be disciplined for violation of the same.

F. Inventory Tracking System Access. A Medical Marijuana Business may grant access to its Inventory Tracking System account to the Controlling Beneficial Owners who are required to hold Owner Licenses, as well as the licensed agents and employees of a Medical Marijuana Business Operator having duties related to Inventory Tracking System activities of the Medical Marijuana Business(s) being operated.

1. The Controlling Beneficial Owners, agents, and employees of a Medical Marijuana Business Operator granted access to a Medical Marijuana Business's Inventory Tracking System account, shall comply with all Inventory Tracking System rules.

2. At least one Controlling Beneficial Owner of a Medical Marijuana Business being operated by a Medical Marijuana Business Operator must be an Inventory Tracking System Trained Administrator for the Medical Marijuana Business's Inventory Tracking System account. That Inventory Tracking System Trained Administrator shall control access to its Inventory Tracking System account, and shall promptly terminate the access of the Medical Marijuana Business Operator's Controlling Beneficial Owners, agents, and employees:

a. When its contract with the Medical Marijuana Business Operator expires by its terms;

b. When its contract with the Medical Marijuana Business Operator is terminated by any party; or

c. When it is notified that the license of the Medical Marijuana Business Operator, or a specific Controlling Beneficial Owner, agent or employee of the Medical Marijuana Business Operator, has expired, or has been suspended or revoked.

G. Limitations on Use of Documents and Information Obtained from Medical Marijuana Businesses. A Medical Marijuana Business Operator, and its agents and employees, shall maintain the confidentiality of documents and information obtained from the other Medical Marijuana Business(es) it operates, and shall not use or disseminate documents or information obtained from a Medical Marijuana Business it operates for any purpose not authorized by the Marijuana Code and the rules promulgated pursuant thereto, and shall not engage in data mining or other use of the information obtained from a Medical Marijuana Business to promote the interests of the Medical Marijuana Business Operator or its Controlling Beneficial Owners, Passive Beneficial Owners, Indirect Financial Interest Holders, agents or employees, or any Person other than the Medical Marijuana Business it operates.

H. Form and Structure of Allowable Agreement(s) Between Operators and Owners. Any agreement between a Medical Marijuana Business and a Medical Marijuana Business Operator:

1. Must acknowledge that the Medical Marijuana Business Operator, and its Controlling Beneficial Owners, agents and employees who are engaged, directly or indirectly, in operating the Medical Marijuana Business, are agents of the Medical Marijuana Business being operated, and must not disclaim an agency relationship;

2. May provide for the Medical Marijuana Business Operator to receive direct remuneration from the Medical Marijuana Business, including a portion of the profits of the Medical Marijuana Business being operated, subject to the following limitations:

a. The portion of the profits to be paid to the Medical Marijuana Business Operator shall be commercially reasonable, and in any event shall not exceed the portion of the net profits to be retained by the Medical Marijuana Business being operated;

b. The Medical Marijuana Business Operator shall not be granted, and may not accept:

i. A security interest in the Medical Marijuana Business being operated, or in any assets of the Medical Marijuana Business;

ii. An ownership or membership interest, shares, or shares of stock, or any right to obtain any direct or indirect beneficial ownership interest in the Medical Marijuana Business being operated, or a future or contingent right to the same, including but not limited to options or warrants;

c. The Medical Marijuana Business Operator shall not guarantee the Medical Marijuana Business's debts or production levels.

3. Shall permit the Medical Marijuana Business being operated to terminate the contract with the Medical Marijuana Business Operator at any time, with or without cause.

I. A Medical Marijuana Business Operator may engage in dual operation of a Medical Marijuana Business and a Retail Marijuana Business at a single location, to the extent the Medical Marijuana Business being operated is permitted to do so pursuant to subsection 44-10-501(2)(a), C.R.S., and the Medical Marijuana Business Operator shall comply with the rules promulgated pursuant to the Marijuana Code, including the requirement of obtaining a valid license as a Retail Marijuana Business Operator.

J. Any Medical Marijuana Business Operators and the Medical Marijuana Business Operator's Owner Licensee(s) that are appointed by a court to serve as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person and take possession of, operate, manage, or control a Medical Marijuana Business must comply with Rule 2-275(F).

Basis and Purpose – 5-615

The statutory authority for this rule includes but is not limited to sections, 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(o), 44-10-401(2)(a)(VI), and 44-10-506, C.R.S. The purpose of this rule is to establish license requirements for the Medical Marijuana Business Operator's Controlling Beneficial Owners, agents and employees, including those directly or indirectly engaged in the operation of other Medical Marijuana Business(es). This Rule 5-615 was previously Rule M 1703, 1 CCR 212-1.

5-615 – Medical Marijuana Business Operators: Employee Licenses for Personnel

A. Required Licenses.

1. Owner Licenses. All natural persons who are Controlling Beneficial Owners in a Medical Marijuana Business Operator must have a valid Owner License, associated with the Medical Marijuana Business Operator license. Such an Owner License shall satisfy all licensing requirements for work related to the business of the Medical Marijuana Business Operator and for work performed on behalf of, or at the Licensed Premises of, the Medical Marijuana Business(es) operated by the Medical Marijuana Business Operator.

2. Employee Licenses. All natural persons who are agents or employees of a Medical Marijuana Business Operator that are actively engaged, directly or indirectly, in the management, supervision, or operation of one or more other Medical Marijuana Businesses, including but not limited to all agents or employees who will come into contact with Medical Marijuana, who will have access to Limited Access Areas, or who will have access to the Inventory Tracking System account of the Medical Marijuana Business(es) being operated, must hold a valid Employee License. The Employee License shall satisfy all licensing requirements for work related to the business of the Medical Marijuana Business Operator and for work at the Licensed Premises of, or on behalf of, the Medical Marijuana Business(es) operated by the Medical Marijuana Business Operator.

B. Employee Licenses Not Required. Employee Licenses are not required for Passive Beneficial Owners of a Medical Marijuana Business Operator or for natural persons who will not come into contact with Medical Marijuana, will not have access to Limited Access Area(s) of the Medical Marijuana Business(es) being operated, and will not have access to the Inventory Tracking System account of the Medical Marijuana Business(es) being operated.

C. Designation of Management Personnel of a Medical Marijuana Business Operated by a Medical Marijuana Business Operator. If a Medical Marijuana Business Operator is contracted to manage the overall operations of a Medical Marijuana Business's Licensed Premises, the Medical Marijuana Business shall designate separate and distinct management personnel on the

Licensed Premises who is an officer, agent, or employee of the Medical Marijuana Business Operator, which shall be a natural person with a valid Owner License or Employee License, as set forth in paragraph A of this Rule, and the Medical Marijuana Business shall comply with the reporting provisions of subsection 44-10-313, C.R.S.

Basis and Purpose – 5-620

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(o), 44-10-401(2)(a)(VI), and 44-10-506, C.R.S. The purpose of this rule is to establish records retention standards for a Medical Marijuana Business Operators. This Rule 5-620 was previously Rule M 1704, 1 CCR 212-1.

5-620 – Medical Marijuana Business Operators: Business Records Required

A. General Requirement. A Medical Marijuana Business Operator must maintain all required business records as set forth in Rule 3-905 - Business Records Required, except that:

1. A Medical Marijuana Business Operator is not required to maintain secure facility information, diagrams of its designated place of business, or a visitor log for its separate place of business, because a Medical Marijuana Business Operator will not come into contact with Medical Marijuana at its separate place of business; and

2. A Medical Marijuana Business Operator is not required to maintain records related to inventory tracking, or transport, because a Medical Marijuana Business Operator is prohibited from engaging in activities on its own behalf that would require inventory tracking or transport. All records relating to inventory tracking activities and records related to transport pertaining to the Medical Marijuana Business(es) operated by the Medical Marijuana Business Operator shall be maintained at the Licensed Premises of such Medical Marijuana Business(es).

B. All records required to be maintained shall be maintained at the Licensed Premises of the Medical Marijuana Business(es) it operates.

5-700 Series – Marijuana Research and Development Facilities

Basis and Purpose – 5-705

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(j), 44-10-203(1)(k), 44-10-203(2)(s), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule is to establish and clarify the distinct license privilege granted to Marijuana Research and Development Facilities by the State Licensing Authority. This Rule 5-705 was previously Rule M 1901, 1 CCR 212-1.

5-705 – Marijuana Research and Development Facilities: License Privileges

A. License Privileges.

1. Licensed Premises. A Marijuana Research and Development Facility may share a Licensed Premises with a commonly owned Medical Marijuana Testing Facility. Additionally, a Marijuana Research and Development Facility with an R&D Co-Location Permit may share a Licensed Premises with a commonly owned Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Retail Marijuana Cultivation Facility.

a. If a Marijuana Research and Development Facility shares its Licensed Premises with a commonly owned Medical Marijuana Testing Facility, the Licensees shall physically segregate all Medical Marijuana used for research purposes in order to prevent contamination or any other effect on Medical Marijuana submitted to the Medical Marijuana Testing Facility for testing.

b. If a Marijuana Research and Development Facility shares its Licensed Premises with a commonly owned Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Retail Marijuana Cultivation Facility, the Marijuana Research and Development Facility must first obtain an R&D Co Location Permit for that Licensed Premises and must comply with all terms and conditions of the R&D Co-Location Permit.

2. Authorized Sources of Medical Marijuana. A Medical Marijuana Cultivation Facility and Medical Marijuana Products Manufacturer may Transfer Medical Marijuana to a Marijuana Research and Development Facility.

a. A Marijuana Research and Development Facility may also accept and possess Regulated Marijuana obtained in accordance with an approved Research Project.

b. Upon receipt of Regulated Marijuana pursuant to Rule 5-705(A)(2)(a), a Marijuana Research and Development Facility shall immediately enter the Regulated Marijuana as Medical Marijuana in its Inventory Tracking System and shall follow all requirements of the Marijuana Code and these Rules including but not limited to inventory tracking and packaging and labeling. As part of and in compliance with the conditions of an approved Research Project, a Marijuana Research and Development Facility may Transfer the Medical Marijuana to another Marijuana Research and Development Facility or to a Medical or Retail Marijuana Testing Facility. In no event shall any marijuana obtained or Transferred pursuant to this Rule be consumed by humans or utilized in human subject research.

3. Cultivation of Marijuana Authorized. A Marijuana Research and Development Facility may grow, cultivate, possess, and Transfer Medical Marijuana for use in research only.

4. Production of Marijuana Concentrate. A Marijuana Research and Development Facility and a Medical Marijuana Cultivation Facility are subject to the same restrictions concerning Medical Marijuana Concentrate production. Therefore, a Marijuana Research and Development Facility may produce Medical Marijuana Concentrate only as allowed by, and in conformance with, Rule 5-220(A)-(B).

5. Production of Marijuana Products. A Marijuana Research and Development Facility and a Medical Marijuana Products Manufacturer are subject to the same restrictions concerning Medical Marijuana Product manufacturing. Therefore, a Marijuana Research and Development Facility may manufacture Medical Marijuana Product only as allowed by, and in conformance with, Rule 5-305.

6. Authorized Marijuana Transport. A Marijuana Research and Development Facility is authorized to utilize a licensed Medical Marijuana Transporter for transportation of Medical Marijuana to other Marijuana Research and Development Facility Licensees so long as the place where transportation orders are taken and delivered is a Marijuana Research and Development Facility. Nothing in this Rule prevents a Marijuana Research and Development Facility from transporting its own Medical Marijuana to other Marijuana Research and Development Facilities.

B. R&D Co-Location Permit. A Marijuana Research and Development Facility may obtain an R&D Co-Location Permit to operate at the same Licensed Premises as a commonly owned Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Retail Marijuana Cultivation Facility under the following circumstances:

1. The Marijuana Research and Development Facility must apply on current Division forms and pay any applicable fees.

2. A Marijuana Research and Development Facility may only apply for and hold an R&D Co-Location Permit if the Local Licensing Authority or Local Jurisdiction allow for Marijuana Research and Development Facility to operate at the same location as the specified Regulated Marijuana Business. Any R&D Co-Location Permit issued by the Division is conditioned upon the Marijuana Research and Development Facility's receipt of all required Local Licensing Authority or Local Jurisdiction approvals or acknowledgements.

3. The Marijuana Research and Development Facility and the specified Regulated Marijuana Business shall be commonly owned.

4. Prior to operating in the same Licensed Premises pursuant to an R&D Co-Location Permit, the Marijuana Research and Development Facility shall submit a co-location plan and standard operating procedures to the Division. The co-location plan and standard operating procedures shall demonstrate protocols to prevent cross-contamination and protect public health and safety, including but not limited to:

   a. Standards and controls for maintaining physical separation between the Marijuana Research and Development Facility's research activities and the cultivating or manufacturing activities of the co-located Regulated Marijuana Business; and

   b. Standards and controls for maintaining physical separation between the Marijuana Research and Development Facility's Medical Marijuana and the co-located Regulated Marijuana Business's Regulated Marijuana.

5. The Division may request the assistance of the Colorado Department of Public Health and Environment or any other state or local agency in reviewing the co-location plan and standard operating procedures, and in determining whether the co-location plan and standard operating procedures demonstrate protocols to prevent cross-contamination and protect public health and safety.

6. Modifying the co-location plan and standard operating procedures shall be considered a significant change to the Licensed Premises. *See* Rule 2-260 – Changing, Altering, or Modifying the Licensed Premises.

7. Record keeping, inventory tracking, packaging and labeling for the Marijuana Research and Development Facility and co-located Regulated Marijuana Business must enable the Division, Local Licensing Authority, or Local Jurisdiction to clearly distinguish the inventory, transactions, and activities of the Marijuana Research and Development Facility from the inventory, transactions, and activities of the co-located Regulated Marijuana Business.

Basis and Purpose - 5-710

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(1)(i), 44-10-203(2)(s), 44-10-313(7), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule is to clarify those acts that are prohibited, or limited in some fashion, by a

Marijuana Research and Development Facility. This Rule 5-710 was previously Rule M 1902, 1 CCR 212-1.

5-710 – Marijuana Research and Development Facility: General Limitations or Prohibited Acts

A. Restrictions Applicable to Any Marijuana Research and Development Facility.

1. Packaging and Labeling Standards Required. A Marijuana Research and Development Facility is prohibited from Transferring to a Licensee or any other Person Medical Marijuana that is not packaged and labeled in accordance with these rules. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

a. Unless the Medical Marijuana was subject to contaminant testing required by the Marijuana Code and these rules, a Marijuana Research and Development Facility shall disclose to any individual receiving Medical Marijuana as part of an approved Research Project that the Medical Marijuana has not been subject to mandatory contaminant testing.

2. Transfers to Individuals. A Marijuana Research and Development Facility is prohibited from Transferring Medical Marijuana to any individual, unless as part of an approved Research Project.

3. Consumption Prohibited. A Marijuana Research and Development Facility shall not permit the consumption of Medical Marijuana on its Licensed Premises, unless the consumption is part of an approved Research Project and the Marijuana Research and Development Facility does not share a Licensed Premises with a Regulated Marijuana Business.

4. Worker Health and Safety. A Marijuana Research and Development Facility shall comply with all applicable federal, state, and local laws regarding worker health and safety.

5. Performance Incentives. A Marijuana Research and Development Facility may not use performance-based incentives to compensate its employees, agents, or contractors who will conduct research, development, or testing.

6. Licensure and Research Projects. A Marijuana Research and Development Facility shall not engage in any research activities until the State Licensing Authority or its delegate approves both (1) its business license application, pursuant to Rule 2-215, and (2) one or more Research Project(s), pursuant to Rule 5-715.

a. A Marijuana Research and Development Facility may submit its business license application prior to or in conjunction with its Research Project proposal. Except that the Marijuana Research and Development Facility may not engage in any research activities except in conjunction with an approved Research Project.

b. If a Marijuana Research and Development Facility's license expires or is suspended or revoked, the Licensee shall immediately cease all activities associated with the privileges of licensure, including but not limited to research.

B. Restrictions Applicable to Marijuana Research and Development Facilities.

1. Transfer Restriction. A Marijuana Research and Development Facility may only Transfer Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana Product to:

a. A Medical Marijuana Testing Facility for testing;

b. A natural person as part of and in compliance with the conditions of an approved Research Project;

c. In the case of Medical Marijuana cultivated at the Licensed Premises of the Marijuana Research and Development Facility, to another Marijuana Research and Development Facility; or

d. In the case of an Immature Plant that has not been exposed to a chemical prohibited by Rule 3-325, to another Medical Marijuana Business.

Basis and Purpose – 5-715

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(1)(i), 44-10-203(2)(s), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule is to ensure that any research or development conducted by a Marijuana Research and Development Facility shall be in furtherance of a Research Project approved by the Division. The purpose of this rule is also to establish the applicable requirements necessary for Marijuana Research and Development Facilities to seek and receive Division approval for all proposed Research Projects. This Rule 5-715 was previously Rule M 1904, 1 CCR 212-1.

5-715 – Marijuana Research and Development Facility: Project Approval

A. Project Approval. Prior to engaging in any research activities, a Marijuana Research and Development Facility shall obtain approval from the Division for a Research Project by submitting a Research Project proposal. Any research or development conducted by a Marijuana Research and Development Facility shall be in furtherance of an approved Research Project.

1. General. A Marijuana Research and Development Facility Applicant or Licensee shall seek approval of the Division by submitting its Research Project proposal.

a. A Research Project proposal shall include a description of the Research Project's defined protocol, clearly articulated goal(s), defined methods and outputs, and a defined start and end date.

i. The description of the proposed Research Project proposal shall include the quantity of Medical Marijuana, Medical Marijuana Concentrate, and/or Medical Marijuana Product reasonably required to conduct the proposed Research Project, the total quantity of which is subject to approval by the Division as part an approved Research Project.

b. A Marijuana Research and Development Facility may enter into contracts or agreements with a public higher education research institution or another Marijuana Research and Development Facility to conduct the proposed Research Project. A Marijuana Research and Development Facility Applicant or Licensee shall disclose all contracts or agreements with a public higher education research institution or a Marijuana Research and Development Facility.

i. If a Marijuana Research and Development Facility enters into a contract or agreement to conduct a Research Project with a public higher education research institution, all research activities involving possession of Medical Marijuana shall occur at the Marijuana Research and Development Facility's Licensed Premises. Employees, agents, or contractors of the public higher education research institution may not work at or conduct research activities at the Marijuana Research and

Development Facility's Licensed Premises unless they hold an Employee License issued by the State Licensing Authority.

c. A Marijuana Research and Development Facility may submit additional Research Project proposals at any time during which its license is current and valid.

2. Private Research. Unless the proposed Research Project is being conducted in whole or in part by a Public Institution or with Public Money, the Marijuana Research and Development Facility Applicant or Licensee shall obtain a review of its proposed Research Project by one or more independent reviewers. The Division, in its discretion, may require a Marijuana Research and Development Facility Applicant or Licensee to nominate multiple independent reviewers. The Division must approve each nominated independent reviewer.

a. Fees and Costs. The Applicant or Licensee shall be solely responsible for any fees or costs associated with all aspects and all stages of the independent reviewer's services.

b. Qualifications of an Independent Reviewer. Each independent reviewer nominated by a Marijuana Research and Development Facility Applicant or Licensee must be a qualified researcher within the field of study that relates to proposed Research Project.

i. The Division may consult with the Colorado Department of Public Health and Environment and/or the Colorado Department of Agriculture in reviewing whether a nominated independent reviewer is qualified to review the Marijuana Research and Development Facility's Research Project.

ii. The Division, in its discretion, may require a nominated independent reviewer or the Marijuana Research and Development Facility to provide additional information or analysis that the Division deems pertinent to its review of whether to approve the Licensee's nomination of the independent reviewer.

c. Conflicts of Interest. A Marijuana Research and Development Facility Applicant or Licensee must disclose all pre-existing financial, employment, business, or personal relationships between the Marijuana Research and Development Facility or any of its Owner Licensees and each independent reviewer. In determining whether to approve an independent reviewer, the Division may consider whether a pre-existing relationship exists that could affect the independent reviewer's independence or appearance of independence.

d. Independent Reviewer Approval Required. If a Marijuana Research and Development Facility Applicant or Licensee nominates an independent reviewer who is not approved by the Division, the State Licensing Authority may deny a Research Project on that ground unless the Marijuana Research and Development Facility Applicant or Licensee nominates another independent reviewer who is approved by the Division.

e. Independent Reviewer Report. After an independent reviewer has been approved by the Division, the Marijuana Research and Development Facility Applicant or Licensee shall submit a report by the independent reviewer to the Division as part of its Research Project proposal. The independent reviewer's report shall address the following criteria as described in the Research Project's description:

i. The identity of the independent reviewer and his/her employer;

ii. Any compensation paid by the Marijuana Research and Development Facility Applicant or Licensee for the review and report;

iii. A description of the review conducted by the independent reviewer, including but not limited to an identification of all documents that were reviewed;

iv. An analysis by the independent reviewer as to whether the proposed Research Project constitutes a type of approved research pursuant to Rule 5-720(A) and the reason(s) supporting the reviewer's analysis;

v. An assessment of the total quantity of Medical Marijuana reasonably required to conduct the proposed Research Project;

vi. An assessment of whether the proposed Research Project presents any type of danger to the public health and/or safety, and/or whether the proposed Research Project presents any health or safety risks;

vii. An assessment of whether the proposed Research Project has a strong scientific basis, appropriate study design, and technically sound scientific methodology;

viii. An assessment of whether the Marijuana Research and Development Facility Applicant or Licensee is qualified to perform the proposed Research Project, including whether Marijuana Research and Development Facility Applicant or Licensee's employees are qualified to perform the proposed Research Project;

ix. An assessment of whether the Marijuana Research and Development Facility Applicant or Licensee has the appropriate resources and protocols to conduct the proposed Research Project;

x. An assessment of whether the Marijuana Research and Development Facility Applicant or Licensee has the appropriate personnel, expertise, facilities, infrastructure, funding, and other human, animal, or other approvals in place to successfully conduct the Research Project, including but not limited to the requirements in Rule 5-720(C) and (D);

xi. The following certification by the independent reviewer: "I hereby certify and affirm that I do not have any financial, employment, business, or personal relationship with [INSERT MARIJUANA RESEARCH AND DEVELOPMENT FACILITY NAME] ("Licensee") that would influence or affect my review of the Licensee's proposed Research Project activity. Other than the fees disclosed herein, neither the Licensee nor any other person has given me anything of value or made any promises to me that would influence or affect my review of the Licensee's proposed research activity. I further certify and affirm that this report was drafted by me, and that the information, analysis, and conclusions herein represent solely my work and conclusions."; and

xii. The signature of the independent reviewer.

f. The Marijuana Research and Development Facility shall maintain copies of all documents and correspondence sent to or from the independent reviewer. *See* Rule 3-905 – Business Records Required.

g. The Division, in its discretion, may require the independent reviewer and/or the Marijuana Research and Development Facility Applicant or Licensee to provide additional information or analysis that the Division deems pertinent to its review of the Applicant or Licensee's Research Project proposal.

h. The State Licensing Authority may decline to approve a Research Project proposal if an independent reviewer or the Division through further investigation concludes that:

i. The description of the Research Project does not meet the requirements of section 44-10-507, C.R.S., and these rules;

ii. The proposed Research Project presents a danger to the public health and/or safety, and/or the research to be conducted pursuant to the Research Project presents any health or safety risks;

iii. The proposed Research Project lacks scientific value or validity;

iv. The Marijuana Research and Development Facility Applicant or Licensee is not qualified to perform the proposed research;

v. The Marijuana Research and Development Facility Applicant or Licensee does not have the appropriate resources and/or protocols to conduct the proposed research;

vi. The Marijuana Research and Development Facility Applicant or Licensee lacks the appropriate personnel, expertise, facilities, infrastructure, funding, or human, animal, or other approvals in place to successfully conduct the Research Project, including but not limited to the requirements in Rule 5-720(C) and (D);

vii. The independent reviewer(s) cannot meet the certification requirements in this Rule; or

viii The Marijuana Research and Development Facility Applicant or Licensee or the proposed Research Project is otherwise not in compliance with the Marijuana Code or these rules.

3. Projects with Public Institutions or Money. If a Marijuana Research and Development Facility Applicant or Licensee's proposed Research Project will be conducted in whole or in part with a Public Institution or Public Money, the Division shall refer the Licensee's Research Project proposal to the Scientific Advisory Council established by section 25-1.5-106.5(3), C.R.S., for review.

a. The Marijuana Research and Development Facility Applicant or Licensee shall supply the Scientific Advisory Council with any information and/or documents requested by the Scientific Advisory Council within the deadline imposed by the Scientific Advisory Council. A Marijuana Research and Development Facility Applicant or Licensee's failure to supply information and/or documents requested by the Scientific Advisory Council within the deadline set by the Scientific Advisory Council shall be grounds for denial of the Research Project proposal.

b. The Scientific Advisory Council shall review the proposed Research Project to ensure that the proposed Research Project meets the requirements of Rule 5-720(A).

c. The Scientific Advisory Council shall also assess the adequacy of the following:

i. The proposed Research Project's quality, study design, value, or impact;

ii. Whether the Marijuana Research and Development Facility Applicant or Licensee has the appropriate personnel, expertise, facilities, infrastructure, funding, and human, animal, or other approvals in place to successfully conduct the Research Project, including but not limited to the requirements in Rule 5-720(C) and (D); and

iii. Whether the amount of Medical Marijuana the Marijuana Research and Development Facility Applicant or Licensee proposes to grow or possess is consistent with the proposed Research Project's scope and goals.

d. The Scientific Advisory Council shall communicate the results of its review of the proposed Research Project to the Division. If the Scientific Advisory Council determines that the requirements of either Paragraph (b) or (c) of this Rule are not satisfied, then the proposed Research Project shall be denied.

e. The Marijuana Research and Development Facility shall maintain copies of all documents and correspondence sent to or from the Scientific Advisory Council. *See* Rule 3-905 – Business Records Required.

Basis and Purpose – 5-720

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(1)(i), 44-10-203(2)(s), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule to establish the limited research purposes authorized for Marijuana Research and Development Facilities. The purpose of this rule is also to establish additional requirements for Research Projects involving human subjects and animal subjects, as well as restrictions on the use of Pesticides. The rule also establishes reporting requirements and explains when the State Licensing Authority may require a Marijuana Research and Development Facility to undergo an audit of its research activities. This Rule 5-720 was previously Rule M 1905, 1 CCR 212-1.

5-720 – Marijuana Research and Development Facility: Authorized Research Activities

A. Authorized Research. A Marijuana Research and Development Facility is authorized to engage in the following research at its Licensed Premises:

1. Chemical Potency and Composition Levels.

2. Clinical Investigations of Marijuana-Derived Products.

3. Efficacy and Safety of Administering Marijuana as Part of Medical Treatment.

4. Genomic Research.

5. Horticultural Research.

6. Agricultural Research.

7. Marijuana-Affiliated Products or Systems. A marijuana-affiliated product or system includes products or systems such as marijuana delivery systems and cultivation or processing equipment.

B. Pesticide Research. A Marijuana Research and Development Facility shall not engage in any research activities involving Pesticides unless the Marijuana Research and Development Facility has applied for and received any necessary license, registration, certification, or permit from the Colorado Department of Agriculture pursuant to the Pesticide Act, sections 35-9-101 *et seq.,* C.R.S., and/or the Pesticide Applicators' Act, sections 35-10-101 *et seq.*, C.R.S.

1. A Marijuana Research and Development Facility engaged in research activities involving Pesticide shall at all times comply with the Pesticide Act, sections 35-9-101 *et seq.*, C.R.S., Pesticide Applicators' Act, sections 35-10-101 *et seq.*, C.R.S., and all rules promulgated pursuant thereto.

C. Research Involving Human Subjects. A Marijuana Research and Development Facility shall not conduct any research involving human subjects unless all aspects of its proposed Research Project have been reviewed and approved by an Institutional Review Board that is registered and in good standing with Office for Human Research Protections, U.S. Department of Health and Human Services.

1. A Marijuana Research and Development Facility shall include proof of approval and ongoing oversight and review by an Institutional Review Board as part of its Research Project proposal. A Research Project may be approved conditioned upon subsequent Institutional Review Board approval. A Licensee shall not engage in any Research Project involving human subjects until it receives approval by the Institutional Review Board and its Research Project is approved. A Marijuana Research and Development Facility conducting research involving human subjects shall also comply with any ongoing monitoring required by the Institutional Review Board.

2. A Marijuana Research and Development Facility conducting research involving human subjects shall at all times comply with the U.S. Department of Health and Human Services' requirements for protection of human research subjects, including additional safeguards necessary for vulnerable populations, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons, 45 C.F.R. part 46, and all other relevant federal and/or state laws and regulations regarding research on human subjects, as well as all prevailing ethical standards and requirements for research involving human subjects.

3. A Marijuana Research and Development Facility conducting research involving human subjects shall obtain informed consent from any individual participating in such research prior to the individual's participation in the research. A Marijuana Research and Development Facility shall comply with U.S. Food and Drug Administration requirements for informed consent and additional safeguards for children in clinical investigations, 21 C.F.R. part 50, as part of approval and ongoing oversight and review by an Institutional Review Board.

D. Research Involving Animal Subjects. A Marijuana Research and Development Facility shall not conduct any research involving animal subjects as defined in the Animal Welfare Act, 7 U.S.C. § 2132(g) unless the Marijuana Research and Development Facility is registered with the U.S. Department of Agricultural pursuant to the Animal Welfare Act, 7 U.S.C. §§ 2131 *et seq.*

1. A Marijuana Research and Development Facility shall include proof of its current registration with the U.S. Department of Agriculture as part of its Research Project proposal. Failure to be registered with the U.S. Department of Agriculture shall be grounds for denial of Research Project proposal involving animal subjects.

2. A Marijuana Research and Development Facility shall at all times treat animal subjects as defined in the Animal Welfare Act, 7 U.S.C. § 2132(g) involved in research humanely and consistent with all relevant federal and/or state laws and regulations, as well as all prevailing ethical standards and requirements for research on such animals.

E. Research Involving Testing of Marijuana. A Marijuana Research and Development Facility may only engage in research regarding the testing of Medical Marijuana if the following criteria are met:

1. Testing Qualifications. A Marijuana Research and Development Facility must meet at least one of the following standards:

a. The Marijuana Research and Development Facility also holds a Medical Marijuana Testing Facility license and has been certified pursuant to Rule 5-415;

b. The Marijuana Research and Development Facility is accredited to the International Organization for Standardization/International Electrotechnical Commission 17025:2005 Standard, or any subsequent superseding ISO 17025 standard; or

c. The Marijuana Research and Development Facility is part of an institution of higher education whose protocols have been approved by the Colorado Department of Public Health and Environment.

2. A Marijuana Research and Development Facility proposing to engage in research regarding the testing of Medical Marijuana shall include in its Research Project proposal documentation establishing its testing qualification pursuant to Paragraph (E)(1) of this Rule. *See* Rule 5-715 – Marijuana Research and Development Facilities: Project Approval.

F. Transfers of Marijuana Used in Research. A Marijuana Research and Development Facility shall not Transfer to any Person any Medical Marijuana unless such Transfer is authorized under Rule 5-710. Otherwise, a Marijuana Research and Development Facility shall at the conclusion of its research destroy all remaining Medical Marijuana subject to the Marijuana Research and Development Facility's approved Research Project. Unless otherwise provided, a Research Project will be deemed concluded on its defined end date as provided in the Marijuana Research and Development Facility's Research Project proposal that was submitted to and approved by the Division. The Marijuana Research and Development Facility shall ensure destruction of such remaining Medical Marijuana is destroyed in conformance with Rule 3-230.

G. Periodic Reporting. A Marijuana Research and Development Facility shall submit to the Division a report regarding the status of approved Research Projects every six months following the Division's approval of its Research Project.

1. The periodic reports shall address the Marijuana Research and Development Facility's compliance and progress with its approved Research Project.

2. The periodic reports shall include any protocol changes or reported protocol deviations, as well as enrollment numbers and adverse events for studies involving human subjects.

3. If the Marijuana Research and Development Facility is conducting its Research Project in whole or in part with a Public Institution or Public Money, the Division shall submit the Marijuana Research and Development Facility's periodic reports to the Scientific Advisory Council for review.

4. If an adverse event occurs, the Marijuana Research and Development Facility shall immediately notify the Division of the adverse event on the form prepared by the Division.

H. Suspension or Revocation of Project Approval. Research Project approval is subject to revocation or suspension if the Marijuana Research and Development Facility's research has materially diverged from the Marijuana Research and Development Facility's approved Research Project, violates the Marijuana Code or the rules promulgated thereto, or presents a risk to public health and safety. *See* 8-200 Series Rules – Discipline.

I. Reporting of Research Results. A Marijuana Research and Development Facility shall supply the Division with copies of all final reports, findings, or documentation regarding the outcomes of approved Research Projects.

J. Independent Research Audit. The State Licensing Authority in its discretion may at any time require that a Marijuana Research and Development Facility undergo an audit of its research activities.

1. Circumstances Justifying Independent Research Audit. The following is a non-exhaustive list of examples that may justify an independent research audit:

a. The Division has reasonable grounds to believe that the Marijuana Research and Development Facility is in violation of one or more of the requirements set forth in these rules or other applicable statutes or regulations;

b. The Division has reasonable grounds to believe that the Marijuana Research and Development Facility's research activities present a danger to the public health and/or safety; or

c. The Division has reasonable grounds to believe that the Marijuana Research and Development Facility has been or is engaged in research activities that have not received prior Division approval.

2. Selection of An Independent Consultant. The Division and the Marijuana Research and Development Facility may attempt to mutually agree upon the selection of an independent consultant to perform a research audit. However, the Division always retains the authority to select the independent consultant regardless of whether mutual agreement can be reached.

3. Costs. The Marijuana Research and Development Facility subject to an independent research audit will be responsible for all costs associated with the independent research audit, including but not limited to the auditor's fees.

4. Compliance Required. A Marijuana Research and Development Facility must pay for and timely cooperate with the State Licensing Authority's requirement that it undergo an independent research audit in conformance with this Rule.

K. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 5-725

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(1)(i), 44-10-203(2)(s), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule is to permit laboratory testing of Medical Marijuana, Medical Marijuana Concentrate, and Medical Marijuana Products used by Marijuana Research and Development Facilities. The State

Licensing Authority intends this rule to help maintain the integrity of Colorado's Marijuana Research and Development Facilities. This Rule 5-725 was previously Rule M 1907, 1 CCR 212-1.

5-725 – Marijuana Research and Development Facility: Testing

A. Samples on Demand. Upon request of the Division, a Marijuana Research and Development Facility shall submit a sufficient quantity of Medical Marijuana to a Medical Marijuana Testing Facility for testing. The Division will notify the Marijuana Research and Development Facility of the results of the analysis. *See* Rule 3-805 – Medical Marijuana Business: Inventory Tracking System; Rule 3-905 – Business Records Required.

B. Samples Provided for Testing. A Marijuana Research and Development Facility may provide Samples of its Medical Marijuana to a Medical Marijuana Testing Facility for testing purposes. The Marijuana Research and Development Facility shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

Basis and Purpose – 5-730

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(1)(i), 44-10-203(2)(s), 44-10-401(1)(a)(VII), and 44-10-507, C.R.S. The purpose of this rule is to establish a Marijuana Research and Development Facility may only possess an amount of Medical Marijuana, Medical Marijuana Concentrate, or Medical Marijuana Product Medical Marijuana approved in conjunction with the Licensee's approved Research Projects. The purpose of this rule is also to establish additional Inventory Tracking and separation requirements for Medical Marijuana cultivated for Transfer by a Marijuana Research and Development Cultivation. This Rule 5-730 was previously Rule M 1908, 1 CCR 212-1.

5-730 – Marijuana Research and Development Facility: Production Management and Possession Limits

A. Marijuana Authorized for Transfer. A Marijuana Research and Development Facility that is authorized to cultivate Medical Marijuana for Transfer to other Marijuana Research and Development Facilities may not have more than 500 Medical Marijuana plants and 20 pounds of Medical Marijuana in its Limited Access Area at any given time, unless expressly approved by the Division as part of an approved Research Project.

1. A Marijuana Research and Development Facility shall indicate in the Inventory Tracking System whether Medical Marijuana is going to be used by the Licensee in an approved Research Project or Transferred to another Marijuana Research and Development Facility. A Marijuana Research and Development Facility may cultivate Medical Marijuana prior to approval of a Research Project, except the Marijuana Research and Development Facility may only designate such Medical Marijuana as Medical Marijuana to be Transferred to other Marijuana Research and Development Facilities unless the Marijuana Research and Development Facility has an approved Research Project. Upon approval of a Research Project, a Marijuana Research and Development Facility shall indicate in the Inventory Tracking System whether any such Medical Marijuana authorized for Transfer will be subject to the Marijuana Research and Development Facility's research pursuant to the approved Research Project.

B. Marijuana for Research. A Marijuana Research and Development Facility shall only possess for research the amount of Medical Marijuana approved by the Division pursuant to each of the Licensee's approved Research Projects.

C. Separation of Marijuana Used in Research. A Marijuana Research and Development Facility shall physically separate all Medical Marijuana used in the Licensee's own approved Research

Project(s) from Medical Marijuana to be Transferred to other Marijuana Research and Development Facilities for approved Research Projects.

Part 6 – Retail Marijuana Business License Types

6-100 Series – Retail Marijuana Stores

Basis and Purpose – 6-105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(dd), 44-10-313(14), 44-10-401(2)(b)(I), 44-10-601, and 44-10-605, C.R.S. The purpose of this rule is to the license privileges of a Retail Marijuana Store licensee. This Rule 6-105 was previously Rule R 401.

6-105 – Retail Marijuana Store: License Privileges

A. Licensed Premises. To the extent authorized by Rule 3-215 – Regulated Marijuana Business– Shared Licensed Premises and Operational Separation, a Retail Marijuana Store may share, and operate at, the same Licensed Premises with a commonly-owned Medical Marijuana Store. However, a separate license is required for each specific business or business entity, regardless of geographical location.

B. Authorized Sources of Retail Marijuana. A Retail Marijuana Store may only Transfer Retail Marijuana that was obtained from another Retail Marijuana Business.

C. Samples Provided for Testing. A Retail Marijuana Store may provide Samples of its products for testing and research purposes to a Retail Marijuana Testing Facility. The Retail Marijuana Store shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

D. Authorized On-Premises Storage. A Retail Marijuana Store is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.

E. Authorized Marijuana Transport. A Retail Marijuana Store is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents a Retail Marijuana Store from transporting its own Retail Marijuana.

F. Performance-Based Incentives. A Retail Marijuana Store may compensate its employees using performance-based incentives, including sales-based performance-based incentives.

G. Authorized Transfers of Industrial Hemp Products. This rule is effective July 1, 2020. A Retail Marijuana Store may Transfer Industrial Hemp Product to a consumer only after it has confirmed:

1. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Retail Marijuana Testing Facility; and

2. That the Person Transferring the Industrial Hemp Product to the Retail Marijuana Store is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

H. Retail Marijuana Store Delivery Permit.

1. Prior to January 2, 2021, all Retail Marijuana Stores are prohibited from delivering Regulated Marijuana to consumers.

2. After January 2, 2021, a Retail Marijuana Store with a valid delivery permit may accept delivery orders deliver Retail Marijuana to consumers pursuant to Rule 3-615.

3. A Retail Marijuana Store that does not possess a valid delivery permit cannot deliver Retail Marijuana.

I. Automated Dispensing Machines: A Retail Marijuana Store may use an automated machine in the Restricted Access Area of its Licensed Premises to dispense Regulated Marijuana to consumers without interaction with an Owner Licensee or Employee Licensee if the automated machine is reasonably monitored and complies with all requirements of these rules including but not limited to:

1. Health and safety standards,

2. Testing,

3. Packaging and labeling requirements,

4. Inventory tracking,

5. Identification requirements, and

6. Transfer limits to consumers.

J. Walk-up Window or Drive-up Window. A Retail Marijuana Store may serve customers through a walk-up window or drive-up window pursuant to the requirements of this rule.

1. Modification of Premises Required. Before accepting orders for sales of Retail Marijuana to a customer through either a walk-up window or drive-up window, a Retail Marijuana Store shall apply for, and obtain approval of, an application for a modification of its Licensed Premises for the addition of a walk-up window or drive-up window.

2. The area immediately outside the walk-up window or drive-up window must be under the Licensee's possession and control and cannot include any public property such as public streets, public sidewalks, or public parking lots.

3. Order and Identification Requirements.

a. Prior to accepting an order or Transferring Retail Marijuana to a customer, the Employee Licensee or Owner Licensee must physically view and inspect the consumer's identification and ensure that the consumer is 21 years of age or older.

b. The Retail Marijuana Store may accept telephone or internet orders or may accept orders from the customer at the walk-up window or drive-up window. Retail Marijuana Stores may not accept payment for Retail Marijuana over the internet.

c. All orders received through a walk-up window or a drive-up window must be placed by the customer from a menu. The Retail Marijuana Store may not display Retail Marijuana at the walk-up or drive-up window.

4. Payment Requirements. Cash, credit, debit, cashless ATM, or other payment methods are permitted for payments for Retail Marijuana at the walk-up window or drive-up window.

5. Video Surveillance Requirements. For every Transfer of Regulated Marijuana through either a walk-up window or drive-up window, the Retail Marijuana Store's video surveillance must enable the recording of the consumer's identity (and consumer's vehicle in the event of drive-up window), and must enable the recording of the Licensee verifying the consumer's identification and completion of the transaction through the Transfer of Regulated Marijuana.

6. Packaging and Labeling Requirements. A Retail Marijuana Store utilizing a walk-up window or drive-up window must ensure that all Retail Marijuana is packaged and labeled in accordance with Rule 3-1010 and Rule 3-1015 prior to Transfer to the consumer.

7. Local Restrictions. Transfers of Regulated Marijuana using a walk-up window or drive-up window are subject to requirements and restrictions imposed by the relevant Local Jurisdiction.

Basis and Purpose – 6-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(4)(b), 44-10-203(1)(k), 44-10-401(2)(b)(I), 44-10-701(1)(a), 44-10-701(3)(d) and (f), and 44-10-601, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(3)(a), 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a licensed Retail Marijuana Store.

Regarding quantity limitations on sales, equivalencies for Retail Marijuana Concentrate and Retail Marijuana Product to Retail Marijuana flower have been included in this rule pursuant to the mandate of House Bill 14-1361. The establishment of equivalencies also provides information to stakeholders including Licensees, the general public, and law enforcement to aid in the enforcement of and compliance with the lawful personal possession limit of one ounce or less of marijuana. Setting these equivalencies provides Retail Marijuana Stores and their employees with necessary information to avoid being complicit in a patron acquiring more marijuana than is lawful to possess under the Colorado Constitution pursuant to Article XVIII, Subsection 16(3)(a).

This Rule 6-110 was previously Rule R 402, 1 CCR 212-2.

6-110 – Retail Marijuana Sales: General Limitations or Prohibited Acts

A. Sales to Persons Under 21 Years. Licensees are prohibited from Transferring, giving, or distributing Retail Marijuana to persons under 21 years of age. Licensees are prohibited from permitting a person under the age of 21 years of age from entering the Restricted Access Area.

B. Age Verification. Licensees must verify on two separate occasions that a Person is 21 years of age or older. First, prior to permitting a Person to enter the Restricted Access Area, a Licensee must verify that the Person has a valid government-issued photo identification showing that the Person is 21 years of age or older. Second, prior to initiating the Transfer of Retail Marijuana, a Licensee must verify that the purchaser has a valid government-issued photo identification showing that the purchaser is 21 years of age or older.

C. Quantity Limitations On Sales.

1. A Retail Marijuana Store and its employees are prohibited from Transferring more than one ounce of Retail Marijuana flower or its equivalent in Retail Marijuana Concentrate or

Retail Marijuana Product to a consumer in a single transaction. A Retail Marijuana Store may also Transfer up to six (6) seeds in addition to the one ounce of Retail Marijuana flower or its equivalent in Retail Marijuana Concentrate or Retail Marijuana Product to a consumer in a single transaction. A single transaction includes multiple Transfers to the same consumer during the same business day where the Retail Marijuana Store employee knows or reasonably should know that such Transfer would result in that consumer possessing more than one ounce of marijuana. In determining the imposition of any penalty for violation of this Rule 6-110(C), the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235(C).

2. Equivalency. Non-edible, non-psychoactive Retail Marijuana Products including ointments, lotions, balms, and other non-transdermal topical products are exempt from the one-ounce quantity limit on Transfers. For all other Retail Marijuana Products or Retail Marijuana Concentrate, the following equivalency applies for the one ounce quantity Transfer limit:

   a. One ounce of Retail Marijuana flower shall be equivalent to eight grams of Retail Marijuana Concentrate.

   b. One ounce of Retail Marijuana flower shall be equivalent to 80 ten-milligram servings of THC in Retail Marijuana Product.

C.5. Educational Resource. When completing a sale of Retail Marijuana Concentrate, a Retail Marijuana Store shall provide the consumer with the tangible educational resource created by the State Licensing Authority regarding the use of Regulated Marijuana Concentrate.

D. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to Transfer Retail Marijuana to a consumer.

E. Sales over the Internet. Only a Retail Marijuana Store holding a valid delivery permit taking orders for delivery may make sales over the internet. Only a Retail Marijuana Store holding a valid delivery permit and/or a Retail Marijuana Transporter holding a valid delivery permit may deliver Retail Marijuana to a private residence. All other Retail Marijuana Store and Retail Marijuana Transporter Licensees are prohibited from selling Retail Marijuana over the internet.

F. Delivery Outside Colorado Prohibited. A Retail Marijuana Store holding a valid delivery permit shall not deliver Retail Marijuana to an address that is outside the state of Colorado.

G. Prohibited Items. A Retail Marijuana Store is prohibited from selling or giving away any consumable product that is not a Retail Marijuana Product or an Industrial Hemp Product including, but not limited to, cigarettes or tobacco products, alcohol beverages, and food products or non-alcohol beverages that are not Retail Marijuana Product.

H. Free Product Prohibited. A Retail Marijuana Store may not give away Retail Marijuana to a consumer for any reason.

I. Nicotine or Alcohol Prohibited. A Retail Marijuana Store is prohibited from Transferring Retail Marijuana that contain nicotine or alcohol, if the sale of the alcohol would require a license pursuant to Articles 3, 4, or 5 of Title 44, C.R.S.

J. Storage and Display Limitations.

1. A Retail Marijuana Store shall not display Retail Marijuana outside of a designated Restricted Access Area or in a manner in which Retail Marijuana can be seen from

outside the Licensed Premises. Storage of Retail Marijuana shall otherwise be maintained in Limited Access Areas or Restricted Access Area.

2. Any Retail Marijuana Concentrate displayed in a Retail Marijuana Store must include the potency of the concentrate on a sign next to the name of the product.

    a. The font on the sign must be large enough for a consumer to reasonably see from the location where a consumer would usually view the concentrate.

    b. The potency displayed on the sign must be within plus or minus fifteen percent of the concentrate's actual potency.

K. Transfer of Expired Product Prohibited. A Retail Marijuana Store shall not Transfer any expired Retail Marijuana Product to a consumer.

L. Transfer Restriction.

1. Sampling Units. A Retail Marijuana Store may not possess or Transfer Sampling Units.

2. Research Transfers Prohibited. A Retail Marijuana Store shall not Transfer any Retail Marijuana to a Pesticide Manufacturer, or a Marijuana Research and Development Facility.

L.5. Standard Operating Procedures. A Retail Marijuana Store must establish written standard operating procedures for the management and storage of Retail Marijuana inventory and the sale of Retail Marijuana to consumers. A written copy of the standard operating procedures must be maintained on the Licensed Premises.

1. A Retail Marijuana Store must provide adequate training to every Owner Licensee and Employee Licensee who performs a task or set of tasks that are referenced in the standard operating procedures. Adequate training must include, but need not be limited to, providing a copy of the standard operating procedures for that Licensed Premises detailing at least all of the topics required to be included in the standard operating procedures.

M. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit.

1. The sale of Edible Retail Marijuana Products in the following shapes is prohibited:

    a. The distinct shape of a human, animal, or fruit; or

    b. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

2. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Retail Marijuana Business. Nothing in this subparagraph (M)(2) alters or eliminates a Licensee's obligation to comply with the requirements of the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

3. Edible Retail Marijuana Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and

4. Edible Retail Marijuana Products that are manufactured in the shape of a marijuana leaf are permissible.

N. Adverse Health Event Reporting. A Retail Marijuana Store must report Adverse Health Events pursuant to Rule 3-920.

O. Corrective and Preventive Action. This paragraph O shall be effective January 1, 2021. A Retail Marijuana Store shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

P. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(z), and 44-10-202(3)(h), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to establish that a Retail Marijuana Store must control and safeguard access to certain areas where Retail Marijuana and Retail Marijuana Product will be sold to the general public and prevent the diversion of Retail Marijuana and Retail Marijuana Product to people under 21 years of age. This Rule 6-115 was previously Rule R 403, 1 CCR 212-2.

6-115 – Point of Sale: Restricted Access Area

A. Identification of Restricted Access Area. All areas where Retail Marijuana are sold, possessed for sale, displayed, or dispensed for sale shall be identified as a Restricted Access Area and shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12

inches long, composed of letters not less than a half inch in height, which shall state, “Restricted Access Area – No One Under 21 Years of Age Allowed.”

B. Consumers in Restricted Access Area. The Restricted Access Area must be supervised by a Licensee at all times when consumers are present to ensure that only persons who are 21 years of age or older are permitted to enter. When allowing a customer access to a Restricted Access Area, Owner Licensees and Employee Licensees shall make reasonable efforts to limit the number of consumers in relation to the number of Owners Licensees and Employee Licensees in the Restricted Access Area at any time.

C. Display of Retail Marijuana. The display of Retail Marijuana for sale is allowed only in Restricted Access Areas. Any product displays that are readily accessible to the consumer must be supervised by the Owner Licensee or Employee Licensees at all times when consumers are present.

D. Pregnancy Warning. Retail Marijuana Stores must post, at all times and in a prominent place inside the Restricted Access Area, a warning that is at minimum three inches high and six inches wide that reads:

> **WARNING:** Using marijuana, in any form, while you are pregnant or breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of marijuana use during pregnancy or breastfeeding.

6-200 Series – Retail Marijuana Cultivation Facilities

Basis and Purpose – 6-205

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(j), 44-10-203(2)(r), 44-10-203(3)(c), 44-10-313(14), 44-10-401(2)(b)(II), and 44-10-602, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to a Retail Marijuana Cultivation Facility. This Rule 6-205 was previously Rule R 501, 1 CCR 212-2.

6-205 – Retail Marijuana Cultivation Facility: License Privileges

A. Licensed Premises. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Cultivation Facility may share, and operate at, the same Licensed Premises with a commonly owned Medical Marijuana Cultivation Facility. However, a separate license is required for each specific business or business entity, regardless of geographical location. In addition, a Retail Marijuana Cultivation Facility may share, and operate at, the same Licensed Premises as a Marijuana Research and Development Facility so long as:

1. Each business or business entity holds a separate license;

2. The Marijuana Research and Development Facility obtains an R&D Co-Location Permit;

3. Both the Marijuana Research and Development Facility and the Retail Marijuana Cultivation Facility comply with all terms and conditions of the R&D Co-Location Permit; and

4. Both the Marijuana Research and Development Facility and the Retail Marijuana Cultivation Facility comply with all applicable rules. *See* 5-700 Series Rules.

B. Cultivation of Retail Marijuana and Production of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Retail Marijuana Concentrate Authorized. A Retail Marijuana Cultivation Facility may propagate, cultivate, harvest, prepare, cure, package, store, and label Retail Marijuana and Physical Separation-Based Retail Marijuana Concentrate. A Retail Marijuana Cultivation Facility may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Retail Marijuana Concentrate.

C. Authorized Transfers. A Retail Marijuana Cultivation Facility may only Transfer Retail Marijuana and Physical Separation-Based Retail Marijuana Concentrate to another Retail Marijuana Business. A Retail Marijuana Cultivation Facility and an Accelerator Cultivator may also Transfer to a Medical Marijuana Cultivation Facility in compliance with Rules 6-230 and 6-730.

1. A Retail Marijuana Cultivation Facility shall not Transfer Flowering plants. A Retail Marijuana Cultivation Facility may only Transfer Vegetative plants as authorized pursuant to Rule 3-605.

2. A Retail Marijuana Cultivation Facility may Transfer Sampling Units of Retail Marijuana or Retail Marijuana Concentrate to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-602(6), C.R.S., and Rule 6-225.

3. A Retail Marijuana Cultivation Facility may Transfer Retail Marijuana or Retail Marijuana Concentrate to another Retail Marijuana Cultivation Facility prior to testing required by these rules only if such Transfer is in accordance with one of the two options below.

    a. The Retail Marijuana Cultivation Facility may Transfer Retail Marijuana or Retail Marijuana Concentrate to another Retail Marijuana Cultivation Facility prior to testing if such Transfer is for the purpose of Decontamination and only after all other steps outlined in the Retail Marijuana Cultivation Facility's standard operating procedures have been completed, including but not limited to drying, curing, and trimming; or

    b. The Retail Marijuana Cultivation Facility may Transfer Retail Marijuana or Retail Marijuana Concentrate to another Retail Marijuana Cultivation Facility prior to testing, drying, curing, trimming, or completion of any other steps in the Retail Marijuana Cultivation Facility's standard operating procedures, subject to the following additional requirements:

        i. The Retail Marijuana Cultivation Facility receiving the Transfer is identified as a centralized processing hub in the Inventory Tracking System and must have identical Controlling Beneficial Owner(s) with the originating Retail Marijuana Cultivation Facility;

        ii. An originating Retail Marijuana Cultivation Facility may only Transfer Retail Marijuana to one receiving Retail Marijuana Cultivation Facility that will be serving as a centralized processing hub;

        iii. The Retail Marijuana or Retail Marijuana Concentrate is weighed prior to leaving the originating Retail Marijuana Cultivation Facility and immediately upon receipt at the receiving Retail Marijuana Cultivation Facility and in accordance with Rule 3-605;

        iv. The Transfer, weighing and entry into the Inventory Tracking System are all completed within 24 hours from initiating the Transfer;

v. The receiving Retail Marijuana Cultivation Facility is responsible for compliance with all testing requirements regardless of any testing performed prior to Transfer. If the receiving Retail Marijuana Cultivation Facility is pursuing a Reduced Testing Allowance, a Reduced Testing Allowance must be achieved separately for marijuana received from each originating Retail Marijuana Cultivation Facility. A Retail Marijuana Cultivation Facility that has achieved a Reduced Testing Allowance must maintain and produce complete testing records that can verify that facility's compliance with testing and Reduced Testing Allowance requirements; and

vi. The standard operating procedures for the originating Retail Marijuana Cultivation Facility and receiving Retail Marijuana Cultivation Facility clearly reflect the steps taken by each facility to Transfer, transport, receive, process, and test Harvest Batches.

4. A Retail Marijuana Cultivation Facility may transfer Retail Marijuana to a Pesticide Manufacturer.

5. A Retail Marijuana Cultivation Facility may Transfer Retail Marijuana to a Medical Marijuana Cultivation Facility in accordance with Rules 5-235 and 6-230.

D. Authorized On-Premises Storage. A Retail Marijuana Cultivation Facility is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area and tracked consistently with the inventory tracking rules.

E. Samples Provided for Testing. A Retail Marijuana Cultivation Facility may provide Samples of its Retail Marijuana to a Retail Marijuana Testing Facility for testing and research purposes. The Retail Marijuana Cultivation Facility shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

F. Authorized Marijuana Transport. A Retail Marijuana Cultivation Facility is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents a Retail Marijuana Cultivation Facility from transporting its own Retail Marijuana.

G. Performance-Based Incentives. A Retail Marijuana Cultivation Facility may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, a Retail Marijuana Cultivation Facility may not compensate a Sampling Manager using Sampling Units. *See* Rule 6-225 – Sampling Unit Protocols.

H. Authorized Sources of Retail Marijuana, Seeds and Immature Plants. A Retail Marijuana Cultivation Facility shall only obtain Retail Marijuana seeds or Immature Plants from its own Retail Marijuana, properly Transferred Medical Marijuana cultivated at a Medical Marijuana Cultivation Facility with at least one identical Controlling Beneficial Owner, or properly Transferred from another Retail Marijuana Business pursuant to the inventory tracking requirements in the 3-800 Series Rules. A Retail Marijuana Cultivation facility may not bring seeds, Immature Plants, or other marijuana that is not Regulated Marijuana onto the Licensed Premises at any time.

I. Centralized Distribution Permit. A Retail Marijuana Cultivation Facility may apply to the State Licensing Authority for a Centralized Distribution Permit for authorization to temporarily store Retail Marijuana Concentrate and Retail Marijuana Product received from a Retail Marijuana Products Manufacturer for the sole purpose of Transfer to commonly owned Retail Marijuana Stores.

1. For purposes of a Centralized Distribution Permit only, the term "commonly owned" means at least one natural person has a minimum of five percent ownership in both the Retail Marijuana Cultivation Facility possessing a Centralized Distribution Permit and the Retail Marijuana Store to which the Retail Marijuana Concentrate and Retail Marijuana Product will be Transferred.

2. To apply for a Centralized Distribution Permit, a Retail Marijuana Cultivation Facility may submit an addendum to its new or renewal application or a separate addendum prior to a renewal application on forms prepared by the Division to request a Centralized Distribution Permit. The Retail Marijuana Cultivation Facility shall send a copy of its Centralized Distribution Permit addendum to the Local Licensing Authority in the jurisdiction in which the Centralized Distribution Permit is proposed at the same time it submits the addendum to the State Licensing Authority.

3. A Retail Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit and has obtained all required approvals from the local licensing jurisdiction where it is located, if any, may accept Transfers of Retail Marijuana Concentrate and Retail Marijuana Product from a Retail Marijuana Products Manufacturer for the sole purpose of temporary storage and Transfer to commonly owned Retail Marijuana Stores.

    a. A Retail Marijuana Cultivation Facility may only accept Retail Marijuana Concentrate and Retail Marijuana Product that is packaged and labeled for sale to a consumer pursuant to the 3-1000 Series Rules.

    b. A Retail Marijuana Cultivation Facility storing Retail Marijuana Concentrate and Retail Marijuana Product pursuant to a Centralized Distribution Permit shall not store such Retail Marijuana Concentrate or Retail Marijuana Product on the Retail Marijuana Cultivation Facility's Licensed Premises for more than 90 days from the date of receipt.

    c. All Transfers of Retail Marijuana Concentrate and Retail Marijuana Product by a Retail Marijuana Cultivation Facility shall be without consideration.

4. All security and surveillance requirements that apply to a Retail Marijuana Cultivation Facility apply to activities conducted pursuant to the privileges of a Centralized Distribution Permit.

J. Transition Permit. A Retail Marijuana Cultivation Facility may only operate at two geographical locations pursuant to Rule 2-255(D).

Basis and Purpose – 6-210

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(f), 44-10-203(2)(h), 44-10-203(2)(j), 44-10-701(2)(a), 44-10-602, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V). The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Retail Marijuana Cultivation Facility. This Rule 6-210 was previously Rule R 502, 1 CCR 212-2.

6-210 – Retail Marijuana Cultivation Facility: General Limitations or Prohibited Acts

A. Packaging and Labeling Standards Required. A Retail Marijuana Cultivation Facility is prohibited from Transferring Retail Marijuana that is not packaged and labeled in accordance with these rules. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

B. Transfer to Consumer Prohibited. A Retail Marijuana Cultivation Facility is prohibited from Transferring Retail Marijuana to a consumer. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-602(6), C.R.S., and Rule 6-225.

C. Excise Tax Paid. A Retail Marijuana Cultivation Facility shall remit any applicable excise tax due pursuant to Article 28.8 of Title 39, C.R.S.

D. Corrective and Preventive Action. This paragraph D shall be effective January 1, 2021. A Retail Marijuana Cultivation Facility shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

E. Adverse Health Event Reporting. A Retail Marijuana Cultivation Facility must report Adverse Health Events pursuant to Rule 3-920.

Basis and Purpose – 6-215

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(r), 44-10-401(2)(b)(II), and 44-10-602, C.R.S. The purpose of this rule is to establish the categories of Retail Marijuana Concentrate that may be produced at a Retail Marijuana Cultivation Facility and standards for the production of Retail Marijuana Concentrate. This Rule 6-215 was previously Rule R 505, 1 CCR 212-2.

6-215 – Retail Marijuana Cultivation Facilities: Retail Marijuana Concentrate Production

A. Permitted Production of Certain Categories of Retail Marijuana Concentrate. A Retail Marijuana Cultivation Facility may only produce Physical Separation-Based Retail Marijuana Concentrate on

its Licensed Premises and only in an area clearly designated as a Limited Access Area. *See* Rule 3-905- Business Records Required. No other method of production or extraction for Retail Marijuana Concentrate may be conducted within the Licensed Premises of a Retail Marijuana Cultivation Facility unless the Controlling Beneficial Owner(s) of the Retail Marijuana Cultivation Facility also has a valid Retail Marijuana Products Manufacturer license and the room in which Retail Marijuana Concentrate is to be produced is physically separated from all cultivation areas and has clear signage identifying the room.

B. Safety and Sanitary Requirements for Concentrate Production. If a Retail Marijuana Cultivation Facility produces Retail Marijuana Concentrate, then all areas in which the Retail Marijuana Concentrate are produced and all Controlling Beneficial Owners and Employee Licensees engaged in the production of the Retail Marijuana Concentrate shall be subject to all of the requirements imposed upon a Retail Marijuana Products Manufacturer that produces Retail Marijuana Concentrate, including all general requirements. *See* 3-300 Series Rules – Health and Safety Regulations and Rule 6-315 – Retail Marijuana Products Manufacturer: Retail Marijuana Concentrate Production.

C. Possession of Other Categories of Retail Marijuana Concentrate.

1. It shall be considered a violation of this Rule if a Retail Marijuana Cultivation Facility possesses a Retail Marijuana Concentrate other than a Physical Separation-Based Retail Marijuana Concentrate on its Licensed Premises unless: the Controlling Beneficial Owner(s) of the Retail Marijuana Cultivation Facility also has a valid Retail Marijuana Products Manufacturer license; or the Retail Marijuana Cultivation Facility has been issued a Centralized Distribution Permit and is in possession of the Retail Marijuana Concentrate in compliance with Rule 6-205(I).

2. Notwithstanding subparagraph (C)(1) of this Rule 6-215, a Retail Marijuana Cultivation Facility shall be permitted to possess Solvent-Based Retail Marijuana Concentrate only when the possession is due to the Transfer of Retail Marijuana flower or trim that failed microbial testing to a Retail Marijuana Products Manufacturing Facility for processing into a Solvent-Based Retail Marijuana Concentrate, and the Retail Marijuana Products Manufacturer Transfers the resultant Solvent-Based Retail Marijuana Concentrate back to the originating Retail Marijuana Cultivation Facility.

a. The Retail Marijuana Cultivation Facility shall comply with all requirements in Rule 4-135(C) when having Solvent-Based Retail Marijuana Concentrate manufactured out of Retail Marijuana flower or trim that failed microbial testing.

b. The Retail Marijuana Cultivation Facility is responsible for submitting the Solvent-Based Retail Marijuana Concentrate for all required testing for contaminants pursuant to Rule 4-120 – Regulated Marijuana Testing Program – Contaminant Testing, for potency pursuant to Rule 4-125 – Regulated Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Marijuana Rules or the Marijuana Code.

c. Nothing in this Rule removes or alters the responsibility of the Retail Marijuana Cultivation Facility that Transfers the Retail Marijuana that failed microbial testing from complying with the requirement to pay excise tax pursuant to Rule 6-210(C).

D. Production of Alternative Use Product or Audited Product Prohibited. A Retail Marijuana Cultivation Facility shall not produce an Alternative Use Product or Audited Product.

E. Possession of Alternative Use Product or Audited Product. A Retail Marijuana Cultivation Facility is authorized to possess or Transfer Alternative Use Product and/or Audited Product only if the

Retail Marijuana Cultivation Facility received the Alternative Use Product and/or Audited Product pursuant to a Centralized Distribution Permit from a Retail Marijuana Products Manufacturer that is manufacturing and Transferring the Alternative Use Product or Audited Product in accordance with Rule 6-325.

Basis and Purpose – 6-220

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(6), 44-10-401(2)(b)(II), and 44-10-602, C.R.S. The rule establishes a means by which to manage the overall production of Retail Marijuana in the state of Colorado. The intent of this rule is to encourage responsible production to meet demand for retail marijuana consumers, while also avoiding overproduction or underproduction. The establishment of production management is necessary to ensure there is not significant under or over production, either of which will increase incentives to engage in diversion and facilitate the continuation of the sale of illegal marijuana.

Existing and prospective licensees should be on notice that the new or revised regulations may impact the production limits provided for in this rule. Additionally, throughout the rulemaking process stakeholders expressed concern over ensuring an adequate amount of licensed Retail Marijuana Stores exist to sell the amount of Retail Marijuana being produced at licensed Retail Marijuana Cultivation Facilities. Scaling the number of interests a Person may hold in Retail Marijuana Cultivation Facility licenses relative to the number of controlling interests the Person has in Retail Marijuana Store(s) has been incorporated in the production management rules as a means to address this production management concern.

The Rule 6-220 was previously Rule R 506, 1 CCR 212-2.

6-220 – Retail Marijuana Cultivation Facility: Production Management

A. One Retail Cultivation License per Licensed Premises.

1. One Retail Marijuana Cultivation License per Licensed Premises. Except as permitted by subparagraph (A)(2) only one Retail Marijuana Cultivation Facility License shall be permitted at each Licensed Premises and each Licensed Premises must be located at a distinct address recognized by the Local Jurisdiction.

2. Collapse after January 1, 2019. After January 1, 2019, collapse of more than one Retail Marijuana Cultivation Facility license at a single Licensed Premises through an approved change of location application shall be permitted if all Retail Marijuana Cultivation Facility licenses for which the collapse is sought meet the following requirements:

a. All Retail Marijuana Cultivation Facility licenses sought to be collapsed have been continuously operating for at least 180 days prior to the proposed collapse;

b. All Retail Marijuana Cultivation Facility licenses sought to be collapsed have identical Controlling Beneficial Owners holding identical ownership percentages;

c. There is no pending administrative action regarding any of the Retail Marijuana Cultivation Facility licenses sought to be collapsed;

d. The tier for the surviving Retail Marijuana Cultivation Facility license has not been decreased in the 180 days prior to the change of location application.

e. All Retail Marijuana Cultivation Facility Licensees identify the desired surviving license and agree that all other Retail Marijuana Cultivation Facility licenses will be surrendered at the time of collapse; and

f. Determining Tier for Surviving License.

i. Surviving License Tier Will Not Decrease. The tier for the surviving license will not be decreased as a result of any approved change of location application.

ii. Surrendered License is Tier 1 or Tier 2. For the surviving license to increase one tier or one increment of 3,600 plants if already tier 5 or higher, during the 180 days prior to the change of location application, the surrendered license must have cultivated at least 50% of the maximum authorized plant count and Transferred at least 85% of the inventory it produced during that time.

iii. Surrendered License is Tier 3 or Higher. For the surviving license to increase by the maximum authorized plant count of the surrendered license, during the 180 days prior to the change of location application the surrendered license must have cultivated at least 50% of the maximum authorized plant count and Transferred at least 85% of the inventory it produced during that time. If during the 180 days prior to the change of location application, the surrendering license did not cultivate at least 50% of the maximum authorized plant count and Transfer at least 85% of the inventory it produced, the surviving license will only increase one tier or one increment of 3,600 plants if already a tier 5 or higher.

iv. Division Determination of Tier. If a collapse results in a maximum authorized plant count in the middle of a tier, the surviving license's maximum authorized plant count will be rounded up to the top of that tier.

B. Production Management.

1. Production Management Tiers.

a. Tier 1: 1 - 1,800 plants

b. Tier 2: 1,801 – 3,600 plants

c. Tier 3: 3,601 – 6,000 plants

d. Tier 4: 6,001 – 10,200 plants

e. Tier 5: 10,201 – 13,800+ plants

i. Tier 5 shall not have a cap on the maximum authorized plant count.

ii. The maximum authorized plant count above 10,200 plants shall increase in one or two increments of 3,600 plants. A Retail Marijuana Cultivation Facility Licensee shall be allowed to increase its maximum authorized plant count one or two increments of 3,600 plants at a time upon application and approval by the Division pursuant to the requirements of paragraph (E) of this Rule 6-220.

2. All Retail Marijuana Cultivation Facility licenses granted on or after November 30, 2015 will be issued as a Tier 1 License.

3. Immature Plants. For purposes of calculating the maximum number of authorized plants, Immature Plants are excluded, but must be fully accounted for in the Inventory Tracking System.

4. Ground for Denial. The Division may deny an application for additional plants pursuant to paragraph E of this Rule if the Licensee exceeded the authorized plant count during the relevant time period for production.

5. Violation Affecting Public Safety. It may be considered a license violation affecting public safety for a Licensee to exceed the authorized plant count pursuant to these Rules.

C. Inventory Management.

1. Inventory Management for Retail Cultivation Facilities that Have One or Two Harvest Seasons a Year. Beginning the 721st day from the commencement of its first cultivation activities, a Retail Marijuana Cultivation Facility that has one or two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Retail Marijuana flower and trim the Licensee reported as a package in the Inventory Tracking System that was Transferred to another Retail Marijuana Business in the previous 720 days.

2. Inventory Management for Retail Cultivation Facilities That Have More Than Two Harvest Seasons a Year. Beginning the 181st day from the commencement of its first cultivation activities, a Retail Marijuana Cultivation Facility that has more than two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Retail Marijuana flower and trim the Licensee reported as a package in the Inventory Tracking System that was Transferred to another Retail Marijuana Business in the previous 180 days.

D. Tier Decrease. For Retail Marijuana Cultivation Facilities that are authorized to cultivate more than 1,800 plants, the Division may review the purchases, Transfers, and cultivated plant count of the Retail Marijuana Cultivation Facility Licensee in connection with the license renewal process or after an investigation. Based on the Division's review, the Division may reduce the Licensee's maximum allowed plant count to a lower production management tier pursuant to subparagraph (C)(1) of this Rule. When determining whether to reduce the maximum authorized plant count, the Division may consider the following non-exhaustive factors including but not limited to:

1. The Licensee sold less than 70% of what the inventory it reported as packaged in the Inventory Tracking System during any 180 day review period;

2. On average during the previous 180 days the Licensee actually cultivated less than 90% of the maximum number of plants authorized by the next lower production management tier;

3. Whether the plants/inventory suffered a catastrophic event during the review period;

4. Excise tax payment history;

5. Existing inventory and inventory history;

6. Sales contracts; and

7. Any other factors relevant to ensuring responsible cultivation, production, and inventory management.

E. Application for Additional Plants.

1. Retail Marijuana Cultivation Facilities That Have One or Two Harvest Seasons Per Year.

a. After accruing at least one harvest season of Transfers, a Retail Marijuana Cultivation Facility Licensee may apply to the Division for a production management tier increase to be authorized to cultivate the number of plants in the next highest production management tier. The Division may consider the following in determining whether to approve the production management tier increase:

i. That during the previous harvest season prior to the tier increase application, it consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count;

ii. That the Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System in the previous 360 days to another Retail Marijuana Business;

iii. The Division may also consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the previous 360 days, if the Licensee cultivated between 75% and 85% of its maximum authorized plant count; and

iv. Any other information requested to aid the Division in its evaluation of the production management tier increase application.

b. If the Division approves the production management tier increase application, the Licensee shall pay the applicable expanded production management tier fee prior to cultivating the additional authorized plants. *See* Rule 2-205 –Fees.

c. For a Licensee with an authorized plant count in tiers 2-5 to continue producing at its expanded authorized plant count, the Licensee shall pay the requisite Retail Marijuana Cultivation Facility license fee and the applicable expanded production management tier fee at license renewal. *See* Rule 2-205 – Fees.

d. After accruing one harvest season during which the Retail Marijuana Cultivation Facility Transferred and consistently cultivated the Licensee may apply to increase its authorized plant count by: (a) two production management tiers or (b) if already authorized to cultivate at a production management tier 5, two increments of 3,600 plants (7,200 plants total), every 360 days. It is within the Division's discretion to determine whether or not to grant the requested two tiers or increments of 3,600 plants (7,200 plants total).

i. The Licensee must demonstrate:

A. That the Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count; and

B. That the Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business.

C. If the Retail Marijuana Cultivation Facility cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a package in the Inventory Tracking System during that time period and/or Transfers into the Retail Marijuana Cultivation Facility or related Retail Marijuana Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Retail Marijuana Cultivation currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two tiers or two 3,600 plant increments;

B. The Retail Marijuana Cultivation Facility cultivated at least 90% of its maximum authorized plant count and during the preceding 360 days the Retail Marijuana Cultivation Facility and/or any commonly owned Retail Marijuana Store Transferred in Retail Marijuana from one or more unrelated Retail Marijuana Cultivation Facility(ies);

C. The Retail Marijuana Cultivation has contracts for the sale of Retail Marijuana in the next 360 days supporting the requested two tiers or two increments of 3,600 plants;

D. An established history of responsible cultivation and Transfer by the Retail Marijuana Cultivation;

E. Any history of noncompliance with the Retail Code, Marijuana Code, and/or Rules by the Retail Marijuana Cultivation Facility, or any commonly owned Retail Marijuana Business, and/or any investigation of, or administrative action(s) against, the Retail Marijuana Cultivation Facility, or any commonly owned Retail Marijuana Business; or

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

2. Retail Marijuana Cultivation Facilities that have more than two harvest seasons per year.

a. After a 180-day period during which the Retail Marijuana Cultivation Facility Transferred and consistently cultivated, the Licensee may apply to the Division for a production management tier increase to be authorized to cultivate the number of plants in the next highest production management tier. The Division may consider the following in determining whether to approve the production management tier increase:

i. That for 180 days prior to the tier increase application, the Licensee consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count, and

ii. That the Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business.

iii. The Division may also consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the 180-day time period if the Licensee cultivated between 75% and 85% of its maximum authorized plant count.

iv. Any other information requested to aid the Division in its evaluation of the tier increase application.

b. If the Division approves the production management tier increase application, the Licensee shall pay the applicable expanded production management tier fee prior to cultivating the additional authorized plants. *See* Rule 2-205 – Fees.

c. For a Licensee with an authorized plant count in tier 2-5 to continue producing at its expanded authorized plant count, the Licensee shall pay the requisite Retail Marijuana Cultivation Facility license fee and the applicable expanded production management tier fee at license renewal. *See* Rule 2-205 – Fees.

d. After accruing 180 days during which the Retail Marijuana Cultivation Facility Transferred and consistently cultivated the Licensee may apply to increase its authorized plant count by: (a) two production management tiers or (b) if already authorized to cultivate at a tier 5, two increments of 3,600 plants (7,200 plants total) every 180 days. It is within the Division's discretion to determine whether or not to grant the requested two tier or two increments of 3,600 plants (7,200 plants total).

i. The Licensee must demonstrate:

A. That the Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count; and

B. That the Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business;

C. If the Retail Marijuana Cultivation Facility cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a package in the Inventory Tracking system during that time period and/or Transfers into the Retail Marijuana Cultivation Facility or related Retail Marijuana Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Retail Marijuana Cultivation currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two tiers or two increments of 3,600 plants;

B. The Retail Marijuana Cultivation Facility cultivated at least 90% of its maximum authorized plant count and during the preceding 180 days the Retail Marijuana Cultivation Facility and/or any commonly owned Retail Marijuana Store Transferred in Retail Marijuana from one or more unrelated Retail Marijuana Cultivation Facility(ies);

C. The Retail Marijuana Cultivation has entered into a written agreement(s) or contract(s) for the sale of Retail Marijuana in the next 180 days supporting the requested two tiers or two increments of 3,600 plants;

D. An established history of responsible cultivation and Transfer by the Retail Marijuana Cultivation;

E. Any history of noncompliance with the Retail Code, Marijuana Code, and/or Rules by the Retail Marijuana Cultivation Facility or any commonly owned Retail Marijuana Business(es), and/or any investigation of, or administrative action(s) against, the Retail Marijuana Cultivation Facility or any commonly owned Retail Marijuana Business;

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

e. A Retail Marijuana Cultivation Facility that does not have 180 days of cultivating history may apply to increase its plant count to tier 2 or tier 3 pursuant only to this subparagraph (E)(2)(e). A Retail Marijuana Cultivation Facility applying for a tier increase request under this subparagraph (E)(2)(e) must demonstrate all of the following at the time of application:

i. The Retail Marijuana Cultivation Facility making the tier increase request also owns at least three Retail Marijuana Stores with identical Controlling Beneficial Owners;

ii. The Controlling Beneficial Owners of the Retail Marijuana Cultivation Facility and three Retail Marijuana Stores used to support the tier increase request have owned the aforementioned Retail Marijuana Store licenses for at least the preceding 180 days;

iii. The three Retail Marijuana Stores used to support the tier increase request have consistently Transferred Regulated Marijuana to consumers in the preceding 180 days and have a history of wholesale purchases that justify the need for a tier increase above a tier 1;

iv. In the 180 days preceding the Licensee's tier increase request pursuant to this subparagraph (e), the Retail Marijuana Cultivation Facility, three Retail Marijuana Stores, and identical Controlling Beneficial Owners have not been subject to an administrative action issued by the State Licensing Authority;

v. The Retail Marijuana Cultivation Facility making the tier increase request has an established history of responsible cultivation and Transfers of its Regulated Marijuana inventory; and

vi. The Retail Marijuana Cultivation Facility subject to the tier increase request has not previously requested a tier increase pursuant to this subparagraph (e).

3. Application for Tier Increase. Applications for a tier increase that include any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation will be denied. In addition to denial, any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation is a public safety violation that may result in administrative action.

F. Maximum Allowed Retail Marijuana Cultivation Facility Licenses.

1. A Person that is a Controlling Beneficial Owner in Three or More Retail Marijuana Cultivation Facility Licenses. For every multiple of three Retail Marijuana Cultivation Facility licenses in which a Person is a Controlling Beneficial Owner, the Person must also be a Controlling Beneficial Owner in at least one Retail Marijuana Store. For example: (1) a Person that is a Controlling Beneficial Owner in three, four, or five Retail Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least one Retail Marijuana Store; (2) a Person that is a Controlling Beneficial Owner in six, seven, or eight Retail Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least two Retail Marijuana Stores; (3) a Person that is a Controlling Beneficial Owner in nine, ten, or eleven Retail Marijuana Cultivation Facility licenses also must be a Controlling Beneficial Owner in at least three Retail Marijuana Stores; etc.

2. A Person that is a Controlling Beneficial Owner in Less than Three Retail Marijuana Cultivation Facility Licenses. A Person that is a Controlling Beneficial Owner in less than three Retail Marijuana Cultivation Facility licenses shall not be required to be a Controlling Beneficial Owner in a Retail Marijuana Store.

G. The State Licensing Authority, at its sole discretion, may adjust any of the plant limits described in this Rule on an industry-wide aggregate basis for all Retail Marijuana Cultivation Facility Licensees subject to that limitation.

Basis and Purpose – 6-225

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(II), and 44-10-602(6), C.R.S. The purpose of this rule is to establish the circumstances under which a Retail Marijuana Cultivation Facility may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's Regulated Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting and recordkeeping requirements on a Retail Marijuana Cultivation Facility that Transfer Sampling Units. This Rule 6-225 was previously Rule R 507, 1 CCR 212-2.

6-225 – Retail Marijuana Cultivation Facility: Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, a Retail Marijuana Cultivation Facility may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Retail Marijuana Cultivation Facility who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. A person may be designated as a Sampling Manager by more than one Medical Marijuana Business or Retail Marijuana Business.

3. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

4. A Retail Marijuana Cultivation Facility that wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-602(6), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 6-225. *See also* Rule 3-905 – Business Records Required. A Retail Marijuana Cultivation Facility shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Harvest Batch or Production Batch. A Sampling Unit shall not be designated until the Harvest Batch or Production Batch has satisfied the testing requirements in the 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Retail Marijuana flower or trim shall not exceed one gram.

2. A Sampling Unit of Retail Marijuana Concentrate shall not exceed one-quarter of one gram; except that a Sampling Unit of Retail Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Excise Tax Requirements. A Retail Marijuana Cultivation Facility must pay excise tax on Sampling Units of Retail Marijuana flower or trim, based on the average market rate of the unprocessed Retail Marijuana.

D. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Retail Marijuana Cultivation Facility as a Sampling Manager for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than one ounce of Retail Marijuana or eight grams of Retail Marijuana Concentrate.

4. The monthly limit established in subparagraph (D)(3) applies to each Sampling Manager, regardless of the number of Retail Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (D)(3). Before Transferring any Sampling Units, a Retail Marijuana Cultivation Facility shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limits established in subparagraph (D)(3).

6. A Sampling Manager shall not Transfer any Sampling Unit to any other Person, including but not limited to any other Person designated as a Sampling Manager.

E. Compensation Prohibited. A Retail Marijuana Cultivation Facility may not use Sampling Units to compensate a Sampling Manager.

F. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

G. Acceptable Purposes. Sampling Units shall only be designated and Transferred for the purposes of quality control and product development in accordance with section 44-10-602(6), C.R.S.

H. Record keeping requirements. A Retail Marijuana Cultivation Facility shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, a Retail Marijuana Cultivation Facility shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of quality control or product development. A Retail Marijuana Cultivation Facility shall also maintain copies of the Retail Marijuana Cultivation Facility's standard operating procedures provided to Sampling Managers

I. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-230

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(II), 44-10-602(13)(a)-(c), 44-10-602(13.5), and 39-28.8-299, C.R.S. The purpose of this rule is to allow a Medical Marijuana Cultivation Facility to receive Transfers of Retail Marijuana from a Retail Marijuana Cultivation Facility in order to change its designation from "Retail" to "Medical."

6-230 – Retail Marijuana Cultivation Facility: Ability to Change Designation of Regulated Marijuana

A. Changing Designation from Retail Marijuana to Medical Marijuana: Beginning July 1, 2022, a Retail Marijuana Cultivation Facility may Transfer Retail Marijuana to a Medical Marijuana Cultivation Facility in order to change its designation from Retail Marijuana to Medical Marijuana pursuant to the following requirements:

1. The Retail Marijuana Cultivation Facility may only Transfer Retail Marijuana that has passed all required testing;

2. The Medical Marijuana Cultivation Facility and the Retail Marijuana Cultivation Facility share a Licensed Premises in accordance with Rule 3-215;

3. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility have at least one identical Controlling Beneficial Owner;

4. The Retail Marijuana Cultivation Facility must report the Transfer in the Inventory Tracking System the same day that the change in designation from Retail Marijuana to Medical Marijuana occurs;

5. After the designation change, the Medical Marijuana cannot be Transferred to the originating or any other Retail Marijuana Business or otherwise be treated as Retail Marijuana. The Inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules;

6. Both the Retail Marijuana Cultivation Facility and the Medical Marijuana Cultivation Facility must remain at, or under, its respective inventory limit before and after the Retail Marijuana changes its designation to Medical Marijuana; and

7. The Transfer and change of designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change of designation.

B. Changing Designation from Medical Marijuana to Retail Marijuana. Beginning January 1, 2023, a Retail Marijuana Cultivation Facility may accept Medical Marijuana from a Medical Marijuana Cultivation Facility in order to change its designation from Medical Marijuana to Retail Marijuana pursuant to the following requirements:

1. The Retail Marijuana Cultivation Facility may only accept Medical Marijuana that has passed all required testing in accordance with the 4-100 Series Rules – Regulated Marijuana Testing Program;

2. The Retail Marijuana Cultivation Facility and the Medical Marijuana Cultivation Facility share a Licensed Premises in accordance with Rule 3-215, unless:

   a. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility have at least one identical Controlling Beneficial Owner; and

   b. The Medical Marijuana Cultivation Facility and Retail Marijuana Cultivation Facility cannot share a Licensed Premises because the Local Licensing Authority or Local Jurisdiction prohibits the operation of either a Medical Marijuana Cultivation Facility or a Retail Marijuana Cultivation Facility.

3. The Retail Marijuana Cultivation Facility and the Medical Marijuana Cultivation Facility have at least one identical Controlling Beneficial Owner;

4. The Retail Marijuana Cultivation Facility must receive the Transfer and designate the inventory as Retail Marijuana in the Inventory Tracking System the same day. The Retail Marijuana Cultivation Facility must assign and attach an RFID tag reflecting its Retail Marijuana License number to the Retail Marijuana following completion of the Transfer in the Inventory Tracking System.

5. After the designation change, the Retail Marijuana cannot be Transferred to the originating or any other Medical Marijuana Business or otherwise be treated as Medical Marijuana. The inventory is Retail Marijuana and is subject to all permissions and limitations in these 6-200 Series Rules.

6. Both the Retail Marijuana Cultivation Facility and the Medical Marijuana Cultivation Facility must remain at, or under, its inventory limit before and after the Medical Marijuana changes its designation to Retail Marijuana;

7. The Retail Marijuana Cultivation Facility shall pay any Retail Marijuana excise tax that is imposed pursuant to section 39-28.8-302, C.R.S.;

8. The Retail Marijuana Cultivation Facility shall notify the Local Licensing Authority and Local Jurisdiction where the Retail Marijuana Cultivation Facility and Medical Marijuana Cultivation Facility operate and pay any applicable excise tax on the Retail Marijuana in the manner determine by the Local Licensing Authority or Local Jurisdiction; and

9. Pursuant to the requirements of this subparagraph (B), a Retail Marijuana Cultivation Facility may receive a virtual Transfer of Medical Marijuana that is reflected in the

Inventory Tracking System even if the Medical Marijuana is not physically moved prior to the change of designation to Retail Marijuana.

Basis and Purpose – 6-235

The Statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(j.5), 44-10-203(1)(k), 44-10-401(2)(b)(II), and 44-10-502(10)(a)-(c) The purpose of this rule is to allow a Retail Marijuana Cultivation Facility licensees that plan to cultivate Retail Marijuana outdoors to submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event.

6-235 Retail Marijuana Cultivation Facility: Contingency Plan for Outdoor Cultivation

A. Submission of Contingency Plan.

1. Beginning January 1, 2022, Retail Marijuana Cultivation Facility licensees that plan to cultivate Retail Marijuana outdoors may submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event. The Retail Marijuana Cultivation Facility shall also submit a copy of the plan to the Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Retail Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

2. A Retail Marijuana Cultivation Facility may submit a contingency plan at any time, but it must be filed at least 7 days prior to taking action pursuant to the contingency plan and must be approved by the State Licensing Authority prior to taking action pursuant to the contingency plan.

3. After initial submission and approval of a contingency plan, a contingency plan must be submitted with the Retail Marijuana Cultivation Facility's license renewal application. Any significant change to a contingency plan prior to a renewal application must be submitted for review and approval pursuant to subsection (A)(2) above prior to taking action pursuant to the revised contingency plan.

4. The Division shall notify the appropriate Local Licensing Authorities of the approval of the contingency plan.

B. Requirements for Outdoor Contingency Plans.

1. Identification of the type of Adverse Weather Event that the plan applies to, including any deviations based on the type of Adverse Weather Event.

2. Primary contact. A primary contact for the Retail Marijuana Cultivation Facility must be identified on the contingency plan, including the: name, title, phone number, and email address of the primary contact. The Retail Marijuana Cultivation Facility shall notify the Division of any change to the primary contact or required contact information within 48 hours of the change.

3. Transport Manifest. If the contingency plan provides for the Transfer of Retail Marijuana, a Retail Marijuana Cultivation Facility shall submit a standing transport manifest that could be used by a Licensee upon approval during an Adverse Weather Event if creating a transport manifest through the Inventory Tracking System is impracticable. The standing transport manifest shall include: identification and address of the receiving Licensee.

4. Disclosure of Receiving Licensed Premises.

    a. Retail Marijuana may only be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or an off-premises storage facility.

    b. If Retail Marijuana will be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility pursuant to a contingency plan, that plan must include the name, ownership, and address of the receiving Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility, along with a diagram of the proposed receiving Licensed Premises.

    c. The receiving Licensed Premises shall be an existing location that currently holds an approved state and local license or an off-premises storage facility permit. The receiving Licensee is not required to share any Controlling Beneficial Owners with the Transferring Retail Marijuana Cultivation Facility.

    d. A Retail Marijuana Cultivation Facility that cultivates outdoors may identify and Transfer Retail Marijuana to no more than five receiving Licensed Premises' as part of a contingency plan.

5. Disclosure of Modifications to the Premises and Security and Surveillance. Proposed modifications to the Licenses Premises and any anticipated impacts to compliance with security and surveillance requirements pursuant to Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6).

C. License Requirements when Acting Pursuant to a Contingency Plan. To the extent that this subsection (C) conflicts with other rule sections, this subsection shall control during the time that a Licensee is acting pursuant to a contingency plan.

1. Notification.

    a. Notification of action pursuant to an approved contingency plan shall be made to the Division within 24 hours after initiating action pursuant to a contingency plan. A Retail Marijuana Cultivation Facility that cultivates outdoors must also notify the Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Retail Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

    b. Notification of ceasing action pursuant to the approved contingency plan shall be made to the Division within 24 hours of returning to normal business operations. If action will continue more than 7 days after initiating action pursuant to a contingency plan, the Licensee shall contact the Division and explain why it cannot return to normal business operations.

    c. Any notification shall be made in writing and can be made by email to the Division.

2. Production Management. Retail Marijuana Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility pursuant to a contingency plan is not included in the

receiving Licensed Premises' inventory limit until the Retail Marijuana Cultivation Facility acting pursuant to the contingency plan returns to normal business operations.

3. Modification of Premises. An application for a modification of a Licensed Premises is not required as part of a contingency plan unless the modification or change in premises becomes a permanent modification. If that change becomes a permanent change, a modification of premises application must be submitted within 14 days.

4. Security Requirements. All security and surveillance requirements that apply to a Retail Marijuana Cultivation Facility apply to activities conducted pursuant to the contingency plan. If the contingency plan does not require the Transfer of Regulated Marijuana to another Licensed Premises, but requires plants to be covered or video surveillance to be otherwise temporarily obstructed, exemptions to the video surveillance requirements in Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6) may be approved as part of the contingency plan.

5. Inventory Tracking Requirements. Licensees must use the Inventory Tracking System to ensure Retail Marijuana is identified and tracked during all times that action is being taken pursuant to a contingency plan. If a Retail Marijuana Cultivation Facility harvests, Transfers, or packages Retail Marijuana it must be fully reconciled in the Inventory Tracking System within 48 hours of initiating action pursuant to the contingency plan.

    a. Harvest Requirements. If Retail Marijuana is harvested, the weight of Retail Marijuana can be captured on a per harvest level and equally applied to individual plants rather than requiring the initial wet weight of each plant. This initial harvest weight may be captured at a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility upon arrival at the Licensed Premises approved as part of the contingency plan. Harvest Batches and Inventory Tracking System packages must be reported by the Retail Marijuana Cultivation Facility acting pursuant to the contingency plan in the Inventory Tracking System.

    b. Transport Manifest. The Retail Marijuana Cultivation Facility acting pursuant to the contingency plan must report all Retail Marijuana that is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility on a transport manifest.

        i. A Licensee may use the approved standing transport manifest during an Adverse Weather Event only when using the Inventory Tracking System is not possible.

        ii. The Licensee shall manually fill out the dates, times, and individual transporting Retail Marijuana on a copy of the standing transport manifest.

        iii. The Licensee shall ensure the standing transport manifest and copy of the approved Contingency plan remain in the Licensee's possession during any transport of Retail Marijuana when it is not possible to use an Inventory Tracking System generated transportation manifest at the time of the Adverse Weather Event.

6. Transfers. If Retail Marijuana is Transferred to another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility it is exempted from the packaging and labeling requirements in Rule 3-1005(B).

7. Virtual and Physical Separation. If Retail Marijuana is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility that inventory must be virtually separated by Harvest Batch and must also be virtually and physically separated from the receiving Licensee's inventory. Harvest Batches must also be clearly identified at the receiving Licensed Premises with the Harvest Batch name and date of harvest.

8. Finishing Product. After Transferring Retail Marijuana to another Licensed Premises, a Retail Marijuana Cultivation Facility may finish that harvest at the receiving Licensed Premises if all Retail Marijuana is accounted for in the Inventory Tracking System and the Licensed Premises is in compliance with all surveillance requirements.

9. Testing. The originating Licensee acting pursuant to a contingency plan is responsible for the submission of Test Batch(es).

    a. Each Harvest Batch or Production Batch Transferred pursuant to a contingency plan must be submitted for all required tests and is not eligible for a Reduced Testing Allowance or otherwise exempt from required testing.

    b. Any passing or failing tests of a Harvest Batch or Production Batch Transferred pursuant to a contingency plan will not count for or against a Licensee's Reduced Testing Allowance.

6-300 Series – Retail Marijuana Products Manufacturing Facilities

Basis and Purpose – 6-305

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-307(1)(j), 44-10-313(14), 44-10-401(2)(b)(III), and 44-10-603, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to a Retail Marijuana Products Manufacturer. This Rule 6-305 was previously Rule R 601, 1 CCR 212-2.

6-305 – Retail Marijuana Products Manufacturer: License Privileges

A. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Products Manufacturer may share, and operate at, the same Licensed Premises with a commonly owned Medical Marijuana Products Manufacturer. However, a separate license is required for each specific business or business entity, regardless of geographical location. In addition, a Retail Marijuana Products Manufacturer may share, and operate at, the same Licensed Premises as a Marijuana Research and Development Facility so long as:

    1. Each business or business entity holds a separate license;

    2. The Marijuana Research and Development Facility obtains an R&D Co-Location Permit;

    3. Both the Marijuana Research and Development Facility and the Retail Marijuana Products Manufacturer comply with all terms and conditions of the R&D Co-Location Permit; and

    4. Both the Marijuana Research and Development Facility and the Retail Marijuana Products Manufacturer comply with all applicable rules. *See* 5-700 Series Rules.

B. Authorized Transfers. A Retail Marijuana Products Manufacturer is authorized to Transfer Retail Marijuana as follows:

1. Retail Marijuana Concentrate and Retail Marijuana Product.

a. A Retail Marijuana Products Manufacturer may Transfer Retail Marijuana Concentrate or Retail Marijuana Product to Retail Marijuana Stores, other Retail Marijuana Products Manufacturers, Retail Marijuana Testing Facilities, Retail Marijuana Hospitality and Sales Businesses, and Pesticide Manufacturers.

b. A Retail Marijuana Products Manufacturer may Transfer Retail Marijuana Product and Retail Marijuana Concentrate to a Retail Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit.

i. Prior to any Transfer pursuant to this Rule 6-305(B)(1)(b), a Retail Marijuana Products Manufacturer shall verify the Retail Marijuana Cultivation Facility possesses a valid Centralized Distribution Permit. *See* Rule 6-205 – Retail Marijuana Cultivation Facility: License Privileges.

ii. For any Transfer pursuant to this Rule 6-305(B)(1)(b), a Retail Marijuana Products Manufacturer shall only Transfer Retail Marijuana Product and Retail Marijuana Concentrate that is packaged and labeled for Transfer to a consumer. *See* 3-1000 Series Rules.

c. A Retail Marijuana Products Manufacturer and Accelerator Manufacturer may Transfer Retail Marijuana Concentrate to a Medical Marijuana Products Manufacturer in compliance with Rules 6-335 and 6-830.

2. Retail Marijuana. A Retail Marijuana Products Manufacturer may Transfer Retail Marijuana to other Retail Marijuana Products Manufacturer, Retail Marijuana Testing Facilities, and Retail Marijuana Stores.

3. Sampling Units. A Retail Marijuana Products Manufacturer may also Transfer Sampling Units of its own Retail Marijuana Concentrate or Retail Marijuana Product to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-603(10), C.R.S., and Rule 6-320.

C. Manufacture of Retail Marijuana Concentrate, Retail Marijuana Product, Pre-Rolled Marijuana, and Infused Pre-Rolled Marijuana Authorized. A Retail Marijuana Products Manufacturer may manufacture, prepare, package, store, and label Retail Marijuana Concentrate and Retail Marijuana Product comprised of Retail Marijuana and other Ingredients intended for use or consumption, such as Edible Retail Marijuana Products, ointments, or tinctures. A Retail Marijuana Products Manufacturer may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana.

1. Industrial Hemp Product Authorized. This subparagraph (C)(1) is effective July 1, 2020. A Retail Marijuana Products Manufacturer that uses Industrial Hemp Product as an Ingredient in the manufacture and preparation of Retail Marijuana Product must comply with this subparagraph (C)(1) of this Rule.

a. Prior to accepting and taking possession of any Industrial Hemp Product for use as an Ingredient in a Retail Marijuana Product the Retail Marijuana Products Manufacturer shall verify the following:

i. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Retail Marijuana Testing Facility; and

ii. That the Person Transferring the Industrial Hemp Product to the Retail Marijuana Products Manufacturer is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

D. Location Prohibited. A Retail Marijuana Products Manufacturer may not manufacture, prepare, package, store, or label Retail Marijuana Concentrate or Retail Marijuana Product in a location that is operating as a retail food establishment.

E. Samples Provided for Testing. A Retail Marijuana Products Manufacturer may provide samples of its Retail Marijuana Concentrate or Retail Marijuana Product to a Retail Marijuana Testing Facility for testing and research purposes. The Retail Marijuana Products Manufacturer shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

F. Authorized Marijuana Transport. A Retail Marijuana Products Manufacturer is authorized to utilize a Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken is a Retail Marijuana Business and the transportation order is delivered to a Retail Marijuana Business, or Pesticide Manufacturer. Nothing in this Rule prevents a Retail Marijuana Products Manufacturer from transporting its own Retail Marijuana.

G. Performance-Based Incentives. A Retail Marijuana Products Manufacturer may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, a Retail Marijuana Products Manufacturer may not compensate a Sampling Manager using Sampling Units. *See* Rule 6-320 – Sampling Unit Protocols.

Basis and Purpose – 6-310

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-203(3)(d), 44-10-401(2)(b)(III), 44-10-603, and 44-10-701(2)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V). The purpose of this rule is to clarify those acts that are limited in some fashion or prohibited by a Retail Marijuana Products Manufacturer. This Rule 6-310 was previously Rule R 602, 1 CCR 212-2.

6-310 – Retail Marijuana Products Manufacturer: General Limitations or Prohibited Acts

A. Packaging and Labeling Standards Required. A Retail Marijuana Products Manufacturer is prohibited from Transferring Retail Marijuana Concentrate or Retail Marijuana Product that are not properly packaged and labeled. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

B. THC Content Container Restriction. Each individually packaged Edible Retail Marijuana Product, even if comprised of multiple servings, may include no more than a total of 100 milligrams of active THC. *See* Rule 3-1010 – Packaging and Labeling – General Requirements Prior to Transfer to a Consumer.

1. Exception for Bulk Transfers to Retail Marijuana Hospitality and Sales Businesses. An individually packaged Edible Retail Marijuana Product compromised of multiple servings that is Transferred in bulk to a Retail Marijuana Hospitality and Sales Establishment may include more than a total of 100 milligrams of active THC.

i. A Retail Marijuana Products Manufacturer shall develop and maintain standard operating procedures, and any additional equipment necessary, to ensure that a Retail Marijuana Hospitality and Sales Business receiving bulk Transfers of Edible Retail Marijuana Product can measure accurately the Edible Retail Marijuana Product in single serving sizes equal to or less than 10 milligrams of active THC per serving.

C. Transfer to Consumer Prohibited. A Retail Marijuana Products Manufacturer is prohibited from Transferring Retail Marijuana to a consumer. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-603(10), C.R.S., and Rule 6-320.

D. Adequate Care of Perishable Product. A Retail Marijuana Products Manufacturer must provide adequate refrigeration for perishable Retail Marijuana Product that will be consumed and shall utilize adequate storage facilities and transport methods.

E. Homogeneity of Edible Retail Marijuana Product. A Retail Marijuana Products Manufacturer must ensure that its manufacturing processes are designed so that the Cannabinoid content of any Edible Retail Marijuana Product is homogenous.

F. Use of Ingredients. A Retail Marijuana Products Manufacturer must obtain and maintain certificates of analysis or other records demonstrating the full composition of each Ingredient used in the manufacture of Vaporizer Delivery Devices or Pressurized Metered Dose Inhalers.

G. Corrective and Preventive Action. This paragraph G shall be effective January 1, 2021. A Retail Marijuana Products Manufacturer shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation.

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

H. Adverse Health Event Reporting. A Retail Marijuana Products Manufacturer must report Adverse Health Events pursuant to Rule 3-920.

Basis and Purpose – 6-315

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-401(2)(b)(III), and 44-10-603, C.R.S. The purpose of this rule is to establish the categories of Retail Marijuana Concentrate that may be produced at a Retail Marijuana Products Manufacturer and establish standards for the production of Retail Marijuana Concentrate. Nothing in this rule authorizes the unlicensed practice of engineering under Article 25 of Title 12, C.R.S. This Rule 6-315 was previously Rule R 605, 1 CR 212-2.

6-315 – Retail Marijuana Products Manufacturer: Retail Marijuana Concentrate Production.

A. Permitted Categories of Retail Marijuana Concentrate Production.

1. A Retail Marijuana Products Manufacturer may produce Physical Separation-Based Retail Marijuana Concentrate, Food-Based Retail Marijuana Concentrate and Heat/Pressure-Based Retail Marijuana Concentrate.

2. A Retail Marijuana Products Manufacturer may also produce Solvent-Based Retail Marijuana Concentrate using only the following solvents: butane, propane, CO_2, ethanol, isopropanol, acetone, heptane, ethyl acetate, and pentane. The use of any other solvent is expressly prohibited unless it is approved by the Division.

3. A Retail Marijuana Products Manufacturer may submit a request to the Division to consider the approval of solvents not permitted for use under this Rule during the next formal rulemaking.

B. General Applicability. A Retail Marijuana Products Manufacturer that engages in the production of Retail Marijuana Concentrate, regardless of the method of extraction or category of concentrate being produced, must:

1. Ensure that the space in which any Retail Marijuana Concentrate is to be produced is a fully enclosed room and clearly designated on the current diagram of the Licensed Premises. *See* Rule 3-905- Business Records Required.

2. Ensure that all applicable sanitary rules are followed. *See* 3-300 Series Rules.

3. Ensure that the standard operating procedure for each method used to produce a Retail Marijuana Concentrate includes, but need not be limited to, step-by-step instructions on how to safely and appropriately:

a. Conduct all necessary safety checks prior to commencing production;

b. Prepare Retail Marijuana for processing;

c. Extract Cannabinoids and other essential components of Retail Marijuana;

d. Purge any solvent or other unwanted components from a Retail Marijuana Concentrate,

e. Clean all equipment, counters and surfaces thoroughly; and

f. Dispose of any waste produced during the processing of Retail Marijuana in accordance with all applicable local, state and federal laws, rules and regulations. *See* Rule 3-230 – Waste Disposal.

4. Establish written and documentable quality control procedures designed to maximize safety for Owner Licensees and Employee Licensees and minimize potential product contamination.

5. Establish written emergency procedures to be followed by Owner Licensees or Employee Licensees in case of a fire, chemical spill or other emergency.

6. Have a comprehensive training manual that provides step-by-step instructions for each method used to produce a Retail Marijuana Concentrate. The training manual must include, but need not be limited to, the following topics:

   a. All standard operating procedures for each method of concentrate production used;

   b. The Retail Marijuana Products Manufacturer's quality control procedures;

   c. The emergency procedures;

   d. The appropriate use of any necessary safety or sanitary equipment;

   e. The hazards presented by all solvents used as described in the safety data sheet for each solvent;

   f. Clear instructions on the safe use of all equipment involved in each process and in accordance with manufacturer's instructions, where applicable; and

   g. Any additional periodic cleaning required to comply with all applicable sanitary rules.

7. Provide adequate training to every Owner Licensee or Employee Licensee prior to that individual undertaking any step in the process of producing a Retail Marijuana Concentrate.

   a. Adequate training must include, but need not be limited to, providing a copy of the training manual for that Licensed Premises and live, in-person instruction detailing at least all of the topics required to be included in the training manual.

   b. The individual training an Owner Licensee or Employee Licensee must sign and date a document attesting that all required aspects of training were conducted and that he or she is confident that the Owner Licensee or Employee Licensee can safely produce a Retail Marijuana Concentrate. *See* Rule 3-905 – Business Records Required.

   c. The Owner Licensee or Employee Licensee that received the training must sign and date a document attesting that he or she can safely implement all standard operating procedures, quality control procedures, and emergency procedures, operate all closed-loop extraction systems, use all safety, sanitary and other equipment and understands all hazards presented by the solvents to be used within the Licensed Premises and any additional periodic cleaning required to maintain compliance with all applicable sanitary rules. *See* Rule 3-905 – Business Records Required.

8. Maintain clear and comprehensive records of the name, signature and Owner Licensee or Employee License number of every individual who engaged in any step related to the creation of a Production Batch of Retail Marijuana Concentrate and the step that individual performed. *See* Rule 3-905 – Business Records Required.

C. Physical Separation-Based Retail Marijuana Concentrate, Food-Based Retail Marijuana Concentrate and Heat/Pressure-Based Retail Marijuana Concentrate. A Retail Marijuana Products Manufacturer that engages in the production of a Retail Marijuana Concentrate must:

1. Ensure that all equipment, counters and surfaces used in the production of Retail Marijuana Concentrate is food-grade including ensuring that all counters and surface areas were constructed in such a manner that it reduces the potential for the development of microbials, molds and fungi and can be easily cleaned.

2. Ensure that all equipment, counters, and surfaces used in the production of a Retail Marijuana Concentrate are thoroughly cleaned after the completion of each Production Batch.

3. Ensure that any room in which dry ice is stored or used in processing Retail Marijuana into a Retail Marijuana Concentrate is well ventilated to prevent against the accumulation of dangerous levels of CO_2.

4. Ensure that the appropriate safety or sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Retail Marijuana Concentrate.

5. Ensure that only finished drinking water and ice made from finished drinking water is used in the production of a Physical Separation-Based Retail Marijuana Concentrate.

6. Ensure that if propylene glycol or glycerin is used in the production of a Food-Based Retail Marijuana Concentrate, then the propylene glycol or glycerin to be used is food-grade.

7. Follow all of the rules related to the production of a Solvent-Based Retail Marijuana Concentrate if a pressurized system is used in the production of a Retail Marijuana Concentrate.

D. Solvent-Based Retail Marijuana Concentrate. A Retail Marijuana Products Manufacturer that engages in the production of Solvent-Based Retail Marijuana Concentrate must:

1. Obtain a report from an Industrial Hygienist or a Professional Engineer that certifies that the equipment, Licensed Premises and standard operating procedures comply with these rules and all applicable local and state building codes, fire codes, electrical codes and other laws. If a Local Jurisdiction has not adopted a local building code or fire code or if local regulations do not address a specific issue, then the Industrial Hygienist or Professional Engineer shall certify compliance with the International Building Code of 2012 (http://www.iccsafe.org), the International Fire Code of 2012 (http://www.iccsafe.org) or the National Electric Code of 2014 (http://www.nfpa.org), as appropriate. Note that this Rule does not include any later amendments or editions to each Code. The Division has maintained a copy of each code, each of which is available to the public;

    a. Flammable Solvent Determinations. If a Flammable Solvent is to be used in the processing of Retail Marijuana into a Retail Marijuana Concentrate, then the Industrial Hygienist or Professional Engineer must:

i. Establish a maximum amount of Flammable Solvents and other flammable materials that may be stored within that Licensed Premises in accordance with applicable laws, rules and regulations;

ii. Determine what type of electrical equipment, which may include but need not be limited to outlets, lights and junction boxes, must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored in accordance with applicable laws, rules and regulations;

iii. Determine whether a gas monitoring system must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations; and

iv. Determine whether fire suppression system must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

b. CO_2 Solvent Determination. If CO_2 is used as solvent at the Licensed Premises, then the Industrial Hygienist or Professional Engineer must determine whether a CO_2 gas monitoring system must be installed within the room in which Retail Marijuana Concentrate is to be produced or CO_2 is stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

c. Exhaust System Determination. The Industrial Hygienist or Professional Engineer must determine whether a fume vent hood or exhaust system must be installed within the room in which Retail Marijuana Concentrate is to be produced, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

d. Material Change. If a Retail Marijuana Products Manufacturer makes a Material Change to its equipment or a concentrate production procedure, in addition to all other requirements, it must obtain a report from an Industrial Hygienist or Professional Engineer re-certifying its standard operating procedures and, if changed, its equipment as well.

e. Manufacturer's Instructions. The Industrial Hygienist or Professional Engineer may review and consider any information provided to the Retail Marijuana Products Manufacturer by the designer or manufacturer of any equipment used in the processing of Retail Marijuana into a Retail Marijuana Concentrate.

f. Records Retention. A Retail Marijuana Products Manufacturer must maintain copy of all reports received from an Industrial Hygienist and Professional Engineer on its Licensed Premises. Notwithstanding any other law, rule, or regulation, compliance with this Rule is not satisfied by storing these reports outside of the Licensed Premises. Instead the reports must be maintained on the Licensed Premises until the Licensee ceases production of Retail Marijuana Concentrate on the Licensed Premises.

2. Ensure that all equipment, counters and surfaces used in the production of a Solvent-Based Retail Marijuana Concentrate are food-grade and do not react adversely with any

of the solvents to be used in the Licensed Premises. Additionally, all counters and surface areas must be constructed in a manner that reduces the potential development of microbials, molds and fungi and can be easily cleaned;

3. Ensure that the room in which Solvent-Based Retail Marijuana Concentrate shall be produced must contain an emergency eye-wash station;

4. Ensure that only a professional grade, closed-loop extraction system capable of recovering the solvent is used to produce Solvent-Based Retail Marijuana Concentrate;

    a. UL or ETL Listing.

        i. If the system is UL or ETL listed, then a Retail Marijuana Products Manufacturer may use the system in accordance with the manufacturer's instructions.

        ii. If the system is UL or ETL listed but the Retail Marijuana Products Manufacturer intends to use a solvent in the system that is not listed in the manufacturer's instructions for use in the system, then, prior to using the unlisted solvent within the system, the Retail Marijuana Products Manufacturer must obtain written approval for use of the non-listed solvent in the system from either the system's manufacturer or a Professional Engineer after the Professional Engineer has conducted a peer review of the system. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

        iii. If the system is not UL or ETL listed, then there must a designer of record. If the designer of record is not a Professional Engineer, then the system must be peer reviewed by a Professional Engineer. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

    b. Ethanol or Isopropanol. A Retail Marijuana Products Manufacturer need not use a professional grade, closed-loop system extraction system capable of recovering the solvent for the production of a Solvent-Based Retail Marijuana Concentrate if ethanol or isopropanol are the only solvents being used in the production process.

5. Ensure that all solvents used in the extraction process are food-grade or at least 99% pure;

    a. A Retail Marijuana Products Manufacturer must obtain a safety data sheet for each solvent used or stored on the Licensed Premises. A Retail Marijuana Products Manufacturer must maintain a current copy of the safety data sheet and a receipt of purchase for all solvents used or to be used in an extraction process. *See* Rule 3-905 – Business Records Required.

    b. A Retail Marijuana Products Manufacturer is prohibited from using denatured alcohol to produce a Retail Marijuana Concentrate, unless the denaturant is an approved solvent listed in Rule 6-315(A)(2) and the alcohol and the denaturant meet all other requirements set forth in this Rule.

6. Ensure that all Flammable Solvents or other flammable materials, chemicals and waste are stored in accordance with all applicable laws, rules and regulations. At no time may a

Retail Marijuana Products Manufacturer store more Flammable Solvent on its Licensed Premises than the maximum amount established for that Licensed Premises by the Industrial Hygienist or Professional Engineer;

7. Ensure that the appropriate safety and sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Solvent-Based Retail Marijuana Concentrate; and

8. Ensure that a trained Owner Licensee or Employee Licensee is present at all times during the production of a Solvent-Based Retail Marijuana Concentrate whenever an extraction process requires the use of pressurized equipment.

9. Retail Marijuana Products Manufacturers Engaged in the Remediation of Retail Marijuana for elemental impurities. Retail Marijuana Products Manufacturers engaged in the Remediation of Retail Marijuana for elemental impurities shall:

    a. Implement effective cleaning procedures, additional testing plans, and other measures that will be performed to prevent cross contamination.

        i. If potentially contaminated equipment, ingredients, or solvents used in the Remediation process are used for processing other 'non remediated' material, the subsequent Production Batch made using the equipment, ingredients, or solvent must then be tested for elemental impurities, and the Production Batch made using that equipment, ingredients, or solvents is not eligible for a Reduced Testing Allowance or otherwise exempt from required testing.

        ii. Manufacturers must document the equipment and lots of ingredients/solvents used in Remediation to ensure this requirement is met.

    b. Register as a hazardous waste generator, obtain a U.S. Environmental Protection Agency ID number for manifesting hazardous waste, and must have a disposal contract in place with a hazardous waste management company prior to attempting Remediation.

    c. Have a staff member who has received basic training in hazardous waste identification, storage, and disposal procedures, or hire a consultant who satisfies this criteria.

    d. Regardless of which type of analyte, if the Retail Marijuana flower, wet whole plant, or trim has failed elemental impurities, the Licensee must implement Standard Operating Procedures to ensure:

        i. That contaminated material is stored in a labelled container identifying the material as potentially hazardous, and that the container seals in such a way to prevent the risk of cross contamination or inhalation of dusts.

        ii. That when material is removed from the sealed container and handled in any fashion (preparation, the extraction or other Remediation process, wasting, etc.), any workers exposed to dusts or particulates generated from the material must wear appropriate personal protective equipment (PPE), including at minimum: gloves, American National Standards

Institute (ANSI) Z87.1 safety glasses, and a respirator rated to protect them from airborne dusts or particulates that may contain elemental impurities. Respirators should utilize National Institute for Occupational Safety and Health rated particulate filters of sufficient grade to prevent exposure to airborne dusts that could contain elemental impurities.

A. Workers utilizing a respirator must comply with applicable Occupational Safety and Health Administration regulations regarding respirator use before handling contaminated material. This includes receiving respirator clearance from a qualified professional and passing a respirator fit test before using a respirator.

e. Additional forms of environmental airborne particulate control, such as industrial air filtration systems, handling material inside of enclosures, etc. must be implemented by the Licensee to minimize the risk of exposure or cross contamination of contaminated dusts.

f. These steps must be documented in the Licensee's respiratory protection program that all employees exposed to plant material or waste products contaminated with the elemental impurities must be trained on.

g. The Licensee must establish and train employees on SOPs designed to safely handle this contaminated material and prevent cross contamination.

h. Mercury poses additional workplaces hazards since it is easily volatilized and since mercury vapor is highly toxic. Before attempting to remediate any Regulated Marijuana flower, wet whole plant, or trim that has failed elemental impurities testing and contains mercury, Licensees must additionally:

i. Work with a certified industrial hygienist to develop and implement some form of monitoring program that is capable of detecting mercury vapor concentrations in the areas where material contaminated with mercury will be processed and can be used to generate time weighted average exposures to mercury vapor. The monitoring system must be sufficient to ensure airborne concentrations of mercury do not exceed Occupational Safety and Health Administration Permissible Exposure Limits for Airborne Contaminants.

ii. Have a certified industrial hygienist approve the Licensee's air handling system for managing mercury vapors in a fashion that is compliant with the Occupational Safety and Health Administration, and other applicable federal, state, and local regulations.

iii. Utilize a National Institute for Occupational Safety and Health rated half mask respirator with cartridges rated specifically for mercury vapor.

i. A Licensee must ensure their processes and safety practices comply with applicable federal, state, and local environmental health and safety regulations.

10. Retail Marijuana Products Manufacturer Engaged in the Remediation of Retail Marijuana for Microbial Contamination. Retail Marijuana Products Manufacturers engaged in the Remediation of Retail Marijuana for microbial contamination shall:

a. Implement effective cleaning procedures, additional testing plans, and other measures that will be performed to prevent cross contamination.

b. Ensure that contaminated material is stored in a labeled container identifying the material as potentially hazardous, and that the container seals in such a way to prevent the risk of cross contamination or inhalation of dusts.

c. Ensure that when material is removed from the sealed container and handled in any fashion (preparation, the extraction or other Remediation process, wasting, etc.), any workers exposed to dusts or particulates generated from the material must wear appropriate personal protective equipment (PPE), including at minimum: gloves, American National Standards (ANSI) Z87.1 safety glasses, and a respirator rated to protect them from airborne dusts or particulates that may contain elemental impurities. Respirators should utilize National Institute for Occupational Safety and Health rated particulate filters of sufficient grade to prevent exposure to airborne dusts that could contain elemental impurities.

i. Workers utilizing a respirator must comply with applicable Occupational Safety and Health Administration regulations regarding respirator use before handling contaminated material. This includes receiving respirator clearance from a qualified professional and passing a respirator fit test before using a respirator.

d. Implement additional forms of environmental airborne particulate control, such as industrial air filtration systems, handling material inside of enclosures, etc. must be implemented by the Licensee to minimize the risk of exposure or cross contamination of contaminated dusts.

e. These steps must be documented in the Licensee's respiratory protection program that all employees exposed to plant material or waste products contaminated with elemental impurities must be trained on.

f. The Licensee must establish and train employees on standard operating procedures designed to safely handle this contaminated material and prevent cross contamination.

g. The Licensee must ensure their processes and safety practices comply with applicable federal, state, and local environmental health and safety regulations.

E. Ethanol and Isopropanol. If a Retail Marijuana Products Manufacturer only produces Solvent-Based Retail Marijuana Concentrate using ethanol or isopropanol at its Licensed Premises and no other solvent, then it shall be considered exempt from paragraph D of this Rule and instead must follow the requirements in paragraph C of this Rule. Regardless of which rule is followed, the ethanol or isopropanol must be food grade or at least 99% pure and denatured alcohol cannot be used. The Retail Marijuana Products Manufacturer shall comply with contaminant testing required in Rule 4-120(C)(4).

F. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-320

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(2)(d), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-401(2)(b)(III), and 44-10-603(10), C.R.S. The purpose of this rule is to establish the circumstances under which a Retail Marijuana Products

Manufacturer may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's regulated Retail Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting and recordkeeping requirements on a Retail Marijuana Products Manufacturer that Transfer Sampling Units. This Rule 6-320 was previously Rule R 606, 1 CCR 212-2.

6-320 – Retail Marijuana Products Manufacturer: Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, a Retail Marijuana Products Manufacturer may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Retail Marijuana Products Manufacturer who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. An individual may be designated as a Sampling Manager by more than one Retail Marijuana Business.

3. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

4. A Retail Marijuana Products Manufacturer who wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-603(10), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 6-320. *See also* Rule 3-905 – Business Records Required. A Retail Marijuana Products Manufacturer shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Production Batch. A Sampling Unit shall not be designated until the Production Batch has satisfied the testing requirements in the 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Retail Marijuana Product shall not exceed one Standardized Serving of Marijuana.

2. A Sampling Unit of Retail Marijuana Concentrate shall not exceed one quarter of one gram; except that a Sampling Unit of Retail Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Retail Marijuana Products Manufacturer as a Sampling Manger for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than:

   a. With respect to Retail Marijuana Product, fourteen Standardized Servings of Marijuana; and

   b. Eight grams of Retail Marijuana Concentrate.

4. The monthly limit established in subparagraph (C)(3) applies to each Sampling Manager, regardless of the number of Retail Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (C)(3). Before Transferring any Sampling Units, a Retail Marijuana Products Manufacturer shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limit established in subparagraph (C)(3).

6. A Sampling Manager shall not Transfer any Sampling Unit to any other Person, including but not limited to any other Person designated as a Sampling Manager.

D. Compensation Prohibited. A Retail Marijuana Products Manufacturer may not use Sampling Units to compensate a Sampling Manager.

E. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

F. Acceptable Purposes. Sampling Units shall only be designated and Transferred for purposes of quality control and product development in accordance with section 44-10-603(10), C.R.S.

G. Record keeping requirements. A Retail Marijuana Products Manufacturer shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, a Retail Marijuana Products Manufacturer shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of either quality control or product development. A Retail Marijuana Products Manufacturer shall also maintain copies of the Retail Marijuana Products Manufacturer's standard operating procedures provided to Sampling Managers.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-325

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-203(3)(b), 44-10-203(3)(e), 44-10-401(2)(b)(III), 44-10-603, and 44-10-701(3)(c), C.R.S. The purpose of this rule is to define requirements for manufacture of Audited Product for administration by: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration which may raise public health concerns. This rule defines audit, insurance, minimum product requirements, minimum production process requirements, and pre-production testing requirements for Retail Marijuana Products Manufacturers that manufacture Audited Products. The purpose of this rule further recognizes that Alternative Use Product not within an intended use identified in Rule 3-1015 may raise public health concerns that outweigh its manufacture or Transfer entirely or that require additional safeguards to protect public health and safety prior to manufacturer or Transfer. This rule identifies

general requirements for Retail Marijuana Products Manufacturer to seek an Alternative Use Designation from the State Licensing Authority to manufacture any type of Retail Marijuana Product that is not within an intended use identified in Rule 3-1015. This Rule 6-325 was previously Rule R 607, 1 CCR 212-2.

6-325 – Retail Marijuana Products Manufacturing Facility: Audited Product and Alternative Use Product

A. General Rule. A Retail Marijuana Products Manufacturer shall not Transfer Audited Product to a Retail Marijuana Store, another Retail Marijuana Products Manufacturer, or a Retail Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit except in accordance with all requirements of this Rule 6-325. The requirements of this Rule 6-325 are in addition to all other Rules that apply to Retail Marijuana Products Manufacturers; except where the context otherwise clearly requires this Rule 6-325 controls.

B. Audited Products – Mandatory Audit Prior to Transfer. Following submission of an independent third-party audit to the Division and, if applicable, to the Local Jurisdiction as required by this Rule, a Retail Marijuana Products Manufacturer may Transfer Audited Product with an intended use of: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration.

1. A written audit report from an independent third-party auditor that was completed within the last 24 months shall be submitted to the Division and, if applicable to the Local Licensing Authority: (i) before the first Transfer of Audited Product to any Retail Marijuana Store, (ii) prior to Transfer of any Audited Product following a Material Change to any standard operating procedure or master formulation record regarding the Audited Product, and (iii) with the Retail Marijuana Products Manufacturer's renewal application if the Retail Marijuana Products Manufacturer will Transfer Audited Product after renewal.

2. The independent third-party audit shall be performed by either a certified quality auditor or a certified GMP auditor. The Retail Marijuana Products Manufacturer shall be responsible for all costs associated with obtaining the independent third-party audit.

3. The independent third-party written audit report shall include the following minimum requirements:

    a. The independent third-party auditor's qualifications and an attestation that the certified quality auditor or certified GMP auditor has no conflict of interest;

    b. Establish that the Retail Marijuana Products Manufacturer and the Audited Product meet all requirements of this Rule 6-325, including but not limited to the specific requirements of this Rule 6-325(C), 6-325(D), 6-325(E), 6-325(G), and 6-325(H);

    c. Verify the written standard operating procedure(s) for Audited Product include sufficient and detailed step-by-step instructions on how to produce the Audited Product in a manner that prevents contamination and protects the public health and safety;

    d. Verify, based upon a physical inspection, the manufacture of Audited Product by the Retail Marijuana Products Manufacturer adheres to all applicable standard operating procedures;

    e. Verify, based upon a physical inspection, of any Licensed Premises that such Licensed Premises complies with the requirements of this Rule 6-325(E), including any Limited Access Area where the Audited Product is to be manufactured;

f. Include the independent third-party auditor's findings;

g. Include the plan of correction identifying any corrective actions and/or preventative actions implemented as a result of the findings of the independent third-party audit; and

h. Include the independent third-party auditor's assessment that the Retail Marijuana Products Manufacturer demonstrated compliance with all requirements of Rule 6-325 and with the requirements of all standard operating procedures, master formulation records, and Batch manufacturing records that apply to the Audited Product.

C. Products Liability Insurance. Any Retail Marijuana Products Manufacturer that intends to Transfer Audited Product shall first obtain products liability insurance providing coverage for liability arising from manufacture or Transfer of Audited Product and shall provide an unredacted certificate of product liability insurance to the Division and the independent third-party auditor.

D. Audited Product Requirements. Audited Product shall meet the following minimum product requirements:

1. Inactive Ingredients. Audited Product must meet the requirements in Rule 3-335 – Production of Regulated Marijuana Products.

a. If the Audited Product contains a fungicidal or bactericidal Ingredient listed in, and with a concentration that is at or below the maximum concentration permitted in, the Federal Food and Drug Administration Inactive Ingredients Database, https://www.accessdata.fda.gov/scripts/cder/iig/index.cfm, the Audited Product is not required to undergo microbial contaminant testing required by Rules 4-115 and 4-120.

2. Required Product Development Testing. The Retail Marijuana Products Manufacturer must establish the Audited Product meets the following through independent third-party testing:

a. The Audited Product must deliver the amount of each cannabinoid identified on the label throughout the entire volume of the Audited Product using the intended delivery device and in accordance with the instructions provided by the Retail Marijuana Products Manufacturer, as demonstrated by testing at a Retail Marijuana Testing Facility.

i. For Audited Product with an intended use of metered dose nasal spray, compliance with this requirement shall be established by test results verifying the delivered dose of each cannabinoid identified on the label using the methods described in The United States Pharmacopeia Physical Test and Determination Chapter 601, *Aerosols, Nasal Sprays, Metered-Dose Inhalers, and Dry Powder Inhalers*.

ii. For Audited Product with an intended use of either vaginal administration or rectal administration, compliance with this testing requirement shall be established by test results demonstrating that each cannabinoid identified on the label is within +/- 15% of the amount identified on the label.

b. The expiration date identified on the label of the Audited Product is appropriate when the Audited Product is stored at room temperature, as demonstrated by testing from a Retail Marijuana Testing Facility.

c. Identification of all non-cannabis derived Ingredients and constituents in the Audited Product at concentrations of 1%, which verification is obtained from one or more of the following:

i. Testing by a Retail Marijuana Testing Facility;

ii. Testing by a laboratory that is ISO 17025 accredited but is not a Retail Marijuana Testing Facility, except that no Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product may be Transferred to such a laboratory; and/or

iii. One or more certificate(s) of analysis from the manufacturer of any Ingredient or constituent included in the Audited Product.

E. Additional Production Requirements for Audited Product. In addition to all other requirements applicable to Retail Marijuana Products Manufacturer, a Retail Marijuana Products Manufacturer that manufactures and Transfers Audited Product shall meet the following additional requirements:

1. Personnel Training. All personnel directly involved in the manufacture and handling of Audited Product must be trained, must demonstrate competency, and must undergo annual refresher training, which shall be documented and maintained at the Retail Marijuana Products Manufacturer's Licensed Premises. Personnel directly involved in the manufacture and handling of Audited Product must be trained and demonstrate proficiency in hand hygiene, cleaning and sanitizing, performing necessary calculations, measuring and mixing, and documenting the manufacturing process including master formulation records and batch manufacturing records.

2. Facility Requirements. A Retail Marijuana Products Manufacturer must have a space that is specifically designated for the manufacture of Audited Products that is designed and operated to prevent cross contamination from other areas of the Licensed Premises. The surfaces, walls, floors, fixtures, shelving, work surfaces, and cabinets in this designated area must be non-porous and cleanable.

3. Cleaning and Sanitizing. A Retail Marijuana Products Manufacturer must clean and sanitize surfaces where Audited Product is manufactured and handled on a regular basis and at a minimum, work surfaces and floors must be cleaned and sanitized daily. All other surfaces must be cleaned and sanitized at least every three months. A Retail Marijuana Products Manufacturer must clean and sanitize all surfaces when a spill occurs and when surfaces, floors, and walls are visibly soiled.

4. Hand Hygiene. Hand hygiene is required when entering and re-entering any area where Audited Product is manufactured and handled. Hand hygiene includes washing hands and forearms up to the elbows with soap and water for at least 30 seconds followed by drying completely with disposable towels. Alcohol hand sanitizers alone are not sufficient.

a. Gloves are required to be worn for all mixing activities. Other garb such as shoe covers, head and facial hair covers, face masks, and gowns must be worn as appropriate to protect Licensees and/or prevent contamination of the Audited Product.

5. Equipment. Mechanical, electronic, and other types of equipment used in mixing, measuring, or testing of Audited Product must be inspected prior to use and verified for accuracy at the frequency recommended by the manufacturer, and at least annually.

6. Ingredient Quality. All Ingredients used to manufacture Audited Product must be handled and stored in accordance with the manufacturer's instructions. Ingredients that lack a manufacturer's expiration date shall not be used if a reasonable manufacturer would not use the Ingredient or after 1 year from the date of receipt, whichever period is shorter.

7. Master Formulation Record. A master formulation record must be prepared and maintained for each unique Audited Product a Retail Marijuana Products Manufacturer manufactures. A master formulation record must include at least the following information:

    a. Name of the Audited Product;

    b. Ingredient identities and amounts;

    c. Specifications on the delivery device (if applicable);

    d. Complete instructions for preparing the Audited Product, including equipment, supplies, and description of the manufacturing steps;

    e. Quality control procedures; and

    f. Any other information needed to describe the Retail Marijuana Products Manufacturer's production and ensure its repeatability.

8. Batch Manufacturing Records. A batch manufacturing record shall be created for each Production Batch of Audited Product. This record shall include at the least the following information:

    a. Name of the Audited Product;

    b. Master formulation record reference for the Audited Product;

    c. Date and time of preparation of the Audited Product;

    d. Production Batch number;

    e. Signature or initials of individuals involved in each manufacturing step;

    f. Name, vendor, or manufacturer, Production Batch number, and expiration date of each Ingredient;

    g. Weight or measurement of each Ingredient;

    h. Documentation of quality control procedures;

    i. Any deviations from the master formulation record, and any problems or errors experienced during the manufacture; and

    j. Total quantity of the Audited Product manufactured.

F. Audited Product Testing. For each Production Batch, the Audited Product shall undergo all required testing in the 4-100 Series Rules for Retail Marijuana Product and/or Audited Product. *See also* Rule 4-115 – Regulated Marijuana Testing Program: Sampling and Testing Program.

G. Packaging and Labeling of Audited Product. Audited Product must be packaged and labeled in accordance with all requirements of the 3-1000 Series Rules regarding packaging and labeling for Transfer to a consumer prior to any Transfer.

H. Adverse Health Event Reporting. A Retail Marijuana Products Manufacturer must report Adverse Health Events pursuant to Rule 3-920.

I. Alternative Use Designation – Any Other Method of Consumption or Administration. A Retail Marijuana Products Manufacturer shall not Transfer to a Retail Marijuana Store, another Retail Marijuana Products Manufacturer, or Retail Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit any Retail Marijuana Concentrate or Retail Marijuana Product that is not within any intended use identified in Rule 3-1015(B) until it applies for and receives an Alternative Use Designation from the State Licensing Authority in consultation with the Colorado Department of Public Health and Environment. In the process of applying for an Alternative Use Designation, the Retail Marijuana Products Manufacturer shall work with the Division and the Colorado Department of Public Health and Environment to determine whether the proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when particular independent review factors, safeguards, and tests are in place. The following are minimum requirements for any application for an Alternative Use Designation:

1. The Retail Marijuana Products Manufacturer shall identify provisions of this Rule 6-325 that apply to its Alternative Use Product, any proposed additional or alternative requirements, and how any proposed alternatives protect public health and safety. The Retail Marijuana Products Manufacturer shall also provide any additional information as may be requested by the Division, in consultation with the Colorado Department of Public Health and Environment.

2. The Retail Marijuana Products Manufacturer bears the burden of proving its proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when the identified independent review factors, safeguards, and tests are in place.

3. A Retail Marijuana Products Manufacturer seeking an Alternative Use Designation shall cooperate with the Division. Failure to cooperate with the Division is grounds for denial of an Alternative Use Designation.

4. The granting of an Alternative Use Designation shall rest in the discretion of the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment. The State Licensing Authority may in his or her discretion deny an Alternative Use Designation where the Retail Marijuana Products Manufacturer does not meet the burden established in this Rule 6-325.

J. Alternative Use Designation – Packaging and Labeling Requirements. If the Division recommends, and the State Licensing Authority grants, an Alternative Use Designation, the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment shall provide the Retail Marijuana Products Manufacturer the appropriate statement of intended use label to be affixed to the Alternative Use Product, and any additional or distinct packaging and labeling requirements applicable to the Alternative Use Product. *See* Rules 3-1010 and 3-1015.

K. Required Records. A Retail Marijuana Products Manufacturer manufacturing or Transferring Audited Product and/or Alternative Use Product shall maintain accurate and comprehensive records on the Licensed Premises regarding the manufacturing process, a list of all active and inactive Ingredients used in the Audited Product and/or Alternative Use Product, and such other documentation as required by this Rule 6-325. *See* Rule 3-905 – Business Records Required.

6-330 – Recall of Retail Marijuana Concentrate and Retail Marijuana Product – Repealed effective January 1, 2021.

Basis and Purpose – 6-335

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(III), and 44-10-603, 44-10-603(15)(a)-(b), and 39-28.8-300 C.R.S. The purpose of this rule is to allow a Medical Marijuana Products Manufacturer to receive Transfers of Retail Marijuana Concentrate from a Retail Marijuana Products Manufacturer in order to change its designation from "Retail" to "Medical."

6-335 – Retail Marijuana Products Manufacturer: Ability to Change Designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate.

A. Changing Designation: Beginning July 1, 2022, a Retail Marijuana Products Manufacturer may Transfer Retail Marijuana Concentrate to a Medical Marijuana Products Manufacturer in order to change its designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate pursuant to the following requirements:

1. The Retail Marijuana Products Manufacturer may only Transfer Retail Marijuana Concentrate that has passed all required testing;

2. The Medical Marijuana Products Manufacturer and the Retail Marijuana Products Manufacturer share a Licensed Premises in accordance with Rule 3-215;

3. The Medical Marijuana Products Manufacturer and Retail Marijuana Products Manufacturer have at least one identical Controlling Beneficial Owner;

4. The Retail Marijuana Products Manufacturer must report the Transfer in the Inventory Tracking System the same day that the change in designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate occurs;

5. After the designation change, the Medical Marijuana Concentrate cannot be Transferred to the originating or any other Retail Marijuana Business or otherwise be treated as Retail Marijuana. The inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules; and

6. The Transfer and change in designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change in designation.

6-400 Series – Retail Marijuana Testing Facilities

Basis and Purpose – 6-405

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(4), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(c), 44-10-203(2)(d), 44-10-203(2)(h), 44-10-203(2)(y), 44-10-203(3)(c), 44-10-203(3)(d), 44-10-313(8)(a), 44-10-313(14), 44-10-401(2)(b)(IV), 44-10-604, 35-61-104, and 35-61-105.5, C.R.S. The purpose of this rule is

to establish the license privileges granted by the State Licensing Authority to Retail Marijuana Testing Facilities. This Rule 6-405 was previously Rule R 701.

6-405 – Retail Marijuana Testing Facilities: License Privileges

A. Licensed Premises. A separate License is required for each specific Retail Marijuana Testing Facility and only those privileges granted by the Marijuana Code and any rules promulgated pursuant to it may be exercised on the Licensed Premises. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Testing Facility may share and operate at the same Licensed Premises with a Medical Marijuana Testing Facility with identical ownership.

B. Testing of Retail Marijuana Authorized. A Retail Marijuana Testing Facility may accept Samples of Retail Marijuana from Retail Marijuana Businesses for testing and research purposes only. The Division may require a Retail Marijuana Business to submit a Sample of Retail Marijuana to a Retail Marijuana Testing Facility upon demand.

C. Product Development Authorized. A Retail Marijuana Testing Facility may develop Retail Marijuana Product, but is not authorized to engage in the manufacturing privileges described in section 44-10-603, C.R.S., and Rule 6-305 – Retail Marijuana Manufacturing Facilities: License Privileges.

D. Transferring Samples to Another Licensed and Certified Retail Marijuana Testing Facility. A Retail Marijuana Testing Facility may Transfer Samples to another Retail Marijuana Testing Facility for testing. All laboratory reports provided to or by a Retail Marijuana Business must identify the Retail Marijuana Testing Facility that actually conducted the test.

E. Testing of Registered and Tracked Industrial Hemp Authorized.

1. A Retail Marijuana Testing Facility may accept and test Industrial Hemp as regulated by Article 61 of Title 35, C.R.S.

2. Before a Retail Marijuana Testing Facility accepts a sample of Industrial Hemp, the Retail Marijuana Testing Facility shall verify that the Person submitting the sample is registered with the Commissioner of the Colorado Department of Agriculture, pursuant to section 35-61-104, C.R.S.

3. A Retail Marijuana Testing Facility is responsible for entering tracking samples of Industrial Hemp in the Inventory Tracking System pursuant to the 3-800 Series Rules.

4. A Retail Marijuana Testing Facility shall be permitted to test Industrial Hemp only in the category(ies) that the Retail Marijuana Testing Facility is certified to perform testing in pursuant to Rule 6-415 – Retail Marijuana Testing Facilities: Certification Requirements.

5. In accordance with section 35-61-105.5, C.R.S., a Retail Marijuana Testing Facility shall provide the results of any testing performed on Industrial Hemp to the Person submitting the sample of Industrial Hemp and to the Colorado Department of Agriculture.

6. Nothing in these rules shall be construed to require a Retail Marijuana Testing Facility to accept and/or test Samples of Industrial Hemp.

F. Testing of Industrial Hemp Product Authorized.

1. A Retail Marijuana Testing Facility may accept and test samples of Industrial Hemp Products.

2. Before a Retail Marijuana Testing Facility accepts a sample of Industrial Hemp Product, the Retail Marijuana Testing Facility shall verify that the Person submitting the sample is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

3. A Retail Marijuana Testing Facility is responsible for entering and tracking samples of Industrial Hemp Product in the inventory tracking system pursuant to the 3-800 Series Rules.

4. A Retail Marijuana Testing Facility shall be permitted to test Industrial Hemp Product only in the category(ies) that the Retail Marijuana Testing Facility is certified to perform testing in pursuant to Rule 6-415 – Retail Marijuana Testing Facilities: Certification Requirements.

5. A Retail Marijuana Testing Facility may provide the results of any testing performed on Industrial Hemp Product to the Person submitting the sample of Industrial Hemp Product.

6. Nothing in these rules shall be construed to require a Retail Marijuana Testing Facility to accept and/or test samples of Industrial Hemp Product.

G. Authorized Retail Marijuana Transport. A Retail Marijuana Testing Facility is authorized to utilize a licensed Retail Marijuana Transporter to transport Samples of Retail Marijuana for testing, in accordance with the Marijuana Code and Marijuana Rules, between the originating Retail Marijuana Business requesting testing services and the destination Retail Marijuana Testing Facility performing testing services. Nothing in this Rule requires a Retail Marijuana Business to utilize a Retail Marijuana Transporter to transport Samples of Retail Marijuana for testing.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-410

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(c), 44-10-203(2)(d), 44-10-202(4), 44-10-203(2)(h), 44-10-203(2)(y), 44-10-203(3)(c), 44-10-203(2)(d), 44-10-401(2)(b)(IV), 44-10-604, 44-10-701, 35-61-104, and 35-61-105.5, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Retail Marijuana Testing Facility. This Rule 6-410 was previously Rule R 702, 1 CCR 212-2.

6-410 – Retail Marijuana Testing Facilities: General Limitations or Prohibited Acts

A. Prohibited Financial Interest. A Person who is Controlling Beneficial Owner or Passive Beneficial of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, Retail Marijuana Store, Medical Marijuana Store, Medical Marijuana Cultivation Facility, or a Medical Marijuana Products Manufacturer shall not be a Controlling Beneficial Owner or Passive Beneficial Owner of a Retail Marijuana Testing Facility.

B. Conflicts of Interest. The Retail Marijuana Testing Facility shall establish policies to prevent the existence of or appearance of undue commercial, financial, or other influences that may diminish the competency, impartiality, and integrity of the Retail Marijuana Testing Facility's testing processes or results, or that may diminish public confidence in the competency, impartiality and integrity of the Retail Marijuana Testing Facility's testing processes or results. At a minimum, employees, owners or agents of a Retail Marijuana Testing Facility who participate in any aspect of the analysis and results of a Sample or Test Batch are prohibited from improperly influencing the testing process, improperly manipulating data, or improperly benefiting from any on-going

financial, employment, personal or business relationship with the Retail Marijuana Business that provided the Sample.

C. Transfer of Retail Marijuana Prohibited. A Retail Marijuana Testing Facility shall not Transfer Retail Marijuana to another Retail Marijuana Business or a consumer, except that a Retail Marijuana Testing Facility may Transfer a Sample to another Retail Marijuana Testing Facility.

D. Destruction of Received Samples. A Retail Marijuana Testing Facility shall properly dispose of all Samples it receives, that are not Transferred to another Retail Marijuana Testing Facility, after all necessary tests have been conducted and any required period of storage. *See* Rule 3-230 – Waste Disposal.

E. Sample Rejection. A Retail Marijuana Testing Facility shall reject any Sample where the condition of the Sample at receipt indicates that the Sample may have been tampered with.

F. Retail Marijuana Business Requirements Applicable. A Retail Marijuana Testing Facility shall be considered a Licensed Premises. A Retail Marijuana Testing Facility shall be subject to all requirements applicable to Retail Marijuana Businesses.

G. Retail Marijuana Testing Facility – Inventory Tracking System Required. A Retail Marijuana Testing Facility must use the Inventory Tracking System to ensure all Test Batches or Samples containing Retail Marijuana are identified and tracked from the point they are Transferred from a Retail Marijuana Business through the point of Transfer or destruction or disposal. A Retail Marijuana Testing Facility that performs testing on Industrial Hemp must use the Inventory Tracking System to ensure all samples of Industrial Hemp are identified and tracked from the point they are Transferred from a cultivator registered with the Commissioner of the Colorado Department of Agriculture, pursuant to section 35-61-104, C.R.S., to the point of Transfer or destruction or disposal. The Inventory Tracking System reporting shall include the results of any tests that are conducted on Retail Marijuana or Industrial Hemp. *See also* Rule 3-805 – Regulated Marijuana Businesses: Inventory Tracking System and Rule 3-825 – Reporting and Inventory Tracking System. The Retail Marijuana Testing Facility must have the ability to reconcile its Sample records with the Inventory Tracking System and the associated transaction history. *See also* Rule 3-905 – Business Records Required and Rule 3-825.

H. Testing of Unregistered or Untracked Industrial Hemp or Industrial Hemp Products Prohibited.

1. A Retail Marijuana Testing Facility is authorized to accept or test Industrial Hemp only if (1) the entity providing the Samples of Industrial Hemp is regulated by Article 61 of Title 35, C.R.S., (2) the Industrial Hemp is submitted by a registered cultivator, and (3) the Industrial Hemp is tracked in the Inventory Tracking System.

2. A Retail Marijuana Testing Facility is authorized to accept or test Industrial Hemp Product only if (1) the entity providing the Samples of Industrial Hemp Product is registered and regulated pursuant to Article 4 or Title 25, C.R.S., and (2) the Industrial Hemp Product being submitted for testing is tracked in the Inventory Tracking System.

I. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-415

The statutory authority for this rule includes but is not limited to section 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(4), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(c), 44-10-203(2)(d), 44-10-203(2)(h), 44-10-203(2)(y), 44-10-203(3)(c), 44-10-203(3)(d), 44-10-401(2)(b)(IV), and

44-10-604, C.R.S. The purpose of this rule is to establish a frame work for certification for Retail Marijuana Testing Facilities. This Rule 6-415 was previously Rule R 703, 1 CCR 212-2.

6-415 – Retail Marijuana Testing Facilities: Certification Requirements

A. Certification Types. If certification in a testing category is required by the Division, then the Retail Marijuana Testing Facility must be certified in the category in order to perform that type of testing.

1. Residual solvents;

2. Microbials;

3. Mycotoxins;

4. Pesticides;

5. THC and other Cannabinoid potency;

6. Elemental Impurities; and

7. Water Activity.

B. In order to obtain a certification for Pesticide testing, a Retail Marijuana Testing Facility must also obtain certification for mycotoxin testing.

C. Certification Procedures. The Retail Marijuana Testing Facility certification program is contingent upon successful on-site inspection, successful participation in proficiency testing, and ongoing compliance with the applicable requirements in this Rule.

1. Certification Inspection. A Retail Marijuana Testing Facility must be inspected prior to initial certification and annually thereafter by an inspector approved by the Division.

2. Standards for Certification. A Retail Marijuana Testing Facility must meet standards of performance, as established by these rules, in order to obtain and maintain certification. Standards of performance include but are not limited to: personnel qualifications, standard operating procedure manual, analytical processes, Proficiency Testing, quality control, quality assurance, security, chain of custody, Sample retention, space, records, and results reporting. In addition, a Retail Marijuana Testing Facility must be accredited under the International Organization for Standardization/International Electrotechnical Commission 17025:2005 Standard, or any subsequent superseding ISO/IEC 17025 standard. In order to obtain certification in a testing category from the Division, the Retail Marijuana Testing Facility's scope of accreditation must specify that particular testing category.

    a. Subsequent to initial approval of a Retail Marijuana Testing Facility License, the Division may grant provisional certification if the Applicant has not yet obtained ISO/IEC 17025:2005 accreditation, but meets all other requirements. Such provisional certification shall be for a period not to exceed twelve months.

3. Personnel Qualifications.

    a. Laboratory Director. A Retail Marijuana Testing Facility must employ, at a minimum, a laboratory director with sufficient education and experience in a regulated laboratory environment in order to obtain and maintain certification. *See* Rule 6-420 – Retail Marijuana Testing Facilities: Personnel.

b. Employee Competency. A Retail Marijuana Testing Facility must have a written and documented system to evaluate and document the competency in performing authorized tests for employees. Prior to independently analyzing Samples, testing personnel must demonstrate acceptable performance on precision, accuracy, specificity, reportable ranges, blanks, and unknown challenge samples (proficiency samples or internally generated quality controls).

4. Standard Operating Procedure Manual. A Retail Marijuana Testing Facility must have a written standard operating procedure manual meeting the minimum standards set forth in these rules detailing the performance of all methods employed by the facility used to test the analytes it reports and made available for testing analysts to follow at all times.

   a. The current laboratory director must approve, sign and date each procedure. If any modifications are made to those procedures, the laboratory director must approve, sign, and date the revised version prior to use.

   b. A Retail Marijuana Testing Facility must maintain a copy of all standard operating procedures to include any revised copies for a minimum of three years. *See* Rule 6-450 – Retail Marijuana Testing Facilities: Records Retention, and Rule 3-905 – Business Records Required.

5. Analytical Processes. A Retail Marijuana Testing Facility must maintain a listing of all analytical methods used and all analytes tested and reported. The Retail Marijuana Testing Facility must provide this listing to the Division upon request.

6. Proficiency Testing. A Retail Marijuana Testing Facility must successfully participate in a Division approved Proficiency Testing program in order to obtain and maintain certification.

7. Quality Assurance and Quality Control. A Retail Marijuana Testing Facility must establish and follow a quality assurance and quality control program to ensure sufficient monitoring of laboratory processes and quality of results reported.

8. Security. A Retail Marijuana Testing Facility must be located in a secure setting as to prevent unauthorized persons from gaining access to the testing and storage areas of the laboratory.

9. Chain of Custody. A Retail Marijuana Testing Facility must establish a system to document the complete chain of custody for samples from receipt through disposal.

10. Space. A Retail Marijuana Testing Facility must be located in a fixed structure that provides adequate infrastructure to perform analysis in a safe and compliant manner consistent with federal, state, and local requirements.

11. Records. A Retail Marijuana Testing Facility must establish a system to retain and maintain records for a period not less than three years. *See* Rules 6-450 – Retail Marijuana Testing Facilities - Records Retention and Rule 3-905 – Business Records Required.

12. Results Reporting. A Retail Marijuana Testing Facility must establish processes to ensure results are reported in a timely and accurate manner. *See* Rule 3-825 – Reporting and Inventory Tracking System. A Retail Marijuana Testing Facility's process may require that the Regulated Marijuana Business remit payment for any test conducted by the Testing Facility prior to entry of the results of that test into the Inventory Tracking System. A Retail

Marijuana Testing Facility's process established under this subparagraph (12) must be maintained on the Licensed Premises of the Retail Marijuana Testing Facility.

13. Conduct While Seeking Certification. A Retail Marijuana Testing Facility, and its agents and employees, shall provide all documents and information required or requested by the Colorado Department of Public Health and Environment and its employees, and the Division and its employees in a full, faithful, truthful, and fair manner.

D. Violation Affecting Public Safety. A violation of this Rule may be considered a license violation affecting public safety.

Basis and Purpose - 6-420

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(c), 44-10-203(2)(d), 44-10-203(3)(c), 44-10-203(3)(d), 44-10-401(2)(b)(IV), 44-10-604, C.R.S. The purpose of this rule is to establish personnel standards for the operation of a Retail Marijuana Testing Facility. This Rule 6-420 was previously Rule R 704, 1 CCR 212-2.

6-420 – Retail Marijuana Testing Facilities: Personnel

A. Laboratory Director. The laboratory director is responsible for the overall analytical operation and quality of the results reported by the Retail Marijuana Testing Facility, including the employment of personnel who are competent to perform test procedures, and record and report test results promptly, accurately, and proficiently and for assuring compliance with the standards set forth in this Rule.

1. The laboratory director may also serve as a supervisory analyst or testing analyst, or both, for a Retail Marijuana Testing Facility.

2. The laboratory director for a Retail Marijuana Testing Facility must meet one of the following qualification requirements:

a. The laboratory director must be a Medical Doctor (M.D.) licensed to practice medicine in Colorado and have at least three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body; or

b. The laboratory director must hold a doctoral degree in one of the natural sciences and have at least three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body;

c. The laboratory director must hold a master's degree in one of the natural sciences and have at least five years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body; or

d. The laboratory director must hold a bachelor's degree in one of the natural sciences and have at least seven years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body.

B. What the Laboratory Director May Delegate. The laboratory director may delegate the responsibilities assigned under this Rule to a qualified supervisory analyst, provided that such

delegation is made in writing and a record of the delegation is maintained. *See* Rule 3-905 – Business Records Required. Despite the designation of a responsibility, the laboratory director remains responsible for ensuring that all duties are properly performed.

C. Responsibilities of the Laboratory Director. The laboratory director must:

1. Ensure that the Retail Marijuana Testing Facility has adequate space, equipment, materials, and controls available to perform the tests reported;

2. Establish and adhere to a written standard operating procedure used to perform the tests reported;

3. Ensure that testing systems developed and used for each of the tests performed in the laboratory provide quality laboratory services for all aspects of test performance, which includes the preanalytic, analytic, and postanalytic phases of testing;

4. Ensure that the physical location and environmental conditions of the laboratory are appropriate for the testing performed and provide a safe environment in which employees are protected from physical, chemical, and biological hazards;

5. Ensure that the test methodologies selected have the capability of providing the quality of results required for the level of testing the laboratory is certified to perform;

6. Ensure that validation and verification test methods used are adequate to determine the accuracy, precision, and other pertinent performance characteristics of the method;

7. Ensure that testing analysts perform the test methods as required for accurate and reliable results;

8. Ensure that the laboratory is enrolled in and successfully participates in a Division approved Proficiency Testing program;

9. Ensure that the quality control and quality assessment programs are established and maintained to assure the quality of laboratory services provided and to identify failures in quality as they occur;

10. Ensure the establishment and maintenance of acceptable levels of analytical performance for each test system;

11. Ensure that all necessary remedial actions are taken and documented whenever significant deviations from the laboratory's established performance specifications are identified, and that test results are reported only when the system is functioning properly;

12. Ensure that reports of test results include pertinent information required for interpretation;

13. Ensure that consultation is available to the laboratory's clients on matters relating to the quality of the test results reported and their interpretation of said results;

14. Employ a sufficient number of laboratory personnel who meet the qualification requirements and provide appropriate consultation, properly supervise, and ensure accurate performance of tests and reporting of test results;

15. Ensure that prior to testing any samples, all testing analysts receive the appropriate training for the type and complexity of tests performed, and have demonstrated and

documented that they can perform all testing operations reliably to provide and report accurate results;

16. Ensure that policies and procedures are established for monitoring individuals who conduct preanalytical, analytical, and postanalytical phases of testing to assure that they are competent and maintain their competency to process Samples, perform test procedures and report test results promptly and proficiently, avoid actual and apparent conflicts of interests, and whenever necessary, identify needs for remedial training or continuing education to improve skills;

17. Ensure that an approved standard operating procedure manual is available to all personnel responsible for any aspect of the testing process; and

18. Specify, in writing, the responsibilities and duties of each person engaged in the performance of the preanalytic, analytic, and postanalytic phases of testing, that identifies which examinations and procedures each individual is authorized to perform, whether supervision is required for Sample processing, test performance or results reporting, and whether consultant or laboratory director review is required prior to reporting test results.

D. Change in Laboratory Director. In the event that the laboratory director leaves employment at the Retail Marijuana Testing Facility, the Retail Marijuana Testing Facility shall:

1. Provide written notice to the Colorado Department of Public Health and Environment and the Division within seven days of the laboratory director's departure; and

2. Designate an interim laboratory director within seven days of the laboratory director's departure. At a minimum, the interim laboratory director must meet the qualifications of a supervisory analyst.

3. The Retail Marijuana Testing Facility must hire a permanent laboratory director within 60 days from the date of the previous laboratory director's departure.

4. Notwithstanding the requirement of subparagraph (D)(3), the Retail Marijuana Testing Facility may submit a waiver request to the Division Director to receive an additional 60 days to hire a permanent laboratory director provided that the Retail Marijuana Testing Facility submits a detailed oversight plan along with the waiver request.

E. Supervisory Analyst. Supervisory analysts must meet one of the qualifications for a laboratory director or have at least a bachelor's degree in one of the natural sciences and two years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body. A combination of education and experience may substitute for the two years of full-time laboratory experience.

F. Laboratory Testing Analyst.

1. Educational Requirements. An individual designated as a testing analyst must meet one of the qualifications for a laboratory director or supervisory analyst or:

a. Have at least a bachelor's degree in one of the natural sciences and one year of full-time experience in laboratory testing;

b. Have a least a bachelor's degree in one of the natural sciences;

c. Have earned an associated degree in a laboratory science from an accredited institution; or

d. Have education and training equivalent to that specified in subparagraph (F)(1) of this Rule that includes at least 60 semester hours, or equivalent, from an accredited institution that, at a minimum, include:

i. 24 semester hours of science courses that include six semester hours of chemistry, six semester hours of biology, and twelve semester hours of chemistry, biology, or cannabis laboratory sciences in any combination; and

ii. Have a laboratory training that includes at least three months documented laboratory training each testing category in which the individual performs testing; or

e. Have at least five years of full time experience in laboratory testing and have laboratory training that includes at least three months documented laboratory training in each testing category in which the individual performs testing.

2. Responsibilities. In order to independently perform any test for a Retail Marijuana Testing Facility, an individual must at least meet the educational requirements for a testing analyst.

G. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-425

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-202(4), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish standard operating procedure manual standards for the operation of a Retail Marijuana Testing Facility. This Rule 6-425 was previously Rule R 705, 1 CCR 212-2.

6-425 –Retail Marijuana Testing Facilities: Standard Operating Procedure Manual

A. A standard operating procedure manual must include, but need not be limited to, procedures for:

1. Test Batch receiving;

2. Test Batch accessioning;

3. Test Batch storage;

4. Identifying, rejecting, and reporting unacceptable Test Batches;

5. Recording and reporting discrepancies during Test Batch receiving an accessioning;

6. Security of Test Batches, aliquots and extracts and records;

7. Validating a new or revised method prior to testing of Test Batches to include: accuracy, precision, analytical sensitivity, analytical specificity (interferences), LOD, LOQ, and verification of the reportable range;

8. Test Batch preparation, including but not limited to, sub-sampling for testing, homogenization, and aliquoting Test Batches to avoid contamination and carry-over;

9. Test Batch archive retention to assure stability, as follows:

a. For Test Batches submitted for testing other than Pesticide contaminant testing, Test Batch retention for 14 days;

b. For Test Batch submitted for Pesticide contaminant testing, Test Batch retention for 90 days.

10. Disposal of Test Batches;

11. The theory and principles behind each assay;

12. Preparation and identification of reagents, standards, calibrators and controls and ensure all standards are traceable to National Institute of Standards of Technology ("NIST");

13. Special requirements and safety precautions involved in performing assays;

14. Frequency and number of control and calibration materials;

15. Recording and reporting assay results;

16. Protocol and criteria for accepting or rejecting analytical Procedure to verify the accuracy of the final report;

17. Pertinent literature references for each method;

18. Current step-by-step instructions with sufficient detail to perform the assay to include equipment operation and any abbreviated versions used by a testing analyst;

19. Acceptability criteria for the results of calibration standards and controls as well as between two aliquots or columns;

20. A documented system for reviewing the results of testing calibrators, controls, standards, and Test Batch results, as well as reviewing for clerical errors, analytical errors and any unusual analytical results and are corrective actions implemented and documented, and does the laboratory contact the requesting entity

21. Policies and procedures to follow when Test Batch are requested for referral and testing by another certified Retail Marijuana Testing Facility or an approved local or state agency's laboratory;

22. Testing Industrial Hemp, if the Retail Marijuana Testing Facility tests Industrial Hemp;

23. Investigating and documenting existing or potential Nonconformances and implementing Corrective Actions and/or Preventive Actions;

24. Contacting the requesting entity about existing Nonconformances; and

25. Retesting or additional analyses of Test Batches, including but need not be limited to, when it is appropriate to retest or perform an additional analysis of the Test Batch, when it is appropriate to request a new Test Batch from the requesting entity, and when it is appropriate for the requesting entity to request retesting (e.g., after failing Pesticide testing or elemental impurity testing on Regulated Marijuana flower, trim, shake, or wet whole plant as permitted by Rule 4-135(d) and 4-135(D.1));

B. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-430

The statutory authority for this rule includes but is not limited to sections 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-202(4), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish analytical processes standards for the operation of a Retail Marijuana Testing Facility. This Rule 6-430 was previously Rule R 706, 1 CCR 212-2.

6-430 –Retail Marijuana Testing Facilities: Analytical Processes

A. Gas Chromatography ("GC"). A Retail Marijuana Testing Facility using GC must:

1. Document the conditions of the gas chromatograph, including the detector response;

2. Perform and document preventive maintenance as required by the manufacturer;

3. Ensure that records are maintained and readily available to the staff operating the equipment;

4. Document the performance of new columns before use;

5. Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified;

6. Establish criteria of acceptability for variances between different aliquots and different columns; and

7. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.

B. Gas Chromatography Mass Spectrometry ("GC/MS"). A Retail Marijuana Testing Facility using GC/MS must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Document the changes of septa as specified in the standard operating procedure;

3. Document liners being cleaned or replaced as specified in the standard operating procedure;

4. Ensure that records are maintained and readily available to the staff operating the equipment;

5. Maintain records of mass spectrometric tuning;

6. Establish written criteria for an acceptable mass-spectrometric tune;

7. Document corrective actions if a mass-spectrometric tune is unacceptable;

8. Monitor analytic analyses to check for contamination and carry-over;

9. Use selected ion monitoring within each run to assure that the laboratory compares ion ratios and retention times between calibrators, controls and samples for identification of an analyte;

10. Use an internal standard for qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified and is isotopically labeled when available or appropriate for the assay;

11. Document the monitoring of the response (area or peak height) for the internal standard to ensure consistency overtime of the analytical system;

12. Define the criteria for designating qualitative results as positive;

13. When a library is used to qualitatively identify an analyte, the identity of the analyte must be confirmed before reporting results by comparing the relative retention time and mass spectrum to that of a known standard or control run on the same system; and

14. Evaluate the performance of the instrument after routine and preventive maintenance (*e.g.* clipping or replacing the column or cleaning the source) prior to analyzing subject samples.

C. Immunoassays. A Retail Marijuana Testing Facility using Immunoassays must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Validate any changes or modifications to a manufacturer's approved assays or testing methods when a sample is not included within the types of samples approved by the manufacturer; and

4. Define acceptable separation or measurement units (absorbance intensity or counts per minute) for each assay, which must be consistent with manufacturer's instructions.

D. Thin Layer Chromatography ("TLC"). A Retail Marijuana Testing Facility using TLC must:

1. Apply unextracted standards to each thin layer chromatographic plate;

2. Include in their written procedure the preparation of mixed solvent systems, spray reagents and designation of lifetime;

3. Include in their written procedure the storage of unused thin layer chromatographic plates;

4. Evaluate, establish, and document acceptable performance for new thin layer chromatographic plates before placing them into service;

5. Verify that the spotting technique used precludes the possibility of contamination and carry-over;

6. Measure all appropriate RF values for qualitative identification purposes;

7. Use and record sequential color reactions, when applicable;

8. Maintain records of thin layer chromatographic plates; and

9. Analyze an appropriate matrix blank with each batch of Samples analyzed.

E. High Performance Liquid Chromatography ("HPLC"). A Retail Marijuana Testing Facility using HPLC must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Monitor and document the performance of the HPLC instrument each day of testing;

4. Evaluate the performance of new columns before use;

5. Create written standards for acceptability when eluting solvents are recycled;

6. Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified when available or appropriate for the assay; and

7. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.

F. Liquid Chromatography Mass Spectroscopy ("LC/MS"). A Retail Marijuana Testing Facility using LC/MS must:

1. Perform and document preventive maintenance as required by the manufacturer;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Maintain records of mass spectrometric tuning;

4. Document corrective actions if a mass-spectrometric tune is unacceptable;

5. Use an internal standard with each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified and is isotopically labeled when available or appropriate for the assay;

6. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system;

7. Compare two transitions and retention times between calibrators, controls and samples within each run;

8. Document and maintain records when changes in source, source conditions, eluent, or column are made to the instrument; and

9. Evaluate the performance of the instrument when changes in: source, source conditions, eluent, or column are made prior to reporting test results.

G. Microbial Assays. A Retail Marijuana Testing Facility using microbial assays must:

1. Perform and document preventive maintenance as required by the manufacturer and standard operating procedures;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Validate any changes or modifications to a manufacturer's approved assays or testing methods when a test sample is not included within the types of Test Batches approved by the manufacturer;

4. Verify the method at the action levels for each analyte. Verification at the qualitative presence/absence limit shall include a fractional recovery study unless otherwise completed by the manufacturer and approved by an independent scientific body.

5. Include controls for each batch of test samples. Quantitative microbial methods shall use controls of a specific known value or set of values that lies within the quantifiable range of the method;

6. For molecular methods, the Retail Marijuana Testing Facility shall include controls for each individual analytical run. Quantitative molecular methods shall use controls of a specific known value or set of values that lies within the quantifiable range of the method;

7. PCR-based and qPCR-based methods must include validated internal amplification controls;

8. Microbial methods must include steps to confirm presumptive positive results; confirmation methods may be molecular or cultural or both. Confirmation methods must include quality controls that match the organism which is being confirmed.

H. Water Activity. A Retail Marijuana Testing Facility analyzing water activity must:

1. Perform and document preventive maintenance as required by the manufacturer and standard operating procedures;

2. Ensure that records are maintained and readily available to the staff operating the equipment;

3. Specify all unique method parameters, such as temperature, sample surface area, volatile compound interferences, including but not limited to temperature;

4. Evaluate the performance of the method after routine and preventive maintenance prior to analyzing the Test Batch;

5. Establish criteria for acceptable instrument performance.

I. Analytical Methodology. A Retail Marijuana Testing Facility must validate new methodology and revalidate any changes to approved methodology prior to testing Test Batches. A Retail Marijuana Testing Facility must:

1. Implement a performance based measurement system for the selected methodology and validate the method following good laboratory practices prior to reporting results. Validation of other or new methodology must include when applicable, but is not limited to:

a. Verification of Accuracy

b. Verification of Precision

c. Verification of Analytical Sensitivity

d. Verification of Analytical Specificity

e. Verification of the LOD

f. Verification of the LOQ

g. Verification of the Reportable Range

h. Identification of Interfering Substances

2. Validation of the other or new methodology must be documented.

3. Prior to use, other or new methodology must have a standard operating procedure approved and signed by the laboratory director.

4. Testing analysts must have documentation of competency assessment prior to testing Samples.

5. Any changes to the approved other or new methodology must be revalidated and documented prior to testing Samples.

J. Testing Validation of Complex Matrices. A Retail Marijuana Testing Facility must include a variety of matrices as part of the validation/verification process. During method validation/verification, a Retail Marijuana Testing Facility must:

1. Select matrices which best represent each category of products to be tested as listed in Rule 4-115(D). The laboratory shall independently determine the category of matrix a product falls within; properties to consider include fat content, cannabinoid content, pH, salt content, sugar content, water activity, the presence of know chemical compounds, microbial flora and antimicrobial compounds.

2. Perform a new matrix validation, prior to reporting results, on matrices which are either A) a new category of matrix or B) considerably different from the original matrix validated within the category.

a. For example, the Retail Marijuana Testing Facility intends to receive the topical product “bath bombs” for testing, but previous validation studies for topical product included lotion and massage oil. A new validation should be performed for the product prior to testing since salt content and other properties differ vastly from the original matrices validated.

3. Perform a matrix verification (a client matrix spike or similar consisting of the target analyte(s) at the time of analysis) on matrices submitted for testing which differ slightly from those initially validated but which fall within a category already validated.

a. For example, the Retail Marijuana Testing Facility receives a new edible type matrix for testing (snickerdoodle cookies) but previous validation included gummies and hard candy. A spike of a portion of the submitted material must be analyzed prior to, or at the time of, sample analysis.

K. All Test Batches and Industrial Hemp Product must be tested as received, must not be manipulated, and tested in a manner that ensures results are representative of sample as received.

L. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose - 6-435

The statutory authority for this rule includes but is not limited to sections 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish a proficiency testing program for Retail Marijuana Testing Facilities. This Rule 6-435 was previously Rule R 707, 1 CCR 212-2.

6-435 – Retail Marijuana Testing Facilities: Proficiency Testing

A. Proficiency Testing Required. A Retail Marijuana Testing Facility must participate in a Proficiency Testing program for each approved category in which it seeks certification under Rule 6-415 – Retail Marijuana Testing Facilities: Certification Requirements.

B. Participation in Designated Proficiency Testing Event. If required by the Division as part of certification, the Retail Marijuana Testing Facility must have successfully participated in Proficiency Testing in the category for which it seeks certification, within the preceding 12 months.

C. Continued Certification. To maintain continued certification, a Retail Marijuana Testing Facility must participate in the designated Proficiency Testing program with continued satisfactory performance as determined by the Division as part of certification. The Division may designate a local agency, state agency, or independent third-party to provide Proficiency Testing.

D. Analyzing Proficiency Testing Samples. A Retail Marijuana Testing Facility must analyze Proficiency Test Samples using the same procedures with the same number of replicate analyses, standards, testing analysts and equipment as used in its standard operating procedures.

E. Proficiency Testing Attestation. The laboratory director and all testing analysts who participated in Proficiency Testing must sign corresponding attestation statements.

F. Laboratory Director Must Review Results. The laboratory director must review and evaluate all Proficiency Testing results.

G. Remedial Action. A Retail Marijuana Testing Facility must take and document remedial action when a score of less than 100% is achieved on any test during Proficiency Testing. Remedial action documentation must include a review of Samples tested and results reported since the last successful Proficiency Testing event. A requirement to take remedial action does not necessarily indicate unsatisfactory participation in a Proficiency Testing event.

H. Unsatisfactory Participation in a Proficiency Testing Event. Unless the Retail Marijuana Testing Facility positively identifies at least 80% of the target analytes tested, participation in the Proficiency Testing event will be considered unsatisfactory. A positive identification must include accurate quantitative and qualitative results as applicable. Any false positive result reported will be considered unsatisfactory participation in the Proficiency Testing event.

I. Consequence of Unsatisfactory Participation in Proficiency Testing Event. Unsatisfactory participation in a Proficiency Testing event may result in limitation, suspension or revocation of Rule 6-415 certification.

J. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-440

The statutory authority for this rule includes but is not limited to sections 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish quality assurance and quality assurance standards for a Retail Marijuana Testing Facility. This Rule 6-440 was previously Rule R 708, 1 CCR 212-2.

6-440 – Retail Marijuana Testing Facilities: Quality Assurance and Quality Control

A. Quality Assurance Program Required. A Retail Marijuana Testing Facility must establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory preanalytic, analytic and postanalytic systems when they occur and must include, but is not limited to:

1. Review of instrument preventive maintenance, repair, troubleshooting and corrective actions documentation must be performed by the laboratory director or designated supervisory analyst on an ongoing basis to ensure the effectiveness of actions taken over time;

2. Review by the laboratory director or designated supervisory analyst of all ongoing quality assurance; and

3. Review of the performance of validated methods used by the Retail Marijuana Testing Facility to include calibration standards, controls and the standard operating procedures used for analysis on an ongoing basis to ensure quality improvements are made when problems are identified or as needed.

B. Quality Control Measures Required. A Retail Marijuana Testing Facility must establish, monitor and document on an ongoing basis the quality control measures taken by the laboratory to ensure the proper functioning of equipment, validity of standard operating procedures and accuracy of results reported. Such quality control measures must include, but shall not be limited to:

1. Documentation of instrument preventive maintenance, repair, troubleshooting and corrective actions taken when performance does not meet established levels of quality;

2. Review and documentation of the accuracy of automatic and adjustable pipettes and other measuring devices when placed into service and annually thereafter;

3. Cleaning, maintaining and calibrating as needed the analytical balances and in addition, verifying the performance of the balance annually using certified weights to include three or more weights bracketing the ranges of measurement used by the laboratory;

4. Annually verifying and documenting the accuracy of thermometers using a NIST traceable reference thermometer;

5. Recording temperatures on all equipment when in use where temperature control is specified in the standard operating procedures manual, such as water baths, heating blocks, incubators, ovens, refrigerators, and freezers;

6. Properly labeling reagents as to the identity, the concentration, date of preparation, storage conditions, lot number tracking, expiration date and the identity of the preparer;

7. Avoiding mixing different lots of reagents in the same analytical run;

8. Performing and documenting a calibration curve with each analysis using at minimum three calibrators throughout the reporting range;

9. For qualitative analyses, analyzing, at minimum, a negative and a positive control with each batch of Samples analyzed;

10. For quantitative analyses, analyzing, at minimum, a negative and two levels of controls that challenge the linearity of the entire curve;

11. Using a control material or materials that differ in either source or, lot number, or concentration from the calibration material used with each analytical run;

12. For multi-analyte assays, performing and documenting calibration curves and controls specific to each analyte, or at minimum, one with similar chemical properties as reported in the analytical run;

13. Analyzing an appropriate matrix blank and control with each analytical run, when available;

14. Analyzing calibrators and controls in the same manner as unknowns;

15. Documenting the performance of calibration standards and controls for each analytical run to ensure the acceptability criteria as defined in the standard operating procedure is met;

16. Documenting all corrective actions taken when unacceptable calibration, control, and standard or instrument performance does not meet acceptability criteria as defined in the standard operating procedure;

17. Maintaining records of validation data for any new or modified methods to include; accuracy, precision, analytical specificity (interferences), LOD, LOQ, and verification of the linear range; and

18. Performing testing analysts that follow the current Standard Operating Procedures Manual for the test or tests to be performed.

C. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-445

The statutory authority for this rule includes but is not limited to sections 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish chain of custody standards for a Retail Marijuana Testing Facility. In addition, it establishes the requirement that a Retail Marijuana Testing Facility follow an adequate chain of custody for Samples it maintains. This Rule 6-445 was previously Rule R 709, 1 CCR 212-2.

6-445 –Retail Marijuana Testing Facilities: Chain of Custody

A. General Requirements. A Retail Marijuana Testing Facility must establish an adequate chain of custody and Test Batch requirement instructions that must include, but not limited to:

1. Issue instructions for the minimum Test Batch requirements and storage requirements;

2. Document the condition of the external package and integrity seals utilized to prevent contamination of, or tampering with, the Test Batch;

3. Document the condition and amount of Test Batch provided at the time of receipt;

4. Document all persons handling the original Test Batches, aliquots, and extracts;

5. Document all Transfers of Test Batches, aliquots, and extracts referred to another certified Retail Marijuana Testing Facility Licensee for additional testing or whenever requested by a client;

6. Maintain a current list of authorized personnel and restrict entry to the laboratory to only those authorized;

7. Secure the Laboratory during non-working hours;

8. Secure short and long-term storage areas when not in use;

9. Utilize a secured area to log-in and aliquot Test Batches;

10. Ensure Test Batches are stored appropriately;

11. Document the disposal of Test Batches, aliquots, and extracts; and

12. Document the License number, Inventory Tracking System number, photograph(s), and the reason for rejection of Test Batches that were rejected to the Division within 7 days of Test Batch submission

B. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-450

The statutory authority for this rule includes but is not limited to sections 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish records retention standards for a Retail Marijuana Testing Facility. This Rule 6-450 was previously Rule R 710, 1 CCR 212-2.

6-450 –Retail Marijuana Testing Facilities: Records Retention

A. General Requirement. A Retail Marijuana Testing Facility must maintain all required business records. *See* Rule 3-905 - Business Records Required.

B. Specific Business Records Required: Record Retention. A Retail Marijuana Testing Facility must establish processes to preserve records in accordance with Rule 3-905 that includes, but is not limited to;

1. Test Results, including final and amended reports, and identification of analyst and date of analysis;

2. Quality Control and Quality Assurance Records, including accession numbers, Test Batch type, and acceptable reference range parameters;

3. Standard Operating Procedures;

4. Personnel Records;

5. Chain of Custody Records, including documentation of rejected Test Batches;

6. Proficiency Testing Records; and

7. Analytical Data to include data generated by the instrumentation, raw data of calibration standards and curves.

C. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-455

The statutory authority for this rule includes but is not limited to sections 44-10-202(4), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to clarify a Retail Marijuana Testing Facility's responsibility to notify the Retail Marijuana Business and accurately report in the inventory tracking system any failed contaminant test result. This Rule 6-455 was previously Rule R 712(D), 1 CCR 212-2.

6-455 – Notification of Retail Marijuana Business

If Retail Marijuana failed a contaminant test, then the Retail Marijuana Testing Facility must immediately (1) notify the Retail Marijuana Business that submitted the Test Batch or Sample for testing and any Person as directed by an approved Research Project (2) report the failure in accordance with the Inventory Tracking System reporting requirements in Rule 3-825(B).

Basis and Purpose – 6-460

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a), 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(4), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(3)(c), 44-10-401(2)(b)(IV), and 44-10-604, C.R.S. The purpose of this rule is to establish a framework for suspending and reinstating a testing category certification for Retail Marijuana Testing Facilities. This rule also provides the ability for a Retail Marijuana Testing Facility to request a hearing following suspension of a testing category certification.

6-460 – Retail Marijuana Testing Facilities: Certification Suspension, Recertification, and Request for Hearing

A. Certification Suspension. When the Division has objective and reasonable grounds to believe and finds that a Retail Marijuana Testing Facility has been guilty of deliberate and willful violation(s) or that the public health, safety, or welfare imperatively requires emergency action, the Division may immediately suspend the Retail Marijuana Testing Facility's testing category certification in accordance with section 24-4-104, C.R.S., and the 8-200 Series Rules.

B. Re-certification. A Retail Marijuana Testing Facility must provide evidence of corrective actions taken to attempt to resolve the certification suspension and may request that the Division re-certify the Retail Marijuana Testing Facility for a particular testing category in accordance with the requirements in Rule 5-415, if the Retail Marijuana Testing Facility provides documentation requested by the Division and/or the CDPHE demonstrating such corrective actions.

6-500 Series – Retail Marijuana Transporters

Basis and Purpose – 6-505

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-313(14), 44-10-401(2)(b)(V), and 44-10-605, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to Retail Marijuana Transporters. This Rule 6-505 was previously Rule R 1601, 1 CCR 212-2.

6-505 – Retail Marijuana Transporter: License Privileges

A. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Transporter may share a location with an identically owned Medical Marijuana Transporter. However, a separate license is required for each specific business or business entity, regardless of geographical location.

B. Transportation of Retail Marijuana and Retail Marijuana Product Authorized. A Retail Marijuana Transporter may take transportation orders, receive, transport, temporarily store, and deliver Retail Marijuana to Retail Marijuana Businesses.

C. Authorized Sources of Retail Marijuana and Retail Marijuana Product. A Retail Marijuana Transporter may only transport and store Retail Marijuana that it receives directly from a Retail Marijuana Business in accordance with the 3-600 Series Rules.

D. Authorized On-Premises Storage. A Retail Marijuana Transporter is authorized to store transported Retail Marijuana on its Licensed Premises or permitted off-premises storage facility. All transported Retail Marijuana must be secured in a Limited Access Area, and tracked consistently with the inventory tracking rules.

E. Delivery to Consumers Pursuant to Delivery Permit.

1. Prior to January 2, 2021, all Retail Marijuana Transporters are prohibited from delivering Regulated Marijuana to consumers.

2. After January 2, 2021, only Retail Marijuana Transporters that possess a valid delivery permit may delivery Retail Marijuana pursuant to contracts with Retail Marijuana Stores that also possess valid delivery permits. All deliveries of Retail Marijuana consumers must also comply with all requirements of Rule 3-615.

3. Violation affecting Public Safety. Any violation of paragraph E of this Rule is a license violation affecting public safety.

Basis and Purpose – 6-510

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(3)(c), 44-10-401(2)(b)(V), and 44-10-605, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion or prohibited by a Retail Marijuana Transporter. This Rule 6-510 was previously Rule R 1602, 1 CCR 212-2.

6-510 – Retail Marijuana Transporter: General Limitations or Prohibited Acts

A. Sales, Liens, and Secured Interests Prohibited. A Retail Marijuana Transporter is prohibited from buying, selling, or giving away Retail Marijuana or from receiving complimentary Retail Marijuana. A Retail Marijuana Transporter shall not place or hold a lien or secured interest on Retail Marijuana.

B. Licensed Premises Permitted. A Retail Marijuana Transporter shall maintain a Licensed Premises if it: (1) temporarily stores any Retail Marijuana or (2) modifies any information in the Inventory Tracking System generated transport manifest. The Licensed Premises shall be in a Local Jurisdiction that authorizes the operation of Retail Marijuana Stores. If a Retail Marijuana Transporter Licensed Premises shares a Licensed Premises in accordance with Rule 3-215 with a Medical Marijuana Transporter Licensed Premises, then the combined Licensed Premises shall be in a Local Jurisdiction that authorizes the operation of both Retail Marijuana Stores and Medical Marijuana Stores.

C. Off-Premises Storage Permit. A Retail Marijuana Transporter may maintain one or more permitted off-premises storage facilities. *See* Rule 3-610 – Off-Premises Storage of Regulated Marijuana: All Regulated Marijuana Businesses.

D. Storage Duration. A Retail Marijuana Transporter shall not store Retail Marijuana for longer than seven days from receiving it at its Licensed Premises or off-premises storage facility. The total allowable seven day storage duration begins and applies regardless of which of the Retail Marijuana Transporter's premises receives the Retail Marijuana first, i.e. the Retail Marijuana Transporter's Licensed Premises, or any of its off-premises storage facilities. A Retail Marijuana Transporter with a valid delivery permit may store Retail Marijuana for delivery to consumers pursuant to the delivery permit for no longer than seven days from receipt at its Licensed Premises or off-premises storage facility.

E. Control of Retail Marijuana. A Retail Marijuana Transporter is responsible for the Retail Marijuana once it takes control of the Retail Marijuana and until the Retail Marijuana Transporter delivers it to another Retail Marijuana Business, Accelerator Cultivator, Medical Marijuana Cultivation Facility in accordance with Rules 5-235, 6-230, and 6-730, Pesticide Manufacturer, or to a consumer pursuant to a valid delivery permit. For purposes of this Rule, taking control of the Retail Marijuana means removing it from the Retail Marijuana Business's Licensed Premises and placing the Retail Marijuana in the transport vehicle or the Delivery Motor Vehicle.

F. Location of Orders Taken and Delivered. A Retail Marijuana Transporter is permitted to take orders on the Licensed Premises of any Retail Marijuana Business to transport Retail Marijuana between Retail Marijuana Businesses. The Retail Marijuana Transporter shall deliver the Retail Marijuana to the Licensed Premises of a licensed Retail Marijuana Business, or a Pesticide Manufacturer. A Retail Marijuana Transporter may also delivery Retail Marijuana to consumers pursuant to a contract with a Retail Marijuana Store if it possesses a valid delivery permit.

G. A Retail Marijuana Transporter shall receive Retail Marijuana from the originating Licensee packaged in the way that it is intended to be delivered to the final destination Licensee or Pesticide Manufacturer. The Retail Marijuana Transporter shall deliver the Retail Marijuana in the same, unaltered packaging to the final destination Licensee.

H. A Retail Marijuana Transporter with a valid delivery permit shall receive Retail Marijuana that has been weighed, packaged, prepared, and labeled for delivery on the Licensed Premises of a Retail Marijuana Store or at the Retail Marijuana Store's off-premises storage facility or at the Accelerator Store or the Accelerator Store's off-premises storage facility after receipt of a delivery order. Retail Marijuana cannot be placed into a Delivery Motor Vehicle until after an order has been received and the Retail Marijuana has been packaged and labeled for delivery to the consumer as required by the 3-1000 Series Rules.

I. A Retail Marijuana Transporter must not deliver Retail Marijuana to consumers while also transporting Regulated Marijuana between Licensed Premises in the Delivery Motor Vehicle.

J. Opening of Bulk Packages or Containers and Re-Packaging Prohibited. A Retail Marijuana Transporter shall not open Containers of Retail Marijuana. Retail Marijuana Transporters are prohibited from re-packaging Retail Marijuana.

K. Temperature-Controlled Transport Vehicles. A Retail Marijuana Transporter shall utilize temperature-controlled transport vehicles when necessary to prevent spoilage of the transported Retail Marijuana.

L. Damaged, Refused, or Undeliverable Retail Marijuana. Any damaged Retail Marijuana that is undeliverable to the final destination Retail Marijuana Business, or any Retail Marijuana that is refused by the final destination Retail Marijuana Business shall be transported back to the originating Retail Marijuana Business. Any Retail Marijuana that cannot be delivered to a consumer pursuant to a valid delivery permit shall be returned to the originating Retail Marijuana Store or the Retail Marijuana Store's off-premises storage facility within the same business day or pursuant to paragraph D of this Rule.

M. Transport of Retail Marijuana Vegetative Plants Authorized. Retail Marijuana Vegetative plants may only be transported between Licensed Premises and such transport shall only be permitted due to an approved change of location pursuant to Rule 2-255. Transportation of Vegetative plants to a permitted off-premises storage facility shall not be allowed.

6-600 Series – Retail Marijuana Business Operators

Basis and Purpose – 6-605

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(o), 44-10-401(2)(b)(VI), and 44-10-606, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to Retail Marijuana Business Operators. This Rule 6-605 was previously Rule R 1701, 1 CCR 212-2.

6-605 – Retail Marijuana Business Operator: License Privileges

A. Privileges Granted. A Retail Marijuana Business Operator shall only exercise those privileges granted to it by the Marijuana Code, the rules promulgated pursuant thereto and the State Licensing Authority. A Retail Marijuana Business Operator may exercise those privileges only on behalf of the Retail Marijuana Business(es) it operates. A Retail Marijuana Business shall not contract to have more than one Retail Marijuana Business Operator providing services to the Retail Marijuana Business at any given time.

B. Licensed Premises of the Retail Marijuana Business(es) Operated. A separate License is required for each specific Retail Marijuana Business Operator, and each such licensed Retail Marijuana Business Operator may operate one or more other Retail Marijuana Business(es). A Retail Marijuana Business Operator will not have its own Licensed Premises, but shall maintain its own place of business, and may exercise the privileges of a Retail Marijuana Business Operator at the Licensed Premises of the Retail Marijuana Business(es) it operates.

C. Entities Eligible to Hold Retail Marijuana Business Operator License. A Retail Marijuana Business Operator License may be held only by a business entity, including, but not limited to, a corporation, limited liability company, partnership, or sole proprietorship.

D. Separate Place of Business. A Retail Marijuana Business Operator shall designate and maintain a place of business separate from the Licensed Premises of any Retail Marijuana Business(es) it operates. A Retail Marijuana Business Operator's separate place of business shall not be considered a Licensed Premises, and shall not be subject to the requirements applicable to the Licensed Premises of other Retail Marijuana Businesses, except as set forth in Rules 6-610 and 6-620. Possession, storage, use, cultivation, manufacture, sale, distribution, or testing of Retail Marijuana is prohibited at a Retail Marijuana Business Operator's separate place of business.

E. Agency Relationship and Discipline for Violations. A Retail Marijuana Business Operator and each of its Controlling Beneficial Owners required to hold an Owner License, as well as the agents and employees of the Retail Marijuana Business Operator, shall be agents of the Retail Marijuana Business(es) the Retail Marijuana Business Operator is contracted to operate, when engaged in activities related, directly, or indirectly, to the operation of such Retail Marijuana Business(es), including for purposes of taking administrative action against the Retail Marijuana Business being operated. *See* § 44-10-901(1), C.R.S. Similarly, a Retail Marijuana Business Operator and its Controlling Beneficial Owners required to hold an Owner License, as well as the officers, agents and employees of the Retail Marijuana Business Operator, may be disciplined for violations committed by the Controlling Beneficial Owners, agents or employees of the Retail Marijuana Business acting under their direction or control. A Retail Marijuana Business Operator may also be disciplined for violations not directly related to a Retail Marijuana Business it is operating.

F. Compliance with Applicable State and Local Law, Ordinances, Rules, and Regulations. A Retail Marijuana Business Operator, and each of its Controlling Beneficial Owners, agents and employees engaged, directly or indirectly in the operation of the Retail Marijuana Business it operates, shall comply with all state and local laws, ordinances, rules and regulations applicable to the Retail Marijuana Business(es) being operated.

Basis and Purpose – 6-610

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(o), 44-10-401(2)(b)(VI), and 44-10-606, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Retail Marijuana Business Operator. This Rule 6-610 was previously Rule R 1702, 1 CCR 212-2.

6-610 – Retail Marijuana Business Operators: General Limitations or Prohibited Acts

A. Financial Interest. A Person who holds an Owner's Interest in a Retail Marijuana Business Operator may hold an Owner's Interest in another Retail Marijuana Business. A Retail Marijuana Business may be operated by a Retail Marijuana Business Operator where each has one or more Controlling Beneficial Owners or Passive Beneficial Owners in common. A Person may receive compensation for services provided by a Retail Marijuana Business Operator in accordance with these rules.

B. Sale of Marijuana Prohibited. A Retail Marijuana Business Operator is prohibited from selling, distributing, or Transferring Retail Marijuana to another Retail Marijuana Business or a consumer, except when acting as an agent of a Retail Marijuana Business (s) operated by the Retail Marijuana Business Operator.

C. Consumption Prohibited. A Retail Marijuana Business Operator, and its Controlling Beneficial Owners, Passive Beneficial Owners, agents and employees, shall not permit the consumption of marijuana or marijuana products at its separate place of business.

D. Inventory Tracking System. A Retail Marijuana Business Operator, and any of its Controlling Beneficial Owners, agents or employees engaged in the operation of the Retail Marijuana Business(es) it operates, must use the Inventory Tracking System account of the Retail Marijuana Business(es) it operates, in accordance with all requirements, limitations and prohibitions applicable to the Retail Marijuana Business(es) it operates.

E. Compliance with Requirements and Limitations Applicable to the Retail Marijuana Business(es) Operated. In operating any other Retail Marijuana Business, a Retail Marijuana Business Operator, and its Controlling Beneficial Owners who are required to hold Owner Licenses, as well as the agents and employees of the Retail Marijuana Business Operator, shall comply with all

requirements, limitations and prohibitions applicable to the type(s) of Retail Marijuana Business(es) being operated, under state and local laws, ordinances, rules, and regulations, and may be disciplined for violation of the same.

F. Inventory Tracking System Access. A Retail Marijuana Business may grant access to its Inventory Tracking System account to the Controlling Beneficial Owners, agents and employees of a Retail Marijuana Business Operator having duties related to Inventory Tracking System activities of the Retail Marijuana Business(es) being operated.

1. The Controlling Beneficial Owners, agents and employees of a Retail Marijuana Business Operator granted access to a Retail Marijuana Business's Inventory Tracking System account, shall comply with all Inventory Tracking System rules.

2. At least one Controlling Beneficial Owner of a Retail Marijuana Business being operated by a Retail Marijuana Business Operator must be an Inventory Tracking System Trained Administrator for the Retail Marijuana Business's Inventory Tracking System account. That Inventory Tracking System Trained Administrator shall control access to its Inventory Tracking System account, and shall promptly terminate the access of the Retail Marijuana Business Operator's Controlling Beneficial Owners, agents and employees:

   a. When its contract with the Retail Marijuana Business Operator expires by its terms;

   b. When its contract with the Retail Marijuana Business Operator is terminated by any party; or

   c. When it is notified that the License of the Retail Marijuana Business Operator, or a specific Controlling Beneficial Owner, agent or employee of the Retail Marijuana Business Operator, has expired, or has been suspended or revoked.

G. Limitations on Use of Documents and Information Obtained from Retail Marijuana Businesses. A Retail Marijuana Business Operator, and its agents and employees, shall maintain the confidentiality of documents and information obtained from the other Retail Marijuana Business(es) it operates, and shall not use or disseminate documents or information obtained from a Retail Marijuana Business it operates for any purpose not authorized by the Marijuana Code and the rules promulgated pursuant thereto, and shall not engage in data mining or other use of the information obtained from a Retail Marijuana Business to promote the interests of the Retail Marijuana Business Operator or its Controlling Beneficial Owners, Passive Beneficial Owners, agents or employees, or any Person other than the Retail Marijuana Business it operates.

H. Form and Structure of Allowable Agreement(s) Between Operators and Owners. Any agreement between a Retail Marijuana Business and a Retail Marijuana Business Operator:

1. Must acknowledge that the Retail Marijuana Business Operator, and its Controlling Beneficial Owners, agents and employees who are engaged, directly or indirectly, in operating the Retail Marijuana Business, are agents of the Retail Marijuana Business being operated, and must not disclaim an agency relationship;

2. May provide for the Retail Marijuana Business Operator to receive direct remuneration from the Retail Marijuana Business, including a portion of the profits of the Retail Marijuana Business being operated, subject to the following limitations:

a. The portion of the profits to be paid to the Retail Marijuana Business Operator shall be commercially reasonable, and in any event shall not exceed the portion of the net profits to be retained by the Retail Marijuana Business being operated;

b. The Retail Marijuana Business Operator shall not be granted, and may not accept:

i. A security interest in the Retail Marijuana Business being operated, or in any assets of the Retail Marijuana Business;

ii. An ownership or membership interest, shares, or shares of stock, or any right to obtain any direct or indirect beneficial ownership interest in the Retail Marijuana Business being operated, or a future or contingent right to the same, including but not limited to options or warrants;

c. The Retail Marijuana Business Operator shall not guarantee the Retail Marijuana Business's debts or production levels.

3. Shall permit the Retail Marijuana Business being operated to terminate the contract with the Retail Marijuana Business Operator at any time, with or without cause.

I. A Retail Marijuana Business Operator may engage in dual operation of a Retail Marijuana Business and a Medical Marijuana Business at a single location, to the extent the Retail Marijuana Business being operated is permitted to do so, the Retail Marijuana Business Operator shall comply with the rules promulgated pursuant to the Marijuana Code, including the requirement of obtaining a valid registration as a Medical Marijuana Business Operator.

J. Any Retail Marijuana Business Operators and the Retail Marijuana Business Operator's Owner Licensee(s) that are appointed by a court to serve as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person and take possession of, operate, manage, or control a Retail Marijuana Business must comply with Rule 2-275(F).

Basis and Purpose – 6-615

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(o), 44-10-313(12), 44-10-401(2)(b)(VI), and 44-10-401(2)(c) C.R.S. The purpose of this rule is to establish employee license requirements for the Retail Marijuana Business Operator's Controlling Beneficial Owners, agents and employees, including those directly or indirectly engaged in the operation of other Retail Marijuana Business(es). This Rule 6-615 was previously Rule R 1703, 1 CCR 212-2.

6-615 – Retail Marijuana Business Operators: Employee Licenses for Personnel

A. Required Licenses.

1. Owner Licenses. All natural persons who are Controlling Beneficial Owners in a Retail Marijuana Business Operator must have a valid Owner License, associated with the Retail Marijuana Business Operator License. Such an Owner License shall satisfy all licensing requirements for work related to the business of the Retail Marijuana Business Operator and for work performed on behalf of, or at the Licensed Premises of, the Retail Marijuana Business(es) operated by the Retail Marijuana Business Operator.

2. Employee Licenses. All other natural persons who are agents or employees of a Retail Marijuana Business Operator that are actively engaged, directly or indirectly, in the

management, supervision, or operation of one or more other Retail Marijuana Businesses, including but not limited to all agents or employees who will come into contact with Retail Marijuana, who will have access to Limited Access Areas, or who will have access to the Inventory Tracking System account of the Retail Marijuana Business(es) being operated, must hold a valid Employee License. The Employee License shall satisfy all licensing requirements for work related to the business of the Retail Marijuana Business Operator and for work at the Licensed Premises of, or on behalf of, the Retail Marijuana Business(es) operated by the Retail Marijuana Business Operator.

B. Employee Licenses Not Required. Employee Licenses are not required for Passive Beneficial Owners of a Retail Marijuana Business Operator, or for natural persons who will not come into contact with Retail Marijuana, will not have access Limited Access Area(s) of the Retail Marijuana Business(es) being operated, and will not have access to the Inventory Tracking System account of the Retail Marijuana Business(es) being operated.

C. Designation of Management Personnel of a Retail Marijuana Business Operated by a Retail Marijuana Business Operator. If a Retail Marijuana Business Operator is contracted to manage the overall operations of a Retail Marijuana Business's Licensed Premises, the Retail Marijuana Business shall designate a separate and distinct management personnel on the Licensed Premises who is an officer, agent or employee of the Retail Marijuana Business Operator, which shall be a natural person with a valid Owner License or Employee License, as set forth in paragraph A of this Rule, and the Retail Marijuana Business shall comply with the reporting provisions of subsection 44-10-313(12), C.R.S.

Basis and Purpose – 6-620

The statutory authority for this rule includes but is not limited to 44-10-202(1)(c), 44-10-203(1)(c), and 44-10-203(1)(k), C.R.S. The purpose of this rule is to establish records retention standards for a Retail Marijuana Business Operators. This Rule 6-620 was previously Rule R 1704, 1 CCR 212-2.

6-620 – Retail Marijuana Business Operators: Business Records Required

A. General Requirement. A Retail Marijuana Business Operator must maintain all required business records as set forth in Rule 3-905 - Business Records Required, except that:

1. A Retail Marijuana Business Operator is not required to maintain secure facility information, diagrams of its designated place of business, or a visitor log for its separate place of business, because a Retail Marijuana Business Operator will not come into contact with Retail Marijuana at its separate place of business; and

2. A Retail Marijuana Business Operator is not required to maintain records related to inventory tracking, or transport, because a Retail Marijuana Business Operator is prohibited from engaging in activities on its own behalf that would require inventory tracking or transport. All records relating to inventory tracking activities and records related to transport pertaining to the Retail Marijuana Business(es) operated by the Retail Marijuana Business Operator shall be maintained at the Licensed Premises of such Retail Marijuana Business(es).

B. All records required to be maintained shall be maintained at the Licensed Premises of the Retail Marijuana Business(es) it operates.

6-700 Series – Accelerator Cultivator Licenses

Basis and Purpose – 6-705

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-203(2)(j), 44-10-203(2)(r), 44-10-203(2)(aa), 44-10-203(3)(c), 44-10-401(2)(b)(VII), 44-10-602, and 44-10-607 C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to an Accelerator Cultivator licensee.

6-705 – Accelerator Cultivator: License Privileges

A. Licensed Premises.

1. Shared Licensed Premises. An Accelerator Cultivator may operate on the same Licensed Premises as a Retail Marijuana Cultivation Facility that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

2. Separate Licensed Premises. An Accelerator Cultivator may operate on a separate premises in the possession of a Retail Marijuana Cultivation Facility that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

3. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Cultivation Facility may share, and operate at, the same Licensed Premises with a commonly owned Medical Marijuana Cultivation Facility. However, a separate license is required for each specific business or business entity, regardless of geographical location. A Regulated Marijuana Business that is operating at the same premises as a commonly owned Medical Marijuana Business may become an Accelerator-Endorsed Licensee. An Accelerator Cultivator may operate at the premises where the Accelerator-Endorsed Licensee operates along with the commonly owned Medical Marijuana Cultivation Facility.

B. Cultivation of Retail Marijuana and Production of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Retail Marijuana Concentrate Authorized. An Accelerator Cultivator may propagate, cultivate, harvest, prepare, cure, package, store, and label Retail Marijuana and Physical Separation-Based Retail Marijuana Concentrate. An Accelerator Cultivator may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana from Physical Separation-Based Retail Marijuana Concentrate.

C. Authorized Transfers. An Accelerator Cultivator may only Transfer Retail Marijuana and Physical Separation-Based Retail Marijuana Concentrate to another Retail Marijuana Business or to a Medical Marijuana Cultivation Facility in compliance with Rule 6-230.

1. An Accelerator Cultivator shall not Transfer Flowering plants. An Accelerator Cultivator may only Transfer Vegetative plants as authorized pursuant to Rule 3-605.

2. An Accelerator Cultivator may Transfer Sampling Units of Retail Marijuana or Retail Marijuana Concentrate to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-602(6), C.R.S., and Rule 6-725.

3. An Accelerator Cultivator may Transfer Retail Marijuana or Retail Marijuana Concentrate to another Accelerator Cultivator or Retail Marijuana Cultivation Facility prior to testing required by these rules for the purpose of Decontamination only after all other steps outlined in the Accelerator Cultivator's standard operating procedures have been completed, including but not limited to drying, curing, and trimming.

D. Authorized On-Premises Storage. An Accelerator Cultivator is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area and tracked consistently with the inventory tracking rules.

E. Samples Provided for Testing. An Accelerator Cultivator may provide Samples of its Retail Marijuana to a Retail Marijuana Testing Facility for testing and research purposes. The Accelerator Cultivator shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

F. Authorized Marijuana Transport. An Accelerator Cultivator is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents an Accelerator Cultivator from transporting its own Retail Marijuana.

G. Performance-Based Incentives. An Accelerator Cultivator may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, an Accelerator Cultivator may not compensate a Sampling Manager using Sampling Units. *See* Rule 6-725 – Sampling Unit Protocols.

H. Authorized Sources of Retail Marijuana, Seeds and Immature Plants. An Accelerator Cultivator shall only obtain Retail Marijuana seeds or Immature Plants from its own Retail Marijuana, properly Transferred Medical Marijuana cultivated at a Medical Marijuana Cultivation Facility with at least one identical Controlling Beneficial Owner, or properly Transferred from another Retail Marijuana Business pursuant to the inventory tracking requirements in the 3-800 Series Rules. An Accelerator Cultivator may not bring seeds, Immature Plants, or other marijuana that is not Regulated Marijuana onto the Licensed Premises at any time.

I. Centralized Distribution Permit. An Accelerator Cultivator may apply to the State Licensing Authority for a Centralized Distribution Permit for authorization to temporarily store Retail Marijuana Concentrate and Retail Marijuana Product received from a Retail Marijuana Products Manufacturer for the sole purpose of Transfer to commonly owned Accelerator Stores.

1. For purposes of a Centralized Distribution Permit only, the term “commonly owned” means at least one natural person has a minimum of five percent ownership in both the Accelerator Cultivator possessing a Centralized Distribution Permit and the Accelerator Store to which the Retail Marijuana Concentrate and Retail Marijuana Product will be Transferred.

2. To apply for a Centralized Distribution Permit, an Accelerator Cultivator may submit an addendum to its new or renewal application or a separate addendum prior to a renewal application on forms prepared by the Division to request a Centralized Distribution Permit. The Accelerator Cultivator shall send a copy of its Centralized Distribution Permit addendum to the Local Licensing Authority in the jurisdiction in which the Centralized Distribution Permit is proposed at the same time it submits the addendum to the State Licensing Authority.

3. An Accelerator Cultivator that has been issued a Centralized Distribution Permit and has obtained all required approvals from the local licensing jurisdiction where it is located, if any, may accept Transfers of Retail Marijuana Concentrate and Retail Marijuana Product from a Retail Marijuana Products Manufacturer for the sole purpose of temporary storage and Transfer to commonly owned Accelerator Stores.

    a. An Accelerator Cultivator may only accept Retail Marijuana Concentrate and Retail Marijuana Product that is packaged and labeled for sale to a consumer pursuant to the 3-1000 Series Rules.

    b. An Accelerator Cultivator storing Retail Marijuana Concentrate and Retail Marijuana Product pursuant to a Centralized Distribution Permit shall not store such Retail Marijuana Concentrate or Retail Marijuana Product on the

Accelerator Cultivator's Licensed Premises for more than 90 days from the date of receipt.

c. All Transfers of Retail Marijuana Concentrate and Retail Marijuana Product by an Accelerator Cultivator pursuant to a Centralized Distribution Permit shall be without consideration.

4. All security and surveillance requirements that apply to an Accelerator Cultivator apply to activities conducted pursuant to the privileges of a Centralized Distribution Permit.

J. Transition Permit. An Accelerator Cultivator may only operate at two geographical locations pursuant to Rule 2-255(D).

Basis and Purpose – 6-710

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(f), 44-10-203(2)(h), 44-10-203(2)(j), 44-10-602, 44-10-701(2)(a), C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by an Accelerator Cultivator.

6-710 - Accelerator Cultivator: General Limitations or Prohibited Acts

A. Packaging and Labeling Standards Required. An Accelerator Cultivator is prohibited from Transferring Retail Marijuana that is not packaged and labeled in accordance with these rules. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

B. Transfer to Consumer Prohibited. An Accelerator Cultivator is prohibited from Transferring Retail Marijuana to a consumer. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-602(6), C.R.S., and Rule 6-725.

C. Excise Tax Paid. An Accelerator Cultivator shall remit any applicable excise tax due pursuant to Article 28.8 of Title 39, C.R.S.

D. Corrective and Preventive Action. This paragraph D shall be effective January 1, 2021. An Accelerator Cultivator shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

E. Adverse Health Event Reporting. An Accelerator Cultivator must report Adverse Health Events pursuant to Rule 3-920.

Basis and Purpose – 6-715

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(r), 44-10-401(2)(b)(VII), and 44-10-602, C.R.S. The purpose of this rule is to establish the categories of Retail Marijuana Concentrate that may be produced at Accelerator Cultivator and standards for the production of Retail Marijuana Concentrate.

6-715 – Accelerator Cultivator: Retail Marijuana Concentrate Production

A. Permitted Production of Certain Categories of Retail Marijuana Concentrate. An Accelerator Cultivator may only produce Physical Separation-Based Retail Marijuana Concentrate on its Licensed Premises and only in an area clearly designated as a Limited Access Area. *See* Rule 3-905- Business Records Required. No other method of production or extraction for Retail Marijuana Concentrate may be conducted within the Licensed Premises of An Accelerator Cultivator unless the Controlling Beneficial Owner(s) of the Accelerator Cultivator also has a valid Accelerator Manufacturer license and the room in which Retail Marijuana Concentrate is to be produced is physically separated from all cultivation areas and has clear signage identifying the room.

B. Safety and Sanitary Requirements for Concentrate Production. If an Accelerator Cultivator produces Retail Marijuana Concentrate, then all areas in which the Retail Marijuana Concentrate are produced and all Controlling Beneficial Owners and Employee Licensees engaged in the production of the Retail Marijuana Concentrate shall be subject to all of the requirements imposed upon an Accelerator Manufacturer that produces Retail Marijuana Concentrate, including all general requirements. *See* 3-300 Series Rules – Health and Safety Regulations and Rule 6-815 – Accelerator Manufacturer: Retail Marijuana Concentrate Production.

C. Possession of Other Categories of Retail Marijuana Concentrate.

1. It shall be considered a violation of this Rule if an Accelerator Cultivator possesses a Retail Marijuana Concentrate other than a Physical Separation-Based Retail Marijuana Concentrate on its Licensed Premises unless: the Controlling Beneficial Owner(s) of the Accelerator Cultivator also has a valid Accelerator Manufacturer license; or the Accelerator Cultivator has been issued a Centralized Distribution Permit and is in possession of the Retail Marijuana Concentrate in compliance with Rule 6-705(I).

2. Notwithstanding subparagraph (C)(1) of this Rule 6-715, an Accelerator Cultivator shall be permitted to possess Solvent-Based Retail Marijuana Concentrate only when the possession is due to the Transfer of Retail Marijuana flower or trim that failed microbial testing to an Accelerator Manufacturer for processing into a Solvent-Based Retail

Marijuana Concentrate, and the Accelerator Manufacturer Transfers the resultant Solvent-Based Retail Marijuana Concentrate back to the originating Accelerator Cultivator.

a. The Accelerator Cultivator shall comply with all requirements in Rule 4-135(C) when having Solvent-Based Retail Marijuana Concentrate manufactured out of Retail Marijuana flower or trim that failed microbial testing.

b. The Accelerator Cultivator is responsible for submitting the Solvent-Based Retail Marijuana Concentrate for all required testing for contaminants pursuant to Rule 4-120 – Regulated Marijuana Testing Program – Contaminant Testing, for potency pursuant to Rule 4-125 – Regulated Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Marijuana Rules or the Marijuana Code.

c. Nothing in this Rule removes or alters the responsibility of the Accelerator Cultivator that Transfers the Retail Marijuana that failed microbial testing from complying with the requirement to pay excise tax pursuant to Rule 6-210(C).

D. Production of Alternative Use Product or Audited Product Prohibited. An Accelerator Cultivator shall not produce an Alternative Use Product or Audited Product.

E. Possession of Alternative Use Product or Audited Product. An Accelerator Cultivator is authorized to possess or Transfer Alternative Use Product and/or Audited Product only if the Accelerator Cultivator received the Alternative Use Product and/or Audited Product pursuant to a Centralized Distribution Permit from an Accelerator Manufacturer that is manufacturing and Transferring the Alternative Use Product or Audited Product in accordance with Rule 6-325.

Basis and Purpose – 6-720

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(6), 44-10-401(2)(b)(VII), 44-10-602 and 44-10-607 C.R.S. The rule establishes a means by which to manage the overall production of Retail Marijuana in the state of Colorado. The intent of this rule is to encourage responsible production to meet demand for Retail Marijuana consumers, while also avoiding overproduction or underproduction. The establishment of production management is necessary to ensure there is not significant under or over production, either of which will increase incentives to engage in diversion and facilitate the continuation of the sale of illegal marijuana. Existing and prospective licensees should be on notice that the new or revised regulations may impact the production limits provided for in this rule.

6-720 - Accelerator Cultivator: Production Management

A. Number of Accelerator Cultivators per Licensed Premises

1. An Accelerator Cultivator may only own and operate a single Accelerator Cultivation per Licensed Premises.

2 A Retail Marijuana Cultivation Facility Licensee that is an Accelerator-Endorsed Licensee may host more than one Accelerator Cultivation owned by different Social Equity Licensees at a single Licensed Premises.

B. Production Management.

1. Production Management Tiers.

a. Tier 1: 1 - 1,800 plants

b. Tier 2: 1,801 – 3,600 plants

c. Tier 3: 3,601 – 6,000 plants

d. Tier 4: 6,001 – 10,200 plants

e. Tier 5: 10,201 – 13,800+ plants

i. Tier 5 shall not have a cap on the maximum authorized plant count.

ii. The maximum authorized plant count above 10,200 plants shall increase in one or two increments of 3,600 plants. An Accelerator Cultivator shall be allowed to increase its maximum authorized plant count one or two increments of 3,600 plants at a time upon application and approval by the Division pursuant to the requirements of paragraph (E) of this Rule 6-720.

2. All Accelerator Cultivator licenses granted on or after January 1, 2020, will be issued as a Tier 1 License.

3. Immature Plants. For purposes of calculating the maximum number of authorized plants, Immature Plants are excluded.

4. Ground for Denial. The Division may deny an application for additional plants pursuant to paragraph E of this Rule if the Licensee exceeded the authorized plant count during the relevant time period for production.

5. Violation Affecting Public Safety. It may be considered a license violation affecting public safety for a Licensee to exceed the authorized plant count pursuant to these Rules.

C. Inventory Management.

1. Inventory Management for Accelerator Cultivators that Have One or Two Harvest Seasons a Year. Beginning the 721st day from the commencement of its first cultivation activities, an Accelerator Cultivator that has one or two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Retail Marijuana flower and trim the Licensee reported as a package in the Inventory Tracking System that was Transferred to another Retail Marijuana Business in the previous 720 days.

2. Inventory Management for Accelerator Cultivators That Have More Than Two Harvest Seasons a Year. Beginning the 181st day from the commencement of its first cultivation activities, an Accelerator Cultivator that has more than two harvest seasons a year may not accumulate Harvested Marijuana in excess of the total amount of Retail Marijuana flower and trim the Licensee reported as a package in the Inventory Tracking System that was Transferred to another Retail Marijuana Business in the previous 180 days.

D. Tier Decrease. For Accelerator Cultivators that are authorized to cultivate more than 1,800 plants, the Division may review the purchases, Transfers, and cultivated plant count of the Accelerator Cultivator in connection with the license renewal process or after an investigation. Based on the Division's review, the Division may reduce the Accelerator Cultivator's maximum allowed plant count to a lower production management tier pursuant to subparagraph (C)(1) of this Rule. When determining whether to reduce the maximum authorized plant count, the Division may consider the following non-exhaustive factors including but not limited to:

1. The Accelerator Licensee sold less than 70% of what the inventory it reported as packaged in the Inventory Tracking System during any 180 day review period;

2. On average during the previous 180 days the Accelerator Licensee actually cultivated less than 90% of the maximum number of plants authorized by the next lower production management tier;

3. Whether the plants/inventory suffered a catastrophic event during the review period;

4. Excise tax payment history;

5. Existing inventory and inventory history;

6. Sales contracts; and

7. Any other factors relevant to ensuring responsible cultivation, production, and inventory management.

E. Application for Additional Plants.

1. Accelerator Cultivators That Have One or Two Harvest Seasons Per Year.

a. After accruing at least one harvest season of Transfers, an Accelerator Cultivator may apply to the Division for a production management tier increase to be authorized to cultivate the number of plants in the next highest production management tier. The Division may consider the following in determining whether to approve the production management tier increase:

i. That during the previous harvest season prior to the tier increase application, it consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count;

ii. That the Accelerator Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System in the previous 360 days to another Retail Marijuana Business;

iii. The Division may also consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the previous 360 days, if the Licensee cultivated between 75% and 85% of its maximum authorized plant count; and

iv. Any other information requested to aid the Division in its evaluation of the production management tier increase application.

b. If the Division approves the production management tier increase application, the Accelerator Licensee shall pay the applicable expanded production management tier fee prior to cultivating the additional authorized plants.

c. For an Accelerator Licensee with an authorized plant count in tiers 2-5 to continue producing at its expanded authorized plant count, the Accelerator Licensee shall pay the requisite Accelerator Cultivator license fee and the expanded production management tier fee, if applicable, at license renewal.

d. After accruing one harvest season during which the Accelerator Cultivator Transferred and consistently cultivated the Accelerator Licensee may apply to

increase its authorized plant count by: (a) two production management tiers or (b) if already authorized to cultivate at a production management Tier 5, two increments of 3,600 plants (7,200 plants total), every 360 days. It is within the Division's discretion to determine whether or not to grant the requested two tiers or increments of 3,600 plants (7,200 plants total).

i. The Accelerator Licensee must demonstrate:

A. That the Accelerator Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count; and

B. That the Accelerator Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business.

C. If the Accelerator Cultivator cultivated between 80% and 90% of its maximum authorized plant count, the Division may also consider Transfers of over 90% of the inventory it reported as a package in the Inventory Tracking System during that time period and/or Transfers into the Accelerator Cultivator or related Accelerator Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Accelerator Cultivator currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two tiers or two 3,600 plant increments;

B. The Accelerator Cultivator cultivated at least 90% of its maximum authorized plant count and during the preceding 360 days the Accelerator Cultivator and/or any commonly owned Accelerator Store Transferred in Retail Marijuana from one or more unrelated Accelerator Cultivator(s) or Retail Marijuana Cultivation Facility(ies);

C. The Accelerator Cultivator has contracts for the sale of Retail Marijuana in the next 360 days supporting the requested two tiers or two increments of 3,600 plants;

D. An established history of responsible cultivation and Transfer by the Accelerator Cultivator;

E. Any history of noncompliance with the Marijuana Code and/or Rules by the Accelerator Cultivator, or any commonly owned Retail Marijuana Business, and/or any investigation of, or administrative action(s) against, the Accelerator Cultivator, or any commonly owned Retail Marijuana Business; or

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

2. Accelerator Cultivators that have more than two harvest seasons per year.

    a. After a 180-day period during which the Accelerator Cultivator Transferred and consistently cultivated, the Accelerator Licensee may apply to the Division for a production management tier increase to be authorized to cultivate the number of plants in the next highest production management tier. The Division may consider the following in determining whether to approve the production management tier increase:

        i. That for 180 days prior to the tier increase application, the Accelerator Licensee consistently cultivated an average amount of plants that is at least 85% of its maximum authorized plant count, and

        ii. That the Accelerator Licensee Transferred at least 85% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business.

        iii. The Division may also consider Transfers of over 85% of the inventory it reported as a package in the Inventory Tracking System during the 180-day time period if the Licensee cultivated between 75% and 85% of its maximum authorized plant count.

        iv. Any other information requested to aid the Division in its evaluation of the tier increase application.

    b. If the Division approves the production management tier increase application, the Accelerator Licensee shall pay the applicable expanded production management tier fee, if applicable, prior to cultivating the additional authorized plants.

    c. For an Accelerator Licensee with an authorized plant count in tier 2-5 to continue producing at its expanded authorized plant count, the Accelerator Licensee shall pay the requisite Accelerator Cultivator license fee and the applicable expanded production management tier fee, if applicable, at license renewal.

    d. After accruing 180 days during which the Accelerator Cultivator Transferred and consistently cultivated the Accelerator Licensee may apply to increase its authorized plant count by: (a) two production management tiers or (b) if already authorized to cultivate at a tier 5, two increments of 3,600 plants (7,200 plants total) every 180 days. It is within the Division's discretion to determine whether or not to grant the requested two tier or two increments of 3,600 plants (7,200 plants total).

        i. The Accelerator Licensee must demonstrate:

            A. That the Accelerator Licensee consistently cultivated an average amount of plants that is at least 90% of its maximum authorized plant count; and

            B. That the Accelerator Licensee Transferred at least 90% of the inventory it reported as a package in the Inventory Tracking System during that time period to another Retail Marijuana Business;

            C. If the Accelerator Cultivator cultivated between 80% and 90% of its maximum authorized plant count, the Division may also

consider Transfers of over 90% of the inventory it reported as a package in the Inventory Tracking system during that time period and/or Transfers into the Accelerator Cultivator or related Accelerator Store(s).

ii. In making its determination, the Division may consider the following exclusive factors:

A. The Accelerator Cultivator currently has possession of, or has entered into a written agreement or contract to possess, sufficient space to grow the requested two tiers or two increments of 3,600 plants;

B. The Accelerator Cultivator cultivated at least 90% of its maximum authorized plant count and during the preceding 180 days the Accelerator Cultivator and/or any commonly owned Accelerator Store Transferred in Retail Marijuana from one or more unrelated Accelerator Cultivator(s) or Retail Marijuana Cultivation Facility(ies);

C. The Accelerator Cultivator has entered into a written agreement(s) or contract(s) for the sale of Retail Marijuana in the next 180 days supporting the requested two tiers or two increments of 3,600 plants;

D. An established history of responsible cultivation and Transfer by the Accelerator Cultivator;

E. Any history of noncompliance with the Marijuana Code and/or Rules by the Accelerator Cultivator or any commonly owned Retail Marijuana Business(es), and/or any investigation of, or administrative action(s) against, the Accelerator Cultivator or any commonly owned Retail Marijuana Business;

F. Any other pertinent facts or circumstances regarding responsible production and inventory management.

3. Application for Tier Increase. Applications for a tier increase that include any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation will be denied. In addition to denial, any artificial increase of plant count, manipulation of Transfer history, or other misrepresentation is a public safety violation that may result in administrative action.

Basis and Purpose – 6-725

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(VII), 44-10-602(6) and 44-10-607, C.R.S. The purpose of this rule is to establish the circumstances under which an Accelerator Cultivator may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's Regulated Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting and recordkeeping requirements on an Accelerator Cultivator that Transfer Sampling Units.

6-725 – Accelerator Cultivator - Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, an Accelerator Cultivator may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Accelerator Cultivator who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. A person may be designated as a Sampling Manager by more than one Medical Marijuana Business or Retail Marijuana Business.

3. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

4. An Accelerator Cultivator that wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-602(6), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 6-225. *See also* Rule 3-905 – Business Records Required. An Accelerator Cultivator shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Harvest Batch or Production Batch. A Sampling Unit shall not be designated until the Harvest Batch or Production Batch has satisfied the testing requirements in the 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Retail Marijuana flower or trim shall not exceed one gram.

2. A Sampling Unit of Retail Marijuana Concentrate shall not exceed one-quarter of one gram; except that a Sampling Unit of Retail Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Excise Tax Requirements. An Accelerator Cultivator must pay excise tax on Sampling Units of Retail Marijuana flower or trim, based on the average market rate of the unprocessed Retail Marijuana.

D. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Accelerator Cultivator as a Sampling Manager for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than one ounce of Retail Marijuana or eight grams of Retail Marijuana Concentrate.

4. The monthly limit established in subparagraph (D)(3) applies to each Sampling Manager, regardless of the number of Retail Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (D)(3). Before Transferring any Sampling Units, an Accelerator Cultivator shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limits established in subparagraph (D)(3).

6. A Sampling Manager shall not Transfer any Sampling Unit to any other Person, including but not limited to any other Person designated as a Sampling Manager.

E. Compensation Prohibited. An Accelerator Cultivator may not use Sampling Units to compensate a Sampling Manager.

F. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

G. Acceptable Purposes. Sampling Units shall only be designated and Transferred for the purposes of quality control and product development in accordance with section 44-10-602(6), C.R.S.

H. Record keeping requirements. An Accelerator Cultivator shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, an Accelerator Cultivator shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of quality control or product development. An Accelerator Cultivator shall also maintain copies of the Accelerator Cultivator standard operating procedures provided to Sampling Managers.

I. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-730

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(II), 44-10-602(13)(a)-(c), 44-10-602(13.5), 44-10-607, and 39-28.8-301, C.R.S. The purpose of this rule is to allow a Medical Marijuana Cultivation Facility to receive Transfers of Retail Marijuana from a Retail Marijuana Cultivation Facility in order to change its designation from “Retail” to “Medical.”

6-730 – Accelerator Cultivator: Ability to Change Designation of Regulated Marijuana

A. Changing Designation from Retail Marijuana to Medical Marijuana. Beginning July 1, 2022, an Accelerator Cultivator may Transfer Retail Marijuana to a Medical Marijuana Cultivation Facility in order to change its designation from Retail Marijuana to Medical Marijuana pursuant to the following requirements:

1. The Accelerator Cultivator may only Transfer Retail Marijuana that has passed all required testing;

2. The Medical Marijuana Cultivation Facility and the Accelerator Cultivator share a Licensed Premises in accordance with Rule 3-215;

3. The Medical Marijuana Cultivation Facility and Accelerator Cultivator have at least one identical Controlling Beneficial Owner;

4. The Accelerator Cultivator must report the Transfer in the Inventory Tracking System the same day that the change in designation from Retail Marijuana to Medical Marijuana occurs;

5. After the designation change, the Medical Marijuana cannot be Transferred to the originating Accelerator Cultivator or any other Retail Marijuana Business or otherwise be treated as Retail Marijuana. The Inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules;

6. Both the Accelerator Cultivator and the Medical Marijuana Cultivation Facility must remain at, or under, its respective inventory limit before and after the Retail Marijuana changes its designation to Medical Marijuana; and

7. The Transfer and change of designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change of designation.

B. Changing Designation from Medical Marijuana to Retail Marijuana. Beginning January 1, 2023, an Accelerator Cultivator may accept Medical Marijuana from a Medical Marijuana Cultivation Facility in order to change its designation from Medical Marijuana to Retail Marijuana pursuant to the following requirements:

1. The Accelerator Cultivator may only accept Medical Marijuana that has passed all required testing in accordance with the 4-100 Series Rules – Regulated Marijuana Testing Program;

2. The Accelerator Cultivator and the Medical Marijuana Cultivation Facility share a Licensed Premises in accordance with Rule 3-215, unless:

   a. The Accelerator Cultivator and Medical Marijuana Cultivation Facility have at least one identical Controlling Beneficial Owner; and

   b. The Accelerator Cultivator and the Medical Marijuana Cultivation Facility cannot share a Licensed Premises because the Local Licensing Authority or Local Jurisdiction prohibits the operation of either a Retail Marijuana Cultivation Facility or a Medical Marijuana Cultivation Facility.

3. The Accelerator Cultivator and Medical Marijuana Cultivation Facility have at least one identical Controlling Beneficial Owner;

4. The Accelerator Cultivator must receive the Transfer and designate the inventory as Retail Marijuana in the Inventory Tracking System the same day. The Accelerator Cultivator must assign and attach an RFID tag reflecting its Accelerator Cultivator License number to the Retail Marijuana following completion of the Transfer in the Inventory Tracking System;

5. After the designation change, the Retail Marijuana cannot be Transferred to the originating or any other Medical Marijuana Business or otherwise be treated as Medical Marijuana. The inventory is Retail Marijuana and is subject to all permissions and limitations in the 6-200 Series Rules and these 6-700 Series Rules;

6. Both the Accelerator Cultivator and the Medical Marijuana Cultivation Facility must remain at, or under, its inventory limit before and after the Medical Marijuana changes its designation to Retail Marijuana;

7. The Accelerator Cultivator shall pay any Retail Marijuana excise tax that is imposed pursuant to section 39-28.8-302, C.R.S.;

8. The Accelerator Cultivator shall notify the Local Licensing Authority and Local Jurisdiction where the Accelerator Cultivator and the Medical Marijuana Cultivation Facility operate

and pay any applicable excise tax on the Retail Marijuana in the manner determined by the Local Licensing Authority and Local Jurisdiction; and

9. Pursuant to the requirements of this subparagraph (B), an Accelerator Cultivator may receive a virtual Transfer of Medical Marijuana that is reflected in the Inventory Tracking System even if the Medical Marijuana is not physically moved prior to the change of designation to Retail Marijuana.

Basis and Purpose – 6-735

The Statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(j.5), 44-10-203(1)(k), 44-10-401(2)(b)(II), and 44-10-502(10)(a)-(c) The purpose of this rule is to allow an Accelerator Cultivator licensees that plan to cultivate Retail Marijuana outdoors to submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event.

6-735 Accelerator Cultivator: Contingency Plan for Outdoor Cultivation

A. Submission of Contingency Plan.

1. Beginning January 1, 2022, Accelerator Cultivator Licensees that plan to cultivate Retail Marijuana outdoors may submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event. The Accelerator Cultivator shall also submit a copy of the plan to the Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Retail Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

2. An Accelerator Cultivator may submit a contingency plan at any time, but it must be filed at least 7 days prior to taking action pursuant to the contingency plan and must be approved by the State Licensing Authority prior to taking action pursuant to the contingency plan.

3. After initial submission and approval of a contingency plan, a contingency plan must be submitted with the Accelerator Cultivator's license renewal application. Any significant change to a contingency plan prior to a renewal application must be submitted for review and approval pursuant to subsection (A)(2) above prior to taking action pursuant to the revised contingency plan.

4. The Division shall notify the appropriate Local Licensing Authorities of the approval of the contingency plan.

B. Requirements for Outdoor Contingency Plans.

1. Identification of the type of Adverse Weather Event that the plan applies to, including any deviations based on the type of Adverse Weather Event.

2. Primary contact. A primary contact for the Accelerator Cultivator must be identified on the contingency plan, including the: name, title, phone number, and email address of the primary contact. The Accelerator Cultivator shall notify the Division of any change to the primary contact or required contact information within 48 hours of the change.

3. Transport Manifest. If the contingency plan provides for the Transfer of Retail Marijuana, an Accelerator Cultivator shall submit a standing transport manifest that could be used by a Licensee upon approval during an Adverse Weather Event if creating a transport

manifest through the Inventory Tracking System is impracticable. The standing transport manifest shall include: identification and address of the receiving Licensee.

4. Disclosure of Receiving Licensed Premises.

   a. Retail Marijuana may only be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or an off-premises storage facility.

   b. If Retail Marijuana will be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility pursuant to a contingency plan, that plan must include the name, ownership, and address of the receiving Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility, along with a diagram of the proposed receiving Licensed Premises.

   c. The receiving Licensed Premises shall be an existing location that currently holds an approved state and local license or an off-premises storage facility permit. The receiving Licensee is not required to share any Controlling Beneficial Owners with the Transferring Retail Marijuana Cultivation Facility.

   d. An Accelerator Cultivator that cultivates outdoors may identify and Transfer Retail Marijuana to no more than five receiving Licensed Premises' as part of a contingency plan.

5. Disclosure of Modifications to the Premises and Security and Surveillance. Proposed modifications to the Licenses Premises and any anticipated impacts to compliance with security and surveillance requirements pursuant to Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6).

C. License Requirements when Acting Pursuant to a Contingency Plan. To the extent that this subsection (C) conflicts with other rule sections, this subsection shall control during the time that a Licensee is acting pursuant to a contingency plan.

1. Notification.

   a. Notification of action pursuant to an approved contingency plan shall be made to the Division within 24 hours after initiating action pursuant to a contingency plan. An Accelerator Cultivator that cultivates outdoors must also notify the Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Retail Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

   b. Notification of ceasing action pursuant to the approved contingency plan shall be made to the Division within 24 hours of returning to normal business operations. If action will continue more than 7 days after initiating action pursuant to a contingency plan, the Licensee shall contact the Division and explain why it cannot return to normal business operations.

   c. Any notification shall be made in writing and can be made by email to the Division.

2. Production Management. Retail Marijuana Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility pursuant to a contingency plan is not included in the receiving Licensed Premises' inventory limit until the Accelerator Cultivator acting pursuant to the contingency plan returns to normal business operations.

3. Modification of Premises. An application for a modification of a Licensed Premises is not required as part of a contingency plan unless the modification or change in premises becomes a permanent modification. If that change becomes a permanent change, a modification of premises application must be submitted within 14 days.

4. Security Requirements. All security and surveillance requirements that apply to an Accelerator Cultivator apply to activities conducted pursuant to the contingency plan. If the contingency plan does not require the Transfer of Regulated Marijuana to another Licensed Premises, but requires plants to be covered or video surveillance to be otherwise temporarily obstructed, exemptions to the video surveillance requirements in Rules 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6) may be approved as part of the contingency plan.

5. Inventory Tracking Requirements. Licensees must use the Inventory Tracking System to ensure Retail Marijuana is identified and tracked during all times that action is being taken pursuant to a contingency plan. If an Accelerator Cultivator harvests, Transfers, or packages Retail Marijuana it must be fully reconciled in the Inventory Tracking System within 48 hours of initiating action pursuant to the contingency plan.

    a. Harvest Requirements. If Retail Marijuana is harvested, the weight of Retail Marijuana can be captured on a per harvest level and equally applied to individual plants rather than requiring the initial wet weight of each plant. This initial harvest weight may be captured at a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility upon arrival at the Licensed Premises approved as part of the contingency plan. Harvest Batches and Inventory Tracking System packages must be reported by the Retail Marijuana Cultivation Facility acting pursuant to the contingency plan in the Inventory Tracking System.

    b. Transport Manifest. The Accelerator Cultivator acting pursuant to the contingency plan must report all Retail Marijuana that is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility on a transport manifest.

        i. A Licensee may use the approved standing transport manifest during an Adverse Weather Event only when using the Inventory Tracking System is not possible.

        ii. The Licensee shall manually fill out the dates, times, and individual transporting Retail Marijuana on a copy of the standing transport manifest.

        iii. The Licensee shall ensure the standing transport manifest and copy of the approved Contingency plan remain in the Licensee's possession during any transport of Retail Marijuana when it is not possible to use an Inventory Tracking System generated transportation manifest at the time of the Adverse Weather Event.

6. Transfers. If Retail Marijuana is Transferred to another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility it is exempted from the packaging and labeling requirements in Rule 3-1005(B).

7. Virtual and Physical Separation. If Retail Marijuana is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility that inventory must be virtually separated by Harvest Batch and must also be virtually and physically separated from the receiving Licensee's inventory. Harvest Batches must also be clearly identified at the receiving Licensed Premises with the Harvest Batch name and date of harvest.

8. Finishing Product. After Transferring Retail Marijuana to another Licensed Premises, an Accelerator Cultivator may finish that harvest at the receiving Licensed Premises if all Retail Marijuana is accounted for in the Inventory Tracking System and the Licensed Premises is in compliance with all surveillance requirements.

9. Testing. The originating Licensee acting pursuant to a contingency plan is responsible for the submission of Test Batch(es).

    a. Each Harvest Batch or Production Batch Transferred pursuant to a contingency plan must be submitted for all required tests and is not eligible for a Reduced Testing Allowance or otherwise exempt from required testing.

    b. Any passing or failing tests of a Harvest Batch or Production Batch Transferred pursuant to a contingency plan will not count for or against a Licensee's Reduced Testing Allowance.

6-800 Series – Accelerator Manufacturer Licenses

Basis and Purpose – 6-805

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-203(2)(aa), 44-10-307(1)(j), 44-10-401(2)(b)(VIII), 44-10-603 and 44-10-608, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to an Accelerator Manufacturer.

6-805 – Accelerator Manufacturer: License Privileges

A. Licensed Premises.

1. Shared Licensed Premises. An Accelerator Manufacturer may operate on the same Licensed Premises as a Retail Marijuana Products Manufacturer that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

2. Separate Licensed Premises. An Accelerator Manufacturer may operate on a separate premises in the possession of a Retail Marijuana Products Manufacturer that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

3. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Products Manufacturer may share, and operate at, the same Licensed Premises with a commonly owned Medical Marijuana Products Manufacturer Facility. However, a separate license is required for each specific business or business entity, regardless of geographical location. A Regulated Marijuana Business that is operating at the same premises as a commonly owned Medical Marijuana Business may become an Accelerator-Endorsed

Licensee. An Accelerator Manufacturer may operate at the premises where the Accelerator-Endorsed Licensee operates along with the commonly owned Medical Marijuana Products Manufacturer.

B. Authorized Transfers. An Accelerator Manufacturer is authorized to Transfer Retail Marijuana as follows:

1. Retail Marijuana Concentrate and Retail Marijuana Product.

a. An Accelerator Manufacturer may Transfer Retail Marijuana Concentrate or Retail Marijuana Product to Retail Marijuana Stores, Accelerator Stores, other Accelerator Manufacturers, Retail Marijuana Products Manufacturers, Retail Marijuana Testing Facilities, Retail Marijuana Hospitality and Sales Businesses, and Pesticide Manufacturers.

b. An Accelerator Manufacturer may Transfer Retail Marijuana Product and Retail Marijuana Concentrate to a Retail Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit.

i. Prior to any Transfer pursuant to this Rule 6-805(B)(1)(b), an Accelerator Manufacturer shall verify the Retail Marijuana Cultivation Facility possesses a valid Centralized Distribution Permit. *See* Rule 6-205 – Retail Marijuana Cultivation Facility: License Privileges.

ii. For any Transfer pursuant to this Rule 6-805(B)(1)(b), an Accelerator Manufacturer shall only Transfer Retail Marijuana Product and Retail Marijuana Concentrate that is packaged and labeled for Transfer to a consumer. *See* 3-1000 Series Rules.

c. An Accelerator Manufacturer may Transfer Retail Marijuana Concentrate to a Medical Marijuana Products Manufacturer in compliance with Rule 6-335.

2. Retail Marijuana. An Accelerator Manufacturer may Transfer Retail Marijuana to other Accelerator Manufacturers, Retail Marijuana Products Manufacturer, Retail Marijuana Testing Facilities, Accelerator Stores, and Retail Marijuana Stores.

3. Sampling Units. An Accelerator Manufacturer may also Transfer Sampling Units of its own Retail Marijuana Concentrate or Retail Marijuana Product to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-603(10), C.R.S., and Rule 6-820.

C. Manufacture of Retail Marijuana Concentrate and Retail Marijuana Product and Production of Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana Authorized. An Accelerator Manufacturer may manufacture, prepare, package, store, and label Retail Marijuana Concentrate and Retail Marijuana Product comprised of Retail Marijuana and other Ingredients intended for use or consumption, such as Edible Retail Marijuana Products, ointments, or tinctures. An Accelerator Manufacturer may also produce Pre-Rolled Marijuana and Infused Pre-Rolled Marijuana.

1. Industrial Hemp Product Authorized. An Accelerator Manufacturer that uses Industrial Hemp Product as an Ingredient in the manufacture and preparation of Retail Marijuana Product must comply with this subparagraph (C)(1) of this Rule.

a. Prior to accepting and taking possession of any Industrial Hemp Product for use as an Ingredient in a Retail Marijuana Product the Accelerator Manufacturer shall verify the following:

i. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Retail Marijuana Testing Facility; and

ii. That the Person Transferring the Industrial Hemp Product to the Accelerator Manufacturer is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

D. Location Prohibited. An Accelerator Manufacturer may not manufacture, prepare, package, store, or label Retail Marijuana Concentrate or Retail Marijuana Product in a location that is operating as a retail food establishment.

E. Samples Provided for Testing. An Accelerator Manufacturer may provide samples of its Retail Marijuana Concentrate or Retail Marijuana Product to a Retail Marijuana Testing Facility for testing and research purposes. The Accelerator Manufacturer shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

F. Authorized Marijuana Transport. An Accelerator Manufacturer is authorized to utilize a Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken is a Retail Marijuana Business and the transportation order is delivered to a Retail Marijuana Business or Pesticide Manufacturer. Nothing in this Rule prevents an Accelerator Manufacturer from transporting its own Retail Marijuana.

G. Performance-Based Incentives. An Accelerator Manufacturer may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, an Accelerator Manufacturer may not compensate a Sampling Manager using Sampling Units. *See* Rule 6-820 – Sampling Unit Protocols.

Basis and Purpose – 6-810

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-203(2)(aa), 44-10-203(3)(d), 44-10-401(2)(b)(VIII), 44-10-603, 44-10-608 and 44-10-701(2)(a), C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion or prohibited by an Accelerator Manufacturer.

6-810 – Accelerator Manufacturer: General Limitations or Prohibited Acts

A. Packaging and Labeling Standards Required. An Accelerator Manufacturer is prohibited from Transferring Retail Marijuana Concentrate or Retail Marijuana Product that are not properly packaged and labeled. *See* 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

B. THC Content Container Restriction. Each individually packaged Edible Retail Marijuana Product, even if comprised of multiple servings, may include no more than a total of 100 milligrams of active THC. *See* Rule 3-1010 – Packaging and Labeling – General Requirements Prior to Transfer to a Consumer.

1. Exception for Bulk Transfers to Retail Marijuana Hospitality and Sales Businesses. An individually packaged Edible Retail Marijuana Product comprised of multiple servings that is Transferred in bulk to a Retail Marijuana Hospitality and Sales Establishment may include more than a total of 100 milligrams of active THC.

i. An Accelerator Manufacturer shall develop and maintain standard operating procedures, and any additional equipment necessary, to ensure that a Retail Marijuana Hospitality and Sales Business receiving bulk Transfers of Edible

Retail Marijuana Product can measure accurately the Edible Retail Marijuana Product in single serving sizes equal to or less than 10 milligrams of active THC per serving.

C. Transfer to Consumer Prohibited. An Accelerator Manufacturer is prohibited from Transferring Retail Marijuana to a consumer. This prohibition does not apply to Transfers to a Sampling Manager that comply with section 44-10-603(10), C.R.S., and Rule 6-820.

D. Adequate Care of Perishable Product. An Accelerator Manufacturer must provide adequate refrigeration for perishable Retail Marijuana Product that will be consumed and shall utilize adequate storage facilities and transport methods.

E. Homogeneity of Edible Retail Marijuana Product. An Accelerator Manufacturer must ensure that its manufacturing processes are designed so that the Cannabinoid content of any Edible Retail Marijuana Product is homogenous.

F. Use of Ingredients. An Accelerator Manufacturer must obtain and maintain certificates of analysis or other records demonstrating the full composition of each Ingredient used in the manufacture of Vaporizer Delivery Devices or Pressurized Metered Dose Inhalers.

G. Corrective and Preventive Action. This paragraph G shall be effective January 1, 2021. An Accelerator Manufacturer shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation.

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

H. Adverse Health Event Reporting. An Accelerator Manufacturer must report Adverse Health Events pursuant to Rule 3-920.

Basis and Purpose – 6-815

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-401(2)(b)(VIII), 44-10-203(2)(aa), 44-10-603, and 44-10-608, C.R.S. The purpose of this rule is to establish the categories of Retail Marijuana Concentrate that may be produced at an Accelerator Manufacturer and establish standards for the production of Retail Marijuana Concentrate. Nothing in this rule authorizes the unlicensed practice of engineering under Article 25 of Title 12, C.R.S.

6-815 – Accelerator Manufacturer: Retail Marijuana Concentrate Production

A. Permitted Categories of Retail Marijuana Concentrate Production.

1. An Accelerator Manufacturer may produce Physical Separation-Based Retail Marijuana Concentrate, Food-Based Retail Marijuana Concentrate and Heat/Pressure-Based Retail Marijuana Concentrate.

2. An Accelerator Manufacturer may also produce Solvent-Based Retail Marijuana Concentrate using only the following solvents: butane, propane, CO_2, ethanol, isopropanol, acetone, heptane, ethyl acetate, and pentane. The use of any other solvent is expressly prohibited unless it is approved by the Division.

3. An Accelerator Manufacturer may submit a request to the Division to consider the approval of solvents not permitted for use under this Rule during the next permanent rulemaking.

B. General Applicability. An Accelerator Manufacturer that engages in the production of Retail Marijuana Concentrate, regardless of the method of extraction or category of concentrate being produced, must:

1. Ensure that the space in which any Retail Marijuana Concentrate is to be produced is a fully enclosed room and clearly designated on the current diagram of the Licensed Premises. *See* Rule 3-905- Business Records Required.

2. Ensure that all applicable sanitary rules are followed. *See* 3-300 Series Rules.

3. Ensure that the standard operating procedure for each method used to produce a Retail Marijuana Concentrate includes, but need not be limited to, step-by-step instructions on how to safely and appropriately:

a. Conduct all necessary safety checks prior to commencing production;

b. Prepare Retail Marijuana for processing;

c. Extract Cannabinoids and other essential components of Retail Marijuana;

d. Purge any solvent or other unwanted components from a Retail Marijuana Concentrate,

e. Clean all equipment, counters and surfaces thoroughly; and

f. Dispose of any waste produced during the processing of Retail Marijuana in accordance with all applicable local, state and federal laws, rules and regulations. *See* Rule 3-230 – Waste Disposal.

4. Establish written and documentable quality control procedures designed to maximize safety for Owner Licensees and Employee Licensees and minimize potential product contamination.

5. Establish written emergency procedures to be followed by Owner Licensees or Employee Licensees in case of a fire, chemical spill or other emergency.

6. Have a comprehensive training manual that provides step-by-step instructions for each method used to produce a Retail Marijuana Concentrate. The training manual must include, but need not be limited to, the following topics:

    a. All standard operating procedures for each method of concentrate production used;

    b. The Accelerator Manufacturer's quality control procedures;

    c. The emergency procedures;

    d. The appropriate use of any necessary safety or sanitary equipment;

    e. The hazards presented by all solvents used as described in the safety data sheet for each solvent;

    f. Clear instructions on the safe use of all equipment involved in each process and in accordance with manufacturer's instructions, where applicable; and

    g. Any additional periodic cleaning required to comply with all applicable sanitary rules.

7. Provide adequate training to every Owner Licensee or Employee Licensee prior to that individual undertaking any step in the process of producing a Retail Marijuana Concentrate.

    a. Adequate training must include, but need not be limited to, providing a copy of the training manual for that Licensed Premises and live, in-person instruction detailing at least all of the topics required to be included in the training manual.

    b. The individual training an Owner Licensee or Employee Licensee must sign and date a document attesting that all required aspects of training were conducted and that he or she is confident that the Owner Licensee or Employee Licensee can safely produce a Retail Marijuana Concentrate. *See* Rule 3-905 – Business Records Required.

    c. The Owner Licensee or Employee Licensee that received the training must sign and date a document attesting that he or she can safely implement all standard operating procedures, quality control procedures, and emergency procedures, operate all closed-loop extraction systems, use all safety, sanitary and other equipment and understands all hazards presented by the solvents to be used within the Licensed Premises and any additional periodic cleaning required to maintain compliance with all applicable sanitary rules. *See* Rule 3-905 – Business Records Required.

8. Maintain clear and comprehensive records of the name, signature and Owner Licensee or Employee License number of every individual who engaged in any step related to the

creation of a Production Batch of Retail Marijuana Concentrate and the step that individual performed. *See* Rule 3-905 – Business Records Required.

9. Accelerator Manufacturers Engaged in the Remediation of Retail Marijuana for elemental impurities. Retail Marijuana Products Manufacturers engaged in the Remediation of Retail Marijuana for elemental impurities shall:

    a. Implement effective cleaning procedures, additional testing plans, and other measures that will be performed to prevent cross contamination.

        i. If potentially contaminated equipment, ingredients, or solvents used in the Remediation process are used for processing other 'non remediated' material, the subsequent Production Batch made using the equipment, ingredients, or solvent must then be tested for elemental impurities, and the Production Batch made using that equipment, ingredients, or solvents is not eligible for a Reduced Testing Allowance or otherwise exempt from required testing.

        ii. Manufacturers must document the equipment and lots of ingredients/solvents used in Remediation to ensure this requirement is met.

    b. Register as a hazardous waste generator, obtain a U.S. Environmental Protection Agency ID number for manifesting hazardous waste, and must have a disposal contract in place with a hazardous waste management company prior to attempting Remediation.

    c. Have a staff member who has received basic training in hazardous waste identification, storage, and disposal procedures, or hire a consultant who satisfies this criteria.

    d. Regardless of which type of analyte, if the Retail Marijuana flower, wet whole plant, or trim has failed testing for elemental impurities, the Licensee must implement Standard Operating Procedures to ensure:

        i. That contaminated material is stored in a labelled container identifying the material as potentially hazardous, and that the container seals in such a way to prevent the risk of cross contamination or inhalation of dusts.

        ii. That when material is removed from the sealed container and handled in any fashion (preparation, the extraction or other Remediation process, wasting, etc.), any workers exposed to dusts or particulates generated from the material must wear appropriate personal protective equipment (PPE), including at minimum: gloves, American National Standards Institute (ANSI) Z87.1 safety glasses, and a respirator rated to protect them from airborne dusts or particulates that may contain elemental impurities. Respirators should utilize National Institute for Occupational Safety and Health rated particulate filters of sufficient grade to prevent exposure to airborne dusts that could contain elemental impurities.

            A. Workers utilizing a respirator must comply with applicable Occupational Safety and Health Administration regulations regarding respirator use before handling contaminated material. This includes receiving respirator clearance from a qualified

professional and passing a respirator fit test before using a respirator.

e. Additional forms of environmental airborne particulate control, such as industrial air filtration systems, handling material inside of enclosures, etc. must be implemented by the licensee to minimize the risk of exposure or cross contamination of contaminated dusts.

f. These steps must be documented in the licensee's respiratory protection program that all employees exposed to elemental impurities contaminated plant material and waste products must be trained on.

g. The Licensee must establish and train employees on SOPs designed to safely handle this contaminated material and prevent cross contamination.

h. Mercury poses additional workplaces hazards since it is easily volatilized and since mercury vapor is highly toxic. Before attempting to remediate any Regulated Marijuana flower, wet whole plant, or trim that has failed elemental impurities testing and contains mercury, Licensees must additionally:

i. Work with a certified industrial hygienist to develop and implement some form of monitoring program that is capable of detecting mercury vapor concentrations in the areas where material contaminated with mercury will be processed and can be used to generate time weighted average exposures to mercury vapor. The monitoring system must be sufficient to ensure airborne concentrations of mercury do not exceed Occupational Safety and Health Administration Permissible Exposure Limits for Airborne Contaminants.

ii. Have a certified industrial hygienist approve the licensee's air handling system for managing mercury vapors in a fashion that is compliant with the Occupational Safety and Health Administration, and other applicable federal, state, and local regulations.

iii. Utilize a National Institute for Occupational Safety and Health rated half mask respirator with cartridges rated specifically for mercury vapor.

i. A Licensee must ensure their processes and safety practices comply with applicable federal, state, and local environmental health and safety regulations.

C. Physical Separation-Based Retail Marijuana Concentrate, Food-Based Retail Marijuana Concentrate and Heat/Pressure-Based Retail Marijuana Concentrate. An Accelerator Manufacturer that engages in the production of a Retail Marijuana Concentrate must:

1. Ensure that all equipment, counters and surfaces used in the production of Retail Marijuana Concentrate is food-grade including ensuring that all counters and surface areas were constructed in such a manner that it reduces the potential for the development of microbials, molds and fungi and can be easily cleaned.

2. Ensure that all equipment, counters, and surfaces used in the production of a Retail Marijuana Concentrate are thoroughly cleaned after the completion of each Production Batch.

3. Ensure that any room in which dry ice is stored or used in processing Retail Marijuana into a Retail Marijuana Concentrate is well ventilated to prevent against the accumulation of dangerous levels of CO_2.

4. Ensure that the appropriate safety or sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Retail Marijuana Concentrate.

5. Ensure that only finished drinking water and ice made from finished drinking water is used in the production of a Physical Separation-Based Retail Marijuana Concentrate.

6. Ensure that if propylene glycol or glycerin is used in the production of a Food-Based Retail Marijuana Concentrate, then the propylene glycol or glycerin to be used is food-grade.

7. Follow all of the rules related to the production of a Solvent-Based Retail Marijuana Concentrate if a pressurized system is used in the production of a Retail Marijuana Concentrate.

D. Solvent-Based Retail Marijuana Concentrate. An Accelerator Manufacturer that engages in the production of Solvent-Based Retail Marijuana Concentrate must:

1. Obtain a report from an Industrial Hygienist or a Professional Engineer that certifies that the equipment, Licensed Premises and standard operating procedures comply with these rules and all applicable local and state building codes, fire codes, electrical codes and other laws. If a Local Jurisdiction has not adopted a local building code or fire code or if local regulations do not address a specific issue, then the Industrial Hygienist or Professional Engineer shall certify compliance with the International Building Code of 2012 (http://www.iccsafe.org), the International Fire Code of 2012 (http://www.iccsafe.org) or the National Electric Code of 2014 (http://www.nfpa.org), as appropriate. Note that this Rule does not include any later amendments or editions to each Code. The Division has maintained a copy of each code, each of which is available to the public;

   a. Flammable Solvent Determinations. If a Flammable Solvent is to be used in the processing of Retail Marijuana into a Retail Marijuana Concentrate, then the Industrial Hygienist or Professional Engineer must:

      i. Establish a maximum amount of Flammable Solvents and other flammable materials that may be stored within that Licensed Premises in accordance with applicable laws, rules and regulations;

      ii. Determine what type of electrical equipment, which may include but need not be limited to outlets, lights and junction boxes, must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored in accordance with applicable laws, rules and regulations;

      iii. Determine whether a gas monitoring system must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations; and

      iv. Determine whether fire suppression system must be installed within the room in which Retail Marijuana Concentrate is to be produced or

Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

b. CO_2 Solvent Determination. If CO_2 is used as solvent at the Licensed Premises, then the Industrial Hygienist or Professional Engineer must determine whether a CO_2 gas monitoring system must be installed within the room in which Retail Marijuana Concentrate is to be produced or CO_2 is stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

c. Exhaust System Determination. The Industrial Hygienist or Professional Engineer must determine whether a fume vent hood or exhaust system must be installed within the room in which Retail Marijuana Concentrate is to be produced, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

d. Material Change. If an Accelerator Manufacturer makes a Material Change to its equipment or a concentrate production procedure, in addition to all other requirements, it must obtain a report from an Industrial Hygienist or Professional Engineer re-certifying its standard operating procedures and, if changed, its equipment as well.

e. Manufacturer's Instructions. The Industrial Hygienist or Professional Engineer may review and consider any information provided to the Accelerator Manufacturer by the designer or manufacturer of any equipment used in the processing of Retail Marijuana into a Retail Marijuana Concentrate.

f. Records Retention. An Accelerator Manufacturer must maintain copy of all reports received from an Industrial Hygienist and Professional Engineer on its Licensed Premises. Notwithstanding any other law, rule, or regulation, compliance with this Rule is not satisfied by storing these reports outside of the Licensed Premises. Instead the reports must be maintained on the Licensed Premises until the Licensee ceases production of Retail Marijuana Concentrate on the Licensed Premises.

2. Ensure that all equipment, counters and surfaces used in the production of a Solvent-Based Retail Marijuana Concentrate are food-grade and do not react adversely with any of the solvents to be used in the Licensed Premises. Additionally, all counters and surface areas must be constructed in a manner that reduces the potential development of microbials, molds and fungi and can be easily cleaned;

3. Ensure that the room in which Solvent-Based Retail Marijuana Concentrate shall be produced must contain an emergency eye-wash station;

4. Ensure that only a professional grade, closed-loop extraction system capable of recovering the solvent is used to produce Solvent-Based Retail Marijuana Concentrate;

a. UL or ETL Listing.

i. If the system is UL or ETL listed, then an Accelerator Manufacturer may use the system in accordance with the manufacturer's instructions.

ii. If the system is UL or ETL listed but the Accelerator Manufacturer intends to use a solvent in the system that is not listed in the manufacturer's instructions for use in the system, then, prior to using the unlisted solvent

within the system, the Accelerator Manufacturer must obtain written approval for use of the non-listed solvent in the system from either the system's manufacturer or a Professional Engineer after the Professional Engineer has conducted a peer review of the system. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

iii. If the system is not UL or ETL listed, then there must a designer of record. If the designer of record is not a Professional Engineer, then the system must be peer reviewed by a Professional Engineer. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

b. Ethanol or Isopropanol. An Accelerator Manufacturer need not use a professional grade, closed-loop system extraction system capable of recovering the solvent for the production of a Solvent-Based Retail Marijuana Concentrate if ethanol or isopropanol are the only solvents being used in the production process.

5. Ensure that all solvents used in the extraction process are food-grade or at least 99% pure;

a. An Accelerator Manufacturer must obtain a safety data sheet for each solvent used or stored on the Licensed Premises. An Accelerator Manufacturer must maintain a current copy of the safety data sheet and a receipt of purchase for all solvents used or to be used in an extraction process. *See* Rule 3-905 – Business Records Required.

b. An Accelerator Manufacturer is prohibited from using denatured alcohol to produce a Retail Marijuana Concentrate, unless the denaturant is an approved solvent listed in Rule 6-815(A)(2) and the alcohol and the denaturant meet all other requirements set forth in this Rule.

6. Ensure that all Flammable Solvents or other flammable materials, chemicals and waste are stored in accordance with all applicable laws, rules and regulations. At no time may an Accelerator Manufacturer store more Flammable Solvent on its Licensed Premises than the maximum amount established for that Licensed Premises by the Industrial Hygienist or Professional Engineer;

7. Ensure that the appropriate safety and sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner Licensee or Employee Licensee engaged in the production of a Solvent-Based Retail Marijuana Concentrate; and

8. Ensure that a trained Owner Licensee or Employee Licensee is present at all times during the production of a Solvent-Based Retail Marijuana Concentrate whenever an extraction process requires the use of pressurized equipment.

E. Ethanol and Isopropanol. If an Accelerator Manufacturer only produces Solvent-Based Retail Marijuana Concentrate using ethanol or isopropanol at its Licensed Premises and no other solvent, then it shall be considered exempt from paragraph D of this Rule and instead must follow the requirements in paragraph C of this Rule. Regardless of which rule is followed, the ethanol or isopropanol must be food grade or at least 99% pure and denatured alcohol cannot be used. The Accelerator Manufacturer shall comply with contaminant testing required in Rule 4-120(C)(4).

F. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-820

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(2)(d), 44-10-203(1)(k), 44-10-203(2)(h), 44-10-401(2)(b)(VIII), 44-10-603(10), and 44-10-608 C.R.S. The purpose of this rule is to establish the circumstances under which an Accelerator Manufacturer may provide Sampling Units to a designated Sampling Manager for quality control or product development purposes. In order to maintain the integrity of Colorado's regulated Retail Marijuana Businesses, this rule establishes limits on the amount of Sampling Units a Sampling Manager may receive in a calendar month and imposes inventory tracking, reporting and recordkeeping requirements on an Accelerator Manufacturer that Transfer Sampling Units.

6-820 – Accelerator Manufacturer: Sampling Unit Protocols

A. Designation of Sampling Manager(s). In any calendar month, an Accelerator Manufacturer may designate no more than five Sampling Managers in the Inventory Tracking System.

1. Only management personnel of the Accelerator Manufacturer who holds an Owner License or an Employee License may be designated as a Sampling Manager.

2. An individual may be designated as a Sampling Manager by more than one Retail Marijuana Business.

3. By virtue of the decision to be designated as a Sampling Manager, the Sampling Manager expressly consents to being identified in the Inventory Tracking System and makes a voluntary decision that any Sampling Units Transferred to the Sampling Manager will be identified in the Inventory Tracking System.

4. An Accelerator Manufacturer who wishes to provide Sampling Units to a Sampling Manager shall first establish and provide to each Sampling Manager standard operating procedures that explain the requirements of section 44-10-603(10), C.R.S., the personal possession limits pursuant to section 18-18-406, C.R.S., and the requirements of this Rule 6-820. *See also* Rule 3-905 – Business Records Required. An Accelerator Marijuana Products Manufacturer shall maintain and update such standard operating procedures as necessary to reflect accurately any changes in the relevant statutes and rules.

B. Sampling Unit Limits. Only one Sampling Unit may be designated per Production Batch. A Sampling Unit shall not be designated until the Production Batch has satisfied the testing requirements in the 4-100 Series Rules – Regulated Marijuana Testing Program.

1. A Sampling Unit of Retail Marijuana Product shall not exceed one Standardized Serving of Marijuana.

2. A Sampling Unit of Retail Marijuana Concentrate shall not exceed one quarter of one gram; except that a Sampling Unit of Retail Marijuana Concentrate which has the intended use of being delivered in a vaporized form shall not exceed one-half of one gram.

C. Transfer Restrictions.

1. No Sampling Unit shall be Transferred unless it is packaged and labeled in accordance with the requirements in the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

2. No Sampling Unit shall be Transferred to any individual who is not currently designated in the Inventory Tracking System by the Accelerator Manufacturer as a Sampling Manger for the calendar month in which the Transfer occurs.

3. In any calendar month, a Sampling Manager shall not receive Sampling Units totaling more than:

   a. With respect to Retail Marijuana Product, fourteen Standardized Servings of Marijuana; and

   b. Eight grams of Retail Marijuana Concentrate.

4. The monthly limit established in subparagraph (C)(3) applies to each Sampling Manager, regardless of the number of Retail Marijuana Businesses with which the Sampling Manager is associated.

5. A Sampling Manager shall not accept Sampling Units in excess of the monthly limit established in subparagraph (C)(3). Before Transferring any Sampling Units, an Accelerator Manufacturer shall verify with the recipient Sampling Manager that the Sampling Manager will not exceed the monthly limit established in subparagraph (C)(3).

6. A Sampling Manager shall not Transfer any Sampling Unit to any other Person, including but not limited to any other Person designated as a Sampling Manager.

D. Compensation Prohibited. An Accelerator Manufacturer may not use Sampling Units to compensate a Sampling Manager.

E. On-Premises Consumption Prohibited. A Sampling Manager shall not consume any Sampling Unit on any Licensed Premises.

F. Acceptable Purposes. Sampling Units shall only be designated and Transferred for purposes of quality control and product development in accordance with section 44-10-603(10), C.R.S.

G. Record keeping requirements. An Accelerator Manufacturer shall maintain copies of any material documents created regarding the quality control and product development purpose(s) of each Sampling Unit. Such documents shall constitute business records under Rule 3-905 – Business Records Required. At a minimum, an Accelerator Manufacturer shall maintain records that show whether a Sampling Unit Transferred to a Sampling Manager is for the purpose of either quality control or product development. An Accelerator Manufacturer shall also maintain copies of the Accelerator Manufacturer's standard operating procedures provided to Sampling Managers.

H. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-825

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(2)(g), 44-10-203(2)(i), 44-10-203(2)(y), 44-10-203(3)(b), 44-10-203(3)(e), 44-10-401(2)(b)(VIII), 44-10-603, 44-10-701(3)(c) and 44-10-608, C.R.S. The purpose of this rule is to define requirements for manufacture of Audited Product for administration by: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration

which may raise public health concerns. This rule defines audit, insurance, minimum product requirements, minimum production process requirements, and pre-production testing requirements for Accelerator Manufacturers that manufacture Audited Products. The purpose of this rule further recognizes that Alternative Use Product not within an intended use identified in Rule 3-1015 may raise public health concerns that outweigh its manufacture or Transfer entirely or that require additional safeguards to protect public health and safety prior to manufacturer or Transfer. This rule identifies general requirements for an Accelerator Manufacturer to seek an Alternative Use Designation from the State Licensing Authority to manufacture any type of Retail Marijuana Product that is not within an intended use identified in Rule 3-1015.

6-825 – Accelerator Manufacturer: Audited Product and Alternative Use Product

A. General Rule. An Accelerator Manufacturer shall not Transfer Audited Product to a Retail Marijuana Store, an Accelerator Store, a Retail Marijuana Products Manufacturer, another Accelerator Manufacturer, a Retail Marijuana Cultivation Facility, or an Accelerator Cultivator that has obtained a Centralized Distribution Permit except in accordance with all requirements of this Rule 6-825. The requirements of this Rule 6-825 are in addition to all other Rules that apply to Accelerator Manufacturers; except where the context otherwise clearly requires this Rule 6-825 controls.

B. Audited Products – Mandatory Audit Prior to Transfer. Following submission of an independent third-party audit to the Division and, if applicable, to the Local Jurisdiction as required by this Rule, an Accelerator Manufacturer may Transfer Audited Product with an intended use of: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration.

1. A written audit report from an independent third-party auditor that was completed within the last 24 months shall be submitted to the Division and, if applicable to the Local Licensing Authority: (i) before the first Transfer of Audited Product to any Retail Marijuana Store, (ii) prior to Transfer of any Audited Product following a Material Change to any standard operating procedure or master formulation record regarding the Audited Product, and (iii) with the Accelerator Manufacturer's renewal application if the Accelerator Manufacturer will Transfer Audited Product after renewal.

2. The independent third-party audit shall be performed by either a certified quality auditor or a certified GMP auditor. The Accelerator Manufacturer shall be responsible for all costs associated with obtaining the independent third-party audit.

3. The independent third-party written audit report shall include the following minimum requirements:

    a. The independent third-party auditor's qualifications and an attestation that the certified quality auditor or certified GMP auditor has no conflict of interest;

    b. Establish that the Accelerator Manufacturer and the Audited Product meet all requirements of this Rule 6-825, including but not limited to the specific requirements of this Rule 6-825(C), 6-825(D), 6-825(E), 6-825(G), and 6-825(H);

    c. Verify the written standard operating procedure(s) for Audited Product include sufficient and detailed step-by-step instructions on how to produce the Audited Product in a manner that prevents contamination and protects the public health and safety;

    d. Verify, based upon a physical inspection, the manufacture of Audited Product by the Accelerator Manufacturer adheres to all applicable standard operating procedures;

e. Verify, based upon a physical inspection, of any Licensed Premises that such Licensed Premises complies with the requirements of this Rule 6-825(E), including any Limited Access Area where the Audited Product is to be manufactured;

f. Include the independent third-party auditor's findings;

g. Include the plan of correction identifying any corrective actions and/or preventative actions implemented as a result of the findings of the independent third-party audit; and

h. Include the independent third-party auditor's assessment that the Accelerator Manufacturer demonstrated compliance with all requirements of Rule 6-825 and with the requirements of all standard operating procedures, master formulation records, and Batch manufacturing records that apply to the Audited Product.

C. Products Liability Insurance. Any Accelerator Manufacturer that intends to Transfer Audited Product shall first obtain products liability insurance providing coverage for liability arising from manufacture or Transfer of Audited Product and shall provide an unredacted certificate of product liability insurance to the Division and the independent third-party auditor.

D. Audited Product Requirements. Audited Product shall meet the following minimum product requirements:

1. Inactive Ingredients. Audited Product must meet the requirements in Rule 3-335 – Production of Regulated Marijuana Products.

a. If the Audited Product contains a fungicidal or bactericidal Ingredient listed in, and with a concentration that is at or below the maximum concentration permitted in, the Federal Food and Drug Administration Inactive Ingredients Database, https://www.accessdata.fda.gov/scripts/cder/iig/index.cfm, the Audited Product is not required to undergo microbial contaminant testing required by Rules 4-115 and 4-120.

2. Required Product Development Testing. The Accelerator Manufacturer must establish the Audited Product meets the following through independent third-party testing:

a. The Audited Product must deliver the amount of each cannabinoid identified on the label throughout the entire volume of the Audited Product using the intended delivery device and in accordance with the instructions provided by the Accelerator Manufacturer, as demonstrated by testing at a Retail Marijuana Testing Facility.

i. For Audited Product with an intended use of metered dose nasal spray, compliance with this requirement shall be established by test results verifying the delivered dose of each cannabinoid identified on the label using the methods described in The United States Pharmacopeia Physical Test and Determination Chapter 601, *Aerosols, Nasal Sprays, Metered-Dose Inhalers, and Dry Powder Inhalers*.

ii. For Audited Product with an intended use of either vaginal administration or rectal administration, compliance with this testing requirement shall be established by test results demonstrating that each cannabinoid identified on the label is within +/- 15% of the amount identified on the label.

b. The expiration date identified on the label of the Audited Product is appropriate when the Audited Product is stored at room temperature, as demonstrated by testing from a Retail Marijuana Testing Facility.

c. Identification of all non-cannabis derived Ingredients and constituents in the Audited Product at concentrations of 1%, which verification is obtained from one or more of the following:

i. Testing by a Retail Marijuana Testing Facility;

ii. Testing by a laboratory that is ISO 17025 accredited but is not a Retail Marijuana Testing Facility, except that no Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product may be Transferred to such a laboratory; and/or

iii. One or more certificate(s) of analysis from the manufacturer of any Ingredient or constituent included in the Audited Product.

E. Additional Production Requirements for Audited Product. In addition to all other requirements applicable to Accelerator Manufacturer, an Accelerator Manufacturer that manufactures and Transfers Audited Product shall meet the following additional requirements:

1. Personnel Training. All personnel directly involved in the manufacture and handling of Audited Product must be trained, must demonstrate competency, and must undergo annual refresher training, which shall be documented and maintained at the Accelerator Marijuana Products Manufacturer's Licensed Premises. Personnel directly involved in the manufacture and handling of Audited Product must be trained and demonstrate proficiency in hand hygiene, cleaning and sanitizing, performing necessary calculations, measuring and mixing, and documenting the manufacturing process including master formulation records and batch manufacturing records.

2. Facility Requirements. An Accelerator Manufacturer must have a space that is specifically designated for the manufacture of Audited Products that is designed and operated to prevent cross contamination from other areas of the Licensed Premises. The surfaces, walls, floors, fixtures, shelving, work surfaces, and cabinets in this designated area must be non-porous and cleanable.

3. Cleaning and Sanitizing. An Accelerator Manufacturer must clean and sanitize surfaces where Audited Product is manufactured and handled on a regular basis and at a minimum, work surfaces and floors must be cleaned and sanitized daily. All other surfaces must be cleaned and sanitized at least every three months. An Accelerator Manufacturer must clean and sanitize all surfaces when a spill occurs and when surfaces, floors, and walls are visibly soiled.

4. Hand Hygiene. Hand hygiene is required when entering and re-entering any area where Audited Product is manufactured and handled. Hand hygiene includes washing hands and forearms up to the elbows with soap and water for at least 30 seconds followed by drying completely with disposable towels. Alcohol hand sanitizers alone are not sufficient.

a. Gloves are required to be worn for all mixing activities. Other garb such as shoe covers, head and facial hair covers, face masks, and gowns must be worn as appropriate to protect Licensees and/or prevent contamination of the Audited Product.

5. Equipment. Mechanical, electronic, and other types of equipment used in mixing, measuring, or testing of Audited Product must be inspected prior to use and verified for accuracy at the frequency recommended by the manufacturer, and at least annually.

6. Ingredient Quality. All Ingredients used to manufacture Audited Product must be handled and stored in accordance with the manufacturer's instructions. Ingredients that lack a manufacturer's expiration date shall not be used if a reasonable manufacturer would not use the Ingredient or after 1 year from the date of receipt, whichever period is shorter.

7. Master Formulation Record. A master formulation record must be prepared and maintained for each unique Audited Product an Accelerator Manufacturer manufactures. A master formulation record must include at least the following information:

    a. Name of the Audited Product;

    b. Ingredient identities and amounts;

    c. Specifications on the delivery device (if applicable);

    d. Complete instructions for preparing the Audited Product, including equipment, supplies, and description of the manufacturing steps;

    e. Quality control procedures; and

    f. Any other information needed to describe the Retail Marijuana Products Manufacturer's production and ensure its repeatability.

8. Batch Manufacturing Records. A batch manufacturing record shall be created for each Production Batch of Audited Product. This record shall include at the least the following information:

    a. Name of the Audited Product;

    b. Master formulation record reference for the Audited Product;

    c. Date and time of preparation of the Audited Product;

    d. Production Batch number;

    e. Signature or initials of individuals involved in each manufacturing step;

    f. Name, vendor, or manufacturer, Production Batch number, and expiration date of each Ingredient;

    g. Weight or measurement of each Ingredient;

    h. Documentation of quality control procedures;

    i. Any deviations from the master formulation record, and any problems or errors experienced during the manufacture; and

    j. Total quantity of the Audited Product manufactured.

F. Audited Product Testing. For each Production Batch, the Audited Product shall undergo all required testing in the 4-100 Series Rules for Retail Marijuana Product and/or Audited Product. *See also* Rule 4-115 – Regulated Marijuana Testing Program: Sampling and Testing Program.

G. Packaging and Labeling of Audited Product. Audited Product must be packaged and labeled in accordance with all requirements of the 3-1000 Series Rules regarding packaging and labeling for Transfer to a consumer prior to any Transfer.

H. Adverse Event Reporting. An Accelerator Manufacturer must report Adverse Health Events pursuant to Rule 3-920.

I. Alternative Use Designation – Any Other Method of Consumption or Administration. An Accelerator Manufacturer shall not Transfer to a Retail Marijuana Store, an Accelerator Store, a Retail Marijuana Products Manufacturer, another Accelerator Manufacturer, a Retail Marijuana Cultivation Facility, or an Accelerator Cultivator that has obtained a Centralized Distribution Permit any Retail Marijuana Concentrate or Retail Marijuana Product that is not within any intended use identified in Rule 3-1015(B) until it applies for and receives an Alternative Use Designation from the State Licensing Authority in consultation with the Colorado Department of Public Health and Environment. In the process of applying for an Alternative Use Designation, the Accelerator Manufacturer shall work with the Division and the Colorado Department of Public Health and Environment to determine whether the proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when particular independent review factors, safeguards, and tests are in place. The following are minimum requirements for any application for an Alternative Use Designation:

1. The Accelerator Manufacturer shall identify provisions of this Rule 6-825 that apply to its Alternative Use Product, any proposed additional or alternative requirements, and how any proposed alternatives protect public health and safety. The Accelerator Manufacturer shall also provide any additional information as may be requested by the Division, in consultation with the Colorado Department of Public Health and Environment.

2. The Accelerator Manufacturer bears the burden of proving its proposed Alternative Use Product may be manufactured in a manner that does not pose a threat to public health and safety when the identified independent review factors, safeguards, and tests are in place.

3. An Accelerator Manufacturer seeking an Alternative Use Designation shall cooperate with the Division. Failure to cooperate with the Division is grounds for denial of an Alternative Use Designation.

4. The granting of an Alternative Use Designation shall rest in the discretion of the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment. The State Licensing Authority may in his or her discretion deny an Alternative Use Designation where the Accelerator Manufacturer does not meet the burden established in this Rule 6-825.

J. Alternative Use Designation – Packaging and Labeling Requirements. If the Division recommends, and the State Licensing Authority grants, an Alternative Use Designation, the State Licensing Authority, in consultation with the Colorado Department of Public Health and Environment shall provide the Accelerator Manufacturer the appropriate statement of intended use label to be affixed to the Alternative Use Product, and any additional or distinct packaging and labeling requirements applicable to the Alternative Use Product. *See* Rules 3-1010 and 3-1015.

K. Required Records. An Accelerator Manufacturer manufacturing or Transferring Audited Product and/or Alternative Use Product shall maintain accurate and comprehensive records on the Licensed Premises regarding the manufacturing process, a list of all active and inactive Ingredients used in the Audited Product and/or Alternative Use Product, and such other documentation as required by this Rule 6-825. *See* Rule 3-905 – Business Records Required.

Basis and Purpose – 6-830

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-401(2)(b)(III), and 44-10-603, 44-10-603(15)(a)-(b), 44-10-608, and 39-28.8-302, C.R.S. The purpose of this rule is to allow a Medical Marijuana Products Manufacturer to receive Transfers of Retail Marijuana Concentrate from a Retail Marijuana Products Manufacturer in order to change its designation from "Retail" to "Medical."

6-830 – Accelerator Manufacturer: Ability to Change Designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate.

A. Changing Designation: Beginning July 1, 2022, an Accelerator Manufacturer may Transfer Retail Marijuana Concentrate to a Medical Marijuana Products Manufacturer in order to change its designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate pursuant to the following requirements:

1. The Accelerator Manufacturer may only Transfer Retail Marijuana Concentrate that has passed all required testing;

2. The Medical Marijuana Products Manufacturer and the Accelerator Manufacturer share a Licensed Premises in accordance with Rule 3-215;

3. The Medical Marijuana Products Manufacturer and Accelerator Manufacturer have at least one identical Controlling Beneficial Owner;

4. The Accelerator Manufacturer must report the Transfer in the Inventory Tracking System the same day that the change in designation from Retail Marijuana Concentrate to Medical Marijuana Concentrate occurs;

5. After the designation change, the Medical Marijuana Concentrate cannot be Transferred to the originating Accelerator Manufacturer or any other Retail Marijuana Business or otherwise be treated as Retail Marijuana. The inventory is Medical Marijuana and is subject to all permissions and limitations in the 5-200 series rules; and

6. The Transfer and change in designation does not create a right to a refund of any Retail Marijuana excise tax incurred or paid prior to the Transfer and change in designation.

6-900 Series – Licensed Hospitality Businesses

Basis and Purpose – 6-905

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish general provisions for Licensed Hospitality Businesses.

6-905 – Licensed Hospitality Businesses: General Provisions

A. Privileges Granted. A Licensed Hospitality Business shall only exercise those privileges granted pursuant to the Marijuana Code and these Rules.

B. Local Approval Required. No Licensed Hospitality Business may operate in a Local Jurisdiction that does not have an ordinance or resolution authorizing the operation of that type of Licensed Hospitality Business within the Local Jurisdiction. A Licensed Hospitality Business must comply with any requirements or restrictions on its operations imposed by the Local Jurisdiction's ordinance or resolution.

C. Liability Insurance Required. Licensed Hospitality Businesses are required to carry general liability insurance. If a Licensed Hospitality Business has not obtained general liability insurance at the time of its initial license application, it must obtain general liability insurance prior to submitting the Licensee's first renewal application.

D. Responsible Vendor Training Required. All Controlling Beneficial Owners and employees of a Licensed Hospitality Business shall have a valid responsible vendor designation as required in section 44-10-609, C.R.S., and described in the 3-500 Series Rules.

E. No Visible Consumption of Regulated Marijuana. A Licensed Hospitality Business shall ensure that the display and consumption of any marijuana is not visible from outside of its Licensed Premises. The requirement in this paragraph (E) also applies to Licensed Hospitality Businesses that operate in an isolated portion of a Retail Food Establishment. *See* Rule 6-915 – Licensed Hospitality Businesses: Operation Within A Retail Food Establishment.

1. Outdoor Consumption Areas Permitted. A Licensed Hospitality Business may have a Consumption Area outdoors under the following conditions:

    a. The Licensed Hospitality Business shall ensure that all marijuana is kept out of plain sight and is not visible from a public place without the use of optical aids, such as telescopes or binoculars, or aircraft; and

    b. The Licensed Hospitality Business shall ensure that the Consumption Area is surrounded by a sight-obscuring wall, fence, hedge, or other opaque or translucent barrier.

F. Required Signage.

1. Identification of Consumption Area. A Licensed Hospitality Business shall ensure all areas ingress and egress to the Consumption Area(s) be clearly identified by the posting of a sign which shall not be less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Consumption Area – No One Under 21 Years of Age Allowed."

2. Required Warning. Licensed Hospitality Businesses must post, at all times and in a prominent place inside the Consumption Area, a warning that is at minimum twelve inches high and twelve inches wide that reads as follows:

    "Must be 21 or older to enter

    Marijuana may only be consumed in designated areas out of public view

    No consumption of alcohol or tobacco products on site

    We reserve the right to refuse entry or service for reasons including visible intoxication

    It is against the law to drive while impaired by marijuana"

G. Entry By A Person Under 21 Years Prohibited. A Licensed Hospitality Business shall not allow any individual under 21 years of age to enter its Licensed Premises. A Licensed Hospitality Business shall verify that every individual entering the Licensed Premises has a valid government-issued photo identification showing that the individual is 21 years of age or older. *See* Rule 3-405 – Acceptable Forms of Identification.

H. Customers in Consumption Area. The Consumption Area must be supervised by a Licensee at all times when consumers are present to ensure that only persons who are 21 years of age or older are permitted to enter. A Licensed Hospitality Business shall reasonably monitor consumers in the Consumption Area to ensure compliance with these 6-900 Series Rules.

I. Conduct on the Licensed Premises.

1. Consumption By Intoxicated Patrons Prohibited. A Licensed Hospitality Business shall not permit the use or consumption of marijuana by any person displaying any visible signs of intoxication.

2. Alcohol Consumption Prohibited. No consumption of alcohol is permitted in a Licensed Hospitality Business. A Licensed Hospitality Business is responsible for preventing the consumption of alcohol within its Licensed Premises.

3. Tobacco Consumption Prohibited. No smoking of tobacco or tobacco products is permitted in a Licensed Hospitality Business. A Licensed Hospitality Business is responsible for preventing the smoking of tobacco and tobacco products within its Licensed Premises.

4. Employee Consumption Prohibited. No employee of a Licensed Hospitality Business who is on duty may use or consume marijuana. A Licensed Hospitality Business is responsible for preventing the use or consumption of marijuana by on-duty employees within its Licensed Premises.

5. Flammable Instrument Restrictions. A Licensed Hospitality Business shall not allow the use of the following devices in the Licensed Premises if prohibited by a local ordinance or resolution:

    a. Any device using liquid petroleum gas;

    b. A butane torch;

    c. A butane lighter; or

    d. Matches.

6. Orderliness. A Licensed Hospitality Business shall operate the business in a decent, orderly, and respectable manner. A Licensed Hospitality Business shall not knowingly permit any activity or acts of disorderly conduct as defined by and provided for in section 18-9-106, C.R.S., nor shall a Licensed Hospitality Business permit rowdiness, undue noise, or other disturbances or activity offensive to the senses of the average citizen, or to the residents of the neighborhood in which the Licensed Hospitality Business is located.

J. Free Marijuana Prohibited. A Licensed Hospitality Business may not give away marijuana to a consumer for any reason.

K. Food Products Permitted. A Licensed Hospitality Business is permitted to sell or give away consumable products that do not contain marijuana under the following circumstances:

1. The Licensed Hospitality Business operates in an isolated portion of a Retail Food Establishment;

2. A Licensed Hospitality Business that is not a Retail Food Establishment may prepare and serve hot coffee, hot tea, instant hot beverages, and nonpotentially hazardous doughnuts or pastries obtained from sources complying with all laws related to food and food labeling; or

3. A Licensed Hospitality Business that is not a Retail Food Establishment may sell or give away nonpotentially hazardous prepackaged food and commercially prepared, prepackaged foods requiring no preparation other than the heating of food within its original container or package.

L. Emergency Entry by Public Safety Personnel. If an emergency requires law enforcement, firefighters, emergency medical service providers, or other public safety personnel to enter the Licensed Premises of a Licensed Hospitality Business, the Licensed Hospitality Business is responsible for ensuring that all consumption and other activities, including sales, if applicable, cease until such personnel have completed their investigation or services and have left the Licensed Premises.

M. Criminal Activity Reporting Requirements. In addition to other reporting requirements set forth in these Rules, a Licensed Hospitality Business must report directly to the Division any criminal activity requiring an in-person response from law enforcement. Any report required under this Rule must be submitted within 48 hours after an Owner Licensee or Employee Licensee of the Licensed Hospitality Business learns of the event.

N. Removal of Persons from the Licensed Premises. A Licensed Hospitality Business may remove a person from the Licensed Premises for any reason, including but not limited to, any consumer showing any visible signs of intoxication.

O. Control and Disposal of Marijuana Left by a Consumer. A Licensed Hospitality Business is responsible for the collection and disposal of any marijuana left on the Licensed Premises by a consumer. When a consumer leaves any marijuana on the Licensed Premises, a Licensed Hospitality Business must promptly collect and remove the marijuana from the Restricted Access Area or Consumption Area and either immediately destroy or store and secure the marijuana in a Limited Access Area or an area inaccessible to consumers in accordance with Rule 6-920(A).

1. Marijuana Consumer Waste. In conjunction with the collecting and securing of any remaining marijuana, a Licensed Hospitality Business may segregate any Marijuana Consumer Waste in order to Transfer the Marijuana Consumer Waste for purposes of recycling in accordance with Rule 3-240 – Collection of Marijuana Consumer Waste.

2. Destruction Required. At, or before, the end of each business day, a Licensed Hospitality Business shall destroy any marijuana left on its Licensed Premises by a consumer in conformance with Rule 3-230 – Waste Disposal. The Licensed Hospitality Business shall document any destruction of Regulated Marijuana in a waste log. *See* Rule 3-905 – Business Records Required.

P. Consumer Education Materials. A Licensed Hospitality Business must provide Consumer Education Materials regarding the safe consumption of marijuana. Consumer Education Materials may be made available in print or digital form, may never make claims regarding health or

physical benefits of marijuana, and must be prominently displayed. Consumer Education Materials shall at a minimum include the following statement:

> **"WARNING**: Using marijuana, in any form, while you are pregnant or breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of marijuana use during pregnancy or breastfeeding.
>
> Create a transportation plan ahead of time. Don't operate a vehicle impaired.
>
> Impairing effects of marijuana may be delayed."

Basis and Purpose – 6-910

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish additional health and safety regulations for Licensed Hospitality Businesses.

6-910 – Licensed Hospitality Businesses: Additional Health and Safety Regulations

A. Local Safety Requirements and Inspections. A Licensed Hospitality Business must comply with any safety requirements or required inspections imposed by the Local Jurisdiction's ordinance or resolution which authorizes the Licensed Hospitality Business's operation.

B. Sanitation of Consumption Equipment. If a Licensed Hospitality Business provides consumers with reusable equipment or devices to aid in the use or consumption of marijuana, the Licensed Hospitality Business shall ensure the equipment or device is sanitized properly. A Licensed Hospitality Business shall maintain standard operating procedures regarding reusable equipment and device sanitation practices. Failure to maintain records and/or sanitize reusable equipment may constitute a license violation affecting public safety.

Basis and Purpose – 6-915

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish requirements for Licensed Hospitality Businesses operating within a Retail Food Establishment or on the Licensed Premises of any establishment with a license issued pursuant to articles 3, 4, or 5 of Title 44.

6-915 – Licensed Hospitality Businesses: Operation Within a Retail Food Establishment

A. Alcohol Beverage License Prohibited. A Licensed Hospitality Business shall not operate within a Retail Food Establishment that holds a license or permit issued pursuant to article 3, 4, or 5 of title 44.

1. The Licensed Premises of a Licensed Hospitality Business must be completely separate from, and shall not overlap with, the licensed premises of any license issued pursuant to articles 3, 4, or 5 of Title 44. To be considered completely separate:

    a. The Licensed Premises of a Licensed Hospitality Business shall not overlap with or share any physical space with, at any time, the licensed premises of a license issued pursuant to articles 3, 4, or 5 of Title 44. Alternating use of the same location at different times by a license issued pursuant to article 10 of Title 44 and a license or permit issued pursuant to article 3, 4, or 5 of Title 44 is prohibited.

b. The Licensed Premises of a Licensed Hospitality Business may be adjacent to the licensed premises of any license issued pursuant to article 3, 4, or 5 of Title 44, so long as all of the following conditions are met:

i. Each has a separate address, which may be separate units within a street address so long as each unit has separate entrances and exits from the other, and consumers may not pass through the licensed premises of one to reach the licensed premises of the other;

ii. There is no door, hallway, or passageway by or through which a consumer may pass between the Licensed Premises of a Licensed Hospitality Business and the adjacent licensed premises of any license issued pursuant to articles 3, 4, or 5 of Title 44; and

iii. Any window on a shared wall is covered, or rendered opaque or translucent, to ensure the display or consumption of marijuana within a Licensed Hospitality Business is not visible to any person outside the Licensed Premises, including by a person within the adjacent licensed premises of a license issued pursuant to articles 3, 4, or 5 of Title 44.

B. Isolation From Unlicensed Portions of the Retail Food Establishment. A Licensed Hospitality Business that operates within a Retail Food Establishment shall ensure that its Licensed Premises are isolated from the rest of the Retail Food Establishment.

1. Consumers may enter the Licensed Premises from the unlicensed portion of the Retail Food Establishment. However, in order to be isolated from the rest of the Retail Food Establishment, the Licensed Premises shall:

a. Not overlap with the operations of the Retail Food Establishment; and

b. Be separated by a sight-obscuring wall, or other opaque or translucent barrier, and a secure door to ensure only consumers 21 years of age or older are permitted into the Licensed Premises.

2. Segregation of Marijuana. A Licensed Hospitality Business shall not store marijuana—either for purposes of sale or destruction—in any location containing other inventory of the Retail Food Establishment.

C. Manufacturing of Regulated Marijuana Products Prohibited. A Licensed Hospitality Business shall ensure that the Retail Food Establishment is not used to manufacture Regulated Marijuana Products or to add marijuana to foods produced or provided at the Retail Food Establishment.

D. Food Service Permitted. Nothing in this Rule 6-915 prohibits employees of the Retail Food Establishment from taking orders for, or serving, foods, produced or provided at the Retail Food Establishment within the Licensed Premises of the Licensed Hospitality Business. Any employee of the Retail Food Establishment who has unescorted access to the Limited Access Area or Restricted Access Area of a Licensed Hospitality Business, or who may handle marijuana for destruction, or any other purpose, shall first obtain an Employee License and Identification Badge.

Basis and Purpose – 6-920

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), and 44-10-610, C.R.S. The purpose of this rule is to establish requirements for the display of Retail Marijuana on the Licensed Premises of a Retail Marijuana Hospitality and Sales

Business, and to establish that a Retail Marijuana Hospitality and Sales Business must control and safeguard access to certain areas where Retail Marijuana will be sold.

6-920 – Retail Marijuana Hospitality and Sales Businesses Point of Sale: Restricted Access Area

A. Display of Retail Marijuana. The display of Retail Marijuana for sale is allowed only in Restricted Access Areas. Any product displays that are readily accessible to the consumer must be supervised by the Owner Licensee or Employee Licensees at all times when consumers are present.

Basis and Purpose – 6-925

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to clarify additional license privileges and restrictions for Retail Marijuana Hospitality and Sales Businesses that do not apply to Marijuana Hospitality Businesses.

6-925 – Retail Marijuana Hospitality and Sales Businesses: Additional License Privileges and Restrictions

A. Authorized Sources of Retail Marijuana. A Retail Marijuana Hospitality and Sales Business may only Transfer Retail Marijuana that it obtained from another Retail Marijuana Business.

B. Restriction on Transfers to Consumers. A Retail Marijuana Hospitality and Sales Business and its employees are prohibited from Transferring Retail Marijuana to a consumer if the Retail Marijuana Hospitality and Sales Business' employee knows or reasonably should know that the consumer does not intend to consume the Retail Marijuana on the Licensed Premises of the Retail Marijuana Hospitality and Sales Business or previously during the same business day the consumer already received the relevant quantity limitation in this Rule. In determining the imposition of any penalty for violation of this Rule 6-925, the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235.

C. Inventory Tracking System Requirements. A Retail Marijuana Hospitality and Sales Business must use the Inventory Tracking System in accordance with the requirements of the 3-800 Series Rules.

D. Samples Provided for Testing. A Retail Marijuana Hospitality and Sales Business may provide Samples of Retail Marijuana for testing purposes to a Retail Marijuana Testing Facility. The Retail Marijuana Hospitality and Sales Business shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

E. Authorized On-Premises Storage. A Retail Marijuana Hospitality and Sales Business may store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules. *See* Rule 3-800 Series Rules – Regulated Marijuana Business: Inventory Tracking System.

F. Authorized Marijuana Transport. A Retail Marijuana Hospitality and Sales Business is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where the transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents a Retail Marijuana Hospitality and Sales Business from transporting its own Retail Marijuana to the Licensed Premises of its Retail Marijuana Hospitality and Sales Business.

G. Quantity Limitations on Sales. All Transfers of Retail Marijuana by a Retail Marijuana Hospitality and Sales Business to a consumer shall not exceed the following sales limits:

1. More than two grams of Retail Marijuana flower;

2. More than one-half of one gram of Retail Marijuana Concentrate; or

3. A Retail Marijuana Product containing more than 20 milligrams of active THC. For any Transfer of Retail Marijuana Product containing more than 10 milligrams of active THC, the Retail Marijuana Product must be Transferred to a consumer in separate serving sizes containing no more than 10 milligrams of active THC per serving.

H. Measurement Procedures and Equipment.

1. A Retail Marijuana Hospitality and Sales Business shall develop and maintain standard operating procedures, and any additional equipment necessary, to ensure any Retail Marijuana Product Transferred to a consumer does not exceed the quantity limitation set forth in subparagraph G(3).

2. A Retail Marijuana Hospitality and Sales Business Transferring Multiple-Serving Edible Retail Marijuana Product or Multiple-Serving Liquid Edible Retail Marijuana Product to a consumer shall provide a measurement device necessary for the consumer to achieve accurate measurements of each serving in increments equal to or less than 10 milligrams of active THC per serving.

I. Packaging and Labeling.

1. Packaging and Labeling Not Required at Time of Transfer. A Retail Marijuana Hospitality and Sales Business may Transfer Retail Marijuana to a consumer without packaging and labeling so long as the Retail Marijuana Hospitality and Sales Business complies with the requirements of Rule 3-1020. *See* Rule 3-1020 – Packaging and Labeling: Requirements Prior to Transfer to a Consumer at a Retail Marijuana Hospitality and Sales Business.

2. Packaging and Labeling Required Before Retail Marijuana Removed from Licensed Premises. A Retail Marijuana Hospitality and Sales Business shall not permit a consumer to leave the Licensed Premises with any unconsumed marijuana unless the Retail Marijuana Hospitality and Sales Business has ensured unconsumed marijuana is packaged and labeled in accordance with the requirements of Rule 3-1020. *See* Rule 3-1020 – Packaging and Labeling: Requirements Prior to Transfer to a Consumer at a Retail Marijuana Hospitality and Sales Business.

J. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to Transfer Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product to a consumer.

Basis and Purpose – 6-930

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish general limitations and prohibited acts for Retail Marijuana Hospitality and Sales Businesses.

6-930 – Retail Marijuana Hospitality and Sales Businesses: General Limitations and Prohibited Acts

A. Age Verification. Prior to Initiating the Transfer of Retail Marijuana a Licensee must verify that the purchaser has a valid government-issued photo identification showing that the purchaser is 21 years of age or older. *See* Rule 3-405 – Acceptable Forms of Identification.

B. Purchases Only Within Restricted Access Area. A consumer must be physically present within the Restricted Access Area of the Retail Marijuana Hospitality and Sales Business's Licensed Premises to purchase Retail Marijuana. The consumer must consume or use the Retail Marijuana purchased in the Retail Marijuana Hospitality and Sales Business in that Businesses' Restricted Access Area.

1. Application to Retail Marijuana Hospitality and Sales Businesses Operating in a Retail Food Establishment. The requirement of paragraph (B) also applies to all Retail Marijuana Hospitality and Sales Businesses operating in an isolated portion of the Retail Food Establishment. All Transfers of Retail Marijuana may occur only in the Retail Marijuana Hospitality and Sales Business' Restricted Access Area, and not in any other area of the Retail Food Establishment.

C. Prohibited Sales and Activity.

1. Sales to Persons Under 21 Years. A Retail Marijuana Hospitality and Sales Business is prohibited from Transferring, giving, or distributing Regulated Marijuana to persons under 21 years of age.

2. Alternative Use Products. A Retail Marijuana Hospitality and Sales Business shall not Transfer, or permit the use or consumption of, any Alternative Use Product.

3. Marijuana Not Transferred by the Retail Marijuana Hospitality and Sales Business. A Retail Marijuana Hospitality and Sales Business shall not permit the purchase, use or consumption of any marijuana other than the Retail Marijuana it Transfers pursuant to these rules.

4. Nicotine or Alcohol. A Retail Marijuana Hospitality and Sales Business is prohibited from Transferring Retail Marijuana that contain nicotine or alcohol, if the sale of alcohol would require a license pursuant to articles 3, 4, or 5 of Title 44, C.R.S.

5. Transfer of Expired Product. A Retail Marijuana Hospitality and Sales Business shall not Transfer any expired Retail Marijuana Product to a consumer.

6. Transporter Transfer Restrictions. A Retail Marijuana Hospitality and Sales Business shall not Transfer Retail Marijuana to a Retail Marijuana Transporter, and shall not buy or receive complimentary Retail Marijuana from a Retail Marijuana Transporter.

7. Possession and Transfer of Sampling Units. A Retail Marijuana Hospitality and Sales Business may not possess or Transfer Sampling Units.

8. Research Transfers. A Retail Marijuana Hospitality and Sales Business shall not Transfer any Retail Marijuana to a Pesticide Manufacturer or a Marijuana Research and Development Facility.

D. Storage and Display Limitations.

1. A Retail Marijuana Hospitality and Sales Business shall not display Retail Marijuana outside of a designated Restricted Access Area or in a manner in which Retail Marijuana can be seen from outside the Licensed Premises. Storage of Retail Marijuana shall otherwise be maintained in Limited Access Area or Restricted Access Area.

2. Any product displays that are readily accessible to the customer must be supervised by the Owner Licensee or Employee Licensee at all times when consumers are present.

E. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

F. Adverse Health Event Reporting. A Retail Hospitality and Sales Business must report Adverse Health Events pursuant to Rule 3-920.

Basis and Purpose – 6-935

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), 44-10-609, and 44-10-610, C.R.S. The purpose of this rule is to establish Limited Access Area and security exemptions and requirements for Marijuana Hospitality Businesses.

6-935 – Marijuana Hospitality Business: Limited Access Areas and Security Standards

A. Limited Access Area Permitted But Not Required. A Marijuana Hospitality Business is not required to maintain a Limited Access Area as part of the Licensed Premises so long as the Marijuana Hospitality Business demonstrates the following:

1. It has established policies, procedures, and methods to ensure marijuana collected pursuant to Rule 6-905(O) will be secured in an area inaccessible to patrons of the Marijuana Hospitality Business prior to destruction; and

2. Its surveillance recording equipment is housed in a designated, locked, and secured room or other enclosure with access limited to authorized employees, agents of the Division, and the relevant Local Licensing Authority or Local Jurisdiction, state or local law enforcement agencies for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose, and service personnel or contractors.

B. Security Standards. A Marijuana Hospitality Business shall comply with Rule 3-220 Security Alarm Systems and Lock Standards and Rule 3-225 Video Surveillance, except that its Licensed Premises need only be monitored when consumers are on the Licensed Premises or during periods when marijuana collected pursuant to Rule 6-905(O) remains on the Licensed Premises prior to destruction.

Basis and Purpose – 6-940

The statutory authority for this rule includes but is not limited to sections 44-10-202(1), 44-10-203(2)(ff), 44-10-305(2)(b), and 44-10-609, C.R.S. The purpose of this rule is to establish requirements for Marijuana Hospitality Businesses with a Mobile Premises.

6-940 – Marijuana Hospitality Business: Requirements for Mobile Premises

A. Separate License Required for Each Mobile Premises. Each Mobile Premises requires a separate Marijuana Hospitality Business License.

B. Consumption Area of the Mobile Premises. The Consumption Area of the Mobile Premises shall exclude the area designed to seat the driver and front seat passenger.

C. Requirements for Motor Vehicles Designated as Mobile Premises. A Marijuana Hospitality Business must ensure that the motor vehicle serving as the Mobile Premises of a Marijuana Hospitality Business complies with all state and local registration and permitting requirements. At

each initial and renewal application, a Marijuana Hospitality Business must provide the Division with the following information regarding its Mobile Premises:

a. Documentation that the Mobile Premises is owned or leased by the Marijuana Hospitality Business;

b. The vehicle manufacturer/make, model, and model year associated with the Mobile Premises;

c. The vehicle identification number (VIN) associated with the Mobile Premises;

d. The Colorado license plate number and copy of the registration associated with the Mobile Premises;

e. If applicable, the automatic vehicle identification tag associated with the Mobile Premises; and

f. A copy of a valid permit issued by the Public Utilities Commission to the Marijuana Hospitality Business.

D. Local Approval Required. A Marijuana Hospitality Business with a Mobile Premises may only operate in Local Jurisdictions that have an ordinance or resolution authorizing the operation of Mobile Premises and for which it holds any required valid local license(s). A Mobile Premises' operation includes, but is not limited to, allowing passengers to consume marijuana and boarding or disembarking the Mobile Premises.

E. Additional Requirements for Mobile Premises. Before receiving a License for a Mobile Premises, a Marijuana Hospitality Business must establish that the Mobile Premises will be able to meet the following requirements:

1. Global position system tracking of the Mobile Premises;

2. Written standard operating procedures that address the logging of the route(s) of each Mobile Premises;

3. Video surveillance inside of the Mobile Premises, including the entry and exit points to the Mobile Premises and driver's area of the vehicle;

4. Proper ventilation within the vehicle, which includes, if marijuana is smoked or vaped in the Licensed Premises, that air is not circulated into the driver's area of the Licensed Premises;

5. Policies and procedures to ensure that no marijuana is possessed or consumed in the area designed to seat the driver and front seat passenger in a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation;

6. Methods to ensure consumption activity is not visible outside the vehicle;

7. Policies, procedures or other measures to ensure that consumers are prohibited from entering the driver's area of the Mobile Premises; and

8. Display of the Marijuana Hospitality Business license on the dashboard of the Mobile Premises.

F. Separate Place of Business. A Marijuana Hospitality Business with a Mobile Premises shall designate and maintain a fixed place of business in Colorado that is separate from the Mobile Premises. The fixed place of business does not need to be a Licensed Premises. However, if the Marijuana Hospitality Business will transport any marijuana to the separate place of business for purposes of destruction, the separate place of business shall also be a Licensed Premises and is subject to any applicable state and local licensing requirements or restrictions.

1. Shared Places of Business. Multiple Marijuana Hospitality Business Licensees with Mobile Premises may share a single separate place of business so long as the Marijuana Hospitality Businesses are identically owned.

2. Shared Premises with Another Licensed Hospitality Business. A Marijuana Hospitality Business with a Mobile Premises may designate the location of another Marijuana Hospitality Business's Licensed Premises as its separate place of business subject to the following conditions:

a. The relevant Local Licensing Authority or Local Jurisdiction permit a Marijuana Hospitality Business with a Mobile Premises to designate the location of another Marijuana Hospitality Business's Licensed Premises as its separate place of business;

b. The Marijuana Hospitality Businesses are identically owned; and

c. Record-keeping shall enable the Division and the Local Licensing Authority or Local Jurisdiction to distinguish clearly the business transactions and operations of each Marijuana Hospitality Business.

G. Business Records. All records required to be maintained by these rules must be maintained at the Marijuana Hospitality Business's separate place of business, and not at the Mobile Premises, except that when the Mobile Premises is in operation it must maintain its current route log on the Mobile Premises.

1. A Marijuana Hospitality Business is not required to maintain records related to inventory tracking because a Marijuana Hospitality Business is prohibited from engaging in Transfers of marijuana.

H. Health and Safety Requirements. A Marijuana Hospitality Business' Mobile Premises shall comply with all relevant requirements in the 3-300 Series Rules. Hand-washing facilities, however, need not be in the Mobile Premises, but may be located in the Marijuana Hospitality Business's separate place of business.

I. Operating Restrictions. A Marijuana Hospitality Business shall ensure that its Mobile Premises does not operate outside of the state of Colorado.

J. Change of Mobile Premises. A Marijuana Hospitality Business may change its Mobile Premises in accordance with the change of Mobile Premises application requirements in Rule 2-260(D).

6-1100 Series – Accelerator Store Licenses

Basis and Purpose – 6-1105

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(aa), 44-10-203(2)(dd), 44-10-401(2)(b)(I), 44-10-601, 44-10-605, and 44-10-611, C.R.S. The purpose of this rule is to establish the license privileges of an Accelerator Store.

6-1105 – Accelerator Store: License Privileges

A. Licensed Premises.

1. Shared Licensed Premises. An Accelerator Store may operate on the same Licensed Premises as a Retail Marijuana Store that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

2. Separate Licensed Premises. An Accelerator Store may operate on a separate premises in the possession of a Retail Marijuana Store that is an Accelerator-Endorsed Licensee pursuant to the 3-1100 Series Rules.

3. To the extent authorized by Rule 3-215 – Regulated Marijuana Business– Shared Licensed Premises and Operational Separation, an Accelerator Store may share, and operate at, the same Licensed Premises as an Accelerator-Endorsed Licensee's Retail Marijuana Store that shares a Licensed Premises with a Medical Marijuana Store.

B. Authorized Sources of Retail Marijuana. An Accelerator Store may only Transfer Retail Marijuana that was obtained from another Retail Marijuana Business.

C. Samples Provided for Testing. An Accelerator Store may provide Samples of its products for testing and research purposes to a Retail Marijuana Testing Facility. The Accelerator Store shall maintain the testing results as part of its business books and records. *See* Rule 3-905 – Business Records Required.

D. Authorized On-Premises Storage. An Accelerator Store is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.

E. Authorized Marijuana Transport. An Accelerator Store is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken and delivered is a licensed Retail Marijuana Business. Nothing in this Rule prevents an Accelerator Store from transporting its own Retail Marijuana.

F. Performance-Based Incentives. An Accelerator Store may compensate its employees using performance-based incentives, including sales-based performance-based incentives.

G. Authorized Transfers of Industrial Hemp Products. An Accelerator Store may Transfer Industrial Hemp Product to a consumer only after it has confirmed:

1. That the Industrial Hemp Product has passed all required testing pursuant to the 4-100 Series Rules at a Retail Marijuana Testing Facility; and

2. That the Person Transferring the Industrial Hemp Product to the Retail Marijuana Store is registered with the Colorado Department of Public Health and Environment pursuant to section 25-5-426, C.R.S.

H. Automated Vending Machine. An Accelerator Store may use an automated machine in the Restricted Access Area of its Licensed Premises to dispense Regulated Marijuana to consumers without interaction with an Owner Licensee or Employee Licensee if the automated machine is reasonably monitored and complies with all requirements of these rules including but not limited to:

1. Health and safety standards,

2. Testing,

3. Packaging and labeling requirements,

4. Inventory tracking,

5. Identification requirements, and

6. Transfer limits to consumers.

I. Walk-up Window or Drive-up Window. An Accelerator Store may serve customers through a walk-up window or drive-up window pursuant to the requirements of this rule.

1. Modification of Premises Required. Before accepting orders for sales of Retail Marijuana to a customer through either a walk-up window or drive-up window, an Accelerator Store shall apply for, and obtain approval of, an application for a modification of its Licensed Premises for the addition of a walk-up window or drive-up window.

2. The area immediately outside the walk-up window or drive-up window must be under the Licensee's possession and control and cannot include any public property such as public streets, public sidewalks, or public parking lots.

3. Order and Identification Requirements.

a. Prior to accepting an order or Transferring Retail Marijuana to a customer, the Employee Licensee or Owner Licensee must physically view and inspect the consumer's identification and ensure that the consumer is 21 years of age or older.

b. The Accelerator Store may accept telephone orders or may accept orders from the customer at the walk-up window or drive-up window. Accelerator Stores may not accept orders or payment for Retail Marijuana over the internet.

c. All orders received through a walk-up window or a drive-up window must be placed by the customer from a menu. The Accelerator Store may not display Retail Marijuana at the walk-up or drive-up window.

4. Payment Requirements. Cash, credit, debit, cashless ATM, or other payment methods are permitted for payments for Retail Marijuana at the walk-up window or drive-up window.

5. Video Surveillance Requirements. For every Transfer of Regulated Marijuana through either a walk-up window or drive-up window, the Accelerator Store's video surveillance must enable the recording of the consumer's identity (and consumer's vehicle in the event of drive-up window), and must enable the recording of the Licensee verifying the consumer's identification and completion of the transaction through the Transfer of Regulated Marijuana.

6. Packaging and Labeling Requirements. An Accelerator Store utilizing a walk-up window or drive-up window must ensure that all Retail Marijuana is packaged and labeled in accordance with Rule 3-1010 and Rule 3-1015 prior to Transfer to the consumer.

7. Local Restrictions. Transfers of Regulated Marijuana using a walk-up window or drive-up window are subject to requirements and restrictions imposed by the relevant Local Jurisdiction.

Basis and Purpose – 6-1110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(4)(b), 44-10-203(1)(k), 44-10-203(2)(aa), 44-10-401(2)(b)(I), 44-10-601, 44-10-611, 44-10-701(1)(a), and 44-10-701(3)(d) and (f), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(3)(a), 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by an Accelerator Store. Such limitations include, but are not limited to, quantity limitations on sales and equivalencies for Retail Marijuana Concentrate and Retail Marijuana Product to Retail Marijuana flower. The establishment of equivalencies also provides information to stakeholders including Licensees, the general public, and law enforcement to aid in the enforcement of and compliance with the lawful personal possession limit of one ounce or less of marijuana. Setting these equivalencies provides Accelerator Stores and their employees with necessary information to avoid being complicit in a patron acquiring more marijuana than is lawful to possess under the Colorado Constitution pursuant to Article XVIII, Subsection 16(3)(a).

6-1110 – Accelerator Store: General Limitations or Prohibited Acts

A. Sales to Persons Under 21 Years. Licensees are prohibited from Transferring, giving, or distributing Retail Marijuana to persons under 21 years of age. Licensees are prohibited from permitting a person under the age of 21 years of age from entering the Restricted Access Area.

B. Age Verification. Prior to initiating the Transfer of Retail Marijuana, a Licensee must verify that the purchaser has a valid government-issued photo identification showing that the purchaser is 21 years of age or older.

C. Quantity Limitations On Sales.

1. An Accelerator Store and its employees are prohibited from Transferring more than one ounce of Retail Marijuana flower or its equivalent in Retail Marijuana Concentrate or Retail Marijuana Product or more than six Retail Marijuana seeds in a single transaction to a consumer. A single transaction includes multiple Transfers to the same consumer during the same business day where the Accelerator Store employee knows or reasonably should know that such Transfer would result in that consumer possessing more than one ounce of marijuana. In determining the imposition of any penalty for violation of this Rule 6-1110(C), the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235(C).

2. Equivalency. Non-edible, non-psychoactive Retail Marijuana Products including ointments, lotions, balms, and other non-transdermal topical products are exempt from the one-ounce quantity limit on Transfers. For all other Retail Marijuana Products or Retail Marijuana Concentrate, the following equivalency applies for the one ounce quantity Transfer limit:

a. One ounce of Retail Marijuana flower shall be equivalent to eight grams of Retail Marijuana Concentrate.

b. One ounce of Retail Marijuana flower shall be equivalent to 80 ten-milligram servings of THC in Retail Marijuana Product.

C.5. Educational Resource. When completing a sale of Retail Marijuana Concentrate, an Accelerator Store shall provide the consumer with the tangible educational resource created by the State Licensing Authority regarding the use of Regulated Marijuana Concentrate.

D. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to Transfer Retail Marijuana to a consumer.

E. Sales over the Internet. Only an Accelerator Store holding a valid delivery permit taking orders for delivery may make sales over the internet. Only a Retail Marijuana Store holding a valid delivery permit and/or a Retail Marijuana Transporter holding a valid delivery permit may deliver Retail Marijuana to a private residence. All other Retail Marijuana Store and Retail Marijuana Transporter Licensees are prohibited from selling Retail Marijuana over the internet.

F. Delivery Outside Colorado Prohibited. An Accelerator Store holding a valid delivery permit shall not deliver Retail Marijuana to an address that is outside the state of Colorado.

G. Prohibited Items. An Accelerator Store is prohibited from selling or giving away any consumable product that is not a Retail Marijuana Product or an Industrial Hemp Product including, but not limited to, cigarettes or tobacco products, alcohol beverages, and food products or non-alcohol beverages that are not Retail Marijuana Product.

H. Free Product Prohibited. An Accelerator Store may not give away Retail Marijuana to a consumer for any reason.

I. Nicotine or Alcohol Prohibited. An Accelerator Store is prohibited from Transferring Retail Marijuana that contain nicotine or alcohol, if the sale of the alcohol would require a license pursuant to Articles 3, 4, or 5 of Title 44, C.R.S.

J. Storage and Display Limitations.

1. An Accelerator Store shall not display Retail Marijuana outside of a designated Restricted Access Area or in a manner in which Retail Marijuana can be seen from outside the Licensed Premises. Storage of Retail Marijuana shall otherwise be maintained in Limited Access Areas or Restricted Access Area.

2. Any Retail Marijuana Concentrate displayed in an Accelerator Store must include the potency of the concentrate on a sign next to the name of the product.

    a. The font on the sign must be large enough for a consumer to reasonably see from the location where a consumer would usually view the concentrate.

    b. The potency displayed on the sign must be within plus or minus fifteen percent of the concentrate's actual potency.

K. Transfer of Expired Product Prohibited. An Accelerator Store shall not Transfer any expired Retail Marijuana Product to a consumer.

L. Transfer Restriction.

1. Sampling Units. An Accelerator Store may not possess or Transfer Sampling Units.

2. Research Transfers Prohibited. An Accelerator Store shall not Transfer any Retail Marijuana to a Pesticide Manufacturer or a Marijuana Research and Development Facility.

L.5. Standard Operating Procedures. An Accelerator Store must establish written standard operating procedures for the management and storage of Retail Marijuana inventory and the sale of Retail Marijuana to consumers. A written copy of the standard operating procedures must be maintained on the Licensed Premises.

1. An Accelerator Store must provide adequate training to every Owner Licensee and Employee Licensee who performs a task or set of tasks that are referenced in the

standard operating procedures. Adequate training must include, but need not be limited to, providing a copy of the standard operating procedures for that Licensed Premises detailing at least all of the topics required to be included in the standard operating procedures.

M. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit.

1. The sale of Edible Retail Marijuana Products in the following shapes is prohibited:

   a. The distinct shape of a human, animal, or fruit; or

   b. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

2. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Retail Marijuana Business. Nothing in this subparagraph (M)(2) alters or eliminates a Licensee's obligation to comply with the requirements of the 3-1000 Series Rules – Labeling, Packaging, and Product Safety.

3. Edible Retail Marijuana Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and

4. Edible Retail Marijuana Products that are manufactured in the shape of a marijuana leaf are permissible.

N. Adverse Health Event Reporting. An Accelerator Store must report Adverse Health Events pursuant to Rule 3-920.

O. Corrective and Preventive Action. An Accelerator Store shall establish and maintain written procedures for implementing Corrective Action and Preventive Action. The written procedures shall include the requirements listed below as determined by the Licensee. All activities required under this Rule, and their results, shall be documented and kept as business records. *See* Rule 3-905. The written procedures shall include requirements, as appropriate, for:

1. What constitutes a Nonconformance in the Licensee's business operation;

2. Analyzing processes, work operations, reports, records, service records, complaints, returned product, and/or other sources of data to identify existing and potential root causes of Nonconformances or other quality problems;

3. Investigating the root cause of Nonconformances relating to product, processes, and the quality system;

4. Identifying the action(s) needed to correct and prevent recurrence of Nonconformance and other quality problems;

5. Verifying the Corrective Action or Preventive Action to ensure that such action is effective and does not adversely affect finished products;

6. Implementing and recording changes in methods and procedures needed to correct and prevent identified quality problems;

7. Ensuring the information related to quality problems or Nonconformances is disseminated to those directly responsible for assuring the quality of products or the prevention of such problems; and

8. Submitting relevant information on identified quality problems and Corrective Action and Preventive Action documentation, and confirming the result of the evaluation, for management review.

P. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 6-1115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(2)(z), 44-10-203(2)(aa), 44-10-202(3)(h), 44-10-401(2)(b)(I), and 44-10-611, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to establish that an Accelerator Store must control and safeguard access to certain areas where Retail Marijuana and Retail Marijuana Product will be sold to the general public and prevent the diversion of Retail Marijuana and Retail Marijuana Product to people under 21 years of age.

6-1115 – Point of Sale: Restricted Access Area

A. Identification of Restricted Access Area. All areas where Retail Marijuana are sold, possessed for sale, displayed, or dispensed for sale shall be identified as a Restricted Access Area and shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, “Restricted Access Area – No One Under 21 Years of Age Allowed.”

B. Consumers in Restricted Access Area. The Restricted Access Area must be supervised by a Licensee at all times when consumers are present to ensure that only persons who are 21 years of age or older are permitted to enter. When allowing a customer access to a Restricted Access Area, Owner Licensees and Employee Licensees shall make reasonable efforts to limit the number of consumers in relation to the number of Owners Licensees and Employee Licensees in the Restricted Access Area at any time.

C. Display of Retail Marijuana. The display of Retail Marijuana for sale is allowed only in Restricted Access Areas. Any product displays that are readily accessible to the consumer must be supervised by the Owner Licensee or Employee Licensees at all times when consumers are present.

D. Pregnancy Warning. Accelerator Stores must post, at all times and in a prominent place inside the Restricted Access Area, a warning that is at minimum three inches high and six inches wide that reads:

> **WARNING:** Using marijuana, in any form, while you are pregnant or breastfeeding passes THC to your baby and may be harmful to your baby. There is no known safe amount of marijuana use during pregnancy or breastfeeding.

Part 7 – Regulated Marijuana Transfers to Unlicensed Pesticide Manufacturers

7-105 – Medical Marijuana Transfers to Medical Research Facilities – **Repealed effective January 1, 2021.**

7-110 – Retail Marijuana Transfers to Medical Research Facilities – **Repealed effective January 1, 2021.**

Basis and Purpose – 7-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(a)(II), 44-10-202(1)(c), 44-10-203(1)(c), and 44-10-203(1)(k), C.R.S. The purpose of this rule is to establish requirements associated with the Transfer of Regulated Marijuana and Regulated Marijuana Product to Pesticide Manufacturers, including requirements for the possession and disposition of Regulated Marijuana and Regulated Marijuana Products by Pesticide Manufacturers. This Rule 7-115 was previously Rules M and R 1802, 1 CCR 212-1 and 1 CCR 212-2.

7-115 – Pesticide Manufacturers

A. Transfers to Pesticide Manufacturers. A Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, Retail Marijuana Cultivation Facility, and Retail Marijuana Products Manufacturer may Transfer Regulated Marijuana to a Pesticide Manufacturer solely for the purpose of conducting research to establish safe and effective protocols, including but not limited to establishing efficacy and toxicity, for the use of Pesticides on Regulated Marijuana. *See* Rules 5-205, 5-305, 6-205, 6-305.

B. Written Documentation Required. A Licensee shall require, and shall not Transfer Regulated Marijuana prior to receiving, written proof under oath, as evidenced by an affidavit entered into by an authorized person on behalf of the Pesticide Manufacturer, affirming that the Pesticide Manufacturer meets the requirements set forth in subparagraph (C)(4) of this Rule. This documentation shall constitute a business record under Rule 3-905 – Business Records Required.

C. Agreement with Pesticide Manufacturer. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer that Transfers Regulated Marijuana to a Pesticide Manufacturer shall enter into a written agreement with the Pesticide Manufacturer prior to Transferring any Regulated Marijuana to the Pesticide Manufacturer. The written agreement, which shall constitute a business record under Rule 3-905, shall include:

1. The identity of the Pesticide Manufacturer;

2. The quantity of Regulated Marijuana that will be Transferred to the Pesticide Manufacturer;

3. The date(s) upon which Transfer of the Regulated Marijuana will occur;

4. An affirmation by the Pesticide Manufacturer that it:

   i. Has an establishment number with the U.S. Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 *et seq.*;

   ii. Is authorized to do business in Colorado;

   iii. Is in possession of a physical location in the State of Colorado where its research activities will occur;

   iv. Has applied for and received any necessary license, registration, certification, or permit from the Colorado Department of Agriculture pursuant to the Pesticide Act, sections 35-9-101 *et seq.*, C.R.S. and/or the Pesticide Applicators' Act, sections 35-10-101 *et seq.*, C.R.S.;

v. Remains authorized to receive the quantity of Regulated Marijuana that will be Transferred to the Pesticide Manufacturer; and

vi. Will only use the Transferred Regulated Marijuana for the purpose of research to establish safe and effective protocols for the use of Pesticides on Regulated Marijuana, which protocols may include but not be limited to establishing efficacy and toxicity; and

5. An affirmation by the Licensee that it has received written proof the Pesticide Manufacturer meets the requirements set forth in subparagraph (C)(4) of this Rule.

D. Inventory Tracking Requirements. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, and Retail Marijuana Products Manufacturer shall track all Regulated Marijuana in the Inventory Tracking System until it is delivered to a Pesticide Manufacturer.

1. Transport Manifest. A Licensee shall not deliver or permit the delivery of Regulated Marijuana unless a manifest is generated from the Inventory Tracking System.

2. Complete Manifest. A Licensee shall not relinquish possession or control of Regulated Marijuana to a Pesticide Manufacturer until a natural person authorized by the Pesticide Manufacturer acknowledges receipt of the Regulated Marijuana by signing the transport manifest.

3. No Inventory Tracking Following Delivery. Once Regulated Marijuana has been Transferred by a Licensee to a Pesticide Manufacturer, no further inventory tracking is required.

4. Licensee Delivery Responsibility. The originating Licensee is responsible for confirming delivery of all Regulated Marijuana in the Inventory Tracking System.

E. Packaging, Labeling, and Testing. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer that Transfers Regulated Marijuana to a Pesticide Manufacturer shall package, label, and test all Regulated Marijuana in conformance with these rules prior to Transferring the Regulated Marijuana. *See* – Labeling, Packaging, and Product Safety; – Regulated Marijuana Testing Program.

F. Business Records. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer that Transfers Regulated Marijuana to a Pesticide Manufacturer shall keep all documents concerning the relationship and Transfer of any Regulated Marijuana in accordance with Rules 3-605 and 3-905.

G. Pesticide Manufacturer Authorized Activities. A Pesticide Manufacturer is only authorized to possess Transferred Regulated Marijuana in order to conduct research to establish safe and effective protocols, including but not limited to establishing efficacy and toxicity, for the use of Pesticides on Regulated Marijuana.

H. Quantity Limitations for Pesticide Manufacturer. In no event shall a Pesticide Manufacturer possess at any given time more than (i) 12 Medical Marijuana plants and (ii) four pounds of Medical Marijuana or its equivalency in Medical Marijuana Concentrate (512 grams) or Medical Marijuana Product (5,120 Medical Marijuana Products), and (i) 12 Retail Marijuana plants and (ii) four pounds of Retail Marijuana or its equivalency in Retail Marijuana Concentrate (512 grams) or Retail Marijuana Products (5,120 ten-milligram servings of Retail Marijuana Product).

I. Disposition of Transferred Regulated Marijuana. A Pesticide Manufacturer shall destroy all Transferred Regulated Marijuana received from a Licensee following completion of research activities.

1. A Pesticide Manufacturer shall destroy Transferred Regulated Marijuana in conformance with Rule 3-230 – Waste Disposal.

2. A Pesticide Manufacturer shall document the destruction of Transferred Regulated Marijuana, which documentation shall include:

i. Whether the destroyed material was Transferred Regulated Marijuana;

ii. The date of destruction;

iii. The location of the destruction;

iv. The manner in which the Transferred Regulated Marijuana was rendered unusable and Unrecognizable;

v. The method of final disposition pursuant to Rule 3-230; and

vi. The identity(ies) and contact information of all Person(s) involved in the destruction.

3. A Pesticide Manufacturer shall keep all documentation regarding destruction of Transferred Regulated Marijuana for the current year and three preceding calendar years.

J. No Pesticide on Licensed Premises. Under no circumstance may a Pesticide Manufacturer apply Pesticide(s) for research purposes on the Licensed Premises of a Regulated Marijuana Business.

1. Licensees Shall Not Permit Pesticide on Licensed Premises. Under no circumstance may a Licensee allow or permit the application of Pesticide(s) by a Pesticide Manufacturer for research purposes on the Licensed Premises of a Regulated Marijuana Business.

2. Violation Affecting Public Safety. A violation of this prohibition shall be considered a violation affecting public safety.

K. No Human or Animal Subjects. Under no circumstance shall a Pesticide Manufacturer receiving Regulated Marijuana from a Licensee engage in research involving human subjects. Additionally, under no circumstance shall a Pesticide Manufacturer receiving Regulated Marijuana from a Licensee engage in research involving animal subjects, as defined in the Animal Welfare Act, 7 U.S.C. § 2132(g).

1. Licensees Shall Not Permit Human or Animal Subject Research. If a Licensee knows or reasonably should know that a Pesticide Manufacturer intends to engage in or has engaged in marijuana-related research involving human and/or animal subjects, the Licensee shall not Transfer any Regulated Marijuana to the Pesticide Manufacturer.

2. Violation Affecting Public Safety. A violation of this Rule shall be considered a violation affecting public safety.

L. No Transfer to Licensees. Under no circumstance may a Licensee receive or obtain for any purposes any Transferred Regulated Marijuana from a Pesticide Manufacturer.

Part 8 – Enforcement and Discipline

8-100 Series - Enforcement

Basis and Purpose – 8-105

The statutory authority for this rule includes but is not limited to sections 44-10-201(4), 44-10-202(1)(c), 44-10-203(1)(e), 44-10-203(1)(f), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-204, and 44-10-902, C.R.S. This rule explains that Licensees must cooperate with Division employees when they are acting within the normal scope of their duties and that failure to do so may result in sanctions. It also explains the administrative hold process, the handling of inventory subject to administrative hold and under investigation and the process for voluntary surrender of Regulated Marijuana. This Rule 8-105 was previously Rules M and R 1201, 1 CCR 212-1 and 1 CCR 212-2.

8-105 – Duties of Employees of the State Licensing Authority

A. Duties of Director.

1. The State Licensing Authority may delegate an act required to be performed by the State Licensing Authority related to the day-to-day operation of the Division to the Director.

2. The Director may authorize Division employees to perform tasks delegated from the State Licensing Authority.

3. The Director or his or her authorized Division employees may consult with any state or local agency for the purpose of the proper administration of these rules or the Marijuana Code.

B. Duties of Division Investigators. The State Licensing Authority, the Department's Senior Director of Enforcement, the Director, and Division investigators shall have all the powers of any peace officer to:

1. Investigate violations or suspected violations of the Marijuana Code and any rules promulgated pursuant to it. Make arrests, with or without warrant, for any violation of the Marijuana Code, any rules promulgated pursuant to it, Article 18 of Title 18, C.R.S., any other laws or regulations pertaining to Regulated Marijuana in this state, or any criminal law of this state, if, during an officer's exercise of powers or performance of duties pursuant to the Marijuana Code, probable cause exists that a crime related to such laws has been or is being committed;

2. Serve all warrants, summonses, subpoenas, administrative citations, notices or other processes relating to the enforcement of laws regulating Regulated Marijuana;

3. Assist or aid any law enforcement officer in the performance of his or her duties upon such law enforcement officer's request or the request of other local officials having jurisdiction;

4. Inspect, examine, or investigate any premises where the Licensee's Regulated Marijuana is grown, stored, cultivated, manufactured, tested, distributed, or sold, and any books and records in any way connected with any licensed or unlicensed activity;

5. Require any Licensee, upon demand, to permit an inspection of Licensed Premises during business hours or at any time of apparent operation, marijuana equipment, and marijuana accessories, or books and records; and, to permit the testing of or examination of Regulated Marijuana;

6. Require Applicants to submit complete and current applications and fees and other information the Division deems necessary to make licensing decisions and approve significant changes made by the Applicant or Licensee;

7. Conduct investigations into the character, criminal history, and all other relevant factors related to suitability of all Applicants and Licensees for Regulated Marijuana licenses and such other Persons with a direct or indirect interest in an Applicant or Licensee, as the State Licensing Authority may require; and

8. Exercise any other power or duty authorized by law.

C. Duties of State Licensing Authority and Division Employees.

1. Employees shall maintain the confidentiality of State Licensing Authority and Division records and information. For confidentiality requirements of State Licensing Authority and Division employees who leave the employment of the State Licensing Authority, *see* Rule 8-240 - Confidential Information and Former State Licensing Authority Employees.

2. Pursuant to subsection 44-10-201(3), C.R.S., State Licensing Authority employees with regulatory oversight responsibilities for marijuana businesses licensed by the State Licensing Authority shall not work for, represent, or provide consulting services to or otherwise derive pecuniary gain from a marijuana business licensed by the State Licensing Authority or other business entity established for the primary purpose of providing services to the marijuana industry for a period of six months following his or her last day of employment with the State Licensing Authority.

3. Pursuant to subsection 44-10-201(4), C.R.S., disclosure of confidential records or information in violation of the provisions of the Marijuana Code constitutes a class 1 misdemeanor.

Basis and Purpose – 8-110

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(f), 44-10-202(1)(g), 44-10-203(1)(k), and 44-10-902, C.R.S. This rule explains that Licensees must cooperate with Division employees when they are acting within the normal scope of their duties and that failure to do so may result in sanctions. It also explains the administrative hold process, the handling of inventory subject to administrative hold and under investigation and the process for voluntary surrender of Regulated Marijuana. This Rule 8-110 was previously Rules M and R 1202, 1 CCR 212-1 and 1 CCR 212-2.

8-110 – Requirement for Inspections and Investigations, Searches, Administrative Holds, Voluntary Surrenders and Such Additional Activities as May Become Necessary from Time to Time

A. Applicants and Licensees Shall Cooperate with Division Employees.

1. Applicants and Licensees must cooperate with employees of the Division who are conducting inspections or investigations relevant to the enforcement of laws and regulations related to the Marijuana Code.

2. No Applicant or Licensee shall by any means interfere with, obstruct, or impede the State Licensing Authority or any employee of the Division from exercising their duties pursuant to the provisions of the Marijuana Code and all rules promulgated pursuant to it. This would include, but is not limited to:

a. Threatening force or violence against an employee or investigator of the Division, or otherwise endeavoring to intimidate, obstruct, or impede employees or investigator of the Division, their supervisors, or any peace officers from exercising their duties. The term "threatening force" includes the threat of bodily harm to such individual or to a member of his or her family;

b. Denying investigators of the Division access to premises where the Licensee's Regulated Marijuana are grown, stored, cultivated, manufactured, tested, distributed, or Transferred during business hours or times of apparent activity;

c. Providing false or misleading statements;

d. Providing false or misleading documents and records;

e. Failing to timely produce requested books and records required to be maintained by the Licensee; or

f. Failing to timely respond to any other request for information made by a Division employee or investigator in connection with an investigation of the qualifications, conduct or compliance of an Applicant or Licensee.

3. License Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

B. Administrative Hold.

1. To prevent destruction of evidence, diversion, or other threats to public safety, while permitting a Licensee to retain its inventory pending further investigation, a Division investigator may order an administrative hold of Regulated Marijuana pursuant to the following procedure:

a. If during an investigation or inspection of a Licensee, a Division investigator develops reasonable grounds to believe certain Regulated Marijuana constitute evidence of acts in violation of the Marijuana Code or rules promulgated pursuant to it, or constitute a threat to the public safety, the Division investigator may issue a notice of administrative hold of any such Regulated Marijuana. The notice of administrative hold shall provide a documented description of the Regulated Marijuana to be subject to the administrative hold and a concise statement that is promptly issued and approved by the Director, or his or her designee, regarding the reasons for issuing the administrative hold.

b. Following the issuance of a notice of administrative hold, the Division will identify the Regulated Marijuana subject to the administrative hold in the Inventory Tracking System. The Licensee shall continue to comply with all tracking requirements. *See* Rule 3-805 Regulated Marijuana Businesses: Inventory Tracking System.

c. The Licensee shall completely and physically segregate the Regulated Marijuana subject to the administrative hold in a Limited Access Area of the Licensed Premises under investigation, where it shall be safeguarded by the Licensee.

d. While the administrative hold is in effect, the Licensee is prohibited from, giving away, Transferring, transporting, or destroying the Regulated Marijuana subject to the administrative hold, except as otherwise authorized by these rules.

e. While the administrative hold is in effect, the Licensee must safeguard the Regulated Marijuana subject to the administrative hold, must maintain the Licensed Premises in reasonable condition according to health, safety, and sanitary standards, and must fully comply with all security requirements including but not limited to surveillance, lock and alarm requirements as set forth in the Marijuana Code and the rules of the State Licensing Authority.

f. Nothing herein shall prevent a Licensee from voluntarily surrendering Regulated Marijuana that is subject to an administrative hold, except that the Licensee must follow the procedures set forth in paragraph (C) for voluntary surrender of Regulated Marijuana.

g. Nothing herein shall prevent a Licensee from the continued possession, cultivation or harvesting of the Regulated Marijuana subject to the administrative hold. All Regulated Marijuana subject to an administrative hold must be put into separate Harvest Batches.

h. At any time after the initiation of the administrative hold, the Division may lift the administrative hold, order the continuation of the administrative hold pending the administrative process, or seek other appropriate relief.

C. Voluntary Surrender of Regulated Marijuana.

1. A Licensee, prior to a Final Agency Order and upon mutual agreement with the Division, may elect to voluntarily surrender any Regulated Marijuana to the Division.

a. Such voluntary surrender may require destruction of any Regulated Marijuana in the presence of a Division investigator and at the Licensee's expense.

b. The individual signing the Division's voluntary surrender form on behalf of the Licensee must certify that the individual has authority to represent and bind the Licensee.

2. The voluntary surrender form may be utilized in connection with a stipulated agency order through which the Licensee waives the right to hearing and any associated rights.

3. The voluntary surrender form may be utilized even if the Licensee does not waive the right to hearing and any associated rights, with the understanding that the outcome of the hearing does not impact the validity of the voluntary surrender.

4. A Licensee, after a Final Agency Order and upon mutual agreement with the Division, may elect to voluntarily surrender any Regulated Marijuana to the Division.

a. The Licensee must complete and return the Division's voluntary surrender form within 15 calendar days of the date of the Final Agency Order.

b. Such voluntary surrender may require destruction of any Regulated Marijuana in the presence of a Division investigator and at the Licensee's expense.

c. The individual signing the Division's voluntary surrender form on behalf of the Licensee must certify that the individual has authority to represent and bind the Licensee.

Basis and Purpose – 8-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(f), 44-10-203(1)(g), 44-10-203(1)(k), and 44-10-902. The purpose of this rule is to provide guidance following either an agency decision or under any circumstances where the Licensee is ordered to surrender and/or destroy unauthorized Regulated Marijuana. This rule also provides guidance as to the need to preserve evidence during agency investigations or subject to agency order. This Rule 8-115 was previously Rules M and R 1203, 1 CCR 212-1 and 1 CCR 212-2.

8-115 – Disposition of Unauthorized Regulated Marijuana

A. After a Final Agency Order Mandates the Destruction of Regulated Marijuana. If the State Licensing Authority issues a Final Agency Order pursuant to section 44-10-902, C.R.S., that orders the destruction of some or all of the Licensee's unauthorized Regulated, the Licensee may:

1. Voluntarily Surrender. The Licensee may voluntarily surrender to the Division all of its unauthorized Regulated Marijuana that are described in the Final Agency Order in accordance with the provisions of Rule 8-110(C).

2. Seek A Stay. The Licensee may file a petition for a stay of the Final Agency Order with the Denver district court within 15 days of the date of the Final Agency Order.

3. Take No Action. If the Licensee does not either (1) voluntarily surrender its unauthorized Regulated Marijuana as set forth in subparagraph (A)(1) of this Rule; or (2) properly seek a stay of the Final Agency Order as set forth in subparagraph (A)(2) of this Rule, the Division will enter upon the Licensed Premises and seize and destroy the unauthorized Regulated Marijuana that are the subject of the Final Agency Order.

B. General Requirements Applicable To All Licensees Following Final Agency Order To Destroy Unauthorized Regulated Marijuana. The following requirements apply regardless of whether the Licensee voluntarily surrenders its unauthorized Regulated Marijuana, seeks a stay of agency action, or takes no action:

1. The 15 day period set forth in section 44-10-902(5), C.R.S., and this Rule shall include holidays and weekends.

2. During the period of time between the issuance of the Final Agency Order and the destruction of the unauthorized Regulated Marijuana the Licensee shall not sell, destroy, or otherwise let any unauthorized Regulated Marijuana that are subject to the Final Agency Order leave the Licensed Premises, unless specifically authorized by the State Licensing Authority or Court order.

3. During the period of time between the issuance of the Final Agency Order and the destruction of unauthorized Regulated Marijuana, the Licensee must safeguard any unauthorized Regulated Marijuana in its possession or control and must fully comply with all security requirements including but not limited to surveillance, lock and alarm requirements set forth in the Marijuana Code and the rules of the State Licensing Authority.

4. Unless the State Licensing Authority otherwise orders, the Licensee may cultivate, water, or otherwise care for any unauthorized Regulated Marijuana that are subject to the Final Agency Order during the period of time between the issuance of the Final Agency order and the destruction of the unauthorized Regulated Marijuana.

5. If a district attorney notifies the Division that some or all of the unauthorized Regulated Marijuana is involved in an investigation, the Division shall not destroy the unauthorized Regulated Marijuana until approved by the district attorney.

Basis and Purpose – 8-120

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(f), 44-10-203(1)(g), 44-10-203(1)(k), and 44-10-203(2)(w), C.R.S. This rule explains that Division investigators may exercise discretion in issuing written warning when, during the course of a compliance check or investigation, the Division investigator identifies a violation(s) of the Marijuana Code or the rules promulgated thereunder. This rule also explains that the Director of the Division may exercise discretion to accept an assurance of voluntary compliance. It also explains the evidentiary value of a written warning or an assurance of voluntary compliance. This Rule 8-120 was previously Rules M and R 1204, 1 CCR 212-1 and 1 CCR 212-2.

8-120 – Written Warnings and Assurances of Voluntary Compliance

A. Written Warnings. During an investigation, if a Division investigator identifies a violation(s) of the Marijuana Code or the rules promulgated thereunder, the Division investigator may issue a written warning in lieu of recommending immediate administrative action.

1. The written warning shall identify the alleged violation(s).

2. The written warning shall not constitute an admission of a violation(s) for any purpose or finding of a violation(s) by the State Licensing Authority, and shall not be evidence that Licensee violated the Marijuana Code, or the rules promulgated thereunder.

3. A written warning shall constitute evidence in any subsequent administrative proceeding, if relevant, that the Licensee was previously warned of the violation(s).

4. The Division may in its discretion initiate a subsequent administrative action and prove the violation(s) that was the subject of the written warning

B. Assurances of Voluntary Compliance. The Director of the Division may accept an assurance of voluntary compliance regarding any act or practice alleged to violate the Marijuana Code, or the rules thereunder.

1. The assurance must be in writing and may include a stipulation for the voluntary payment of the cost commensurate with the acts or practices and an amount necessary to restore money or property which may have been acquired by the alleged violator because of the acts or practices.

2. An assurance of voluntary compliance may not be considered an admission of a violation(s) for any purpose or a finding of a violation(s) by the State Licensing Authority; however, the assurance of voluntary compliance shall constitute evidence in any subsequent administrative proceeding that Licensee entered into an agreement to comply with the Marijuana Code, and/or the rules promulgated thereunder.

3. The State Licensing Authority may approve or review an assurance of voluntary compliance.

C. Not a Disciplinary Action. Neither a written warning nor an assurance of voluntary compliance constitutes a disciplinary action.

Basis and Purpose – 8-125

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(5), 44-10-203(1)(e), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(l), C.R.S. The purpose of this rule is to establish the circumstances under which the State Licensing Authority may seek from a district court an investigative subpoena and what reasonable efforts the Division may take prior to seeking an investigative subpoena. The Division has encountered circumstances that would have justified such an investigative subpoena. Establishing the criteria under which the Division may seek an investigative subpoena will provide district courts guidelines under which to evaluate a petition for an investigative subpoena.

8-125 – Investigative Subpoenas

A. Criteria. The State Licensing Authority may petition a district court for an investigative subpoena applicable to a Person who is not licensed pursuant to the Marijuana Code to obtain documents or information necessary to enforce the Marijuana Code and these Rules after the Division has taken reasonable efforts to obtain requested documents or information.

B. Reasonable Efforts. For purposes of this Rule 8-125, "reasonable efforts" may include but shall not be limited to obtaining the documents or information through a request to the unlicensed Person and such unlicensed Person has either declined to provide the documents or information, or failed to respond to the Division within the applicable time frame.

C. Affidavit. When seeking an investigative subpoena, the Division will supply the district court with a sworn affidavit explaining the bases for seeking the subpoena.

Basis and Purpose – 8-130

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(2)(e), 44-10-203(2)(l), 44-10-203(1)(e), 44-10-203(1)(g), and 44-10-203(2)(w), C.R.S. The purpose of this rule is to establish the circumstances under which the Division may seek from a district court an administrative warrant to search and/or seize marijuana and marijuana products, or other evidence indicating a violation of the Marijuana Code or rules. The Division has encountered circumstances that would have justified such a warrant. Establishing the criteria under which the Division may seek an administrative warrant will give fair notice to the regulated community regarding the types of violations that would lead to a request for an administrative warrant. This Rule 8-130 was previously Rules M and R 1309, 1 CCR 212-1 and 1 CCR 212-2.

8-130 – Administrative Warrants

A. Criteria. The Division may seek from a district court an administrative search warrant authorizing search and seizure in circumstances in which the Division makes a proper showing that:

1. A Licensee has refused entry of Division investigators during business hours or times of apparent activity;

2. A Licensee subject to an administrative hold or summary suspension has failed to comply with applicable rules; or

3. A Licensee otherwise has acted in a manner demonstrating disregard for the Marijuana Code and the State Licensing Authority's rules or that threatens the public health, safety, and welfare.

B. Affidavit. When seeking an administrative search warrant, the Division will supply the district court with a sworn affidavit explaining the bases for seeking the warrant.

C. Seized Property. If the Division seizes marijuana, neither the Division nor the State Licensing Authority shall cultivate or care for any seized marijuana or marijuana products. The Division may seek from the district court an order to destroy any such marijuana or marijuana products.

8-200 Series – Discipline and Administrative Hearings

Basis and Purpose – 8-205

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(l), 44-10-701, 44-10-901, and 24-4-105 C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to clarify how the disciplinary process for non-summary license suspensions and license revocations is initiated. This Rule 8-205 was previously Rules M and R 1301, 1 CCR 212-1 and 1 CCR 212-2.

8-205 –Non-Summary Suspensions

A. How a Disciplinary Action is Initiated.

1. If the State Licensing Authority, on its own initiative or based on a complaint, has reasonable cause to believe that a Licensee has violated the Marijuana Code, any rule promulgated pursuant to it, or any of its orders, the State Licensing Authority shall issue and serve upon the Licensee an Order to Show Cause (administrative citation) as to why its license should not be suspended, revoked, restricted, fined, or subject to other disciplinary sanction.

2. The Order to Show Cause shall identify the statute, rule, regulation, or order allegedly violated, and the facts alleged to constitute the violation. The order shall also provide an advisement that the license could be suspended, revoked, restricted, fined, or subject to other disciplinary sanction should the charges contained in the notice be sustained upon final hearing.

B. Disciplinary Hearings. Disciplinary hearings will be conducted in accordance with Rule 8-220 – Administrative Hearings.

C. Renewal. The issuance of an Order to Show Cause does not relieve the Licensee of the obligation to timely comply with all license renewal requirements.

Basis and Purpose – 8-210

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(l), 24-4-104(4)(a), 44-10-701, 44-10-901, and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to set forth the process for summary suspensions when the State Licensing Authority has cause to immediately suspend a license prior to and pending a hearing and final agency order. Summary suspensions will be imposed when the State Licensing Authority has reason to believe and finds that a Licensee has been guilty of a deliberate and willful violation of any applicable law or regulation, or that the public health, safety, and welfare imperatively require emergency action. The rule ensures proper due process for Licensees when their licenses are temporarily or summarily suspended by requiring prompt initiation of disciplinary proceedings after such suspensions. The purpose of the modifications to this rule is to clarify that the hearing following the Order of Summary Suspension concerns the allegations set forth in the Order to Show Cause. This Rule 8-210 was previously Rules M and R 1302, 1 CCR 212-1 and 1 CCR 212-2.

8-210 – Summary Suspensions

A. How a Summary Suspension Action is Initiated.

1. When the State Licensing Authority has reasonable grounds to believe and finds that a Licensee has been guilty of a deliberate and willful violation of any applicable law or regulation or that the public health, safety, or welfare imperatively requires emergency action it shall serve upon the Licensee a Summary Suspension Order that temporarily or summarily suspends the license.

2. The Summary Suspension Order shall identify the nature of the State Licensing Authority's basis for the summary suspension. The Summary Suspension Order shall also provide an advisement that the License may be subject to further discipline or revocation following a hearing on an Order to Show Cause.

3. Proceedings for suspension or revocation shall be promptly instituted and determined after the Summary Suspension Order is issued in accordance with the following procedure:

a. After the Summary Suspension Order is issued, the State Licensing Authority shall promptly issue and serve upon the Licensee an Order to Show Cause (administrative citation) as to why the Licensee's license should not be suspended, revoked, restricted, fined, or subject to other disciplinary sanction.

b. The Order to Show Cause shall identify the statute, rule, regulation, or order allegedly violated, and the facts alleged to constitute the violation. The Order to Show Cause shall also provide an advisement that the license could be suspended, revoked, restricted, fined or subject to disciplinary sanction should the charges contained in the Order to Show Cause be sustained upon final hearing.

c. The Order to Show Cause shall be filed with the Department's Hearings Division. The hearing on the allegations set forth in the Order to Show Cause shall be expedited to the extent practicable and will be conducted in accordance with Rule 8-220 – Administrative Hearings.

B. Duration of Summary Suspension. Unless lifted by the State Licensing Authority, the Summary Suspension Order shall remain in effect until issuance of a Final Agency Order.

Basis and Purpose – 8-215

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(l), 44-10-701, 44-10-901, 24-4-104(4)(a), and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The State Licensing Authority recognizes that if Licensees are not able to care for their products during a period of active suspension, then their plants could die, their edible products could deteriorate, and their on-hand inventory may not be properly maintained. Accordingly, this rule was written to clarify that Licensees whose licenses are summarily suspended may care for on-hand inventory, manufactured products, and plants during the suspension (unless the State Licensing Authority does not allow such activity), provided the Licensed Premises and all Regulated Marijuana is adequately secured. In addition, the rule clarifies what activity is always prohibited during such suspension. This Rule 8-215 was previously Rules M and R 1303, 1 CCR 212-1 and 1 CCR 212-2.

8-215 – Suspension Process: Regular and Summary Suspensions

A. Signs Required During Suspension. Every Licensee whose license has been suspended, whether summarily or after an administrative hearing, shall post two notices in conspicuous places, one on

the exterior and one on the interior of its premises, for the duration of the suspension. The notices shall be at least 17 inches in length and 11 inches in width containing lettering not less than 1/2'' in height.

1. For suspension following issuance of a Final Agency Order, the sign shall be in the following form:

   NOTICE OF SUSPENSION

   REGULATED MARIJUANA LICENSES ISSUED

   FOR THESE PREMISES HAVE BEEN

   SUSPENDED BY ORDER OF THE STATE LICENSING AUTHORITY

   FOR VIOLATION OF THE COLORADO MARIJUANA CODE

2. For a summary suspension pending issuance of a Final Agency Order, the sign shall be in the following form:

   NOTICE OF SUSPENSION

   REGULATED MARIJUANA LICENSES ISSUED

   FOR THESE PREMISES HAVE BEEN

   SUSPENDED BY ORDER OF THE STATE LICENSING AUTHORITY

   FOR ALLEGED VIOLATION OF THE COLORADO MARIJUANA CODE

Any advertisement or posted signs that indicate that the premises have been closed or business suspended for any reason other than by the manner described in this Rule shall be deemed a violation of these rules.

B. Prohibited Activity During Active Suspension.

1. Unless otherwise ordered by the State Licensing Authority, during any period of active license suspension the Licensee shall not permit the serving, giving away, distribution, manufacture, sampling, acquisition, purchase, testing, Transfer, or transport of Regulated Marijuana on or from the Licensed Premises, nor allow patients or consumers to enter the Licensed Premises.

2. Unless otherwise ordered by the State Licensing Authority, during any period of suspension the Licensee may continue to possess, maintain, cultivate, or harvest Regulated Marijuana on the Licensed Premises. The Licensee must fully account for all such Regulated Marijuana in the Inventory Tracking System. The Licensee must safeguard any Regulated Marijuana in its possession or control. The Licensee must possess and maintain the Licensed Premises in reasonable condition according to health, safety, and sanitary standards, and must fully comply with all security requirements including but not limited to surveillance, lock and alarm requirements set forth in the Marijuana Code and the rules of the State Licensing Authority.

C. Removal and Destruction of Regulated Marijuana. Regulated Marijuana shall not be removed from the Licensed Premises or destroyed unless:

1. The provisions described in section 44-10-902, C.R.S., related to the proper destruction of unauthorized marijuana are met, and the State Licensing Authority orders forfeiture and destruction. *See also* Rule 8-115 – Disposition of Unauthorized Regulated Marijuana;

2. The Licensee has voluntarily surrendered the Regulated Marijuana in accordance with Rule 8-110(C) – Voluntary Surrender; or

3. The State Licensing Authority has seized the Regulated Marijuana pursuant to an Administrative Warrant. *See* Rule 8-130 – Administrative Warrant.

D. Renewal. The issuance of an Order to Show Cause or an Order of Summary Suspension does not relieve the Licensee of the obligation to timely comply with all license renewal requirements. The Division's approval of any renewal application filed by a Licensee while subject to an Order to Show Cause or an Order of Summary Suspension shall not constitute a Final Agency Order or an agreement to a settlement of the administrative action. The Licensee shall continue to comply with the requirements of this Rule pending a Final Agency Order resolving the Order of Summary Suspension and any related Order to Show Cause.

Basis and Purpose – 8-220

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-203(2)(l), 44-10-204(1)(a), 44-10-701, 44-10-901, 24-4-104, and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish what entity conducts the administrative hearings, the procedures governing administrative hearings, and other general hearings issues. The purpose of the modifications to this rule is to clarify that the hearing following the Order of Summary Suspension concerns the allegations set forth in the Order to Show Cause, and to clarify that an answer is required only for two types of administrative notices: an Order to Show Cause and a Notice of Grounds for Denial. This Rule 8-220 was previously Rules M and R 1304, 1 CCR 212-1 and 1 CCR 212-2.

8-220 – Administrative Hearings

A. General Procedures.

1. Hearing Location. Hearings will generally be conducted by the Department's Hearings Division. Hearings will be held virtually unless otherwise ordered by the hearing officer for good cause. "Good cause" for an in-person hearing means that there are unusual circumstances where justice, judicial economy, and convenience of the parties would be served by holding a hearing in person. The Division, Respondent or Denied Applicant may request a hearing officer order an in-person hearing upon a showing of good cause. If the hearing officer orders an in-person hearing, the hearing will be conducted at a location in the greater Denver metropolitan area to be determined by the hearing officer.

2. Scope of Hearing Rules. This Rule shall be construed to promote the just and efficient determination of all matters presented.

3. Right to Legal Counsel. Any Denied Applicant or Respondent has a right to legal counsel throughout all processes described in rules associated with the denial of an application and disciplinary action. Such counsel shall be provided solely at the Denied Applicant's or Respondent's expense. Unless a Denied Applicant or Respondent that is an entity satisfies the exception in section 13-1-127(2), C.R.S., the Denied Applicant or Respondent must be represented by an attorney admitted to practice law in the state of Colorado.

4. Service. An Order to Show Cause or a Notice of Denial must be served on a Respondent or Denied Applicant personally or by first-class mail. Service of pleadings or other papers on a Denied Applicant, Respondent, or any attorney representing a party, may be made by hand delivery, by mail to the party's last known address, or by electronic mail. Service of pleadings or other papers on the Division in an administrative hearing may be made to the attorney(s) of record, as identified on the Certificate of Service to the Order to Show Cause, Order of Summary Suspension, or Notice of Denial, by electronic mail or first-class mail.

B. Requesting a Hearing.

1. A Denied Applicant that has been served with a Notice of Denial may request a hearing within 60 days of the service of the Notice of Denial by making a written request for a hearing to the Division. The request must be submitted by United States mail or by hand delivery. Email or fax requests will not be considered. The request must be sent to the mailing address of the Division's headquarters, as listed on the Division's website. Include "Attn: Hearing Request" in the mailing address. The written request for a hearing must be received by the Division within the time stated in the Notice of Denial. An untimely request for hearing will not be considered.

2. A Denied Applicant that timely requests a hearing following issuance of a Notice of Denial shall be served with a Notice of Grounds for Denial, and shall be entitled to a hearing regarding the matters addressed therein.

3. A Respondent that has been served with an Order to Show Cause shall be entitled to a hearing regarding the matters addressed therein.

C. When a Responsive Pleading is Required.

1. A Respondent shall file a written answer with the Hearings Division and the Division within 30 days after the date of mailing of any Order to Show Cause. The written answer shall comply with the requirements of Rule 8 of the Colorado Rules of Civil Procedure. If a Respondent fails to file a required answer, the hearing officer, upon motion, may enter a default against that Person pursuant to section 24-4-105(2)(b), C.R.S. For good cause, as described in this Rule, shown, the hearing officer may set aside the entry of default within ten days after the date of such entry.

2. A Denied Applicant shall file a written answer with the Hearings Division and the Division within 30 days after the date of mailing of any Notice of Grounds for Denial. The written answer shall comply with the requirements of Rule 8 of the Colorado Rules of Civil Procedure. If a Denied Applicant fails to file a required answer, the hearing officer, upon motion, may enter a default against that Person pursuant to section 24-4-105(2)(b), C.R.S. For good cause, as described in this Rule, shown, the hearing officer may set aside the entry of default within ten days after the date of such entry.

D. Hearing Notices.

1. Notice to Set. The Division shall send a notice to set a hearing to the Denied Applicant or Respondent in writing by electronic mail or by first-class mail to the last mailing address of record if an electronic mail address is unknown.

2. Notice of Hearing. The Hearings Division shall notify the Division and Denied Applicant or Respondent of the date, place, time, and nature of the hearing regarding denial of the license application or whether discipline should be imposed against the Respondent's license at least 30 days prior to the date of such hearing, unless otherwise agreed to by

both parties. This notice shall be sent to the Denied Applicant or Respondent in writing by first-class mail to the last mailing address of record. Hearings shall be scheduled and held as soon as is practicable.

a. If an Order of Summary Suspension has issued, the hearing on the Order to Show Cause will be scheduled and held promptly.

b. Continuances may be granted for good cause, as described in this Rule, shown. A motion for a continuance must be timely.

c. "Good cause" for a continuance may include but is not limited to: death or incapacitation of a party or an attorney for a party; a court order staying proceedings or otherwise necessitating a continuance; entry or substitution of an attorney for a party a reasonable time prior to the hearing, if the entry or substitution reasonably requires a postponement of the hearing; a change in the parties or pleadings sufficiently significant to require a postponement; a showing that more time is clearly necessary to complete authorized discovery or other mandatory preparation for the hearing; or agreement of the parties to a settlement of the case which has been or will likely be approved by the final decision maker. Good cause normally will not include the following: unavailability of counsel because of engagement in another judicial or administrative proceeding, unless the other proceeding was involuntarily set subsequent to the setting in the present case; unavailability of a necessary witness, if the witness' testimony can be taken by telephone or by deposition; or failure of an attorney or a party timely to prepare for the hearing.

E. Prehearing Matters Generally.

1. Prehearing Conferences Once a Hearing is Set. Prehearing conferences may be held at the discretion of the hearing officer upon request of any party, or upon the hearing officer's own motion. If a prehearing conference is held and a prehearing order is issued by the hearing officer, the prehearing order will control the course of the proceedings.

2. Depositions. Depositions are generally not allowed; however, a hearing officer has discretion to allow a deposition if a party files a written motion and can show why such deposition is necessary to prove its case. When a hearing officer grants a motion for a deposition, C.R.C.P. 30 controls. Hearings will not be continued because a deposition is allowed unless (a) both parties stipulate to a continuance and the hearing officer grants the continuance, or (b) the hearing officer grants a continuance over the objection of any party in accordance with subsections (D)(2)(b) and (c) of this Rule.

3. Prehearing Statements Once a Hearing is Set. Prehearing Statements are required and unless otherwise ordered by the hearing officer, each party shall file with the hearing officer and serve on each party a prehearing statement no later than seven calendar days prior to the hearing. Parties shall also exchange exhibits at that time. Parties shall not file exhibits with the hearing officer. Parties shall exchange exhibits by the date on which prehearing statements are to be filed. Prehearing statements shall include the following information:

a. Witnesses. The name, mailing address, and telephone number of any witness whom the party may call at hearing, together with a detailed statement of the expected testimony.

b. Experts. The name, mailing address, and brief summary of the qualifications of any expert witness a party may call at hearing, together with a statement that

details the opinions to which each expert is expected to testify. These requirements may be satisfied by the incorporation of an expert's resume or report containing the required information.

c. Exhibits. A description of any physical or documentary evidence to be offered into evidence at the hearing. Exhibits should be identified as follows: Division using numbers and Denied Applicant or Respondent using letters.

d. Stipulations. A list of all stipulations of fact or law reached, as well as a list of any additional stipulations requested or offered to facilitate disposition of the case.

4. Prehearing Statements Binding. The information provided in a party's prehearing statement shall be binding on that party throughout the course of the hearing unless modified to prevent manifest injustice. New witnesses or exhibits may be added only if: (1) the need to do so was not reasonably foreseeable at the time of filing of the prehearing statement; (2) it would not prejudice other parties; and (3) it would not necessitate a delay of the hearing.

5. Consequence of Not Filing a Prehearing Statement Once a Hearing is Set. If a party does not timely file a prehearing statement, the hearing officer may impose appropriate sanctions including, but not limited to, striking proposed witnesses and exhibits.

F. Conduct of Hearings.

1. The hearing officer shall cause all hearings to be electronically recorded.

2. The hearing officer may allow a hearing, or any portion of the hearing, to be conducted in real time by telephone or other electronic means. If a party is appearing by telephone, the party must provide actual copies of the exhibits to be offered into evidence at the hearing to the hearing officer when the prehearing statement is filed. Electronic filings will be accepted at: dor_regulatoryhearings@state.co.us.

3. The hearing officer shall administer oaths or affirmations to all witnesses at hearing. The hearing officer may question any witness.

4. The hearing, including testimony and exhibits, shall be open to the public unless otherwise ordered by the hearing officer in accordance with a specific provision of law.

a. Reports and other information that would otherwise be confidential pursuant to subsection 44-10-204(1)(a), C.R.S., may be introduced as exhibits at hearing.

b. Any party may move the hearing officer to seal an exhibit or order other appropriate relief if necessary to safeguard the confidentiality of evidence.

5. Court Rules.

a. To the extent practicable, the Colorado Rules of Evidence apply. Unless the context requires otherwise, whenever the word "court," "judge," or "jury" appears in the Colorado Rules of Evidence, such word shall be construed to mean a hearing officer. A hearing officer has discretion to consider evidence not admissible under such rules, including but not limited to hearsay evidence, pursuant to section 24-4-105(7), C.R.S.

b. To the extent practicable, the Colorado Rules of Civil Procedure apply. However, Colorado Rules of Civil Procedure 16 and 26-37 do not apply, although parties

are encouraged to voluntarily work together to resolve the case, simplify issues, and exchange information relevant to the case prior to a hearing. Unless the context otherwise requires, whenever the word "court" appears in a rule of civil procedure, that word shall be construed to mean a hearing officer.

6. Exhibits.

   a. All documentary exhibits must be paginated by the party offering the exhibit into evidence.

   b. The Division shall use numbers to mark its exhibits.

   c. The Denied Applicant or Respondent shall use letters to mark its exhibits.

7. The hearing officer may proceed with the hearing or enter default judgment if any party fails to appear at hearing after proper notice.

G. Post Hearing. After considering all the evidence, the hearing officer shall determine whether the proponent of the order has proven its case by a preponderance of the evidence, and shall make written findings of evidentiary fact, ultimate conclusions of fact, conclusions of law, and a recommendation. These written findings shall constitute an Initial Decision subject to review by the State Licensing Authority pursuant to the Colorado Administrative Procedure Act and as set forth in Rule 8-230 – Administrative Hearing Appeals/Exceptions to Initial Decision.

H. No Ex Parte Communication. Ex parte communication shall not be allowed at any point following the formal initiation of the hearing process. A party or counsel for a party shall not initiate any communication with a hearing officer or the State Licensing Authority, or with conflicts counsel representing the hearing officer or State Licensing Authority, pertaining to any pending matter unless all other parties participate in the communication or unless prior consent of all other parties (and any pro se parties) has been obtained. Parties shall provide all other parties with copies of any pleading or other paper submitted to the hearing officer or the State Licensing Authority in connection with a hearing or with the exceptions process.

I. Marijuana Enforcement Division representation. The Division shall be represented by the Colorado Department of Law.

Basis and Purpose – 8-225

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(k), 44-10-203(2)(a), 24-4-105, and 44-10-901, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish how all parties, including pro se parties, can obtain subpoenas during the administrative hearing process. This Rule 8-225 was previously Rules M and R 1305, 1 CCR 212-1 and 1 CCR 212-2.

8-225 – Administrative Subpoenas

A. Informal Exchange of Documents Encouraged. Parties are encouraged to exchange documents relevant to the Notice of Denial or Order to Show Cause prior to requesting subpoenas. In addition, to the extent practicable, parties are encouraged to secure the voluntary presence of witnesses necessary for the hearing prior to requesting subpoenas.

B. Hearing Officer May Issue Subpoenas.

1. A party or its counsel may request the hearing officer to issue subpoenas to secure the presence of witnesses or documents necessary for the hearing or a deposition, if one is allowed.

2. Requests for subpoenas to be issued by the hearing officer must be emailed to the Hearings Division at the Department of Revenue at dor_regulatoryhearings@state.co.us. Subpoena requests must include the return mailing address, and phone and facsimile numbers of the requesting party or its attorney.

3. Requests for subpoenas to be issued by the hearing officer may be made on a "Request for Subpoena" form authorized and provided by the Hearings Division, or on a "Request for Subpoena" request that includes the information below. A hearing officer shall not issue a subpoena unless the request contains the following information:

   a. Name of Denied Applicant or Respondent;

   b. License or application number;

   c. Case number;

   d. Date of hearing;

   e. Location of hearing, or telephone number for telephone check-in;

   f. Time of hearing;

   g. Name of witness to be subpoenaed; and

   h. Mailing address of witness (home or business).

4. A request for a subpoena *duces tecum* must identify each document or category of documents to be produced.

5. Requests for subpoenas shall be signed by the requesting party or its counsel.

6. The hearing officer shall issue subpoenas without discrimination, as set forth in section 24-4-105(5), C.R.S. If the reviewing hearing officer denies the issuance of a subpoena, or alters a subpoena in any material way, specific findings and reasons for such denial or alteration must be made on the record, or by written order incorporated into the record.

C. Service of Subpoenas.

1. Service of any subpoena is the duty of the party requesting the subpoena.

2. All subpoenas must be served at least two business days prior to the hearing.

D. Subpoena Enforcement.

1. Any subpoenaed witness, entity, or custodian of documents may move to quash the subpoena with the hearing officer.

2. A hearing officer may quash a subpoena if he or she finds on the record that compliance would be unduly burdensome or impracticable, unreasonably expensive, or is unnecessary.

Basis and Purpose – 8-230

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(d), 44-10-203(1)(k), 44-10-203(2)(a), 44-10-701, 44-10-901, and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish how parties may appeal a hearing officer's Initial Decision pursuant to the Administrative Procedure Act. This Rule 8-230 was previously Rules M and R 1306, 1 CCR 212-1 and 1 CCR 212-2.

8-230 – Administrative Hearing Appeals/Exceptions to Initial Decision

A. Exception(s) Process. Any party may appeal an Initial Decision to the State Licensing Authority pursuant to the Colorado Administrative Procedure Act by filing written exception(s) within 30 days after the date of mailing of the Initial Decision to the Denied Applicant or Respondent and the Division. The written exception(s) shall include a statement giving the basis and grounds for the exception(s). Any party who fails to properly file written exception(s) within the time provided in these rules shall be deemed to have waived the right to an appeal. A copy of the exception(s) shall be served on all parties. The address of the State Licensing Authority is: State Licensing Authority, 1707 Cole Boulevard, Suite 350, Lakewood, CO 80401.

B. Designation of Record. Any party that seeks to reverse or modify the Initial Decision of the hearing officer shall file with the State Licensing Authority, within 20 days from the mailing of the Initial Decision, a designation of the relevant parts of the record and of the parts of the hearing transcript which shall be prepared, and advance the costs therefore. A copy of this designation shall be served on all parties. Within ten days thereafter, any other party may also file a designation of additional parts of the transcript of the proceedings which is to be included and advance the cost therefore. No transcript is required if the review is limited to a pure question of law. A copy of this designation of record shall be served on all parties.

C. Deadline Modifications. The State Licensing Authority may modify deadlines and procedures related to the filing of exceptions to the Initial Decision upon motion by either party for good cause shown.

D. No Oral Argument Allowed. Requests for oral argument will not be considered.

Basis and Purpose – 8-235

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(l), 44-10-701, and 44-10-901(3)(b), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(IX). The purpose of this rule is to establish guidelines for enforcement and penalties that will be imposed by the State Licensing Authority for non-compliance with Marijuana Code, section 18-18-406.3(7), or any other applicable rule. The State Licensing Authority may pursue a violation in any of the categories described in this Rule and is not required to prove harm from any of the alleged violation types. This Rule 8-235 was previously Rules M and R 1307, 1 CCR 212-1 and 1 CCR 212-2.

8-235 – Penalties

A. Penalty Schedule. The State Licensing Authority will make determinations regarding the type of penalty to impose based on the severity of the violation in the following categories:

1. License Violations Affecting Public Safety. This category of violation is the most severe and may include, but is not limited to, Retail Marijuana sales to persons under the age of 21 years, Medical Marijuana sales to non-patients, consuming marijuana on the Licensed Premises, Regulated Marijuana sales in excess of the relevant sales limitations, permitting the diversion of Regulated Marijuana outside the regulated distribution system,

possessing marijuana obtained from outside the regulated distribution system or from an unauthorized source, making misstatements or omissions in the Inventory Tracking System, failure to report any transfer required by section 44-10-313(11), knowingly adulterating or altering or attempting to adulterate or alter any Samples of Regulated Marijuana, violations related to sharing Licensed Premises between Medical Marijuana Businesses and Retail Marijuana Businesses, violations related to R&D Co-Location Permits, failure to maintain books and records to fully account for all transactions of the business, failure to cooperate with Division investigators during the course of a Division investigation, failure to comply with any requirement related to the Transfer of Sampling Units, utilizing advertising material that is misleading, deceptive, or false, advertising violations directly targeting minors, packaging or labeling violations that directly impact patient or consumer safety, or violations related to the mandatory testing program. Violations of this nature generally have an immediate or potential negative impact on the health, safety, and welfare of the public at large. The range of penalties for this category of violation may include license suspension, a fine per individual violation, a fine in lieu of suspension of up to $100,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

2. License Violations. This category of violation is more severe than a license infraction but generally does not have an immediate or potential negative impact on the health, safety, and welfare of the public at large. License violations may include but are not limited to, advertising and/or marketing violations, packaging or labeling violations that do not directly impact patient or consumer safety, failing to continuously escort a visitor in a Limited Access Area, failure to maintain minimum security requirements, failure to keep and maintain adequate business books and records, or minor or clerical errors in the Inventory Tracking System. The range of penalties for this category of violation may include license suspension, a fine per individual violation, a fine in lieu of suspension of up to $50,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

3. License Infractions. This category of violation is the least severe and may include, but is not limited to, failure to display required Identification Badges, visitor badges, unauthorized modifications of the Licensed Premises of a minor nature, or failure to notify the State Licensing Authority of a minor change in ownership. The range of penalties for this category of violation may include license suspension, a fine per individual violation, and/or a fine in lieu of suspension of up to $10,000 depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

B. Other Factors

1. The State Licensing Authority may take into consideration any aggravating and mitigating factors surrounding the violation which could impact the type or severity of penalty imposed.

2. The penalty structure is a framework providing guidance as to the range of violations, suspension description, fines, and mitigating and aggravating factors. The circumstances surrounding any penalty imposed will be determined on a case-by-case basis.

3. For all administrative offenses involving a proposed suspension, a Licensee may petition the State Licensing Authority for permission to pay a monetary fine, within the provisions of section 44-10-901, C.R.S., in lieu of having its license suspended for all or part of the suspension.

C. Mitigating and Aggravating Factors. The State Licensing Authority may consider mitigating and aggravating factors when considering the imposition of a penalty. These factors may include, but are not limited to:

1. Any prior violations that the Licensee has admitted to or was found to have engaged in.

2. Good faith measures by the Licensee to prevent the violation, including the following:

    a. Proper supervision;

    b. Regularly-provided and documented employee training, provided the Licensee demonstrates all reasonable training measures were delivered prior to the Division's investigation; and

    c. Standard operating procedures established prior to the Division's investigation, and which include procedures directly addressing the conduct for which imposition of a penalty is being considered.

3. Licensee's past history of success or failure with compliance checks.

4. Corrective action(s) taken by the Licensee related to the current violation or prior violations.

5. Willfulness and deliberateness of the violation.

6. Likelihood of reoccurrence of the violation.

7. Circumstances surrounding the violation, which may include, but are not limited to:

    a. Prior notification letter to the Licensee that an underage compliance check would be forthcoming.

    b. The dress or appearance of an underage operative used during an underage compliance check (*e.g.*, the operative was wearing a high school letter jacket).

    c. Licensee self-reported violation(s) of the Marijuana Code or rules promulgated pursuant to the Marijuana Code.

8. Owner or management personnel is the violator or has directed an employee or other individual to violate the law.

D. Responsible Vendor Designation. The State Licensing Authority shall consider responsible vendor designation pursuant to the 3-500 Series Rules as a mitigating factor when considering the imposition of sanctions or penalties.

Basis and Purpose – 8-240

The statutory authority for this rule includes but is not limited to sections 44-10-201(3), 44-10-201(4), 44-10-202(1)(c), 44-10-203(1)(k), 44-10-203(2)(l), 44-10-203(2)(m), 44-10-203(1)(e), and 44-10-204(1)(a), C.R.S. The purpose of this rule is to assure Licensees do not use unauthorized confidential information at any time and do not engage the services of former State Licensing Authority or Division employees with regulatory oversight responsibilities for licensed marijuana businesses for the first 6 months following State Licensing Authority or Division employment. This Rule 8-240 was previously Rules M and R 1308, 1 CCR 212-1 and 1 CCR 212-2.

8-240 – Confidential Information and Former State Licensing Authority Employees

A. Misdemeanor if Disclosed. Disclosure of confidential records or information in violation of the Marijuana Code constitutes a class 1 misdemeanor pursuant to subsection 44-10-201(4), C.R.S.

1. Licensees, and employees or agents of Licensees, shall not obtain or utilize confidential information the Licensee, employee or agent is not lawfully entitled to possess and acquire through use or misuse of Division processes or Division-approved systems. For confidentiality requirements of State Licensing Authority and Division employees, *see* Rule 8-105 – Duties of Employees of the State Licensing Authority.

2. Any Licensee, and any employee or agent of a Licensee, who is authorized to access the Division's Inventory Tracking System and/or have access to confidential information derived from Division sources, shall utilize the confidential information only for a purpose authorized by the Division or these Rules.

3. All Licensees, and all employees and agents of Licensees, shall not use the Inventory Tracking System for any purpose other than tracking the Licensee's Regulated Marijuana and Regulated Marijuana Product.

B. Six-Month Prohibition from Working with Former State Licensing Authority Employees. State Licensing Authority or Division employees with regulatory oversight responsibilities for Regulated Marijuana Businesses are prohibited from working for, representing, or providing consulting services to or otherwise deriving pecuniary gain from a Licensee for a period of six months following his or her last day of employment with the State Licensing Authority or Division.

1. Any Licensee who utilizes, employs, consults, seeks advice from, or contracts with a former employee of the State Licensing Authority or the Division prior to the conclusion of the six-month period shall be in violation of the Marijuana Code.

2. Any Licensee who possesses, utilizes, or re-discloses confidential information obtained from a former State Licensing Authority or Division employee at any time shall be in violation of the Marijuana Code.

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Tracking number: 2022-00525

Opinion of the Attorney General rendered in connection with the rules adopted by the

Marijuana Enforcement Division

on 10/11/2022

1 CCR 212-3

COLORADO MARIJUANA RULES

The above-referenced rules were submitted to this office on 10/20/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 31, 2022 11:57:49

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Education

Agency

Colorado State Board of Education

CCR number

1 CCR 301-37

Rule title

1 CCR 301-37 RULES FOR THE ADMINISTRATION OF THE EDUCATOR LICENSING ACT OF 1991 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF EDUCATION

Colorado State Board of Education

COLORADO EDUCATOR LICENSING ACT OF 1991

1 CCR 301-37

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

1.00 Statement of Basis and Purpose

The statutory basis for these rules is found in section 22-60.5-101, et seq, C.R.S., the Colorado Educator Licensing Act of 1991, and section 22-2-109(1), State board of education – additional duties. These rules establish the standards and criteria for the issuance of licenses and authorizations to teachers, special services providers, principals, and administrators. The Act calls for the State Board of Education to adopt rules for a three-tiered system of licensure for education personnel which includes an initial license for entry-level educators, a professional license for experienced educators, and a voluntary master certificate for outstanding educators.

These rules also provide for the issuance of special authorizations to educators as necessary to meet the needs of Colorado schools and students. Standards and processes for the approval of educator preparation programs through institutions of higher education and other designated agencies are provided. Criteria for the renewal of licenses and authorizations, which provide for significant involvement of practicing educators, are established. Standards for endorsement in subject areas or other areas of educational specialization are prescribed.

These rules provide a process for the recognition of educator preparation programs in other states to facilitate the movement of educators among states. The rules establish the requirements for induction programs to assist new educators through support, supervision, ongoing professional development and evaluation.

The rules establish the standards and processes by which licenses may be denied, suspended, annulled or revoked for conviction of certain criminal offenses, unethical behavior, professional incompetence, and other reasons enumerated by statute. Other miscellaneous provisions are included to meet the requirements of the Act.

2.0 General Licensing Regulations

The Colorado Department of Education has the sole authority to issue educator licenses and authorizations. Pursuant to sections 22-63-201 and 22-32-126, C.R.S., a Colorado license or authorization is required for employment as a teacher, special services provider, or principal in a Colorado school or school district. All licenses and authorizations must be endorsed to indicate the grade levels/developmental levels and specialization area(s) which are appropriate to the applicant's preparation, training, and experience.

2.1 Definitions

2.01(1) Accepted institution of higher education: An institution of higher education that offers at least the standard bachelor's degree and is recognized by one of the following regional associations: Western Association of Schools and Colleges; Northwest Commission on Colleges and Universities; Higher Learning Commission; New England Commission of Higher Education;

Southern Association of Colleges and Schools; or Middle States Commission on Higher Education.

2.01(2) Administrator: Any person who may or may not be licensed, but who administers, directs or supervises an education instructional or education-related program, or a portion thereof, in any school or school district, or nonpublic school in the state and who is not the chief executive officer or an assistant chief executive officer of such school.

2.01(3) Alternative principal: Any person employed as the chief executive officer or an assistant chief executive officer of any school in the state to administer, direct or supervise the education instruction program in such school or nonpublic school under a principal authorization and is actively participating in an alternative principal program or an individualized alternative principal program.

2.01(4) Alternative principal program: a program of study provided by a designated agency, as described in section 22-60.5-305.5(6), C.R.S., for principal preparation designed to provide the information, experience, and training to enable participants to develop the skills and obtain experience and training comparable to that possessed by a person who qualifies for an initial principal license.

2.01(5) Alternative teacher contract: A one- or two-year contract, as described in section 22-60.5-207 C.R.S., entered into by a holder of an alternative teacher license pursuant to section 22-60.5-201(1)(a), C.R.S., or an interim authorization pursuant to 22-60.5-111(7), C.R.S., and a school district, board of cooperative services, nonpublic school, or charter school that provides or participates in, a one-year or two-year alternative teacher program.

2.01(6) Alternative teacher program: A one-year or two-year program of study and training for teacher preparation for a person of demonstrated knowledge and ability who holds an alternative teacher license or an interim authorization. An alternative teacher program must meet the standards of and obtain the approval of the state board of education and, upon completion, lead to a recommendation for licensure by the designated agency providing the alternative teacher program.

2.01(7) Alternative teacher support team: A team established by the designated agency for each holder of an alternative teacher license or an interim authorization pursuant to 22-60.5-111(7), C.R.S., employed as an alternative teacher. At a minimum, each alternative teacher support team must be composed of the alternative teacher's mentor, the building principal and a representative of the approved designated agency.

2.01(8) Alternative teacher: Any person employed to instruct students in any public or nonpublic school in the state under an alternative teacher license or interim authorization pursuant to 22-60.5-111(7) and actively participating in an alternative teacher program.

2.01(9) Approved content tests: assessments approved by the State Board of Education for the purpose of evaluating the required subject matter knowledge and skills for a license, authorization, and/or endorsement.

2.01(10) Approved induction program: A program of continuing professional development for initial license-holders that meets the requirements of and is approved by the State Board of Education, and that upon completion leads to a recommendation for a professional license by the school district or districts, charter school, nonpublic school, or the institute providing such induction program.

2.01(11) Approved program of preparation: A program of study for the preparation of educators that meets the requirements of the State Board of Education as outlined in 1 CCR 301-37 and 1 CCR 301-101 for public and private institutions, is approved by Colorado Commission on Higher

Education, and that, upon completion, leads to a recommendation for licensure by an accepted institution of higher education.

2.01(12) Board of Cooperative Services (BOCES): A regional educational service unit designed to provide supporting, instructional, administrative, facility, community or any other services contracted by participating members.

2.01(13) Board of education: The governing body authorized by law to administer the affairs of any school district in the state except junior and community college districts. “Board of education” also includes a BOCES organized pursuant to section 22-5-101, C.R.S.2.01(14) Charter school: A school authorized by a school district pursuant to Part 1 of Article 30.5 of Title 22 or a school authorized by the state charter school institute pursuant to Part 5 of Article 30.5 of Title 22.

2.01(14) Colorado Academic Standards: The state academic standards that identify the knowledge and skills that a student should acquire as the student progresses from preschool through elementary and secondary education, as adopted by the State Board of Education pursuant to section 22-7-1005, C.R.S. The Colorado Academic Standards are available at www.cde.state.co.us.

2.01(15) Colorado Teacher of the Year: The Colorado teacher selected as Teacher of the Year in the state program administered by the Department and coordinated through the national teacher of the year program.

2.01(16) Critical teacher shortage: A grade level or content area in which a local education provider (LEP) determines there is a severe need and impact on students and in which an LEP has been unable to place an appropriately licensed teacher in the vacant position(s) despite reasonable attempts to fill the position.

2.01(17) Department of Education or Department: The Colorado State Department of Education (CDE) as defined in section 24-1-115, C.R.S.

2.01(18) Designated agency: A school district or districts, a BOCES, an accepted institution of higher education, a nonprofit organization, a charter school, nonpublic school, the institute, or any combination thereof, that is responsible for the organization, management and operation of an alternative teacher program or an alternative principal program.

2.01(19) Diversity: The backgrounds of all students and school personnel.

2.01(20) Endorsement: The designation on a license or an authorization of grade level(s) or developmental level(s), subject matter, or service specialization in accordance with the preparation, training and experience of the holder of such license or authorization. Endorsements typically reflect major areas of specialization.

2.01(21) Field-based experiences: Experiences conducted at a school site, school administration center, school clinic, or community agency. These experiences may include classroom observations; tutoring; assisting school principals, administrators, teachers or special services providers; participation in school- and community-wide activities; student teaching or internships.

2.01(22) Individualized alternative principal program: Created in collaboration between a school district, charter school, the institute, or nonpublic school and an individual identified as requiring principal preparation, it is a plan of preparation that aligns to the Principal Quality Standards in section 6.00 of these rules and comprises coursework, practicums, and other educational requirements the individual will complete while serving as a principal or assistant principal under a principal authorization in the collaborating school district, charter school, the institute or nonpublic school.

2.01(23) Institute: The state charter school institute created pursuant to section 22-30.5-503, C.R.S.

2.01(24) Licensure: The official recognition by a state governmental agency that an individual has met state-mandated minimum requirements and is approved to practice as a duly certified/licensed educator in the state.

2.01(25) Local education provider (LEP): A school district, a charter school authorized by a school district pursuant to Part 1 of Article 30.5 of Title 22, C.R.S., a charter school authorized by the State Charter School Institute pursuant to Part 5 of Article 30.5 of Title 22, C.R.S., or a BOCES created and operating pursuant to Article 5 of Title 22, C.R.S. that operates a public school.

2.01(26) Mentor administrator: Any administrator who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial administrator license-holders, who has demonstrated outstanding administrative skills and school leadership and who can provide exemplary modeling and counseling to initial administrator license-holders participating in an approved induction program.

2.01(27) Mentor principal: Any principal who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial principal license-holders, who has demonstrated outstanding principal skills and school leadership and who can provide exemplary modeling and counseling to initial principal license-holders participating in an approved induction program.

2.01(28) Mentor special services provider: Any special services provider who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial special services license-holders, who has demonstrated outstanding special services provider skills and school leadership and who can provide exemplary modeling and counseling to initial special services license-holders participating in an approved induction program.

2.01(29) Mentor Teacher:

2.01(29)(a) A teacher who holds a professional license designated by a school district, charter school, or nonpublic school employing an alternative teacher, who has demonstrated outstanding teaching and school leadership and who can provide exemplary modeling and counseling to alternative teachers participating in an alternative teacher program; or

2.01(29)(b) Any teacher who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial teacher license-holders, who has demonstrated outstanding teaching and school leadership and who can provide exemplary modeling and counseling to initial teacher license-holders participating in an approved induction program.

2.01(30) Nonpublic School: Any independent or parochial school that provides a basic academic education. Neither the State Board of Education nor any local school board has jurisdiction over the internal affairs of any independent or parochial school in Colorado.

2.01(31) Practicum: An intensive experience in which candidates practice and demonstrate professional skills and knowledge. Student teaching and internships are examples of a practicum.

2.01(32) Principal: Any person who is employed as the chief executive officer or an assistant chief executive officer of any school in the state and who administers, directs or supervises the education instruction program in such school or nonpublic school.

2.01(33) Qualified, licensed teacher: An individual who holds a valid Colorado teaching license in the grade level and subject endorsement area(s) in which that individual teaches or will teach.

2.01(34) Rural school district: A school district in Colorado that the Department determines is rural, based on the district's geographic size and its distance from the nearest large, urbanized area, with a total student enrollment of 6,500 students or fewer students.

2.01(35) School: Any of the public schools of the state.

2.01(36) School district: Any school district organized and existing pursuant to law, but not including junior or community college districts. "School district" includes a BOCES organized pursuant to 22-5-101, C.R.S.

2.01(37) Special services provider: Any person other than a teacher, principal or administrator who is employed by any school district, charter school, nonpublic school or the institute to provide professional services to students in direct support of the education instructional program.

2.01(38) Specialization area: The sequence of courses and experiences in the academic or professional area that the candidate plans to teach, for the grade level(s) or developmental level(s) at which the candidate plans to teach, and/or for the services that the candidate plans to provide. Examples of specialty areas include science (grades 7-12), elementary education (grades K-6), early childhood education (ages birth-8), reading specialist (grades K-12) and physical education (grades K-12).,

2.01(39) State Board of Education: The Colorado State Board of Education established by section 1 of Article IX of the Constitution of the State of Colorado.

2.01(40) Student teaching: Part of the field or clinical experience required in a teacher preparation program as identified in section 23-1-121(2)(d), C.R.S., that is an in-depth, direct teaching experience conducted in a school and classroom setting. It is considered a culminating field-based experience for the basic teacher preparation program where candidates practice and demonstrate professional skills and knowledge.

2.01(41) Teacher: Any person employed to instruct students in any public or nonpublic school in the state.

2.01(42) Teacher of record: A person licensed pursuant to section 22-60.5-201(1)(a.5), C.R.S.

2.2 **Validity of certificates/license.**

2.02(1) Certificates and letters of authorization issued by the Department prior to July 1, 1994, must remain valid for the period for which they were issued.

2.02(2) Endorsements placed on teacher or special services certificates prior to July 1, 1994, which were based on major areas of specialization or experience and academic credit, may be issued on subsequent teacher or special services license renewals provided all renewal requirements specified in section 7.00 of these rules have been met.

2.02(3) Certificates, licenses, and authorizations which have expired are not valid unless the applicant has a complete and active application on file with the Department before the expiration date identified on the applicant's current and active educator license, certificate, or authorization.

2.3 **General Requirements for Colorado Licenses**

2.03(1) Degree. Each applicant for a Colorado license must hold the appropriate academic degree for the license and/or endorsement sought from an accepted institution of higher education.

2.03(1)(a) It will be determined that an applicant “holds” or “has been awarded” the bachelor's or higher degree when the registrar of the accepted institution of higher education certifies that the applicant has met all institutional requirements for graduation with the degree, whether or not the degree has been conferred upon the applicant in formal ceremonies or otherwise conveyed to the individual.

2.03(1)(b) The Department and accepted institutions of higher education may recognize credits and degrees earned in foreign institutions of higher education if, after appropriate evaluation by an established credentials evaluation service as selected by the Department, there is evidence that such credits and degrees are the equivalent of those approved as fulfilling the specific license requirements.

2.03(2) Approved program of preparation. An initial license may be issued upon satisfactory completion of an approved program of preparation, an alternative teacher program, an alternative principal program, an individualized alternative principal program, or an out-of-state educator preparation program approved or authorized by a state other than Colorado as defined in section 2.03(3)(b) of these rules, and upon demonstration of required competencies as specified in these rules and in 1 CCR 301-101 Rules for the Administration of Educator License Endorsements. Applicants who completed an approved program in a state other than Colorado must meet the requirements in section 2.03(3) of these rules.

2.03(3) Out-of-state applicants. An initial license may be issued to an applicant from another state or country whose qualifications meet or exceed the requirements of the State Board of Education and who has met the following requirements:

2.03(3)(a) has completed the appropriate degree, experiences, and educational level for the license and endorsement(s) requested as specified in these rules;

2.03(3)(b) has successfully completed an educator preparation program approved or authorized by a state other than Colorado, including a program at an accepted institution of higher education in the endorsement area sought or another educator preparation program, including an alternative teacher preparation program;

2.03(3)(c) has successfully completed field-based experience that meets or exceeds Colorado’s field-based experience requirement as provided by section 23-1-121(2)(d), C.R.S.;

2.03(3)(d) holds a standard license issued by the state education agency of another state or country, is eligible to hold a standard license issued by the state education agency of the preparing state, or meets the official requirements of the legally designated licensing agency of the preparing state; and

2.03(3)(e) has provided evidence of satisfactory completion of the approved content tests appropriate to the license and endorsement requested.

2.03(4) An out-of-state applicant must meet the subject matter knowledge requirements for every endorsement sought by passage of the required approved content test for each endorsement or by providing evidence of completion of three or more years of successful full-time, fully licensed, evaluated, post-preparation experience in the endorsement area(s) sought within the previous seven years as a teacher, special services provider, principal, or administrator in an established elementary or secondary school in another state or country.

2.03(4)(a) Applicants who satisfy the requirements of sections 2.03(3)(a)-(d) but not 2.03(3)(e) may be eligible for an interim authorization as provided in section 4.09 of these rules.

2.03(4)(b) Applicants who satisfy the requirements in sections 2.03(3)(a)-(d) but not 2.03(3)(e) and who provide evidence of completion of three or more years of successful full-time, fully licensed, evaluated post-preparation experience within the previous seven years as a teacher, special services provider, principal, or administrator in an established elementary or secondary school in another state or country, may be eligible for a Colorado professional license.

2.03(5) The State Board of Education may enter into interstate reciprocal agreements whereby the Department agrees to issue initial licenses to persons licensed in other states and such states agree to issue licenses to Colorado license-holders. Such agreements must not be inconsistent with section 2.03(3) of these rules.

2.03(6) Pursuant to section 22-60.5-201(3)(c), C.R.S., the state board may annually designate teacher shortage areas and modify the requirements in sections 4.00 and 5.00 of 1 CCR 301-101 for licensure and endorsement in such shortage areas for the purpose of issuing initial teacher licenses or interim authorizations as outlined in these rules to applicants.

2.03(7) Pursuant to section 22-60.5-201(3.5), C.R.S. the Department may issue professional teacher licenses to applicants who have earned and present certificates issued by the National Board for Professional Teaching Standards.

2.4 **Application Procedures**

2.04(1) Prior to submitting to the Department an application for a license, authorization, or endorsement, or for the renewal of a license or authorization, the applicant must submit to the Colorado Bureau of Investigation (CBI) a complete set of his or her fingerprints taken by a qualified law enforcement agency, an authorized employee of a school district or BOCES using fingerprinting equipment that meets the Federal Bureau of Investigation image quality standards, or any third party approved by the CBI for the purpose of obtaining a criminal history record check, and any fingerprint processing fee(s).

2.04(1)(a) The applicant must give his or her social security number, if any, to the CBI and must indicate to the CBI that the criminal history is to be forwarded to the Department.

2.04(1)(a)(i) If an individual submits an application or renewal application after the expiration of a credential, the individual must submit a new, complete set of fingerprints to the CBI.

2.04(1)(a)(ii) If an applicant previously submitted a complete set of fingerprints to the CBI pursuant to section 22-2-119.3, C.R.S., the individual need not submit a new set of fingerprints unless: (1) he or she has not continuously resided in Colorado for more than one full year; (2) he or she submits an application or renewal application after the expiration of a credential from the Department; or (3) the individual has been convicted of a felony or misdemeanor, other than a misdemeanor traffic offense or traffic infraction, subsequent to the educator's licensure or authorization.

2.04(2) An applicant must submit a complete application to the Department via its online system, which includes all required information and documentation as set forth in these rules, the application form, and any other application instructions published by the Department on its website. Required information and documentation includes that which the applicant is responsible for submitting and any other information and documentation that may be required from other sources to support the application, including but not limited to the following:

2.04(2)(a) The applicant must provide official transcripts showing conferral of the degree required for the license and endorsement sought:

2.04(2)(a)(i) Each transcript must be authentic, original or photocopy, bearing the printed or embossed seal of the institution and the signature of the registrar, and include descriptive titles, course numbers, credits, and grades for each course listed and degrees conferred, if any. For the purpose of these rules, credits must be in semester hours. Quarter, trimester, unit or term credits will be converted to semester hours at the time of evaluation. Submission of an incomplete, unofficial, or illegible transcript will render an application incomplete.

2.04(2)(a)(ii) Transcripts from institutions of higher education outside the United States must be evaluated by an established credential evaluation service, selected by the Department, for course equivalence.

2.04(2)(a)(iii) Copies of official transcripts submitted with an application become part of the applicant's record with the Department and are not returnable.

2.04(2)(b) The applicant must provide an institutional recommendation from the educator preparation program, appropriate to the license sought and on the Department's program verification form, which at a minimum confirms: the date of completion of an educator preparation program; endorsement area(s) and grade level(s); completion of student teaching, clinical experience, or practicum; that the applicant holds or is eligible to hold a license in the preparing state or territory; and any additional information requested on the Department form.

2.04(2)(b)(i) The recommendation must certify that the applicant completed the educator preparation program in a satisfactory manner and is in good standing; and

2.04(2)(b)(ii) The recommendation must indicate the subject and level or grades of student teaching, the number of hours of field-based experience performed, and the area of recommended endorsement as defined in 1 CCR 301-101 Rules for the Administration of Educator License Endorsements.

2.04(2)(b)(iii) An individual applying for an initial license or professional license for the first time who holds a valid license or certificate in another state and demonstrates three or more years of successful full-time, evaluated, fully licensed teaching experience (post completion of an educator preparation program) within the previous seven years may be exempt from the institutional recommendation requirement.

2.04(2)(c) The applicant must provide a copy of the official test score report(s) verifying completion of the approved content test(s) when a test or tests are required for a license or endorsement. Submission of a score report for the wrong test or wrong version of a test will render the application incomplete.

2.04(2)(d) Out-of-state applicants must include a copy of any and all educator credentials held (valid or expired) in other states or territories.

2.04(2)(e) The applicant must submit the following to verify their identity:

2.04(2)(e)(i) the applicant's name and mailing address; and

2.04(2)(e)(ii) applicant's social security number, or if unavailable, the individual taxpayer identification number, one of the following documents verifying the applicant's identity: a

clear copy of one of the following forms of government-issued photo identification: a valid passport or passport card; a valid driver's license from any state; an identification card or document from any state; a United States military card or a military dependent's identification card; a United States Coast Guard Merchant Mariner card; or a Native American tribal document.

2.04(2)(f) The applicant must submit a complete and accurate response, including but not limited to every required disclosure, form, and supporting document, to every applicable section of the online application and attest that all information submitted is true and complete to the best of the applicant's knowledge.

2.04(3) The fee for the evaluation and review of an application is established by the State Board of Education and shall be nonrefundable.

2.04(4) In any application for licensure, the applicant must indicate all endorsements sought and pay the established fees for the requested endorsement(s) at the time of submission of the application. If an applicant fails to indicate an endorsement(s) sought in a license application and subsequently seeks an endorsement, the Department will not consider the endorsement request until the applicant submits a complete added endorsement application and all required fees.

2.04(5) An application is deemed complete when all required information, documentation, and fees are received by the Department. An application that fails to include required information, documentation, or fees will be deemed incomplete. Within 45 days of submission of an application, applicants will be notified if their application is incomplete. An applicant whose application is deemed incomplete may cure the deficiency or submit to the Department a written request for reconsideration which states the basis for reconsideration. An applicant who fails to cure the deficiency or request reconsideration within 60 days of notification will be deemed to have withdrawn the application and such withdrawal shall not be subject to appeal or review. The Department will issue a written determination to an applicant in response to any request for reconsideration within 30 days of its receipt of the request.

2.04(6) Applications that are initiated in the Department's online system but not submitted will be closed and deemed withdrawn 14 days after initiation. Such closed and withdrawn applications shall not be subject to appeal or review.

2.04(7) The Department will promptly act upon complete applications. The Department may require additional information and documentation from an applicant to determine compliance with applicable laws and rules, or to verify any information and documentation submitted.

3.0 Types of Licenses

3.1 Initial Teacher License

An initial teacher license is valid for three years from the date of issuance and may be renewed as provided in section 7.01 of these rules.

3.01(1) An initial teacher license may be issued to an applicant who:

3.01(1)(a) holds an earned bachelor's or higher degree from an accepted institution of higher education;

3.01(1)(b) has completed an approved program of preparation at an accepted institution of higher education, including the field-based experience required by section 23-1-121(2)(d), C.R.S.;

3.01(1)(c) has provided an institutional recommendation which meets the requirements outlined in 2.04(2)(b), and:

3.01(1)(c)(i) verifies satisfactory completion of the approved program; 3.01(1)(c)

(ii) specifies the grade/developmental level(s), endorsement area(s), or specialization(s) completed by the applicant;

3.01(1)(c)(iii) verifies successful completion of student teaching, internship, or practicum as specified in 2.01(41) of these rules; the grade/developmental level(s) and endorsement/specialization areas of the experience; and

3.01(1)(c)(iv) certifies that the applicant has demonstrated thorough knowledge of the subject matter to be taught and has the competencies essential for educational service.

3.01(1)(d) has submitted a complete application for a license as defined in section 2.04 of these rules; and

3.01(1)(e) has demonstrated subject matter knowledge necessary for teaching in the endorsement area:

3.01(1)(e)(i) for elementary education teachers (grades K-6), special education generalist teachers (ages 5-21), early childhood educators (ages birth- 8) and early childhood special education teachers (ages birth-8) by passage of the approved content tests.

3.01(1)(e)(ii) for secondary teachers (grades 7-12) and all other endorsement areas not identified in Rule 3.01(1)(e)(i), by:

3.01(1)(e)(ii)(A) an earned bachelor's or higher degree from an accepted institution of higher education in the endorsement area; or

3.01(1)(e)(ii)(B) passage of the approved content test(s) relevant to the area of endorsement; or

3.01(1)(e)(ii)(C) 24 semester hours of specific college/university coursework as demonstrated through transcript evaluation in the endorsement area.

3.01(2) An initial teacher license may be issued to an applicant who has completed an alternative teacher program and who:

3.01(2)(a) holds an alternative teacher license as prescribed in section 3.12 of these rules or an interim authorization as prescribed in section 4.09 of these rules;

3.01(2)(b) has completed an alternative teacher program as defined in section 2.01(6) of these rules;

3.01(2)(c) has submitted a complete application for an initial license, as defined in section 2.04 of these rules;

3.01(2)(d) has provided an institutional recommendation from the approved designated agency and which meets the requirements outlined in 2.04(2)(b), and:

3.01(2)(d)(i) verifies satisfactory completion of the alternative teacher program;

3.01(2)(d)(ii) verifies employment as an alternative teacher as provided in sections 22-60.5-201 and 22-60.5-205, C.R.S., in the endorsement area sought; and

3.01(2)(d)(iii) certifies that the applicant has demonstrated thorough knowledge of the subject matter to be taught and has demonstrated the competencies essential for educational service.

3.01(2)(e) has demonstrated subject matter knowledge necessary for teaching in the endorsement area:

3.01(2)(e)(i) for elementary education teachers (grades K-6), special education generalist teachers (ages 5-21), early childhood educators (ages birth-8) and early childhood special education teachers (ages birth-8) by passage of the approved content tests.

3.01(2)(e)(ii) for secondary teachers (grades 7-12) and all other endorsement areas not identified in Rule 3.01(2)(e)(i), by:

3.01(2)(e)(ii)(A) holding an earned bachelor's or higher degree from an accepted institution of higher education in the endorsement area; or

3.01(2)(e)(ii)(B) passage of the approved content test relevant to the person's endorsement area; or

3.01(2)(e)(ii)(C) 24 semester hours of specific coursework as demonstrated through transcript evaluation in the endorsement area.

3.2 **Initial Special Services License**

An initial special services license is valid for three years from the date of issuance and may be renewed as provided in section 7.01 of these rules.

3.02(1) An initial special services license may be issued to an applicant who:

3.02(1)(a) holds an earned bachelor's or higher degree from an accepted institution of higher education;

3.02(1)(b) has completed an approved special services preparation program at an accepted institution of higher education, or has alternatively met the requirements for preparation as identified by state board of education rule

3.02(1)(c) has supplied an institutional recommendation which meets the requirements outlined in 2.04(2)(b), and:

3.02(1)(c)(i) verifies satisfactory completion of the approved program; 3.02(1)(c)

(ii) specifies the area(s) of endorsement/specialization completed by the applicant;

3.02(1)(c)(iii) verifies successful completion of student teaching, internship or practicum in a school setting or other appropriate setting in the endorsement/specialization area sought for licensure; and

3.02(1)(c)(iv) certifies that the applicant has demonstrated thorough knowledge of the special service area and has the competencies essential for educational service.

3.02(1)(d) has submitted a complete application for a license as defined in section 2.04 of these rules; and

3.02(1)(e) holds a valid license or certificate in the respective discipline, where applicable, and meets the requirements for the respective discipline as outlined in 1 CCR 301-101 Rules for the Administration of Educator License Endorsements.

3.3 Initial Principal License

An initial principal license is valid for three years from the date of issuance and may be renewed as provided in section 7.01 of these rules.

3.03(1) An initial principal license may be issued to an applicant who:

3.03(1)(a) holds an earned bachelor's or higher degree from an accepted institution of higher education;

3.03(1)(b) has completed an approved principal preparation program at an accepted institution of higher education, including the field-based experience required by section 23-1- 121(2)(d), C.R.S., an individualized alternative principal program as defined in sections 22-60.5-305.5 and 22-60.5-111(14), C.R.S., an alternative principal program created by a designated agency and approved by the State Board of Education pursuant to section 22-60.5-305.5(6)(a), C.R.S., or has evidence of partial completion of an approved principal preparation program in each of two or more accepted institutions of higher education. Upon a finding by the Department of completion of the equivalent of any one program by combining work completed at different programs, the requested license may be issued, assuming all requirements set forth in these rules have been met;

3.03(1)(c) has provided an institutional recommendation from the principal preparation program, appropriate to the license sought and on the Department's program verification form, which at a minimum confirms:

3.03(1)(c)(i) the date of completion and verifies satisfactory completion of the approved program;

3.03(1)(c)(ii) specifies the area(s) of endorsement/specialization completed by the applicant;

3.03(1)(c)(iii) verifies successful completion of internship or practicum in a school setting or other appropriate setting in the endorsement/specialization area sought for licensure; and

3.03(1)(c)(iv) certifies that the applicant has demonstrated thorough knowledge of the Principal Quality Standards and has the competencies essential for educational service.

3.03(1)(d) provides documented evidence of three or more years of full-time, successful experience working with students as a licensed or certificated professional in a public or nonpublic elementary or secondary school in this state or another state or has three or more years of experience working with students as a professional in a nonpublic school;

3.03(1)(e) has submitted a complete application for an initial license as defined in section 2.04 of these rules; and

3.03(1)(f) has demonstrated professional competencies as evidenced by a passing score on the approved content test.

3.03(2) An initial principal license must be valid in any school district, BOCES, nonpublic or charter school which provides, participates in, or has been granted a waiver from providing an approved induction program for principals as described in section 9.00 of these rules.

3.03(3) An initial principal license must be valid for occasional teaching, which must not constitute more than one-half of a typical teaching assignment.

3.4 Initial Administrator License

An initial administrator license is valid for three years from the date of issuance and may be renewed as provided in section 7.01 of these rules.

3.04(1) An initial administrator license may be issued to an applicant who:

3.04(1)(a) holds an earned bachelor's or higher degree from an accepted institution of higher education;

3.04(1)(b) has completed an approved program for district-level administrators at an accepted institution of higher education or has evidence of partial completion of an approved administrator preparation program in each of two or more accepted institutions of higher education. Upon a finding of completion by the Department of completion of the equivalent of any one program by combining work completed at different programs, the requested license may be issued, assuming all requirements set forth in these rules have been met;

3.04(1)(c) has supplied an institutional recommendation from the preparing administrator preparation program, appropriate to the license sought and on the Department's program verification form, which at a minimum confirms:

3.04(1)(c)(i) the date of completion and verifies satisfactory completion of the approved program;

3.04(1)(c)(ii) specifies the area(s) of endorsement/specialization completed by the applicant;

3.04(1)(c)(iii) verifies successful completion of internship, or practicum in a school setting or other appropriate setting in the endorsement/specialization area sought for licensure; and

3.04(1)(c)(iv) certifies that the applicant has demonstrated thorough knowledge of the Principal Quality Standards and has the competencies essential for educational service.

3.04(1)(d) has submitted a complete application for an initial license as defined in section 2.04 of these rules; and

3.04(1)(e) has demonstrated professional competencies as evidenced by a passing score on the approved content test for administrators.

3.04(2) An initial administrator license must be valid in any school district, BOCES, nonpublic school or charter school, which provides, participates in, or has been granted a waiver from providing an approved induction program for administrators as described in section 9.00 of these rules.

3.04(3) A holder of an initial administrator license who has completed three or more years of full-time, continuous, successful experience working with students as a licensed professional in a public or nonpublic elementary or secondary school in this state or another state may function as an occasional teacher. For purposes of this section, occasional teaching is defined as no more than one-half of a typical teaching assignment.

3.04(4) The applicant for an initial administrator license with a director of gifted education endorsement must:

3.04(4)(a) hold a master's or higher degree in gifted education from an accepted institution of higher education or demonstrate knowledge and application of standards for the specialist, as determined upon evaluation by the Department;

3.04(4)(b) have a minimum of two years' full-time experience working with students with exceptional academic and talent aptitude;

3.04(4)(c) have completed an approved program for the preparation of directors of gifted education, which must include a supervised field-based experience, as confirmed on the institutional recommendation from the preparing program;

3.04(4)(d) have demonstrated professional competencies as evidenced by a passing score on the approved content test for administrators: and

3.04(4)(e) meet the professional competencies outlined in section 6.17.

3.04(5) The applicant for an initial administrator license with a director of special education endorsement must:

3.04(5)(a) hold a master's or higher degree in special education from an accepted institution of higher education or demonstrate knowledge and application of standards for the specialist, as determined upon evaluation by the Department;

3.04(5)(b) have a minimum of two years' full-time experience working with students with special needs;

3.04(5)(c) have completed an approved program for the preparation of directors of special education, which must include a supervised field-based experience, as confirmed on the institutional recommendation from the preparing program;

3.04(5)(d) have demonstrated professional competencies as evidenced by a passing score on the approved content test for administrators; and

3.04(5)(e) meet the professional competencies outlined in section 6.08.

3.5 **Professional Teacher or Special Services License**

A professional teacher or special services license is valid for a period of seven years from the date of issuance and may be renewed as provided in section 7.02 of these rules.

3.05(1) A professional teacher or special services provider license may be issued to an applicant who:

3.05(1)(a) holds a Colorado initial teacher license or Colorado initial special services license;

3.05(1)(b) has successfully completed an approved teacher or special services provider induction program as prescribed in section 8.00 of these rules and/or has been recommended for the professional teacher or special services license by the district or BOCES providing such induction program; and

3.05(1)(c) has submitted a complete application for a professional teacher or special services license as defined in Rule 2.04.

3.05(2) Notwithstanding the provisions in 3.05(1)(b), the Department may issue a professional teacher license if the applicant meets the requirements for an initial teacher license and previously completed an induction program while teaching under an adjunct instructor authorization, an emergency authorization, an interim authorization, a temporary educator eligibility authorization or alternative teacher license. If the applicant is employed by a school district, charter school, the institute, nonpublic school, or BOCES that has obtained a waiver of the induction program requirement, the applicant must demonstrate completion of any requirements specified in the school district's, charter school's, the institute's, nonpublic school's or BOCES's plan for support, assistance, and training of an initially licensed educator.

3.05(3) Notwithstanding the provisions in 3.05(1)(b), the Department may issue a professional special services license if the applicant meets the requirements for an initial special services license and previously completed an induction program while serving under an emergency authorization or a temporary educator eligibility authorization. If the applicant is employed by a school district, charter school, the institute, nonpublic school, or BOCES that has obtained a waiver of the induction program requirement, the applicant must demonstrate completion of any requirements specified in the school district's, charter school's, the institute's, nonpublic school's, or BOCES's plan for support, assistance, and training of an initially licensed educator.

3.6 **Professional Principal License**

A professional principal license is valid for a period of seven years from the date of issuance and may be renewed as provided in section 7.02 of these rules.

3.06(1) A professional principal license may be issued to an applicant who:

3.06(1)(a) holds:

3.06(1)(a)(i) an earned master's degree from an accepted institution of higher education and has successfully completed an approved principal preparation program at an accepted institution of higher education, an alternative principal program, or an individualized alternative principal program; and

3.06(1)(a)(ii) an initial principal license;

3.06(1)(b) has successfully completed an approved principal induction program as described in section 9.00 of these rules;

3.06(1)(c) has been recommended for a professional license by the school district(s), BOCES, nonpublic school, charter school, or the institute which provided the induction program.

3.06(1)(d) has submitted a complete application for a professional license as defined in Rule 2.04.

3.06(2) Notwithstanding the provisions in 3.06(1)(b), the Department may issue a professional principal license if the applicant meets the requirements for an initial principal license and completed an approved principal induction program while employed under an emergency authorization, interim authorization or principal authorization. The applicant need not complete an approved induction program as an initial principal license-holder if the applicant previously completed an induction program while employed under an emergency authorization, interim authorization, or a principal authorization or if the school district, BOCES, nonpublic school, charter school or the institute in which the applicant is employed has obtained waiver of the induction program requirement pursuant to section 22-60.5-114(2), C.R.S.

3.06(3) A professional principal license is valid for occasional teaching, which must not constitute more than one-half of a typical teaching assignment. A principal who has previously held a professional teacher license may be reissued that license upon application and completion of the renewal requirements as outlined in 7.02.

3.7 **Professional Administrator License**

A professional administrator license is valid for a period of seven years from the date of issuance and may be renewed as provided in section 7.02 of these rules.

3.07(1) A professional administrator license may be issued to an applicant who:

3.07(1)(a) holds:

3.07(1)(a)(i) an earned master's degree from an accepted institution of higher education and has completed an approved administrator program at an accepted institution of higher education; and

3.07(1)(a)(ii) a valid initial administrator license; and

3.07(1)(a)(ii)(A) completes an approved administrator induction program; and

3.07(1)(a)(ii)(B) has been recommended for professional licensure by the school district, charter school, the institute, nonpublic school, or BOCES that provided such induction program.

3.07(2) Notwithstanding the provisions of section 3.07(1)(a)(ii), the Department may issue a professional administrator license if an applicant meets the requirements for an initial administrator license and completed an approved administrator induction program while employed under an emergency authorization, interim authorization or a temporary educator eligibility authorization. The applicant need not complete an approved induction program as an initial license-holder if the applicant previously completed an induction program while employed under an emergency authorization, interim authorization, or a temporary educator eligibility authorization or if the school district, BOCES, nonpublic school, charter school or the institute in which the applicant is employed has obtained waiver of the induction program requirement pursuant to section 22-60.5-306(1)(b)(C), C.R.S.

3.07(3) A holder of professional administrator licenses who has completed three or more years of full-time, continuous, successful, evaluated experience working with students as a licensed or certificated professional in a public or nonpublic elementary or secondary school in this state or another state may function as an occasional teacher. For purposes of this section, occasional teaching is defined as no more than one-half of a typical teaching assignment.

3.8 **Master Certificate - Teacher**

A master certificate represents achievements and contributions over and above expectations in the Teacher Quality Standards outlined in section 5.0 of these rules. A master certificate is valid for the period of time for which the applicant's professional teacher license is valid and is renewable as provided in section 7.02(6) of these rules.

3.08(1) A master certificate may be issued to an applicant who holds a valid Colorado professional teacher license and who has demonstrated advanced teaching competencies or expertise through:

3.08(1)(a) the attainment of National Board for Professional Teaching Standards certification; or

3.08(1)(b) demonstrated excellence in the following standards:

3.08(1)(b)(i) Standard 1: The master teacher develops a personal leadership vision focused on the successful learning and development of each student.

3.08(1)(b)(i)(A) Element A: The master teacher develops a leadership mission that promotes whole-child success and the well-being of each student.

3.08(1)(b)(i)(B) Element B: The master teacher articulates, advocates for, and cultivates core values that promote student-centered education, high expectations, learner support, equity, inclusiveness, social justice, openness, caring, trust, and continuous improvement.

3.08(1)(b)(i)(C) Element C: The master teacher strategically develops, implements and evaluates actions to achieve one’s personal leadership mission and vision.

3.08(1)(b)(i)(D) Element D: The master teacher anticipates, identifies and addresses barriers to achieving one’s leadership vision and mission.

3.08(1)(b)(i)(E) Element E: The master teacher models one’s leadership mission, vision and core values in all interactions with students, colleagues, parents and community members.

3.08(1)(b)(ii) Standard 2: The master teacher understands the principles of adult learning and knows how to develop a collaborative culture of collective responsibility in the school. The master teacher uses this knowledge to promote an environment of collegiality, trust, and respect that focuses on continuous improvement in instruction and student learning.

3.08(1)(b)(ii)(A) Element A: The master teacher utilizes group processes to help colleagues (for the purposes of this section, including all members of the school community involved in the education of children) work collaboratively to solve problems, make decisions, manage conflict, and promote meaningful change.

3.08(1)(b)(ii)(B) Element B: The master teacher models effective skills in listening, presenting ideas, leading discussions, clarifying, mediating, and identifying the needs of self and others to advance shared goals and professional learning.

3.08(1)(b)(ii)(C) Element C: The master teacher facilitates the creation of trust among colleagues, development of collective wisdom, building

ownership, and action that supports collective efficacy and student learning.

3.08(1)(b)(ii)(D) Element D: The master teacher uses knowledge and understanding of different backgrounds, races, ethnicities, cultures, and languages to create an inclusive culture and promote effective interactions among colleagues.

3.08(1)(b)(iii) Standard 3: The master teacher understands how research creates new knowledge, informs policies and practices, and improves teaching and learning. The master teacher models and facilitates the use of systematic inquiry as a critical component of teachers' ongoing learning and development.

3.08(1)(b)(iii)(A): Element A: The master teacher assists colleagues in accessing and using research to select appropriate strategies to improve student learning.

3.08(1)(b)(iii)(B): Element B: The master teacher models and facilitates analysis of student learning data, collaborative interpretation of results, and application of findings to improve teaching and learning.

3.08(1)(b)(iii)(C): Element C: The master teacher supports colleagues in collaborating with higher education institutions and other organizations engaged in researching critical education issues.

3.08(1)(b)(iii)(D): Element D: The master teacher teaches and supports colleagues to collect, analyze, and communicate data from their classrooms to improve teaching and learning.

3.08(1)(b)(iii)(E): Element E: The master teacher collaborates with colleagues to identify promising, innovative practices and conduct action research to determine effectiveness and expansion possibilities.

3.08(1)(b)(iv) Standard 4: The master teacher understands the evolving nature of teaching and learning, established and emerging technologies, and the school community. The master teacher uses this knowledge to promote, design, and facilitate job-embedded professional learning aligned with school improvement goals.

3.08(1)(b)(iv)(A) Element A: The master teacher collaborates with colleagues and school administrators to plan professional learning that is team-based, job-embedded, sustained over time, aligned with content standards, and linked to school/district improvement goals.

3.08(1)(b)(iv)(B)Element B: The master teacher uses information about adult learning to respond to the diverse learning needs of colleagues by identifying, promoting, and facilitating varied and personalized professional learning.

3.08(1)(b)(iv)(C) Element C: The master teacher identifies and uses appropriate technologies to promote collaborative and personalized professional learning.

3.08(1)(b)(iv)(D)Element D: The master teacher works with colleagues to collect, analyze, and disseminate data related to the quality of professional learning and its effect on teaching and student learning.

3.08(1)(b)(iv)(E) Element E: The master teacher advocates for sufficient preparation, time, and support for colleagues to work in teams to engage in job-embedded professional learning.

3.08(1)(b)(iv)(F) Element F: The master teacher provides constructive feedback to colleagues to strengthen teaching practice and improve student learning.

3.08(1)(b)(iv)(G) Element G: The master teacher uses information about emerging education, economic, and social trends in planning and facilitating professional learning.

3.08(1)(b)(v) Standard 5: The master teacher demonstrates a deep understanding of the teaching and learning processes and uses this knowledge to advance the professional skills of colleagues by being a continuous learner and modeling reflective practice based on student results. The master teacher works collaboratively with colleagues to ensure instructional practices are aligned to a shared vision, mission, and goals.

3.08(1)(b)(v)(A) Element A: The master teacher models, facilitates, and enhances the process for collection, analysis, and use of classroom-and school-based data to identify opportunities to improve curriculum, instruction, assessment, school organization, and school culture.

3.08(1)(b)(v)(B) Element B: The master teacher engages in reflective dialogue with colleagues based on student learning and helps make connections to research-based effective practices.

3.08(1)(b)(v)(C) Element C: The master teacher serves as a team leader to harness the skills, expertise, and knowledge of colleagues to address curricular expectations and student learning needs.

3.08(1)(b)(v)(D) Element D: The master teacher uses knowledge of existing and emerging learning innovations to guide colleagues in helping students skillfully and appropriately navigate the universe of knowledge available on the Internet, use social media to promote collaborative learning, and connect with people and resources around the globe.

3.08(1)(b)(v)(E) Element E: The master teacher supports instructional strategies that respect issues of diversity and equity in the classroom and that promote equitable outcomes for all students.

3.08(1)(b)(vi) Standard 6: The master teacher is knowledgeable about current research on classroom- and school-based data and the design and selection of appropriate formative and summative assessment methods. The master teacher shares this knowledge and collaborates with colleagues to use assessment and other data to make informed decisions that improve learning for all students and to inform school and district improvement strategies.

3.08(1)(b)(vi)(A) Element A: The master teacher increases the capacity of colleagues to identify and use multiple assessment tools aligned to state and local standards.

3.08(1)(b)(vi)(B) Element B: The master teacher collaborates with colleagues in assessment design, implementation, scoring, and interpreting student data to improve educational practice and student learning.

3.08(1)(b)(vi)(C) Element C: The master teacher creates a climate of trust and critical reflection to engage colleagues in challenging conversations about student learning data that lead to solutions to identified issues.

3.08(1)(b)(vi)(D) Element D: The master teacher works with colleagues to use assessment and data findings at multiple levels to promote changes in instructional practices or organizational structures to improve student learning.

3.08(1)(b)(vi)(E) Element E: The master teacher collaborates with colleagues to design opportunities to collect, analyze, and use qualitative data to improve teaching and learning.

3.08(1)(b)(vi)(F) Element F: The master teacher collaborates with colleagues to lead students to evaluate their own data and set relevant goals.

3.08(1)(b)(vii) Standard 7: The master teacher understands that families, cultures, and communities have a significant impact on educational processes and student learning. The master teacher works with colleagues to promote ongoing systematic collaboration with families, community members, business and community leaders, and other stakeholders to improve the educational system and expand opportunities for student learning.

3.08(1)(b)(vii)(A) Element A: The master teacher uses knowledge and understanding of the different backgrounds, ethnicities, races, cultures and languages in the school community to promote effective interactions among colleagues, families and the larger community.

3.08(1)(b)(vii)(B) Element B: The master teacher models and teaches effective communication and collaboration skills with families and other stakeholders focused on attaining equitable achievement for students of all backgrounds and circumstances.

3.08(1)(b)(vii)(C) Element C: The master teacher facilitates colleagues' self-examination of their own biases and understandings of community culture and diversity and how they can develop an asset-oriented mindset along with culturally responsive strategies to enrich the educational experiences of students and achieve high levels of learning for all students.

3.08(1)(b)(vii)(D) Element D: The master teacher develops a shared understanding among colleagues of the diverse educational needs of families and the community.

3.08(1)(b)(vii)(E) Element E: The master teacher collaborates with families, communities, and colleagues to develop comprehensive strategies to address the diverse educational needs of families and the community.

3.08(1)(b)(viii) Standard 8: The master teacher understands how educational policy is made at the local, state, and national level, as well as the roles school leaders, boards of education, legislators, and other stakeholders have in formulating those policies.

3.08(1)(b)(viii)(A) Element A: The master teacher shares information with colleagues within and/or beyond the district regarding how local, state, and national trends and policies can impact classroom practices and expectations for student learning.

3.08(1)(b)(viii)(B) Element B: The master teacher works with colleagues to identify and use research to advocate for teaching and learning processes that meet the needs of all students.

3.08(1)(b)(viii)(C) Element C: The master teacher collaborates with colleagues to select appropriate opportunities to advocate for the rights and/or needs of students, to secure additional resources within the building or district that support student learning, and to communicate effectively with targeted audiences, such as parents and community members.

3.08(1)(b)(viii)(D) Element D: The master teacher advocates for access to professional resources, including financial support and human and other material resources, that allow colleagues to spend significant time learning about effective practices and developing a professional learning community focused on school improvement goals and student success.

3.08(1)(b)(viii)(E) Element E: The master teacher represents and advocates for the profession in contexts inside and outside of the classroom.

3.9 **Master Certificate - Special Services**

A master certificate represents achievements and contributions over and above expectations in the Special Services Provider Quality Standards outlined in section 5.0 of these rules. A master certificate is valid for the period of time for which the applicant's professional special services license is valid and is renewable as provided in section 7.02 of these rules.

3.09(1) A master certificate may be issued to an applicant who:

3.09(1)(a) holds a valid Colorado professional special services license and is employed in a school in the area of specialization;

3.09(1)(b) has been involved in ongoing professional development and training;

3.09(1)(c) has demonstrated advanced competencies or expertise as identified by the educator evaluation system employed in the district;

3.09(1)(d) has been recognized for outstanding achievements in the field of specialization; and

3.09(1)(e) meets the following requirements for the area(s) of specialization:

3.09(1)(e)(i) School Audiologist:

3.09(1)(e)(i)(A) holds national certification in audiology;

3.09(1)(e)(i)(B) has completed at least five years of full-time, continuous, successful, evaluated experience as a school audiologist;

3.09(1)(e)(i)(C) has completed graduate-level university training in school audiology and related areas;

3.09(1)(e)(i)(D) has been involved in at least four of the following areas: local, state, or national professional organizations; mentoring or supervision of peers; publication; professional presentations; funded grants; professional leadership; community activities and organizations; and

3.09(1)(e)(i)(E) has been granted an exemplary performance evaluation by a team of peers.

3.09(1)(e)(ii) School Counselor:

3.09(1)(e)(ii)(A) has held a Colorado professional special services license in school counseling for a minimum of five years;

3.09(1)(e)(ii)(B) has demonstrated professional growth through continuing education, professional leadership experiences, and exceptional program development;

3.09(1)(e)(ii)(C) has demonstrated commitment to the school counseling profession through professional organization involvement, supervision and training of other school counselors, publication of professional materials, and presentations at professional conferences; and

3.09(1)(e)(ii)(D) has demonstrated active community involvement, development of effective parent partnership programs, and promotion of cooperation with other professional educators.

3.09(1)(e)(iii) School Occupational Therapist:

3.09(1)(e)(iii)(A) holds a master's degree in occupational therapy from an accepted institution of higher education;

3.09(1)(e)(iii)(B) holds an active occupational therapy license from the Colorado Department of Regulatory Agencies;

3.09 (1)(e)(iii)(C) has demonstrated outstanding contribution or accomplishments to the profession through at least three of the following: achieved certification or accreditation in an area of specialization of occupational therapy; supervised and mentored occupational therapy students; completed graduate-level professional coursework; completed research and/or publication in the area of school occupational therapy; made presentations at professional meetings; wrote grants; held or holds office in national, state, or local professional organizations or boards;

3.09(1)(e)(iii)(D) has received recognition for outstanding achievements in occupational therapy; and

3.09(1)(e)(iii)(E) is involved in community programs.

3.09(1)(e)(iv) School Orientation and Mobility Specialist:

3.09(1)(e)(iv)(A) has demonstrated outstanding professional activities in at least three of the following areas: authored professional publications; juried articles, newsletters or books; made presentations at professional meetings or conferences; mentored other professionals and supervised student practicum experiences; taught at the university or school district in service levels; served as a model for demonstrations; provided active community leadership by promoting disability education and participation; or wrote grant proposals which were funded; and

3.09(1)(e)(iv)(B) has received recognition for demonstrated leadership in the field.

3.09(1)(e)(v) School Physical Therapist:

3.09(1)(e)(v)(A) holds a master's degree in physical therapy;

3.09(1)(e)(v)(B) holds an active professional physical therapy license from the Colorado Department of Regulatory Agencies;

3.09(1)(e)(v)(C) has demonstrated outstanding contributions or accomplishments to the profession through at least three of the following: achieved certification or accreditation in an area of specialization of physical therapy; supervised and mentored physical therapy students; completed graduate-level professional coursework; completed research and/or publication in the area of school physical therapy; presented at professional meetings; wrote grants; held or holds office in national, state or local professional organizations or boards;

3.09(1)(e)(v)(D) has received recognition for outstanding achievements in physical therapy; and

3.9 (1)(e)(v)(E)has been involved in community programs.

3.09(1)(e)(vi) School Nurse:

3.09(1)(e)(vi)(A) has completed additional preparation in advanced practice in nursing or specialties in school health-related fields or has earned additional certification in nursing administration, vocational education, or other certifications applicable to school nursing;

3.09(1)(e)(vi)(B) has demonstrated professional leadership experiences and exceptional program development;

3.09(1)(e)(vi)(C) has mentored school nurses and supervised practicum students;

3.09(1)(e)(vi)(D) has had active participation in school nurse professional organizations; and

3.09(1)(e)(vi)(E) has participated in teaching, research and/or publishing to further the specialty of school nursing.

3.09(1)(e)(vii) School Psychologist:

3.09(1)(e)(vii)(A) has demonstrated commitment to the profession of school psychology through active involvement and leadership in local, state, or national school psychology organizations;

3.09(1)(e)(vii)(B) has mentored school psychologists with an initial license and supervised school psychology interns;

3.09(1)(e)(vii)(C) has contributed to school and district program development;

3.09(1)(e)(vii)(D) has produced professional publications and presentations; and

3.09(1)(e)(vii)(E) has received recognition by peers for outstanding performance.

3.09(1)(e)(viii) School Social Worker:

3.09(1)(e)(viii)(A) has demonstrated leadership in state school social work organizations;

3.09(1)(e)(viii)(B) has actively participated in leadership roles in national social work organizations other community and human service organizations;

3.09(1)(e)(viii)(C) holds advanced credentials in the field (e.g., doctorate in social work, school social work specialist credential, diplomate in clinical social work, etc.);

3.09(1)(e)(viii)(D) has demonstrated outstanding skill in service to schools and children, such as the creation of innovative and successful programs and services to meet the needs of students and mentoring and supervising school social workers and other school professionals; and

3.09(1)(e)(viii)(E) has received recognition by peers for outstanding performance.

3.09(1)(e)(ix) Speech/Language Pathologist:

3.09(1)(e)(ix)(A) has demonstrated professional growth through professional leadership experiences and exceptional program development;

3.09(1)(e)(ix)(B) has demonstrated commitment through involvement in local, state, or national professional organizations;

3.09(1)(e)(ix)(C) has accepted additional responsibilities at the school, district, state, or national levels;

3.09(1)(e)(ix)(D) has published appropriate materials at the district, state, or national levels;

3.09(1)(e)(ix)(E) has presented original research and materials at professional conferences;

3.09(1)(e)(ix)(F) has supervised practicum and internship students; and 3.09(1)

(e)(ix)(G) has mentored and supervised other speech/language pathologists.

3.10 **Master Certificate - Principal**

A master certificate represents achievements and contributions over and above the expectations in the Principal Quality Standards outlined in section 6.0 of these rules. A master certificate is valid for the period of time for which the applicant's professional principal license is valid and is renewable as provided in section 7.02 of these rules.

3.10(1) A master certificate may be issued to an applicant who: 3.10(1)

(a) holds a valid Colorado professional principal license;

3.10(1)(b) has displayed excellence and depth in all of the content and performance standards required for the professional principal license;

3.10(1)(c) displays depth in all content knowledge; has modeled sustained commitment to improved student performance, to ongoing systemic renewal, and to strengthening the profession; and has demonstrated superior performance through accomplishments having significant impact on the school's educational community;

3.10(1)(c)(i) The master principal must possess knowledge in the following areas:

3.10(1)(c)(i)(A) systemic renewal strategies;

3.10(1)(c)(i)(B) multiple models for school and district management; 3.10(1)(c)(i)

(C) dynamic political and policy movements in the state;

3.10(1)(c)(i)(D) promising practices in the professional development of educational leaders; and

3.10(1)(c)(i)(E) leading research and writing on instructional strategies, student learning, assessment methodology and supervisory techniques.

3.10(1)(c)(ii) The master principal must demonstrate the ability to: 3.10(1)(c)(ii)

(A) create a community of learners who focus on student performance;

3.10(1)(c)(ii)(B) translate vision into program excellence;

3.10(1)(c)(ii)(C) provide value-added leadership to create an organization that has purpose, direction, and energy;

3.10(1)(c)(ii)(D) implement programs in schools that result in sustained improvement in student performance;

3.10(1)(c)(ii)(E) integrate multiple instructional models to meet diverse learning needs of both students and adults to enhance student performance;

3.10(1)(c)(ii)(F) imagine alternatives based on knowledge of best practices and create those alternatives as a model for others;

3.10(1)(c)(ii)(G) engage a diverse school community in sustained efforts for school improvement;

3.10(1)(c)(ii)(H) influence and provide a model for larger systems (e.g., the district, BOCES, or state);

3.10(1)(c)(ii)(I) contribute to the development of the profession through mentoring, teaching, writing, and other modalities; and

3.10(1)(c)(ii)(J) capitalize on opportunities presented by diverse stakeholders.

3.10(1)(d) has demonstrated evidence of positive impacts on student performance at the building level; and

3.10(1)(e) has contributed to the education community through service as a mentor, teacher, writer, researcher, or other service-oriented activity.

3.11 **Master Certificate - Administrator**

A master certificate represents achievements and contributions over and above expectations in the Administrator Quality Standards outlined in section 6.0 of these rules. A master certificate is valid for the period of time for which time the applicant's professional administrator license is valid and is renewable as provided in section 7.02 of these rules.

3.11(1) A master certificate may be issued to an applicant who:

3.11(1)(a) holds a valid Colorado professional administrator license;

3.11(1)(b) has displayed excellence and depth in all of the content and performance standards required for the professional license;

3.11(1)(c) has demonstrated excellence on all performance standards and displays depth in all content knowledge; has modeled sustained commitment to improved student performance, to ongoing systemic renewal, and to strengthening of profession; and has demonstrated superior performance through accomplishments having significant impact on an educational community;

3.11(1)(c)(i) The master administrator must possess knowledge in the following areas:

3.11(1)(c)(i)(A) systemic renewal strategies;

3.11(1)(c)(i)(B) multiple models for school and district management;

3.11(1)(c)(i)(C) dynamic political and policy movements in the state;

3.11(1)(c)(i)(D) promising practices in the professional development of educational leaders;

3.11(1)(c)(i)(E) leading research and writing on instructional strategies, student learning, assessment methodology, and supervisory techniques; and

3.11(1)(c)(ii) The master administrator must demonstrate the ability to: 3.11(1)(c)(ii)

(A) initiate and sustain significant change in the district directed toward predetermined goals, themes, and needs;

3.11(1)(c)(ii)(B) create a community of learners who focus on student performance;

3.11(1)(c)(ii)(C) translate vision into program excellence;

3.11(1)(c)(ii)(D) provide value added leadership to create an organization that has shared purpose, direction, and energy;

3.11(1)(c)(ii)(E) provide incentives, direction, and motivation for development of programs that enhance student performance;

3.11(1)(c)(ii)(F) imagine alternatives based on knowledge of best practices and create those alternatives as a model for others;

3.11(1)(c)(ii)(G) engage a diverse community in sustained efforts for school improvement in the entire district;

3.11(1)(c)(ii)(H) influence and provide a model for the larger system (e.g., the district, BOCES, or state);

3.11(1)(c)(ii)(I) contribute to the development of the profession through mentoring, teaching, writing, and other modalities; and

3.11(1)(c)(ii)(J) capitalize on opportunities presented by diverse stakeholders.

3.11(1)(d) has demonstrated evidence of positive impacts on student performance throughout the district; and

3.11(1)(e) has contributed to the education community through service as a mentor, teacher, writer, researcher, or other service-oriented activity.

3.12 **Alternative Teacher License**

An alternative teacher license is valid for either a one-, two- or three-year period, as outlined below. An alternative teacher license authorizes the holder to be employed only as an alternative teacher while participating in an alternative teacher program, pursuant to the terms of an alternative teacher contract, as provided by 22-60.5-201(1)(a), C.R.S.

3.12(1) An alternative teacher license may be issued to an applicant who meets the following criteria:

3.12(1)(a) holds a bachelor's degree from an accepted institution of higher education; 3.12(1)

(b) has submitted a complete application as defined in section 2.04 of these rules; 3.12(1)(c)

has demonstrated subject matter knowledge in the endorsement area:

3.12(1)(c)(i) for elementary education teachers (grades K-6), early childhood educators (ages birth-8), early childhood special education (ages birth-8) and special education generalist teachers (ages 5-21), by passage of the approved content tests.

3.12(1)(c)(ii) for secondary teachers (grades 7-12) and all other endorsement areas not identified in Rule 3.12(1)(c)(i)-:

3.12(1)(c)(ii)(A) holding an earned bachelor's or higher degree in the content area; or

3.12(1)(c)(ii)(B) 24 semester hours of specific coursework as demonstrated through transcript evaluation in the endorsement area; or

3.12(1)(c)(ii)(C) passage of the approved content test(s) relevant to the person's area of endorsement(s); and

3.12(1)(d) provides a statement of assurance signed by the human resources officer or other representative of the designated agency and the applicant verifying that the applicant is enrolled in an approved alternative teacher program, employed as a teacher or participating in a clinical experience, and that the placement is in the endorsement area for which the teacher has demonstrated appropriate subject matter knowledge.

3.12(2) An alternative teacher license is valid as follows:

3.12(2)(a) The alternative teacher license for a one-year program is valid for one year from date of issuance and may be renewed for one additional year, but only upon written evidence of: (1) unforeseen circumstances; and (2) that the employing school district, BOCES, charter school, or nonpublic school anticipates extending the alternative teacher's contract for one additional year pursuant to section 22-60.5-207(2), C.R.S.

3.12(2)(b) The alternative teacher license for a two-year program is valid for two years from date of issuance.

3.12(2)(c) A person may be employed as an alternative teacher for a total of three years for the purpose of receiving a special education generalist endorsement.

3.12(3) An alternative teacher license is valid in any school district, BOCES, nonpublic school, or charter school.

3.13 **Teacher of Record License and Program**

3.13(1) **Teacher of Record License.** A teacher of record license is valid for two years from the date of issuance and may be renewed once, but only if the holder did not complete a bachelor's degree due to unforeseen circumstances or hardship.

3.13(1)(a) A teacher of record license may be issued to an applicant who:

3.13(1)(a)(i) is enrolled in an accepted institution of higher education and has no more than 36 credit hours remaining for completion of a bachelor's degree that leads to a teacher license, but has not yet completed field-based experience requirements;

3.13(1)(a)(ii) is enrolled in a one- or two-year Teacher of Record Program pursuant to section 22-60.5-208.7, C.R.S.; and

3.13(1)(a)(iii) is or will be employed by an LEP, in a position for which no other qualified licensed teacher has applied, and for which the LEP has determined that there is a critical teacher shortage as defined in Rule 2.01(17).

3.13(1)(b) The standards and competencies for an individual working under a teacher of record license are those set forth in section 5.0 of these rules.

3.13(1)(c) A teacher of record license may not be issued with an endorsement in special education.

3.13(2) **Teacher of Record Program.** An LEP is authorized to implement a one- or two-year teacher of record program and may employ a teacher of record only when the individual will fill a vacant position in a critical teacher shortage area and when no other qualified, licensed applicants applied for the posted vacant position.

3.13(2)(a) A teacher candidate employed in a teacher of record program established pursuant to this section shall hold a teacher of record license issued pursuant to section 22-60.5-201(1)(a.5), C.R.S., and section 3.13 of these rules.

3.13(2)(b) To assist the teacher of record in meeting the Teacher Quality Standards, established pursuant to section 22-2-109(3), C.R.S., and section 5.0 of these rules, the teacher of record program must include, at a minimum:

3.13(2)(b)(i) Course requirements and provided supports:

3.13(2)(b)(i)(A) identification of the courses and number of credit hours that a teacher candidate must complete before and while a teacher of record,

3.13(2)(b)(i)(B) identification of the time and support (e.g., financial resources, class coverage) the LEP will provide for the teacher of record to complete the course work;

3.13(2)(b)(i)(C) identification of accepted institution of higher education supports, including a description of how supports will be delivered (e.g., mentoring, professional development, evaluation, and LEP-identified supports); and

3.13(2)(b)(ii) professional development, teacher mentorship, the LEP's induction program, and other supports for the teacher of record over the course of the program.

3.13(2)(c) If the teacher of record successfully completes an induction program, the teacher of record may apply completion of the induction program toward meeting the requirements for a professional teacher license.

3.13(2)(d) An LEP shall treat a teacher of record as a first-year teacher for purposes of compensation and placement on a teacher salary schedule.

3.13(2)(e) The teacher of record program must be approved by the Department prior to submission of an application for the teacher of record license. At a minimum, the approval process will include review of:

3.13(2)(e)(i) the demonstration of need;

3.13(2)(e)(ii) proposed program details as outlined in section 3.13(2) of these rules;

3.13(2)(e)(iii) the teacher candidate's education, experience and demonstration of content-area competency; and

3.13(2)(e)(iv) assurances from the institution of higher education, LEP and teacher of record candidate.

4.0 Types of Authorizations

The Department is authorized to issue the following authorizations.

4.1 Adjunct Instructor Authorization (Grades K-12)

To address recruiting challenges and establish a diverse workforce, a school district, BOCES or charter school may employ as an adjunct instructor a specialist or content-area expert who is without formal educator training. The purpose of adjunct instruction is to provide students with highly specialized academic enrichment in support of required content areas.

4.01(1) An adjunct instructor authorization is issued for three years to an applicant who meets the following criteria:

4.01(1)(a) an applicant possesses outstanding talent or demonstrates specific abilities and knowledge in a particular area of specialization;

4.01(1)(b) a school district board of education or superintendent or the principal of a charter school or BOCES requests the applicant's services and provides evidence of the applicant's outstanding talent or specific abilities and particular knowledge for the assignment;

4.01(1)(c) the school district, BOCES, or charter school provides evidence that the applicant's services are required; and

4.01(1)(d) the applicant has been employed for at least five years in the area of specialization or holds an earned bachelor’s or higher degree in the area of specialization.

4.01(2) An adjunct instructor authorization may be renewed for succeeding three-year periods at the employing school district’s or charter school’s request when the school district or charter school provides documented evidence of ongoing need for the adjunct instructor’s services.

4.01(3) A person may be employed under an adjunct instructor authorization only by the school district or charter school that requested the person’s services.

4.01(4) A person who holds an adjunct instructor authorization and is employed by a school district may teach only under the general supervision of a licensed professional teacher. For the purposes of this provision, “general supervision” means support, mentorship, and supervision of an adjunct instructor, and does not require more than one teacher in a classroom at a time.

4.01(4)(a) A school district or charter school shall not employ a person under an adjunct instructor authorization as a full-time teacher; except

4.01(4)(a)(i) a rural school district may employ an adjunct instructor authorization-holder as a full-time teacher if there are no qualified, licensed applicants for the position.

4.2 Special Services Intern Authorization (Birth-21)

A special services intern works under the supervision of a Colorado licensed professional special services provider from the same discipline.

4.02(1) The special services intern authorization may be issued for one academic year. It may only be renewed if the special services intern is employed by a district or BOCES and the intern has not completed the approved program of preparation due to unforeseen circumstances or hardship.

4.02(2) The applicant must hold a bachelor's or higher degree from an accepted institution of higher education and be enrolled in an approved program of preparation for special services providers. The program of preparation must require an internship and offered by an accepted institution of higher education.

4.02(3) For the period of time while the authorization-holder serves as an intern, the authorization-holder may receive pay from the school district.

4.3 Emergency Authorization (Grades K-12, Ages Birth-21)

The applicant for an emergency authorization has not yet met the requirements for a Colorado initial teacher, principal, administrator or special services provider license or a school speech/language pathology assistant authorization but provides evidence of holding an earned bachelor's degree or higher from an accepted institution of higher education and of enrollment in an approved program of preparation.

4.03(1) An applicant for a school speech-language pathology assistant emergency authorization must hold a bachelor's degree in speech, language, and hearing sciences; communications disorders-speech sciences; or any other field with completion of 24 semester hours in speech, language, hearing sciences from an accepted institution of higher education, as determined by the Department's transcript review.

4.03(2) The emergency authorization may be issued for up to one year and may be renewed for up to one additional year when:

4.03(2)(a) a school district or BOCES requests the emergency authorization in order to employ a non-licensed teacher, principal, administrator, or special services provider;

4.03(2)(b) the district provides evidence of a need for specific and essential educational services which can be provided by the applicant, and which would otherwise be unavailable, due to a shortage of licensed educators with appropriate endorsements; and

4.03(2)(c) in the judgment of the State Board of Education,

4.03(2)(c)(i) the employment of the non-licensed applicant is essential to the preservation of the district's instructional program, and

4.03(2)(c)(ii) that the establishment of an alternative teacher program by the local board of education is not a practicable solution to resolve the demonstrated shortage.

4.03(3) The district may provide an induction program for an individual on an emergency authorization, as specified in sections 8.00 and 9.00 of these rules. Induction programs completed while holding an emergency authorization may count toward fulfilling requirements for a professional license.

4.4 Career and Technical Education Authorization (Grades 7-12)

4.04(1) An initial career and technical education (CTE) authorization may be issued for three years and may not be renewed. The applicant must meet the minimum qualifications adopted by the State Board for Community Colleges and Occupational Education under section 23-60-304(3)(a), C.R.S.

4.04(2) A professional career and technical education authorization may be issued for five years to an applicant who holds an initial career and technical education authorization and who meets the necessary requirements for holding a professional-level CTE authorization. It may be renewed for succeeding five-year periods. The applicant must meet the minimum qualifications or renewal requirements that the State Board for Community Colleges and Occupational Education adopts pursuant to section 23-60-304(3)(a), C.R.S.

4.04(3) Postsecondary career and technical education credentials are issued by the Colorado Community College System and are governed by the rules for the Administration of the Colorado Vocational Act, 8 CCR 1504-2.

4.5 Substitute Authorization (Grades K-12)

A substitute authorization may be issued to an applicant to serve as a substitute educator.

4.05(1) A substitute authorization is valid for one, three, or five years, as specified below. It may be renewed indefinitely upon application.

4.05(1)(a) A five-year substitute authorization may be issued when an applicant has completed an approved teacher preparation program (as indicated by a signed approved program verification form and conferred transcript) or holds or has held a Colorado initial or professional license or an equivalent out-of-state-issued license.

4.05(1)(b) A three-year substitute authorization may be issued to an applicant who holds an earned bachelor's or higher degree from an accepted institution of higher education.

4.05(1)(c) A one-year substitute authorization may be issued when:

4.05(1)(c)(i) the applicant holds a high school diploma or its equivalent, and

4.05(1)(c)(ii) the applicant attests to having worked successfully with children.

4.06-4.08 Reserved

4.9 Interim Authorization (Grades K-12; Ages Birth-21)

An interim authorization may be issued for one year and may be renewed upon application for one additional year to a person who is:

4.09(1) certified or licensed, or eligible for certification or licensure, as a teacher, principal, or administrator in another state and who has not successfully completed the assessment of professional competencies to obtain an initial license but who meets the other requirements for an initial license; or

4.09(2) enrolled in an alternative teacher program as defined in 2.01(6) of these rules and meets the requirements for an alternative teacher license, except that the person has not successfully completed the assessment of professional competencies to obtain an alternative teacher license.

4.09(3) A holders of an interim authorization must demonstrate professional competencies to obtain an initial license.

4.09(4) The employing school district may provide an induction program for holders of interim authorizations as specified in sections 8.00 and 9.00 of these rules. Induction programs completed while holding interim authorizations may count toward fulfilling the requirements of a professional license.

4.10 Military Spouse Interim Authorization (Grades K-12, Ages Birth-21)

A military spouse interim authorization is valid for one year, and the Department of Education may renew the authorization for one additional year.

4.10(1) A military spouse interim authorization may be issued to a military spouse when:

4.10(1)(a) the applicant is a spouse of an active-duty member of the United States armed forces who has been transferred to Colorado, is scheduled to be transferred to Colorado, is domiciled in Colorado or has moved to Colorado on a permanent change-of-station basis;

4.10(1)(b) the applicant is certified, licensed, or eligible for certification or licensure as a teacher special services provider, principal, or administrator in another state; and

4.10(1)(c) the applicant has not successfully passed the approved content test(s) required for obtaining an initial license but otherwise meets the requirements for an initial license.

4.10(2) The employing school district may provide an induction program for holders of military spouse interim authorization as specified in sections 8.00 and 9.00 of these rules. Induction programs completed while holding this authorization may count toward fulfilling the requirements of a professional license.

4.11 School Speech-Language Pathology Assistant Authorization (Ages Birth–21).

A school speech-language pathology assistant (SLPA) serves as a member of an educational team and is authorized to perform tasks prescribed, directed, and supervised by a licensed school speech-language pathologist (SLP) in implementing services for children/students with speech, language, cognitive, voice, and augmentative/alternative communication disorders and hearing impairments.

4.11(1) An SLPA authorization is valid for five years and may be renewed for succeeding five-year periods upon application and completion of content-related renewal requirements, including 50 contact hours of continuing education.

4.11(1)(a) an applicant for SLPA authorization must: holds a bachelor’s degree in speech communication, speech-language pathology, communication disorders-speech sciences or a bachelor’s degree in any other field with completion of 24 semester hours in speech language hearing sciences from an accepted institution of higher education, as determined by the Department’s transcript review;

4.11(1)(b) have successfully completed a speech-language pathology assistant program at a regionally or nationally accredited institution;

4.11(1)(c) have successfully completed a minimum 100 clock-hours of a school-based practicum under the supervision of an American Speech-Language-Hearing Association-certified and licensed school SLP, in accordance with the requirements of section 4.11(6) below; and

4.11(1)(d) have demonstrated through Department transcript review knowledge in the competencies specified in sections 4.11(3) and 4.11(4) below.

4.11(2) As determined by the Department of Higher Education, the SLPA applicant is knowledgeable about communication processes and basic human communication, and is able to articulate:

4.11(2)(a) the anatomical/physiological, psychological, developmental, linguistic, and cultural bases of communication processes;

4.11(2)(b) communication disorders, articulation, fluency, voice, and resonance, receptive and expressive language, and language-based learning disabilities;

4.11(2)(c) hearing disorders and their impact on speech and language;

4.11(2)(d) cognitive and social aspects of communication disorders;

4.11(2)(e) communication modalities including oral, written, manual, augmentative and alternative communication techniques, and assistive technologies;

4.11(2)(f) normal development of reading and writing in the context of the general education curriculum; and

4.11(2)(g) characteristics of exceptional students including categorical disabilities, learning differences, and developmental deficits.

4.11(3) The SLPA is knowledgeable about service delivery and must be able to:

4.11(3)(a) use appropriate verbal and written language in interactions with children/students, teachers, and related professionals;

4.11(3)(b) follow oral and written directions, including those in intervention plans:

4.11(3)(c) assist in the selection, preparation and presentation of instructional and other related materials;

4.11(3)(d) maintain accurate and concise documentation in a timely manner;

4.11(3)(e) implement documented intervention plans developed by the supervising speech-language pathologist;

4.11(3)(f) assist with clerical duties assigned by the supervising speech-language pathologist including, but not limited to, scheduling, safety/maintenance of supplies and equipment, and record keeping;

4.11(3)(g) collect data for quality improvement including child/student performance data in classrooms or individual therapy settings;

4.11(3)(h) record children’s/students’ each student’s status with regard to progress towards established objectives as stated in the intervention plans, and report information to the supervising SLP;

4.11(3)(i) use constructive feedback from the supervising SLP to adapt or modify interaction and/or intervention with children/students;

4.11(3)(j) provide consistent, discriminating, and meaningful feedback and reinforcement to the children/students; and

4.11(3)(k) implement designated intervention goals/objectives in specified sequence.

4.11(4) The SLPA is knowledgeable about screening and assessment, but may not perform standardized or non-standardized diagnostic tests, including, but not limited to, feeding evaluations or interpreting test results, or counseling parents; and is able to:

4.11(4)(a) assist the SLP with speech-language and hearing screenings or assessments, without interpretation, and report results directly to the supervising SLP;

4.11(4)(b) assist with informal documentation as directed by the SLP.

4.11(4)(c) provide directly to the supervising SLP descriptive behavioral observations that contribute to screening/assessment results; and.

~~4.11(5)(d)~~ 4.11(4)(d) support the SLP in research projects, in service training and public relations programs, including Child Find activities.

4.11(5)The SLPA is knowledgeable about ethical practice and maintaining appropriate relationships with children/students, families, teachers, and related service professionals, and must be able to:

4.11(5)(a) demonstrate respect for and maintain the confidentiality of information pertaining to students and their families;

4.11(5)(b) behave in accordance with educational facility guidelines;

4.11(5)(c) articulate an awareness of student needs and respect for cultural values;

4.11(5)(d) direct student, family, and educational professionals to the supervising SLP for information regarding testing, intervention, and referral;

4.11(5)(e) request assistance from the supervising SLP, as needed;

4.11(5)(f) manage time effectively and productively; and

4.11(5)(g) recognize personal professional limitations and perform within boundaries of training and job responsibilities.

4.12 **Exchange Educator Interim Authorization (Grades K-12, Ages Birth-21)**

An exchange educator interim authorization may be issued to a participant in a district-recognized educator exchange program who has not completely fulfilled Colorado educator licensure requirements.

4.12(1) An exchange educator interim authorization is valid for one year and may be renewed upon application for one additional year.

4.12(2) Applicants must:

4.12(2)(a) be a participant in a district-recognized educator exchange program; and

4.12(2)(b) be certified, licensed, or eligible for certification or licensure as a teacher, special services provider, principal, or administrator in another country.

4.13 Temporary Educator Eligibility Authorization (Grades K-12~~,~~ Ages Birth-8, 5-21, Birth-21)

The Department may issue a temporary educator eligibility (TEE) authorization to a person who is enrolled in an approved program of preparation for a special education educator or who is working to attain a special services provider initial license but who has not yet met the requirements for the applicable initial educator license or endorsement sought.

4.13(1) A TEE authorization is valid for one year. Renewal is contingent upon the applicant maintaining continuous progress toward completion of requirements for the license or endorsement sought. A TEE authorization may be renewed twice, for a total of three years.

4.13(2) A TEE authorization may be issued to an applicant when:

4.13(2)(a) a school district requests the TEE authorization in order to employ as a special education teacher, special services provider, or special education administrator an applicant who does not yet meet licensing requirements but who meets the eligibility requirements specified below; and

4.13(2)(b) the district provides evidence of a demonstrated need for specific and essential educational services that can be provided by the applicant but that would be otherwise unavailable to students due to a shortage of licensed educators with appropriate endorsement(s).

4.13(3) TEE applicants must:

4.13(3)(a) hold a bachelor's degree from an accepted institution of higher education; and

~~4.13(4)(a)~~ 4.13(3)(b) be enrolled in an approved or alternative special education, special education director, or special services provider preparation program offered by an accepted institution of higher education; or

4.13(3)(c) for special education generalist, hold an active Colorado educator license or for school counselor, hold a Department of Regulatory Authority (DORA) license in a counselor-related field; and be enrolled in prescribed coursework to meet requirements for Colorado's special education generalist or school counselor endorsement.

In the preparation program , the candidate must:

~~4.13(4)(b)(i)~~ 4.13(3)(b)(i) receive high-quality professional development that is sustained, intensive, and classroom-focused;

~~4.13(4)(b)(ii)~~ 4.13(3)(b)(ii) participate in a program of intensive supervision that consists of structured guidance and regular ongoing support or a mentoring program specific to the license or endorsement sought; and

~~4.13(4)(b)(iii)~~ 4.13(3)(b)(iii) demonstrate satisfactory progress toward full licensure (e.g., transcripts demonstrating movement toward the completion of the educator preparation or degree program; documentation verifying attempts to pass the required content exam(s)).

4.13(3)(d) If an applicant has completed the required program orcoursework for licensure or the endorsement sought, the applicant may continue working under a TEE as long as they are registered for the requisite content exam or awaiting exam results. 4.13(4) In addition to the criteria in 4.13(3), CDE may issue a TEE to an SSP who has met the minimum degree requirements necessary to practice in their area of specialization, but who has not completed the necessary content assessment or school practicum in the area of specialization. A district may employ a person who holds a TEE pursuant to this Rule 4.13(4) only if the person is under the supervision of a professionally licensed person in the same area of specialization.

4.13(5) The employing school district may provide an induction program for an individual on a TEE authorization as specified in sections 8.00 and 9.00 of these rules. Induction programs completed while holding this authorization may count toward fulfilling the requirements of a professional license.

4.14 **Educational Interpreter Authorization (Ages Birth-21)**

The educational interpreter authorization allows a school district to employ a person to provide teaching and interpreting services for students who are deaf or hard of hearing.

4.14(1) An educational interpreter authorization is valid for five years and may be renewed for succeeding five-year periods upon application and submittal of evidence of completion of four (4) semester hours of professional development or its equivalent of 60 contact/clock-hours in educational interpreter content.

4.14(2) The applicant must provide evidence of:

4.14(2)(a) an associate’s or higher degree in educational interpreting or a related field;

4.14(2)(b) a certificate of completion for the Educational Interpreter Performance Assessment (EIPA) written exam;

4.14(2)(c) successful performance on one or more of the following professional skill assessments:

4.14(2)(c)(i) for sign language interpreters, a score of 3.5 or higher on the EIPA or current certification with the Registry of Interpreters for the Deaf (RID);

4.14(2)(c)(ii) for cued speech transliterators, a score of 4.0 or higher on the EIPA-Cued Speech exam or a passing score on the Cued Language Transliterator National Certification Exam; or

4.14(2)(c)(iii) for oral interpreters, a current Oral Transliteration Certificate from RID.

4.14(2)(d) demonstration of the following competencies:

4.14(2)(d)(i) effectively analyze communication for the speaker's style, affect, register, and overall prosodic and coherence markers;

4.14(2)(d)(ii) effectively manage the interpreting process in order to produce a linguistically appropriate representation of classroom communication, as based on student ability and the individualized education plan (IEP) goals;

4.14(2)(d)(iii) manage the process for effectively switching from one speaker and mode to another;

4.14(2)(d)(iv) utilize attending and interrupting techniques effectively, based on culturally appropriate methods and classroom protocol; and

4.14(2)(d)(v) effectively apply knowledge of:

4.14(2)(d)(v)(A) cognitive processes associated with consecutive and simultaneous interpreting, and the implication of each for interpreting classroom discourse;

4.14(2)(d)(v)(B) the differences between classroom discourse and conversational discourse, and the implication of those differences in the interpreting process;

4.14(2)(d)(v)(C) communication processes with inclusive students who are deaf or hard-of-hearing as related, but not limited to, issues of taking turns, avoiding overlap of speaking/signing processes, challenges associated with the use of multimedia and uncaptioned materials; and

4.14(2)(d)(v)(D) classroom subject matter concepts and associated vocabulary and terminology.

4.14(3) CApplicants who have yet to take the EIPA performance exam or who are awaiting receipt of their EIPA performance exam results may:

4.14(3)(a) qualify for the authorization by providing evidence of:

4.14(3)(a)(i) an associate's or higher degree in educational interpreting or a related field;

4.14(3)(a)(ii) a certificate of completion verifying a passing score on the Educational Interpreter Performance Assessment (EIPA) written exam;

4.14(3)(a)(iii) successful performance on the CDE-approved Pre-Hire Screening; and

4.14(3)(a)(iv) verification of enrollment in a CDE-approved mentor program.

4.14(3)(b) Within 12 months of the date of application for the authorization, the applicant must submit evidence to CDE of successful performance on one or more of the following professional skill assessments:

4.14(3)(b)(i) for sign language interpreters, a score of 3.5 or higher on the EIPA or current certification with the Registry of Interpreters for the Deaf (RID);

4.14(3)(b)(ii) for cued speech transliterators, a score of 4.0 or higher on the EIPA-Cued Speech exam or a passing score on the Cued Language Transliterator National Certification Exam; or

4.14(3)(b)(iii) for oral interpreters, a current Oral Transliteration Certificate from RID.

4.14(4) Failure to fulfill the requirement outlined in 4.14.(3)(b) of these rules and provide proof of completion to CDE within twelve months of applying for the authorization will render the applicant ineligible for the authorization on the basis that the application is incomplete. CDE will notify the applicant that their application has been deemed incomplete, as provided by Rule 2.04(5). The applicant may cure the deficiency or request reconsideration. An applicant who fails to cure the deficiency or request reconsideration within 60 days of notification will be deemed to have withdrawn the application and such withdrawal shall not be subject to appeal or review. CDE will issue a written determination to an applicant in response to any request for reconsideration within 30 days of its receipt of the request.

4.15 Junior Reserve Officer Training Corps (JROTC) Instructor Authorization (Grades 9-12)

A JROTC instructor authorization may be issued to allow a person to instruct a JROTC unit hosted by a school district.

4.15(1) The JROTC Instructor Authorization is valid for five years and may be renewed upon application and submittal of evidence of service-specific JROTC recertification.

4.15(2) Applicants must provide documented evidence of JROTC certification based upon successful acquisition of service-specific JROTC program director certification or completion of service-specific JROTC preparation program requirements.

4.16 Adult Basic Education Authorization

An adult basic education authorization allows a person to work as an adult basic education instructor in an adult education program operated by a school district before, during, or after regular school hours.

4.16(1) An adult basic education authorization is valid for five years and may be renewed for succeeding five-year periods upon application. To be eligible for renewal, the application must submit evidence of completion of 90 contact hours of adult education instructor professional development activities completed within the period of time for which the authorization was issued.

4.16(2) An adult basic education authorization may be issued to an applicant who:

4.16(2)(a) holds an associate's or higher degree from an accepted institution of higher education or accredited community, technical, or junior college; and

4.16(2)(b) has submitted an application for an adult basic education authorization, which includes:

4.16(2)(b)(i) a copy of an official degree-conferred transcript; and

4.16(2)(b)(ii) evidence of the completion of adult basic education coursework, including:

4.16(2)(b)(ii)(A) a copy of an official transcript from an accepted institution of higher education or accredited community, technical, or junior college showing the completion of adult basic education coursework within the seven years immediately preceding the date of application. Coursework must include: introduction to adult education; planning and delivering instruction to adult learners; teaching adult basic education/adult secondary education; and teaching English as a second language (ESL) to adults; or

4.16(2)(b)(ii)(B) evidence of completion of other adult basic education coursework in lieu of an official transcript showing completion of courses

specified in section 4.16(1)(b)(ii)(A). The applicant must submit the Department's equivalency form and copies of official transcripts from an accepted institution of higher education or accredited community, technical, or junior college showing coursework completed within the seven years immediately preceding the date of application. The Department will determine whether the coursework is equivalent to that listed in section 4.16(1)(b)(ii)(A).

~~4.16(3))~~ 4.16(3) Applicants who have not met the requirements as specified in section 4.16(2)(b)(ii) may submit evidence of experience, including:

4.16(3)(a) documentation illustrating 750 hours of performance of adult basic education instruction, adult secondary education instruction, or ESL instruction to adults; and

4.16(3)(b) the Department's observation form, which includes observations of the applicant's instruction and competencies in adult basic education. The observation form must be completed by a qualified observer as determined by the Department.

4.17 **Principal Authorization (Grades K-12)**

A principal authorization may be issued to a person who does not hold or may not qualify for an initial principal license but who holds a bachelor's or higher degree from an accepted institution of higher education and who will be employed by a district, charter school, or nonpublic school under an individualized alternative principal program or who participates in an alternative principal program through a designated agency. A school district may employ a person who holds a principal authorization to perform principal or assistant principal duties only when the authorization-holder is supervised by a professional principal license-holder.

4.17(1) A principal authorization is valid for three years and may not be renewed.

4.17(2) To submit a principal authorization application for an individualized alternative principal program, an applicant, in collaboration with a school district, charter school, nonpublic school or the institute, must submit to the Department documentation pursuant to section 13.01 of these rules.

4.17(3) To submit a principal authorization application for a person participating in an alternative principal program through a designated agency, the applicant must provide documentation of employment as an alternative principal or assistant principal and enrollment in an alternative principal program approved by the Colorado Department of Education pursuant to section 13.02 of these rules.

4.17(4) Upon successful completion of an individualized alternative principal program or alternative principal program, if the principal authorization-holder has three or more years of licensed experience in a school, that person may apply for an initial principal license.

4.17(5) The employer may provide an induction program for an individual working under a principal authorization as specified in section 9.00 of these rules. Induction programs completed while holding this authorization may count toward fulfilling requirements for a professional license.

4.18 **Native American Language & Culture Instructor Authorization (Grades K-12)**

A Native American language and culture instructor authorization may be issued to a person to provide instruction in the Native American language and culture in which the person has demonstrated expertise.

4.18(1) The Native American language and culture instructor authorization is valid for five years. It may be renewed for succeeding five-year periods upon application and at the request of the school district. The district must submit evidence of continuing need.

4.18(2) To receive a Native American language and culture instructor authorization, the applicant must:

4.18(2)(a) qualify for an adjunct instructor authorization as specified in section 4.01 of these rules; or

4.18(2)(b) demonstrate expertise in a Native American language of a federally recognized tribe by:

4.18(2)(b)(i) providing evidence of demonstrated expertise in a Native American language of a federally recognized tribe, as verified by the employing school district;

4.18(2)(b)(ii) identifying a partnering, licensed teacher, as verified by the employing school district; and

4.18(2)(b)(iii) meeting the following objective standards, as verified by the employing school district:

4.18(2)(b)(iii)(A) is able to listen, speak, read and write the Native American language identified at a proficient level for the purposes of interpersonal, interpretive, and presentational communication;

4.18(2)(b)(iii)(B) is knowledgeable about the language and related culture, can describe their interrelationships, and is able to articulate to students, other educators and interested stakeholders:

4.18(2)(b)(iii)(B)(I) perspectives related to historic and contemporary ideas, attitudes, and values of the Native American culture;

4.18(2)(b)(iii)(B)(II) the practices within the Native American culture that are based on historical, geographical, and sociological influences;

4.18(2)(b)(iii)(B)(III) the contributions and achievements of the culture to the fields of literature, the arts, science, mathematics, business, technology, and other areas; and

4.18(2)(b)(iii)(B)(IV) the geographic, economic, social, and political features of traditional and contemporary cultures associated with the Native American language being taught;

4.18(2)(b)(iii)(C) and is able to create a learning environment that accepts, encourages, and promotes the culture and language that Native American language speakers bring into the classroom.

4.18(3) A holder of a Native American language and culture instruction authorization is prohibited from teaching any subject other than the Native American language for which he or she has demonstrated expertise.

5.0 **Teacher and Special Services Provider Licensure Standards**

Teacher Quality Standards

In addition to a demonstrated understanding of the Colorado Academic Standards; the Colorado Reading To Ensure Academic Development Act (Colorado READ Act); strict data privacy and security practices; special education regulations as outlined in section 23-1-121(2)(c.7), C.R.S.; and professional practices to address multiple pathways for students to be postsecondary and workforce ready as outlined in sections 22-2-106, 22-2-136, 22-7-1003(15), and 22-32-109, C.R.S., the following serve as standards for authorization of programming and content for educator preparation programs and licensing of all teacher candidates in Colorado.

5.1 Quality Standard I: Teachers demonstrate mastery of and pedagogical expertise in the content they teach. The elementary teacher is an expert in literacy and mathematics and is knowledgeable in all other content that he or she teaches (e.g., science, social studies, the arts, physical education or world languages). The secondary teacher has knowledge of literacy and mathematics and is an expert in the content area(s) in which the teacher is endorsed.

5.01(1) Element A: Teachers provide instruction that is aligned with the Colorado Academic Standards and their district's organized plan of instruction.

5.01(2) Element B: Teachers develop and implement lessons that connect to a variety of content areas/disciplines and emphasize literacy and mathematics.

5.01(3) Element C: Teachers demonstrate knowledge of the content, central concepts, inquiry, appropriate evidence-based instructional practices, and specialized characteristics of the disciplines they teach.

5.2 Quality Standard II: Teachers establish a safe, inclusive, and respectful learning environment for a diverse population of students.

5.02(1) Element A: Teachers foster a predictable learning environment characterized by acceptable student behavior and efficient use of time, in which each student has a positive, nurturing relationship with caring adults and peers.

5.02(2) Element B: Teachers demonstrate an awareness of, a commitment to, and a respect for multiple aspects of diversity, while working toward common goals as a community of learners.

5.02(3) Element C: Teachers engage students as individuals, including those with diverse needs and interests, across a range of ability levels by adapting their teaching for the benefit of all students.

5.02(4) Element D: Teachers work collaboratively with the families and/or significant adults for the benefit of students.

5.3 Quality Standard III: Teachers plan and deliver effective instruction and create an environment that facilitates learning for their students.

5.03(1) Element A: Teachers demonstrate knowledge about the ways in which learning takes place, including the levels of intellectual, physical, social, and emotional development of their students.

5.03(2) Element B: Teachers use formal and informal methods to assess student learning and provide feedback, and they use results to inform planning and instruction.

5.03(3) Element C: Teachers utilize appropriate, available technology to engage students in authentic learning experiences.

5.03(4) Element D: Teachers establish and communicate high expectations and support the development of critical-thinking and problem-solving skills.

5.03(5) Element E: Teachers provide students with opportunities to work in teams and develop leadership.

5.03(6) Element F: Teachers model and promote effective communication.

5.4 Quality Standard IV: Teachers demonstrate professionalism through ethical conduct, reflection, and leadership.

5.04(1) Element A: Teachers demonstrate high standards for professional conduct.

5.04(2) Element B: Teachers link professional growth to their professional goals.

5.04(3) Element C: Teachers respond to a complex, dynamic environment.

5.04(4) Element D: Teachers demonstrate leadership in their school, the community and the teaching profession.

Special Services Provider Quality Standards

The following must serve as standards for authorization of program content for educator preparation programs and licensing of all special services provider candidates. Colorado has identified nine categories of special services providers, referred to as “other licensed personnel” in law and State Board rules). 1 CCR 301-101 further outlines the quality standards and elements applicable to specific special services provider groups, including:

- School Audiologist
- School Occupational Therapist
- School Physical Therapist
- School Counselor
- School Nurse
- School Orientation and Mobility Specialist
- School Psychologist
- School Social Worker
- School Speech-Language Pathologist

5.5 Quality Standard I: Special services providers demonstrate mastery of and expertise in the domain for which they are responsible.

5.05(1) Element A: Special services providers provide services aligned with state and federal laws, local policies and procedures, Colorado Academic Standards, their district’s organized plans of instruction, and the individual needs of their students.

5.05(2) Element B: Special services providers demonstrate knowledge of effective services that support learning.

5.05(3) Element C: Special services providers demonstrate knowledge of their professions and integrate evidence-based practices and research findings into their services.

5.6 Quality Standard II: Special services providers support or establish safe, inclusive, and respectful learning environments for a diverse population of students.

5.06(1) Element A: Special services providers foster a safe and accessible learning environment characterized by acceptable student behavior and efficient use of time, in which each student has a positive, nurturing relationship with caring adults and peers.

5.06(2) Element B: Special services providers understand and respond to diversity within the home, school, and community.

5.06(3) Element C: Special services providers engage students as individuals with diverse needs and interests, across a range of ability levels, by adapting services for the benefit of students.

5.06(4) Element D: Special services providers work collaboratively with the families and/or significant adults for the benefit of students.

5.7 Quality Standard III: Special services providers plan and deliver effective services in an environment that facilitates student learning.

5.07(1) Element A: Special services providers apply knowledge of the ways in which learning takes place, including the appropriate levels of intellectual, physical, social, and emotional development of their students.

5.07(2) Element B: Special services providers utilize formal and informal assessments to inform service delivery.

5.07(3) Element C: Special services providers utilize appropriate, available technology to engage students in authentic learning experiences.

5.07(4) Element D: Special services providers establish and communicate high expectations and support the development of critical-thinking, problem-solving, and self-advocacy skills.

5.07(5) Element E: Special services providers develop and implement services related to student needs, learning, and progress towards goals.

5.07(6) Element F: Special services providers model and promote effective communication.

5.8 Quality Standard IV: Special services providers demonstrate professionalism through ethical conduct, reflection, and leadership.

5.08(1) Element A: Special services providers demonstrate high standards for ethical and professional conduct.

5.08(2) Element B: Special services providers link professional growth to their professional goals.

5.08(3) Element C: Special services providers respond to a complex, dynamic environment.

5.08(4) Element D: Special services providers demonstrate leadership and advocacy in the school, the community, and their profession.

English Language Learner Quality Standards for Teachers and Special Services Providers

In order to ensure that all Colorado educators are well-equipped and able to teach Colorado's diverse student population, all educator pre-service programs, including approved programs of preparation at institutions of higher education and designated agencies providing alternative teacher programs, must ensure the following standards are fully taught and practiced in their programs. The following standards equate to approximately 6 semester hours or the equivalent of 90 clock-hours.

Note: The following standards are to supplement, not supplant, the culturally and linguistically diverse (CLD) endorsement. These standards can and should be aligned to the CLD endorsement standards as noted in 1 CCR 301-101 if the educator preparation entity is seeking to graduate students with dual endorsements in a content area and in CLD.

5.9 Quality Standard I: Educators are knowledgeable about CLD populations.

5.09(1) Element A: Educators are knowledgeable in and can apply the major theories, concepts, and research related to culture, diversity, and equity in order to support academic access and opportunity for CLD student populations.

5.09(2) Element B: Educators are knowledgeable in and can use progress monitoring, in conjunction with formative and summative assessments, to support student learning.

5.10 Quality Standard II: Educators should be knowledgeable in first and second language acquisition.

5.10(1) Element A: Educators understand and can implement strategies and select materials to aid in English language and content learning.

5.10(2) Element B: Educators are knowledgeable in and can apply the major theories, concepts and research related to culture, diversity and equity in order to support academic access and opportunity for CLD student populations.

5.11 Quality Standard III: Educators should understand literacy development for CLD students.

5.11(1) Element A: Educators are knowledgeable in and can apply the major theories, concepts, and research related to literacy development for CLD students.

5.11(2) Element B: Educators understand and can implement strategies and select materials to aid in English language and content learning.

5.12 Quality Standard IV: Educators are knowledgeable in the teaching strategies, including methods, materials, and assessment for CLD students.

5.12(1) Element A: Educators are knowledgeable in, understand and able to use the major theories, concepts, and research related to language acquisition and language development for CLD students.

5.12(2) Element B: Educators are knowledgeable in and can use progress monitoring, in conjunction with formative and summative assessments, to support student learning.

6.0 Principal and Administrator Licensure Standards

Principal Quality Standards

A principal must demonstrate an understanding of the Colorado Academic Standards; the Colorado Reading To Ensure Academic Development Act (Colorado READ Act); strict data privacy and security practices; special education laws regulations, as outlined in section 23-1-121(2)(c.7), C.R.S.; and

professional practices to address multiple pathways for students to be postsecondary and workforce ready, as outlined in sections 22-2-106, 22-2-136, 22-7-1003(15), and 22-32-109, C.R.S. The following standards must guide the development of the content of principal preparation programs offered by accepted institutions of higher education, designated agencies, and individualized alternative principal programs and must guide the ongoing professional development of these principals.

6.1 **Quality Standard I: Principals demonstrate organizational leadership by strategically developing a vision and mission, leading change, enhancing the capacity of personnel, distributing resources, and aligning systems of communication for continuous school improvement.**

6.01(1) Element A: Principals collaboratively develop the vision, mission, and strategic plan, based on a cycle of continuous improvement of student outcomes, and facilitate their integration into the school community.

6.01(2) Element B: Principals collaborate with staff and stakeholders to implement strategies for change to improve student outcomes.

6.01(3) Element C: Principals establish and effectively manage systems that ensure high-quality staff.

6.01(4) Element D: Principals establish systems and partnerships for managing all available school resources to facilitate improved student outcomes.

6.01(5) Element E: Principals facilitate the design and use of a variety of communication strategies with all stakeholders.

6.2 **Quality Standard II: Principals demonstrate inclusive leadership practices that foster a positive school culture and promote safety and equity for all students, staff, and community members.**

6.02(1) Element A: Principals create a professional school environment and foster relationships that promote staff and student success and well-being.

6.02(2) Element B: Principals ensure that the school provides an orderly and supportive environment that fosters a sense of safety and well-being.

6.02(3) Element C: Principals commit to an inclusive and positive school environment that meets the needs of all students and promotes the preparation of students to live productively and contribute to the diverse cultural contexts of a global society.

6.02(4) Element D: Principals create and utilize systems to share leadership and support collaborative efforts throughout the school.

6.02(5) Element E: Principals design and/or utilize structures and processes which result in family and community engagement and support.

6.3 **Quality Standard III: Principals demonstrate instructional leadership by: aligning curriculum, instruction and assessment; supporting professional learning; conducting observations; providing actionable feedback; and holding staff accountable for student outcomes.**

6.03(1) Element A: Principals establish, align and ensure implementation of a district/BOCES plan of instruction, instructional practice, assessments and use of student data that result in academic growth and achievement for all students.

6.03(2) Element B: Principals foster a collaborative culture of job-embedded professional learning.

6.03(3) Element C: Principals demonstrate knowledge of effective instructional practice and provide feedback to promote continuous improvement of teaching and learning.

6.03(4) Element D: Principals hold all staff accountable for setting and achieving measurable student outcomes.

6.4 **Quality Standard IV: Principals demonstrate professionalism through ethical conduct, reflection and external leadership.**

6.04(1) Element A: Principals demonstrate high standards for professional conduct.

6.04(2) Element B: Principals link professional growth to their professional goals.

6.04(3) Element C: Principals build and sustain productive partnerships with key community stakeholders, including public and private sectors, to promote school improvement, student learning and student well-being.

6.5 **English Language Learner Principal Quality Standards**

In order to ensure that all Colorado school-based leaders are well-equipped and able to support Colorado educators in teaching the state's diverse student population, all principal pre-service programs including approved programs of preparation at Colorado institutions of higher education and individualized alternative principal programs must ensure the standards outlined in sections 5.09 to 5.12 of these rules are fully taught, addressed and practiced in their programs.

6.6 **Administrator Quality Standards**

An administrator applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education, must have completed an approved administrator program, and must have demonstrated the competencies specified below~~:~~.

In addition to knowledge of and the ability to demonstrate the requirements in sections 6.01- 6.05 (Principal Quality Standards) of these rules, the following administrator rules describe additional competencies required to lead at the district level and serve as standards for authorization of program content for educator preparation programs preparing administrators and licensing of all administrator candidates.

6.7 Administrators demonstrate organizational leadership, including responsibility for:

6.07(1) district/program vision, mission, and strategic plan;

6.07(2) continual and sustainable district/program improvement;

6.07(3) recruitment, development, supervision, evaluation, and retention of high-quality personnel;

6.07(4) district and community partnerships;

6.07(5) communication with internal and external stakeholders;

6.07(6) fiscal and resource management, as well as resource-development strategies; and

6.07(7) compliance with policies, laws, rules, and regulations.

6.8 Administrators demonstrate inclusive leadership practices and systems that include responsibility for:

6.08(1) coherent systems of teaching, learning, and leading, including curricular and extra-curricular activities;

6.08(2) positive culture and climate for staff and student success and well-being;

6.08(3) safe and orderly environments for the protection and welfare of all;

6.08(4)equitable and inclusive practices to address diverse student populations and needs;

6.08(5) systems for collaborative and distributed leadership; and

6.08(6) family and community engagement.

6.9 Administrators demonstrate instructional leadership that includes responsibility for:

6.09(1) aligned systems of curriculum, instruction, and assessment;

6.09(2) professional learning for all staff that supports student learning;

6.09(3) student outcomes for growth, achievement, engagement, and post-secondary and workforce readiness; and

6.09(4) continuous improvement accountability systems (e.g., goal setting, data-informed decisions, multi-tiered systems of support and research-based practices).

6.10 Administrators demonstrate professionalism that includes responsibility for:

6.10(1) ethical behavior and professional norms;

6.10(2) conflict resolution, problem solving and decision making;

6.10(3) board-administrator relationships;

6.10(4) partnerships with internal stakeholders and external organizations; and

6.10(5) democratic and civic participation and advocacy.

6.11 **Standards for Professional Competencies for an Initial Administrator License with a Director of Special Education Endorsement**

In addition to knowledge of and the ability to demonstrate the requirements in sections 6.06-6.11 of these rules (Administrator Quality Standards), the following standards must be addressed by an accepted institution of higher education's director of special education initial preparation. They are also the standards for the ongoing professional development of these educators. The specific performance indicators for each of these standards must be described in the Department's Performance Indicators for Professional Competency Standards.

6.12 Quality Standard I – Foundations for Leadership: The director of special education must have a solid foundation for leadership by: (a) demonstrating a comprehensive knowledge of special

education organization, programs, laws and best practices; and (b) setting high standards and a positive direction for special education consistent with the values, mission, and vision of the state and administrative unit.

6.13 Quality Standard II – Special Education and School Systems: The director of special education must demonstrate knowledge of organizational culture, apply a systems approach to the development of special education programs and processes, and facilitate effective system change.

6.14 Quality Standard III – Law and Policy: The director of special education is knowledgeable about and able to apply relevant federal and state statutes, regulations, case law, and policies that impact all children, including those with disabilities.

6.15 Quality Standard IV – Instructional Leadership: The director of special education is able to integrate general education and special education, including curriculum, instructional strategies, assessments, and individualized instruction, in support of academic achievement for all children, including those with disabilities.

6.16 Quality Standard V – Program Planning and Organization: The director of special education is able to evaluate the efficacy and efficiency of special education programs, facilities, services, and monitoring systems. The director is able to use the evaluation data to improve the programs and services for all children, including those with disabilities.

6.17 Quality Standard VI – Human Resource Functions: The director of special education must have the knowledge and ability to recruit, retain, and evaluate qualified personnel.

6.18 Quality Standard VII – Parent, Family and Community Engagement: The director of special education is knowledgeable about and able to facilitate partnerships and engage parents, families, and communities in the implementation of special education programs.

6.19 Quality Standard VIII – Budget and Resources: The director of special education is knowledgeable about and able to demonstrate school district budgeting and resource allocation, including those related to special education.

6.20 **Standards for Professional Competencies for an Initial Administrator License with a Director of Gifted Education Endorsement**

In addition to knowledge of and the ability to demonstrate the requirements in section 6.06 (Administrator Quality Standards) of these rules, the following standards must be addressed by the director of gifted education initial preparation program offered by accepted institutions of higher education. They must also guide the ongoing professional development of these educators. The director of gifted education must demonstrate the performance indicators specific to gifted education and the Department's Performance Indicators for Professional Competency Standards.

6.21 Quality Standard I - Foundations for Leadership: The director of gifted education is knowledgeable about professional, ethnical leadership and supports educators, students, family, and community members to effectively address outcomes for gifted learners. The director sets high standards and a positive direction for gifted education consistent with values, mission, and vision of the state and administrative unit.

6.21(1) Element A: The director of gifted education demonstrates methods to develop vision, mission, goals, and design for gifted education programs.

6.21(2) Element B: The director brings together stakeholders to implement general program and gifted-student goals and best practices in gifted education.

6.21(3) Element C: The director implements collaborative decision-making strategies, as appropriate.

6.21(4) Element D: The director applies knowledge of models and practices in change theory for improvement efforts.

6.21(5) Element E: The director is able to define, advocate for, and make changes with regard to issues in gifted education.

6.22 Quality Standard II - Gifted Education and School Systems: The director of gifted education is knowledgeable about organizational culture, applies a systems approach to the development of gifted education programs, and implements processes in order to facilitate effective system change.

6.22(1) Element A: The director of gifted education understands how systems within a district or administrative unit influence gifted-student instruction and performance.

6.22(2) Element B: The director fosters a school and community culture that supports gifted-student programming within and outside the school setting.

6.22(3) Element C: The director applies a systems approach for developing gifted programs to enhance integrated support and service to gifted students and their families.

6.23 Quality Standard III - Law and Policy: The director of gifted education must have comprehensive knowledge and the ability to apply state and federal laws, regulations, case laws, and policies that impact all children, including those with exceptional academic and talent aptitude.

6.23(1) Element A: The director of gifted education demonstrates proficiency in gifted education policy, regulations, case law, and federal programs supporting key instructional needs of gifted students.

6.23(2) Element B: The director identifies needs and recommends and promotes new policies.

6.23(3) Element C: The director clarifies law and regulations for all stakeholders.

6.23(4) Element D: The director ensures implementation of privacy laws and district confidentiality and privacy policies.

6.23(5) Element E: The director develops, revises, and/or make recommendations to amend school board or administrative unit policy to align with laws and regulations.

6.24 Quality Standard IV - Instructional Leadership: The director of gifted education is able to blend the resources of general and gifted education for the positive benefit of gifted students. The director is knowledgeable about best practices for gifted learners, including specialized curriculum, effective instructional strategies, assessments, social-emotional/affective support, and individualized instruction.

6.24(1) Element A: The director of special education demonstrates knowledge of and support for identification methods and procedures.

6.24(2) Element B: The director interprets and shares data to increase the identification of under-identified, underserved populations and aligns professional development initiatives to needs.

6.24(3) Element C: The director understands models of differentiation, acceleration, and research-based instructional practices that support rigor, challenge, depth, and complexity in instruction and assessment for gifted students.

6.24(4) Element D: The director establishes high expectations for all gifted students and families, including underserved populations and twice-exceptional learners.

6.24(5) Element E: The director monitors standards-based advanced learning plans in order to ensure alignment of programming options to gifted students' needs.

6.24(6) Element F: The director blends the instructional needs of gifted students into the school system.

6.24(7) Element G: The director supports and defends gifted education initiatives within the general education setting.

6.25 Quality Standard V - Program Planning and Organization: The director of gifted education evaluates the efficacy and efficiency of gifted education programing, delivery settings, services, and monitoring systems and uses evaluation data to improve the programs and services for all children, including those with exceptional academic and talent aptitude.

6.25(1) Element A: The director of gifted education designs and implements needs-assessments and uses data to inform restructuring or adjustments to gifted programs.

6.25(2) Element B: The director develops and implements action plans for gifted education based upon student outcomes, challenges, root causes, improvement strategies, and benchmarks.

6.25(3) Element C: The director is knowledgeable about effective, research-based gifted education models and practices that have positive impacts on gifted students.

6.25(4) Element D: The director supports and/or builds gifted programs that effectively embed district and alternative pathways to college and career outcomes.

6.26 Quality Standard VI - Human resource functions: The director of gifted education is able to recruit, retain, supervise, and evaluate qualified personnel.

6.26(1) Element A: The director of gifted education understands educator effectiveness standards in order to observe and evaluate teachers of gifted students.

6.26(2) Element B: The director designs ongoing professional development that increases educators' capacity to understand and address the needs of gifted students.

6.26(3) Element C: The director promotes an understanding and sensitivity toward culture, ethnicity, and diversity of language within staff and student body.

6.26(4) to meet the specific needs of gifted and talented students.

6.27 Quality Standard VII - Parent, Family and Community Partnership: The director of gifted education is knowledgeable about effective communication, decision-making, problem-solving, and conflict-resolution strategies. The director must be able to facilitate partnerships and engage parents, families, educators, administrators, students, and communities in the implementation of gifted education programs.

6.27(1) Element A: The director of gifted education promotes understanding, resolves conflicts, and builds consensus for improving gifted programs.

6.27(2) and the community in gifted education program.

6.27(3) Element C: The director applies methods and systems to maximize parent and family involvement.

6.27(4) Element D: The director implements family partnership practices that support gifted student achievement and school involvement.

6.27(5) Element E: The director cooperatively develops and shares a vision for the district or administrative unit that supports and promotes gifted education.

6.28 Quality Standard VIII - Budget and Resources: The director of gifted education must be able to budget and allocate resources related to gifted education.

6.28(1) Element A: The director of gifted education develops and manages a gifted education budget. The director facilitates stakeholders' involvement in a collaborative budget development process.

6.28(2) Element B: The director leverages resources for gifted education within school systems.

6.28(3) Element C: The director's gifted education budget addresses state requirements.

6.28(4) Element D: The director conducts research and needs assessments in order to accurately identify specific budget needs and promotes initiatives for gifted education funding through grants and other funding opportunities.

7.0 **Renewal of Colorado Licenses**

The following must serve as standards for the renewal of initial and professional licenses and master certificates and endorsements thereon.

7.1 **Initial Licenses**

An initial teacher, special services provider, principal, or administrator license and endorsements may be renewed once for a period of three years for applicants who have not completed the requirements for a professional license as specified in sections 3.05-3.07 of these rules. The State Board of Education may renew the license-holder's initial license for one or more additional three-year periods for good cause if the holder is unable to complete an approved induction program for reasons other than incompetence. A renewal request must include a complete application for renewal, payment of the required fee, and a statement concerning the circumstances related to the applicant's inability to complete the induction program.

7.2 **Professional Licenses**

A professional teacher, special services provider, principal, or administrator license and endorsements may be renewed for a period of seven years upon submission of a complete application for renewal, payment of the required fee, and completion of professional development activities that meet the requirements of this section 7.02. To be eligible to renew a professional license, the holder must complete

such activities within the period of time for which the professional license is valid or, if expired, within the seven years immediately preceding the date of application. An applicant for renewal must meet the following requirements:

7.02(1) Professional development activities: An educator requesting license renewal must complete professional development activities equivalent to six semester hours or 90 contact hours. Applicants must electronically submit an affidavit attesting to the completion of applicable professional development. Such activities must be related to increasing the license-holder's competence in his or her existing or potential endorsement area; to increasing the license-holder's skills and competence in delivery of instruction in his or her existing or potential endorsement area; to evidence-based practices for teaching reading and literacy; or to culturally and linguistically diverse education. Professional development activities may be selected from one or more of the following:

7.02(1)(a) In-service education: A school district or BOCES are approved entities for in-service education programs. One semester hour of credit may be granted for every 15 contact hours of participation.

7.02(1)(b) College or university credit: College or university credit may be earned from accepted institutions of higher education or accepted community, technical, or junior colleges. Courses must be directly related to the standards for professional development as provided in section 7.02 of these rules. Copies of official transcripts may be submitted, in addition to the online affidavit form, as evidence of completion of college/university credit. Though submittal of official transcripts is not required, the Department may audit renewal applications to verify college or university credit.

7.02(1)(c) Educational travel: Educational travel must be directly applicable to the endorsement area of the license-holder as documented by the license-holder and accompanied by supervisor verification. One semester hour of credit may be granted for every 15 contact hours of involvement. Travel time to and from the intended destination must not be included in the hours accumulated.

7.02(1)(d) Involvement in school and/or district initiatives: One semester hour of credit may be granted for every 15 contact hours of participation. When verified by the license-holder's supervisor, activities may include but are not limited to:

7.02(1)(d)(i) membership on school site or district accountability or improvement committee(s);

7.02(1)(d)(ii) curriculum, standards, or assessment development or implementation in the license-holder's endorsement area;

7.02(1)(d)(iii) the implementation of standards;

7.02(1)(d)(iv) the development or implementation of evidence-based practices for teaching reading, literacy, or numeracy; and

7.02(1)(d)(v) professional development in the area of culturally and linguistically diverse education.

7.02(1)(e) Internships/Externships: Advanced field experiences offered as part of graduate study or other professional training and designed to acquire knowledge or enhance the skills of the educator may qualify as an internship. The internship must be directly related to the standards for professional development as provided in section 7.02 of these rules. One semester hour of credit may be accepted for every 15 contact hours of participation.

Official transcripts or supervisor verification must be submitted, in addition to the online renewal summary form, as evidence of completion.

7.02(1)(f) Ongoing professional development and training experiences: Online or in-person professional development confirmed by certificate or documentation of completion or instructor verification, attendance or presentation at professional conferences; service on statewide or national educational task forces or boards; professional research and publication; supervision of student teachers or interns; mentorships; and the pursuit of national educator certification.

7.02(2) For renewal of a professional teacher license, at least 10 of the 90 contact hours of professional development activities required must be related to:

7.02(2)(a) behavioral health training that is culturally responsive and trauma- and evidence-informed; and

7.02(2)(b) increasing awareness of laws and practices relating to educating students with disabilities in the classroom.

7.02(2)(c) The behavioral health training required pursuant to section 7.02(2)(a) may include:

7.02(2)(c)(i) mental health first aid training, specific to youth and teens;

7.02(2)(c)(ii) training modules concerning teen suicide prevention;

7.02(2)(c)(iii) training on interconnected systems framework for positive behavioral interventions and supports and mental health;

7.02(2)(c)(iv) training approved or provided by the school district where the teacher is employed;

7.02(2)(c)(v) training concerning students with behavioral concerns or disabilities;

7.02(2)(c)(vi) training modules concerning child traumatic stress; and 7.02(2)(c)

(vii) any other program or training that meets the requirements of Rule 7.02(2)(a).

7.02(2)(d) The training regarding students with disabilities required pursuant to section 7.02(2)(b) must increase awareness of laws and practices relating to educating students with disabilities in the classroom, including but not limited to Child Find and inclusive learning environments.

7.02(3) A teacher may obtain the 10 hours required by section 7.02(2) through any combination of courses as long as that combination includes at least one hour of training in each area. A single professional development course or activity may satisfy both content requirements.

7.02(4) For renewal of a professional special services provider, principal, or administrator license, at least 10 of the 90 contact hours of professional development activities required for renewal must be in professional development activities related to increasing awareness of laws and practices relating to educating students with disabilities in the classroom, as described in section 7.02(2)(b).

7.02(5) Professional license-holders must meet the requirement outlined in this section 7.02(2) or 7.02(4), as applicable, during the term of the license, each seven-year renewal cycle except that a professional license-holder who has less than three years left in the license renewal period on

June 30, 2020 has until the end of the following applicable renewal period to satisfy the requirements.

7.02(6) Except for the activities undertaken to satisfy the requirements of Rule 7.02(2) and 7.02(4) above, activities completed for professional license renewal must be directly related to one or more of the following standards:

7.02(6)(a) knowledge of subject matter content and learning, including knowledge and application of the Colorado Academic Standards, special education laws and processes, post-secondary workforce readiness, career counseling, multi-tiered systems of support, and other appropriate student-based supports;

7.02(6)(b) knowledge of the Teacher and Special Services Provider Quality Standards, Principal Quality Standards, and Administrator Quality Standards as outlined in sections 5.00, 6.00, and 6.06 of these rules;

7.02(6)(c) knowledge of the English Language Learner Educator Standards as outlined in sections 5.09-5.12 of these rules;

7.02(6)(d) knowledge of content area endorsement standards as outlined in 1 CCR 301-101;

7.02(6)(e) knowledge of the standards for preparation of Special Education and Gifted Education as outlined in sections 6.08 and 6.17 of these rules;

7.02(6)(f) knowledge of the Colorado Reading to Ensure Academic Development (READ) Act as outlined in 1 CCR 301-92;

7.02(6)(g) effective organization, leadership and management of human and financial resources to create a safe and effective working and learning environment;

7.02(6)(h) awareness of warning signs of dangerous behavior in youth and situations that present a threat to themselves and to the health and safety of students and knowledge of the community resources available to enhance the health and safety of other students and the school community, youth mental health, safe de-escalation of crisis situations, recognition of signs of poor mental health and substance use, and support of students;

7.02(6)(i) effective teaching of the democratic ideal;

7.02(6)(j) recognition, appreciation, and support for ethnic, cultural, gender, economic, and human diversity to create inclusive learning environments that foster fair and equitable treatment and consideration for all;

7.02(6)(k) effective communication with students, colleagues, parents, and the community;

7.02(6)(l) effective modeling of appropriate behaviors to ensure quality learning experiences for students and for colleagues;

7.02(6)(m) consistently ethical behavior and creation of an environment that encourages and develops responsibility, ethics, and citizenship in self and others;

7.06(6)(n) achievement as a continuous learner who encourages and supports personal and professional development of self and others; or

7.06(6)(o) awareness of laws and practices relating to educating students with disabilities in the classroom, including but not limited to Child Find and inclusive learning environments.

7.02(7) Professional development activities completed by an applicant for license renewal must apply equally to renewal of any professional educator license or endorsement held by the applicant.

7.02(8) Upon completion of the professional development activities and within the six months prior to the expiration of the professional license(s) to be renewed, the applicant must submit:

7.02(8)(a) a complete application for license renewal, including a signed affidavit in which the license-holder affirms under oath that:

7.02(8)(a)(i) the license-holder satisfactorily completed the ongoing professional development activities specified in the affidavit;

7.02(8)(a)(ii) the activities were completed within the term of the professional license; and

7.02(8)(a)(iii) to the best of the license-holder's knowledge, the activities comply with the requirements of section 7.02 of these rules and section 22-60.5-110, C.R.S.;

7.02(8)(b) a statement of how the activities selected aided the license-holder in meeting the standards for professional educators;

7.02(8)(c) the required evaluation fee;

7.02(8)(d) the oath required in section 2.04(2)(f) of these rules; and

7.02(8)(e) a complete set of license-holder's fingerprints taken by a qualified law enforcement agency, an authorized employee of a school district or Board of Cooperative Services using fingerprinting equipment that meets the Federal Bureau of Investigation image quality standards, or any third party approved by the Colorado Bureau of Investigation, unless the applicant previously submitted a complete and approved set of fingerprints to the Colorado Bureau of Investigation and satisfactory record of this submission is on file with the Department.

7.02(9) The Department will evaluate the application and supporting evidence and renew the license, request additional information or explanation, or recommend denial of the license renewal if the requirements of section 7.02(4) of these rules are not met.

7.02(10) Master certificates. License-holders who hold master certificates in conjunction with professional licenses may renew the master certification by providing evidence that the license-holder continued to engage in professional development and leadership and continued to demonstrate advanced competencies and expertise during the period in which the master certificate was valid. Master certificates are valid for the period of time for which a professional license is valid and are renewable upon expiration of the license.

7.02(10)(a) Professional development activities for the renewal of master certificates may include but need not be limited to: involvement in school reform efforts; service on state-wide boards or commissions; supervision and mentorship of advanced-level practicum or internship students; advanced study appropriate to standards 5.00 or 6.00 of these rules; and original research and/or publication.

English Language Learner Professional Development

7.02(11) Effective beginning in the 2018-2019 school year and every year thereafter, educators endorsed in elementary, math, science, social studies, or English language arts, and seeking a renewal of their professional license, must complete professional development activities equivalent to 45 contact hours or three semester hours in Culturally and Linguistically Diverse (CLD) Education

within the seven-year renewal period. The activities must meet or exceed the standards set forth in section 7.02 and in sections 5.09-5.12 of these rules. This requirement must only be completed once. Professional development activities completed to satisfy this requirement may also be counted toward the requirements in section 7.02(1).

7.02(11)(a) Educators may demonstrate knowledge of the standards outlined in sections 5.09-5.12 of these rules in one or in a combination of the following ways:

7.02(11)(a)(i) through a collection of professional development, in-service credit, college/university credit, and/or work experience that meet the standards as outlined;

7.02(11)(a)(ii) completion of any Department-approved English Language Learner pathway, which may include district, college or university, BOCES, or nonprofit programs;

7.02(11)(a)(ii)(A) Agencies wishing to become an approved pathway may submit an application for approval of an English Language Learner pathway to the Department's Educator Talent Division.

7.02(11)(a)(ii)(B) Approved pathways will be reviewed every three years to ensure consistency and alignment to the standards as noted.

7.02(11)(a)(iii) completion of a Colorado CLD or a related out-of-state endorsement (such as English as a Second Language); and/or

7.02(11)(a)(iv) completion of a Department-facilitated English Language Learner professional development pathway.

7.02(11)(b) A district superintendent annually may request a waiver from the English language learner professional development requirements for their educators endorsed in elementary, math, science, social studies, or English language arts if the district has had an average of 2% or fewer identified English language learners in the three years immediately preceding such request, as identified in the Department's annual Student October Pupil Enrollment data collection.

7.02(11)(c) The principal of a charter school authorized by the institute annually may request a waiver from the English language learner professional development requirements for educators in their charter school authorized by the institute endorsed in elementary, math, science, social studies, or English language arts if the charter school has had an average of 2% or fewer identified English language learners in the three years immediately preceding such request as identified in the Department's annual Student October Pupil Enrollment collection.

7.02(11)(d) Upon submission of an application for renewal, license-holders must also submit the superintendent's or institute's notice of request for waiver. The Department will evaluate the waiver request based on the average of the last three years of the English language learner population in the district.

7.3 **Appeals Process**

An applicant whose application for renewal of any license has been denied by the Department may submit an appeal to the State Board of Education. If the State Board of Education finds that the applicant has met the criteria for license renewal, the Department must approval the license renewal.

7.4 Reinstatement of Expired Licenses or Certificates

An applicant whose previous professional license or certificate was not renewed may reinstate his or her professional license or certificate by:

7.04(1) completing and submitting a renewal application including:

7.04(1)(a) evidence to satisfy the deficiencies that resulted in prior nonrenewal, including but not limited to, evidence of completion of professional development requirements as provided in section 7.02 of these rules. An applicant seeking reinstatement must have completed professional development activities totaling either six semester hours or 90 clock-hours within the seven-year period preceding the application for reinstatement; and

7.04(1)(b) the renewal fee set by the State Board of Education.

7.04(2) In the event that a license or certificate is expired, the applicant must submit new fingerprints to the CBI and the results must be transferred to the Department, as provided by section 2.04(1) of these rules.

8.0 Approved Induction Programs for Teachers, Special Services Providers and Authorization-Holders.

Initial licenses are valid only in school districts, nonpublic schools, BOCES, or charter schools that provide approved induction programs unless the State Board of Education has waived the induction program requirement as provided in section 15.00 of these rules. Colorado school districts, consortia of districts, BOCES, nonpublic schools, charter schools, the institute, or other educational entities that employ licensed educators (herein referred to as providers for the purposes of this section 8.00 only) may develop induction programs for initial license-holders and holders of authorizations. Induction programs must meet the criteria of these rules and be approved by the Department. The Department may grant initial or continuing approval to induction programs.

Each induction program must conduct a self-evaluation every five years. The evaluation information must be submitted to the Department for use in evaluating renewal of the induction program. The Department may conduct visits to induction sites and survey participants regarding the effectiveness of the program.

8.1 Criteria for Approval and Review of Induction Programs for Teachers

The following must serve as criteria for the approval of induction programs for teachers. The Department must provide technical assistance and support in the development of successful induction programs.

8.01(1) Effective induction programs must include opportunities which:

8.01(1)(a) enhance educator performance according to the quality standards prescribed in section 5.00 of these rules by providing through mentors and other professionals:

8.01(1)(a)(i) demonstrations of high-quality instructional practices; 8.01(1)(a)

(ii) improvement of educational experiences for all students; and

8.01(1)(a)(iii) ways to adapt curriculum and instruction to accommodate diverse student populations.

8.01(1)(b) encourage professionalism and educator development by:

8.01(1)(b)(i) building a foundation for the continued study of teaching;

8.01(1)(b)(ii) encouraging collaborative relationships among administrators and teachers and partnerships between providers and universities;

8.01(1)(b)(iii) providing an orientation for teachers to the culture of the provider, the community and the teaching profession;

8.01(1)(b)(iv) providing a thorough orientation to the provider's educator effectiveness evaluation model; and

8.01(1)(b)(v) providing opportunities for professional growth and ongoing professional development and training, including ethics, for both teachers and mentors.

8.01(2) Effective induction programs must establish:

8.01(2)(a) a training program for site administrators in the Colorado Academic Standards, the Teacher Quality Standards and the educator induction process;

8.01(2)(b) standards for the selection and training of mentors who work with teachers;

8.01(2)(c) an assessment model to review, evaluate and guide the induction program;

8.01(2)(d) a process for the selection and training of mentors and for the matching of mentors with inductees:

8.01(2)(e) the primary role of the mentor as coach, advocate, support and guide for teachers; and

8.01(2)(f) whether mentors will be included in the evaluation of inductees. If mentors are to be involved in such evaluations, policies must state the specific roles and responsibilities of the mentor in evaluations.

8.01(3) Effective induction programs must include professional support for inductees that includes: 8.01(3)

(a) information relating to the Colorado Academic Standards and Teacher Quality Standards;

8.01(3)(b) detailed information regarding the educator effectiveness evaluation model;

8.01(3)(c) information related to provider's policies and procedures, including how policies, procedures and practices are updated;

8.01(3)(d) the provider's goals and induction program content standards; 8.01(3)

(e) educator roles and responsibilities, including moral and ethical conduct;

8.01(3)(f) information about the school community;

8.01(3)(g) substantive feedback to the inductee about performance; and

8.01(3)(h) provisions for the extension of the induction program if deemed necessary by the provider.

8.01(4) Effective induction programs should:

8.01(4)(a) develop plans and policies that:

8.01(4)(a)(i) encourage collaboration between LEP induction programs, professional organizations and institutions of higher education;

8.01(4)(a)(ii) provide release time for both mentors and inductees; and 8.01(4)(a)

(iii) provide some form of compensation for mentors.

8.01(4)(b) formalize commitments to:

8.01(4)(b)(i) provide inductees with supervisors and mentors skilled in assisting teachers;

8.01(4)(b)(ii) provide pathways that address potential challenges within the mentor-inductee relationship (e.g., reassignment, conflict management and grievance processes);

8.01(4)(b)(iii) define clear roles and conditions to support school leadership and mentors to work in partnerships focused on improving teacher instructional practice; and

8.01(4)(b)(iv) clarify expectations for inductees and mentors.

8.01(4)(c) adopt guidelines for mentor selection that ensure:

8.01(4)(c)(i) each mentor is an experienced professional who consistently models the quality standards outlined in section 5.00 of these rules and who has demonstrated excellence in practice as measured by the provider's educator effectiveness system; and

8.01(4)(c)(ii) each mentor is skilled in working with adult learners and is sensitive to the viewpoints of others.

8.01(4)(d) adopt guidelines for mentor assignment that ensure:

8.01(4)(d)(i) each mentor is closely matched to the inductee in terms of assignment; and

8.01(4)(d)(ii) each mentor is located, when possible, in close proximity to the inductee.

8.01(5) Effective induction programs should implement best practices, including:

8.01(5)(a) utilizing appropriate needs assessments to identify specific and appropriate programming for inductees;

8.01(5)(b) promoting a sequential learning plan for inductees based on current level of knowledge and skills;

8.01(5)(c) ensuring mentors are onboarded and trained in the components of the induction program;

8.01(5)(d) ensuring, when possible, that mentors do not serve as evaluators;

8.01(5)(e) providing mentors with ongoing professional learning and support for their mentoring activities;

8.01(5)(f) providing communities of practice for mentors, when possible;

8.01(5)(g) ensuring inductees participate in some form of learning community to foster problem-solving and collaborative inquiry; and

8.01(5)(h) engaging in annual program review with all stakeholders to promote systemic change and continuous improvement.

8.2 Criteria for Approval and Review of Induction Programs for Special Services Providers

The following must serve as criteria for the approval of induction programs for special services providers (SSPs). The Department must provide technical assistance in the development of induction programs and disseminate information concerning successful programs.

8.02(1) Effective induction programs must include opportunities for SSPs which:

8.02(1)(a) enhance SSP performance according to the quality standards prescribed in section 5.00 of these rules by providing through mentors and other professionals:

8.02(1)(a)(i) demonstrations of high-quality instructional and/or evidence-based practices specific to the discipline;

8.02(1)(a)(ii) improvement of educational experiences for all students; and 8.02(1)

(a)(iii) ways to accommodate diverse student populations.

8.02(1)(b) encourage professionalism and SSP development by:

8.02(1)(b)(i) building a foundation for the continued study of the SSP's discipline;

8.02(1)(b)(ii) encouraging collaborative relationships within the school system and partnerships between providers, institutions of higher education and community organizations;

8.02(1)(b)(iii) providing an orientation for SSPs to the application of the profession in the educational context, including the culture of the school system, the provider and the community;

8.02(1)(b)(iv) providing a thorough orientation to the provider's SSP effectiveness evaluation model; and

8.02(1)(b)(v) providing opportunities for professional growth and ongoing development and training, including ethics, for both SSPs and mentors.

8.02(2) Effective induction programs must establish:

8.02(2)(a) standards for the selection and training of mentors who work with SSPs;

8.02(2)(b) an assessment model to review, evaluate and guide the induction program;

8.02(2)(c) a process for the selection and training of mentors and for the matching of mentors with inductees;

8.02(2)(d) the primary role of the mentor as teacher, coach, advocate, support and guide for SSPs; and

8.02(2)(e) whether mentors will be included in the evaluation of inductees. If mentors are to be involved in such evaluations, policies must state the specific roles and responsibilities of the mentor in evaluations and provide training for mentors in those roles.

8.02(3) Effective induction programs must include professional support for inductees that includes information about:

8.02(3)(a) the SSP quality standards and how specific SSP disciplines interact with the Colorado Academic Standards and special education law as applicable to each discipline;

8.02(3)(b) the provider's SSP effectiveness evaluation model;

8.02(3)(c) the provider's policies and procedures, including how policies, procedures and practices are updated;

8.02(3)(d) the provider's goals and induction program content standards; 8.02(3)

(e) SSP roles and responsibilities, including moral and ethical obligations; 8.02(3)

(f) the school community;

8.02(3)(g) substantive feedback to the inductee about performance; and

8.02(3)(h) provisions for the extension of the induction program if deemed necessary by the provider.

8.02(4) Effective induction programs:

8.02(4)(a) develop plans and policies that include:

8.02(4)(a)(i) release time for both mentors and inductees; and

8.02(4)(a)(ii) some form of compensation for mentors.

8.02(4)(b): formalize commitments to:

8.02(4)(b)(i) provide inductees with supervisors skilled in helping SSPs and mentors skilled in the specific SSP discipline;

8.02(4)(b)(ii) clarify expectations for inductees and mentors; and

8.02(4)(b)(iii) provide supports that address potential challenges within the mentor-inductee relationship (e.g., reassignment, conflict management and grievance processes).

8.02(4)(c) adopt guidelines for mentor selection that ensure:

8.02(4)(c)(i) each mentor is an experienced professional within the SSP discipline who consistently models the quality standards as reflected in section 5.00 of these rules;

8.02(4)(c)(ii) each mentor is skilled in working with adult learners and is sensitive to the viewpoints of others; and

8.02(4)(c)(iii) the mentor is an active and open learner who is competent in interpersonal skills and has a record of being an ambassador for the provider and the profession; and

8.02(4)(d) adopt guidelines for mentor assignment that ensure:

8.02(4)(d)(i) each mentor is closely matched to the inductee in terms of discipline and assignment; and

8.02(4)(d)(ii) each mentor is located in close proximity to the inductee, when possible, though experience within the SSP discipline may be considered as a priority over proximity to the inductee.

8.02(5) Effective SSP induction programs should implement best practices, including:

8.02(5)(a) utilizing appropriate needs assessments to identify specific and appropriate programming for inductees;

8.02(5)(b) promoting a sequential learning plan for inductees based on current level of knowledge and skills;

8.02(5)(c) providing differentiated, meaningful professional learning related to the specific roles and tasks of the SSP;

8.02(5)(d) cultivating capacity for collaboration and self-advocacy to enhance the working conditions, job satisfaction and efficacy of SSPs;

8.02(5)(e) providing the inductee with a safe, collegial atmosphere where professional growth takes place;

8.02(5)(f) promoting systemic change and continuous improvement, including input from inductees and a program emphasis on student learning; and

8.02(5)(g) ensuring, when possible, that mentors do not serve as evaluators.

9.0 Approved Induction Programs for Principals and Administrators

Initial licenses are valid only in school districts, nonpublic schools, BOCES, or charter schools which provide approved induction programs, unless the State Board of Education has waived the induction program requirements as provided in section 15.00 of these rules.

Colorado school districts, consortia of districts, BOCES, nonpublic schools, charter schools, the institute or other educational entities that employ licensed principals and administrators may develop induction programs for initial license-holders and holders of applicable authorizations. Induction programs must meet the criteria of these rules and be approved by the Department. The Department may grant initial or continuing approval for induction programs.

Each induction program must conduct a self-evaluation every five years. The evaluation information must be submitted to the Department for use in evaluating renewal of the induction program. The Department may conduct visits to induction sites and survey participants regarding the effectiveness of the program.

9.1 Criteria for Approval and Review of Induction Programs for Principals and Administrators

The following must serve as criteria for the approval of induction programs for principals, administrators and directors of special and gifted education. Induction programs must follow the same criteria and ensure Quality Standards are met as outlined in sections 6.06 – 6.28. ,. The Department must provide technical assistance and support in the development of successful induction programs.

9.01(1) Effective induction programs must provide inductees:

9.01(1)(a) support for school improvement planning and processes;

9.01(1)(b) support for the application of effective, research-based teaching practices in an emotionally, intellectually and physically safe learning environment;

9.01(1)(c) assistance with systems of collaboration with families, colleagues, instructional teams and the broader educational community to ensure the success of all students;

9.01(1)(d) assistance with development of and advocacy for supportive, inclusive and rigorous learning environments that honor students' diversity; and

9.01(1)(e) training in the legal and ethical obligations of school leaders to support the diverse learning needs of all students.

9.01(2) Effective induction programs must include opportunities for inductees to:

9.01(2)(a) enhance their performance according to the quality standards in section 6.00 of these rules by providing through mentors and other professionals;

9.01(2)(a) orientation to the profession;

9.01(2)(b) technical skill development;

9.01(2)(c) professional networking;

9.01(2)(d) school improvement planning;

9.01(2)(e) leadership development; and

9.01(2)(b) support the application of effective, research-based teaching practices in an emotionally, intellectually and physically safe learning environment.

9.01(3) Effective induction programs must:

9.01(3)(a) train site administrators in the Colorado academic standards adopted by the State Board pursuant to section 22-7-1005, C.R.S. and the principal and administrator quality standards adopted by the State Board pursuant to section 22-9-105.5.;

9.01(3)(b) establish standards for the selection and training of mentors who work with inductees, ensuring that mentors:

9.01(3)(b)(i) have demonstrated leadership and effectiveness as a school principal or district administrator;

9.01(3)(b)(ii) have a deep understanding and knowledge of the Principal Quality Standards;

9.01(3)(b)(iii) exhibit well-developed interpersonal skills, including the ability to empathize with others, listen and question effectively and explore multiple solutions to problems;

9.01(3)(b)(iv) are effective communicators in both oral and written form; and

9.01(3)(b)(v) have a contextual awareness of the political, social and practical realities of the inductee.

9.01(3)(c) establish a process for matching mentors with inductees;

9.01(3)(d) implement a staff development plan to provide mentors with ongoing professional learning and support for their mentoring activities which includes:

9.01(3)(d)(i) skills development as a mentor and coach;

9.01(3)(d)(ii) training in how to support inductee development in the knowledge and skills required in the Quality Standards;

9.01(3)(d)(iii) training in providing effective, growth-producing feedback; and

9.01(3)(e) ensure, when possible that mentors do not serve as evaluators of inductees, if possible.

9.01(3)(e)(i) If mentors are to be involved in such evaluations, policies must state the specific roles and responsibilities of the mentor in evaluations and provide training for mentors in those roles.

9.04 Effective induction programs should:

9.04(1) utilize needs assessments to identify specific needs and design appropriate programming for inductees;

9.04(2) promote a sequential learning plan for inductees based on current level of knowledge and skills; and

9.04(3) engage in annual program review with all stakeholders to promote systemic change and continuous improvement.

10.0 **Denial, Suspension, Revocation, or Annulment of Licenses and School District Reporting Requirements**

This section establishes a procedure for processing adverse information, which may result in the State Board seeking denial, suspension, revocation, or annulment of licenses, including lifetime certificates, endorsements and authorizations. It establishes standards against which said adverse information may be judged. This section also provides due process protections for license-holders and applicants and specifies requirements for school districts' reports to the Department on employee misconduct. For the purpose of this section, "license" means any license, certificate, authorization, or endorsement issued by the Department on or after July 1, 1994, pursuant to section 22-60.5-101, C.R.S., and any certificate, letter of authorization, or endorsement issued by the Department on or before June 30, 1994, pursuant to section 22-60-101, C.R.S.

10.00(1) A license may be denied, annulled, suspended, or revoked by the State Board of Education in accordance with the State Administrative Procedures Act, sections 24-4-101 through 107, C.R.S., in the following circumstances:

10.00(1)(a) If the applicant obtained or attempts to obtain the license through misrepresentation, fraud, misleading information, or an untruthful statement submitted with the intent to misrepresent, mislead, or conceal the truth;

10.00(1)(b) If the Department mistakenly issued the license and it is subsequently determined that the holder is not entitled to the license due to a failure to meet educational or non-educational requirements in effect when the license was issued;

10.00(1)(c) When the applicant or holder is or has ever been convicted of, pleads or has ever pled nolo contendere to, or receives or has ever received a deferred sentence for a violation of any one of the following offenses:

10.00(1)(c)(i) contributing to the delinquency of a minor, as described in section 18-6-701, C.R.S.;

10.00(1)(c)(ii) a misdemeanor, the underlying factual basis of which has been found by the court on the record to involve domestic violence, as defined in section 18-6-800.3 (1), C.R.S., and the conviction is a second or subsequent conviction for the same offense;

10.00(1)(c)(iii) misdemeanor sexual assault, as described in section 18-3-402, C.R.S.;

10.00(1)(c)(iv) misdemeanor unlawful sexual conduct, as described in section 18-3-404, C.R.S.;

10.00(1)(c)(v) misdemeanor sexual assault on a client by a psychotherapist, as described in section 18-3-405.5, C.R.S.;

10.00(1)(c)(vi) misdemeanor child abuse, as described in section 18-6-401, C.R.S.;

10.00(1)(c)(vii) a crime under the laws of the United States, another state, a municipality of this state or another state, or any territory subject to the jurisdiction of the United States, the elements of which are substantially similar to one of the offenses described in this paragraph (d); or

10.00(1)(c)(viii) a misdemeanor committed under the laws of the United States, another state, a municipality of another state, or any territory subject to the jurisdiction of the United States, the elements of which are substantially similar to sexual exploitation of children as described in section 18-6-403(3)(b.5), C.R.S.;

10.00(1)(d) When the applicant or holder is or has ever been found guilty of, or pleads or has ever pled guilty or nolo contendere to, a misdemeanor violation of any law of this state or another state, any municipality of this state or another state, or the United States or any territory subject to the jurisdiction of the United States involving the illegal sale of controlled substances, as defined in section 18-18-102(5), C.R.S.;

10.00(1)(e) When the applicant or holder is or has ever been found guilty of a felony, other than a felony described in section 10.00(2) of these rules, or upon the court's acceptance of a guilty plea or a plea of nolo contendere to a felony, other than a felony described in section 10.00(2) of these rules, in this state or under the laws of any other state, the United States or any territory subject to the jurisdiction of the United States, of a crime which, if committed within this state, would be a felony, other than a felony described in section 10.00(2) of these rules, when the commission of said felony, in the judgment of the State Board of Education, renders the applicant or holder unfit to perform the services authorized by his or her license;

10.00(1)(f) When the applicant or holder has ever received a disposition or an adjudication for an offense involving what would constitute a physical assault, a battery, or a drug-related offense if committed by an adult and if the offense was committed within the 10 years preceding the date of the license application;

10.00(1)(g) When the applicant or holder is or was charged with having committed a felony or misdemeanor and forfeits or has ever forfeited any bail, bond, or other security deposited

to secure his or her appearance; pays or has ever paid a fine; enters or has ever entered a plea of nolo contendere; or receives or has ever received a deferred or suspended sentence imposed by the court for any offense described in sections 10.00(2)(a), (b), or (d) of these rules;

10.00(1)(h) Notwithstanding any provision of section 10.00(2) of these rules to the contrary, when the State Board of Education determines an applicant or holder who held a license prior to June 6, 1991, has ever been convicted of an offense described in sections 10.00(2)(a)-(c) of these rules, unless the applicant or holder was previously afforded the rights set forth in section 22-60.5-108, C.R.S., with respect to the offense and the applicant or holder received or retained his or her license as a result;

10.00(1)(i) When the holder, without good cause, resigns or abandons his or her contracted position with a school district without giving written notice to the employing local board of education of his or her intent to terminate his or her employment contract for the succeeding academic year at least 30 days prior to the commencement of the succeeding academic year or the commencement of services under his or her employment contract or without giving written notice to the employing local board of education of his or her intent to terminate his or her employment contract for the current academic year at least 30 days prior to the date he or she intends to stop performing the services required by the employment contract. In this case, the license may be suspended;

10.00(1)(j) When the State Board of Education finds and determines that the applicant or holder is or has ever been professionally incompetent as described in section 10.01 of these rules;

10.00(1)(k) When the State Board of Education finds and determines that the applicant or holder is or has ever been guilty of unethical behavior as described in section 10.02 of these rules; or

10.00(1)(l) When the State Board of Education finds and determines that the license-holder knowingly and intentionally failed to protect student data pursuant to section 22-1-123, C.R.S. In this case, the license may be suspended or revoked for a period not less than 90 days.

10.00(2) A license must be denied, annulled, suspended, or revoked by the State Board of Education in accordance with the State Administrative Procedures Act, sections 24-4-101 through 107, C.R.S., in the following circumstances:

10.00(2)(a) A license must be denied, suspended, or revoked when the applicant or holder is or has ever been convicted by a jury verdict, by entry of a verdict, by acceptance of a guilty plea or a plea of nolo contendere by a court of:

10.00(2)(a)(i) felony child abuse, as specified in section 18-6-401, C.R.S.; 10.00(2)(a)

(ii) a crime of violence, as defined in section 18-1.3-406, C.R.S.;

10.00(2)(a)(iii) a felony offense involving unlawful sexual behavior, as defined in section 16-22-102(9), C.R.S.;

10.00(2)(a)(iv) a felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

10.00(2)(a)(iv)(A) This ground for mandatory denial, suspension, or revocation of a license only applies for a period of five years following the date the offense was committed, provided the applicant or holder has successfully completed any domestic violence treatment required by the court; or

10.00(2)(a)(v) a felony offense in another state, the United States, or territory subject to the jurisdiction of the United States, the elements of which are substantially similar to the elements of one of the offenses described in this section 10.00(2)(a).

10.00(2)(b) A license must be denied, suspended, or revoked when the applicant or holder is or has ever been convicted by a jury verdict, by entry of a verdict, or by acceptance of a guilty plea or a plea of nolo contendere by a court of indecent exposure, as described in section 18-7-302, C.R.S., or of a crime under the laws of another state, a municipality of this or another state, the United States, or a territory subject to the jurisdiction of the United States, the elements of which are substantially similar to the offense of indecent exposure described in this section 10.00(2)(b).

10.00(2)(c) A license must be denied, suspended, or revoked when the applicant or holder receives or has ever received a disposition or an adjudication for an offense that would constitute felony unlawful sexual behavior, as defined in section 16-22-102(9), C.R.S., if committed by an adult.

10.00(2)(d) A license must be denied, suspended, or revoked if the applicant or holder is or has ever been convicted by a jury verdict, by entry of a verdict, or by acceptance of a guilty plea or a plea of nolo contendere by a court of a felony drug offense described in section 18-18-401, et seq., C.R.S., and committed on or after August 25, 2012, or is convicted of an offense under the laws of another state, the United States, or any territory subject to the jurisdiction of the United States, committed on or after June 11, 2021, the elements of which are substantially similar to a felony drug offense described in part 4 of article 18 of title 18, C.R.S.

10.00(2)(d)(i) This requirement for denial, suspension or revocation of a license only applies for a period of five years following the date the offense was committed.

10.00(2)(e) A license must be denied, suspended, or revoked when the applicant or holder fails to submit his or her fingerprints taken by a qualified law enforcement agency, an authorized employee of a school district or Board of Cooperative Services using fingerprinting equipment that meets the Federal Bureau of Investigation image quality standards, or any third party approved by the Colorado Bureau of Investigation to the Department within 30 days after receipt of the Department's written request for fingerprints, which fingerprint submission the Department required upon finding probable cause to believe that the applicant or holder had been convicted of a felony or misdemeanor, other than a misdemeanor traffic offense or traffic infraction, subsequent to his or her licensure.

10.00(2)(f) A license must be denied, suspended, or revoked when the applicant or holder is determined to be mentally incompetent by a court of competent jurisdiction and a court enters, pursuant to section 15-14-301, et seq.; 15-14-401, et seq.; 27-65-109(4); or 27-65-127, C.R.S., an order specifically finding that the mental incompetency is of such a degree that the applicant or holder is incapable of continuing to perform his or her job. In this circumstance, no hearing is required to deny, annul, suspend, or revoke the license, notwithstanding section 22-60.5-108, C.R.S.; denial, annulment, suspension, or revocation happens by operation of law after the Department gives reasonable notice to the applicant or license-holder.

10.00(3) The State Board of Education may take immediate action to deny, annul, or suspend a license without a hearing, notwithstanding the provisions of section 22-60.5-108, C.R.S., upon receipt of a certified copy of the judgment of conviction, a deferred sentence, or the acceptance of a guilty plea or a plea of nolo contendere for any violation of sections 10.00(1)(c)-(e) of these rules or upon receipt of a certified copy of the judgment of conviction or the acceptance of a guilty plea or a plea of nolo contendere for any violation of sections 10.00(2)(a)-(d) of these rules. The State Board of Education may revoke a suspended license based on a violation of sections 10.00(1)(c)-(e) of these rules and must revoke a suspended license based on a violation of sections 10.00(2)(a)-(d) of these rules without a hearing and without any further action after the exhaustion of all appeals, if any, or after the time for seeking an appeal has elapsed and upon the entry of a final judgment. A certified copy of the judgment of a court of competent jurisdiction of a conviction, a deferred sentence, or the acceptance of a guilty plea or a plea of nolo contendere is conclusive evidence of such conviction or plea for the purposes of sections 10.00(1)(c)-(e) of these rules. A certified copy of the judgment of a court of competent jurisdiction of a conviction or the acceptance of a guilty plea or a plea of nolo contendere is conclusive evidence of such conviction or plea for the purposes of sections 10.00(2)(a)-(d) of these rules.

10.00(4) In cases where the State Board of Education deems summary suspension is appropriate, pursuant to section 24-4-104(4), C.R.S., proceedings for suspension or revocation may be instituted upon the Board's own motion without a proceeding pursuant to these regulations. The holder is entitled to a post-deprivation hearing consistent with section 24-4-105, C.R.S. At such hearing, the burden of proof rests with the license-holder.

10.1 **Standards of Professional Incompetence**

The following serve as standards against which charges of professional incompetence will be judged. To warrant denial, annulment, suspension, or revocation of the license, violations must be found to be substantial or continued, as well as related to services rendered within the scope of the license. It is considered professional incompetence for a license-holder or applicant to:

10.01(1) willfully depart or to have ever willfully departed from the quality standards described in sections 5.00 or 6.00 of these rules;

10.01(2) willfully fail or to have ever willfully failed to practice with reasonable skill and safety;

10.01(3) act or to have ever acted in a manner evidencing a clear and substantial lack of knowledge, ability, or fitness to perform the services rendered within the scope of the license;

10.01(4) refuse or to have ever refused to perform duties required by federal and state law and regulation;

10.01(5) recklessly disregard or to have ever recklessly disregarded duties required by federal and state law and regulation;

10.01(6) have or to have ever had a mental or physical condition, as diagnosed by a professional competent to make such a diagnosis, that results in the license-holder’s or applicant’s inability to satisfactorily perform required duties, subject to the American with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, and other nondiscrimination law; or

10.01(7) habitually abuse or to have ever habitually abused alcoholic, narcotic, hypnotic, or other substances, the abuse of which results in the license-holder’s or applicant’s inability to

satisfactorily perform required duties, subject to the American with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, and other nondiscrimination law.

10.2 Standards of Unethical Behavior

The following serve as standards against which charges of unethical behavior will be judged. To warrant denial, annulment, suspension, or revocation of the license, violations must be found to be substantial or continued. It is considered unethical behavior for a license-holder or applicant to:

10.02(1) fail or to have ever failed to make reasonable effort to protect a minor from conditions harmful to health and safety;

10.02(2) provide or to have ever provided professional services in a discriminatory manner regarding age, gender, gender identity, sexual orientation, national origin, race, ethnicity, color, creed, religion, language, disability, socio-economic status, or marriage status;

10.02(3) fail or to have ever failed to keep in confidence information obtained in the course of professional services, unless disclosure serves to protect the child, other children, or school personnel or is required by law;

10.02(4) direct or to have ever directed a person to carry out professional responsibilities knowing that such person is not qualified for the responsibility given, except for assignments of short duration in emergency situations;

10.02(5) deliberately distort or suppress or to have ever deliberately distorted or suppressed curricular materials or educational information in order to promote their own personal view, interest, or goal;

10.02(6) falsify or misrepresent or to have ever falsified or misrepresented records or facts relating to the license-holder or applicant's qualifications, another educator's qualifications, or a student's records;

10.02(7) make or to have ever made false or malicious statements about students or school personnel;

10.02(8) using one's position for personal gain;

10.02(9) fail or to have ever failed to conduct financial transactions relating to the school program in a manner consistent with applicable law, rule, or regulation;

10.02(10) engage or to have ever engaged in immoral conduct that affects the health, safety, or welfare of children; conduct that offends the morals of the community; or conduct that sets an inappropriate example for children or youth whose ideals the educator is expected to foster and elevate;

10.02(11) engage or to have ever engaged in unlawful distribution or sale of dangerous or unauthorized prescription drugs or other dangerous nonprescription substances, alcohol, or tobacco; or

10.02.(12) engage or to have ever engaged in a sexual act, meaning sexual contact, sexual intrusion, or sexual penetration as defined in section 18-3-401, C.R.S., with a student enrolled at the school where the license-holder or applicant is or was employed at the time of the sexual act, including a student who is eighteen years of age or older, regardless of whether the student consented to the sexual act.

10.3 **Filing of Adverse Information Regarding an Educator License**

10.03(1) Filing of external complaints:

10.03(1)(a) A complaint regarding an educator is a formal statement, filed by an aggrieved party or a party in interest against an individual who holds or has applied for an educator license, of an alleged violation of conditions that, if found to be substantial or continued, and if found to be true, becomes grounds for denying, annulling, revoking, or suspending the license. The Department must supply necessary complaint forms and information for the filing of adverse information.

10.03(1)(b) The complainant must personally deliver, send by mail, or send in a secured electronic environment the complaint to the Department. The complainant must sign and swear to the complaint, regardless of delivery method. The complaint must allege actions serving as the basis of the complaint, and the alleged actions must be substantial or continued. The complaint must specify the statutory and regulatory violations.

10.03(2) Filing of notification by public district/school:

10.03(2)(a) The local board of education, charter school, BOCES, or its designee must notify the Department pursuant to the requirements of section 10.05 of these rules.

10.03(3) Conducting investigations and pursuing formal action by the State Board of Education:

10.03(3)(a) The Department conducts background investigations upon receipt of any adverse information. The purpose of this inquiry is to determine if there is probable cause to seek annulment, revocation, or suspension of the license or denial of the application. If the Department determines probable cause exists, the Department may ask the State Board of Education to direct the initiation of formal proceedings against the license-holder pursuant to section 22-60.5-108, C.R.S., or to deny the application pursuant to section 24-4-104(8), C.R.S.

10.03(3)(b) Except in cases of summary suspension, the Department must provide the license-holder or applicant notice of the allegations against him or her and an opportunity to respond prior to asking the State Board of Education to deny an application or initiate formal proceedings. The Department must provide such opportunity by sending a formal written letter of inquiry by first-class mail to the applicant or license holder, explaining the allegations, requesting a response within 20 days, and notifying them of their right to return a response within 20 days. If the Department knows that the person is an employee of a Colorado charter school, BOCES, or school district, the Department must notify the charter school, BOCES, or school district of the inquiry.

10.03(3)(c) After the expiration of the 20-day response period or upon receipt of the response, whichever is sooner, the Department will review the allegations and response and determine whether to pursue the charges for denial, revocation, or annulment of the license. In any case where, based on the response, the Department determines probable cause does not exist, the Department must withdraw or dismiss the complaint and notify the person complained against and the school district, charter school, or BOCES of the Department's action. Any handling of the complaint must be consistent with the laws on confidentiality unless contrary to statute.

10.03(3)(d) The Department is authorized to grant extensions to any of the processing deadline dates in sections 10.03(3)-(4) of these rules, based upon sufficient cause shown.

10.03(3)(e) The Department will present its findings and recommendations to the State Board of Education for action.

10.03(3)(e)(i) If the Department recommends revocation or annulment and the State Board of Education accepts that recommendation, the Board must refer the matter for a hearing in accordance with section 24-4-105, C.R.S. The Department must notify by first-class mail the person charged of the State Board of Education's decision to refer the matter for a hearing. If the State Board of Education rejects the Department's recommendation, the Department must dismiss the complaint and notify the person complained against and the complainant of the Department's action. Any handling of the complaint must be consistent with the laws on confidentiality unless contrary to statute.

10.03(3)(e)(ii) If the Department recommends denial and the State Board of Education accepts that recommendation, the Department must notify by first-class mail the applicant of the denial and the applicant's right to request a hearing conducted in accordance with section 24-4-105, C.R.S. If the State Board of Education rejects the Department's recommendation, the Department must clear the application and issue the credential to the applicant.

10.03(3)(f) If the State Board of Education refers the matter for a hearing and if the Department knows that the person charged is a current employee of a Colorado charter school, BOCES, or school district, the Department must notify such school, BOCES, or school district of the State Board of Education's decision.

10.03(3)(g) If the State Board of Education refers the matter for a hearing, or if the applicant timely requests a hearing concerning the Board's denial of his or her application, the hearing and subsequent proceedings must be conducted by an administrative law judge appointed by the Colorado Division of Administrative Hearings in accordance with section 24-4-105(3), C.R.S..

10.03(3)(h) Pursuant to section 24-4-105(14), C.R.S., the decision of the administrative law judge must include a statement of findings and conclusions and the appropriate order, sanction, relief, or denial thereof. If the administrative law judge sustains the charge, the decision must result in revocation or denial of the license.

10.4 **Application for License Following Suspension, Revocation, Annulment, or Denial**

10.04(1) A license-holder whose license has been suspended or revoked may submit an application for a new license, the renewal of the expired license, or the reinstatement of the license to the Department and for review by the State Board of Education. The application must include justification for license issuance, renewal, or reinstatement, with evidence as to rehabilitation appropriate to the basis for the prior suspension or revocation. The application must demonstrate the current fitness of the applicant to resume educational duties, in accordance with all laws and rules. The burden of proof rests with the applicant.

10.04(1)(a) The reinstated license will bear the same expiration date as had been originally issued.

10.04(1)(b) In the event the original license expired during the period of suspension or revocation, the applicant will be required to meet all requirements for the renewal of the license.

10.04(2) An applicant whose license application has been denied or annulled by the State Board of Education may apply for a license to the Department and for review by the State Board. The

application will include justification for issuance, with appropriate supporting documentation as to the current fitness of the applicant to resume educational duties, in accordance with all laws and rules. The burden of proof must rest with the applicant.

10.5 Mandatory Reporting of Misconduct

10.05(1) The local board of education, charter school, BOCES, or designee must notify the Department within 10 business days of any employee's dismissal or resignation if the dismissal or resignation is based on an allegation of unlawful behavior involving a child, including unlawful sexual behavior or allegation of a sexual act (meaning sexual contact, sexual intrusion, or sexual penetration as those terms are defined in section 18-3-401, C.R.S.) involving a student who is eighteen years of age or older, regardless of whether the student consented to the sexual act, that is supported by a preponderance of the evidence. The local board, charter school, BOCES, or designee must provide any information requested by the Department concerning the circumstances of the dismissal or resignation.

10.05(2) The local board of education, charter school, BOCES, or designee must immediately notify the Department when any employee's resignation or dismissal is based upon a conviction, guilty plea, plea of nolo contendere, or deferred sentence as set forth in sections 10.00(1)(d)-(g) and 10.00(2)(a)-(c) of these rules. The local board, charter school, BOCES, or designee must provide any information requested by the Department concerning the circumstances of the employee's dismissal or resignation.

10.05(3) The local board of education, charter school, BOCES, or designee must notify the Department when the county department of social services or local law enforcement agency reasonably believes that an incident of abuse or neglect has occurred and an employee of the district, charter school, or BOCES is the suspected perpetrator and was acting in his or her official capacity as an employee. The local board, charter school, BOCES, or its designee must provide any information requested by the Department concerning the employee's alleged abuse or neglect.

10.05(4) The local board of education, charter school, BOCES, or designee must notify the Department when it reasonably believes that one of its employees is guilty of unethical behavior or professional incompetence as set forth in sections 10.01 and 10.02 of these rules. The local board, charter school, BOCES or its designee must provide any information requested by the Department concerning the employee's behavior or competence.

10.05(5) The local board of education, charter school, BOCES, or designee must notify the Department when it learns from a source other than the Department that a current or past employee has been convicted of, has pled nolo contendere to, or has received a deferred sentence or deferred prosecution for a felony or a misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children.

10.6 Mandatory Disclosure of Attempts to Seal Criminal Records

10.06(1) An applicant or license-holder who files a petition to seal a criminal record under § 24-72-701, et seq., C.R.S., must notify the Department of the pending petition to seal. The Department may inquire into the facts of the criminal offense(s) for which the petition to seal is pending under § 24-72-703(2)(d)(III), C.R.S. The applicant or license-holder does not have any right to privilege or privilege that justifies refusal to answer the Department's questions about the criminal offense(s) at issue in the petition to seal.

11.0 Standards for the Approval of Educator Preparation Programs

The Department will work with the Colorado Department of Higher Education to authorize, review and approve educator preparation programs at Colorado public, private, and proprietary institutions of higher education based on the identified requirements for approval under section 23-1-121(2) & (3), C.R.S.

Pursuant to 22-2-109, C.R.S and the standards set forth in sections 5.00 and 6.00 of these rules and sections 4.00 through 7.00 of 1 CCR 301-101, the State Board of Education will review the content of educator preparation programs. Such review will evaluate the program's content, delivery, and outcomes, including whether the program effectively enables a candidate to meet the requirements for licensure. For educator preparation programs located at institutions of higher education, the State Board will recommend to the Colorado commission on higher education that a program will be approved, be placed on conditional approval, probation, or not be approved.

Authorization of alternative teacher programs, alternative principal programs, and individualized alternative principal programs is solely the Department's responsibility as outlined in sections 22-60.5-205(3), 22-60.5-305.5(6), and 22-60.5-111(14), C.R.S. Sections 12.00 and 13.00 of these rules provide the requirements for these programs.

11.1 **Design of the Educator Preparation Programs**

The Department's Educator Talent Division promotes high-quality programs that meet the requirements, policies, and the best practices identified by Colorado Commission of Higher Education, Department of Higher Education, and Department of Education pursuant to sections 22-2-109, C.R.S. and 23-78-104, C.R.S.

11.01(1) Quality standards in sections 5.00 and 6.00 of these rules and the endorsement standards in sections 4.00 through 7.00 of 1 CCR 301-101 outline the competencies candidates need to attain during preparation. In addition, each program's instructional content must include the following components:

> 11.01(1)(a) for all teacher candidates in elementary, early childhood and all special education programs, concentrated focus on foundational reading skills—specifically phonemic awareness, phonics, vocabulary, fluency, and comprehension, per 23-1-121(2)(c.5), C.R.S.;
>
> 11.01(1)(b) for all teacher candidates in an initial licensure program, behavioral health training including culturally responsive and trauma-informed practices.
>
> 11.01(1)(c) for all educator candidates, education and training on federal and state regulations and policies related to students with exceptional needs, including, but not limited to, Americans With Disabilities Act of 1990, Rehabilitation Act of 1973, and Individuals With Disabilities Education Act; and
>
> 11.01(1)(d) for all educator candidates, pedagogical instruction in high-quality practices for face-to-face, blended and online learning.

11.2 **Program Review by the Department's Educator Talent Division**

The Department's Educator Talent Division will evaluate all new and established educator preparation programs for consistency with these rules and with the State Board of Education-approved rules 1 CCR 301-101. The Division will assess the content of these programs based on sections 22-2-109(5) and 23-1-121, C.R.S. The purpose of the evaluation and approval process is to assure the public that educators who complete educator preparation programs in the state of Colorado are well-prepared to educate PreK-12 students according to the Colorado Revised Statutes, the rules set forth by the State Board of Education, and the Colorado Academic Standards. Educator preparation programs must prepare candidates to meet or exceed the standards for licensure specified in sections 5.00 and 6.00 of these

rules and the corresponding standards in sections 4.00 through 7.00 of 1 CCR 301-101, including any approved content tests required by state board rule.

11.02(1) The Educator Talent Division's review of program content must ensure that each program is designed and implemented in a manner that will enable a candidate to meet licensure and endorsement requirements.

11.02(2) For the reauthorization of educator preparation programs at Colorado's public, private or proprietary postsecondary institutions of higher education recognized by the Colorado Department of Higher Education, the Educator Talent Division will provide the State Board of Education information for its consideration as to whether the Board should recommend to CCHE approval, conditional approval, probation or termination.~~.~~

11.02(3) For alternative teacher programs and alternative principal programs, the State Board of Education will determine full reauthorization, conditional reauthorization, probationary reauthorization or termination of the program.

11.02(3)(a) An on-site evaluation for the reauthorization of alternative preparation programs will occur no more frequently than once every five years.

11.02(3)(b) An initial site visit and review will be conducted 12 to 24 months after approval for all newly authorized alternative preparation programs.

12.00 Alternative Teacher Programs

The following must serve as standards for the initial and continuing approval of alternative teacher preparation programs. School districts, BOCES, accepted institutions of higher education, non-profit organizations, nonpublic schools, charter schools, the institute or any combination thereof may apply to the State Board of Education for approval as a designated agency of an alternative teacher program under section 22-60.5-205, C.R.S.

12.00(1) An alternative teacher program must:

12.00(1)(a) be a one-year or two-year teacher preparation program for persons of demonstrated knowledge and ability who hold an alternative teacher license or interim authorization pursuant to section 22-60.5-111(7), C.R.S.:

12.00(1)(a)(i) a one-year program shall be designed to be completed in one year. The program may be extended for one additional year based on documentation of unforeseen circumstances, as demonstrated by the applicant and the designated agency and approved by the Department;

12.00(1)(a)(ii) a two-year program shall be designed to be completed in two years; and

12.00(1)(a)(iii) provide for a person being alternatively prepared as a special education generalist to be employed as an alternative teacher for a maximum of three years.

12.00(1)(b) be the responsibility of a designated agency. The agency's duties include the organization, management, and operation of the program as follows:

12.00(1)(b)(i) the designated agency must establish an advisory council, which must include, at a minimum, representatives from participating school districts, charter schools, nonpublic schools, the institute, or BOCES; at least one qualified mentor

teacher; and a representative from any accepted institution of higher education cooperating with the designated agency, if applicable. Representatives on the advisory council must reflect the geographic make-up of the designated agency if the agency is composed on more than one entity.

12.00(1)(c) require alternative teachers to be employed by or have a clinical agreement in place with a school district, a licensed nonpublic childcare or other preschool facility, charter school, the Charter School Institute, nonpublic school, or BOCES to teach, receive training, and be supervised by a qualified mentor teacher and an appropriate support team as follows:

12.00(1)(c)(i) alternative teachers must demonstrate competency in their subject area endorsement and/or assignment pursuant to section 3.00 of these rules including:

12.00(1)(c)(i)(A) if the alternative teacher is asked to teach in any content area(s) outside of his/her assessed content area, the school or school district is required to keep on file documented evidence that the alternatively licensed teacher has completed 24 semester hours of applicable coursework in the additional content area(s) or the equivalent thereof, or has passed the related approved content area test(s);

12.00(1)(c)(ii) training of alternative teachers must include 225 clock-hours of planned instruction, and activities must include, but not be limited to, teacher preparation courses that meet the Teacher Quality Standards and English Language Learner Quality Standards.

12.00(1)(c)(ii)(A) The 225-clock-hours must, at a minimum, include professional development that addresses dropout prevention and the standards as outlined in section 5.00 of these rules;

12.00(1)(c)(ii)(B) The hours of required instruction and activities may be modified by the alternative teacher's support team, but only after a documented and performance-based evaluation of the candidate's proficiency determines that one or more of the program's requirements has already been met by the alternative teacher's proven knowledge or past experience;

12.00(1)(c)(ii)(C) Evaluations of alternative teachers must be conducted and documented in accordance with section 22-9-106, C.R.S.;

12.00(1)(c)(ii)(D) Early childhood education programs must align to the standards outlined in section 4.01 of 1 CCR 301-101, and elementary and special education programs must align to the standards outlined in section 4.02 of 1 CCR 301-101; and

12.00(1)(c)(ii)(E) The training must address special education regulations as outlined in 22-60.5-205, C.R.S.

12.00(2) Proposals submitted by entities for authorization as designated agencies of alternative teacher preparation must include, but not be limited to:

12.00(2)(a) demonstrated evidence of a need for the proposed program;

12.00(2)(b) evidence of the establishment of an advisory council by the designated agency;

12.00(2)(c) a listing of the advisory council's duties, which must include but need not be limited to: providing the designated agency with information regarding the organization and management and operation of the approved alternative teacher program;

12.00(2)(d) criteria for the selection of mentor teachers which must include but need not be limited to: evidence of exemplary teaching and school leadership; the ability to model and counsel the alternative teacher; relevant mentorship coursework; and a valid teacher license and endorsement in the alternatively-licensed teacher's content area if available. A mentor teacher endorsement is not required.

12.00(2)(d)(i) Mentor teachers may evaluate alternative teachers if trained in accordance with 22-9-106(4), C.R.S., except that mentor teachers are not required to hold a principal or administrator license.

12.00(2)(d)(ii) If a mentor teacher is not available, the designated agency may submit a plan for mentor support that provides that same level of mentorship to the alternative teacher.

12.00(2)(e) an articulated, mandatory, and intensive supervision training program for mentors that provides direction with regard to structured guidance, the provision of regular ongoing support to new teachers, and teacher performance evaluation;

12.00(2)(f) identification of the duties of the mentor teacher including: serving as a member of the support team; providing ongoing observation, counseling and supervision of the alternative teacher; and representing the support team for purposes of making recommendations about the alternative teacher's licensing;

12.00(2)(g) a checklist of the duties of the mentor teacher and the time required of that teacher to mentor the alternative teacher. The designated agency must keep this checklist on file.

12.00(2)(h) provisions made by the designated agency to assist the mentor teacher in properly discharging his/her regular duties. Such provisions may include:

12.00(2)(h)(i) providing a substitute teacher for the mentor teacher, as necessary and appropriate; and

12.00(2)(h)(ii) allowing for adequate compensatory time and/or other compensation for the mentor teacher's required planning and observation schedule and ongoing regular conferences with the alternative teacher.

12.00(2)(i) the composition of an alternative teacher's support team. The team must include, at a minimum, the alternative teacher's mentor, the building principal, and a representative of the approved designated agency;

12.00(2)(j) identification of the duties of the support team including:

12.00(2)(j)(i) meeting on a regular schedule with an agenda. Documentation of such regularly scheduled meetings must include evidence of the alternative teacher's progress toward meeting the program's objectives;

12.00(2)(j)(ii) evaluating the related prior education and experience of the alternative teacher to determine the appropriate program elements which will prepare the candidate for full licensure;

12.00(2)(j)(iii) developing the instruction plans and activities for the alternative teacher's preparation. The programming must meet the State Board of Education-approved standards, as prescribed in section 5.00 of these rules; and

12.00(2)(j)(iv) prior to the beginning of the program, providing the alternative teacher with an orientation to the school, its student population, the policies and procedures which affect teaching, classroom management strategies, and the teacher's responsibilities, as prescribed by section 12.00(1)(c) of these rules.

12.00(2)(k) an assurance that the major portion of the alternative teacher's assignment will be in the content area in which the alternative teacher has been approved by the state under section 3.12(1)(c);

12.00(2)(l) explanation of how the entity employing the alternative teacher meets the requirements in section 12.00(1)(c)(i)(A) of these rules if it asks the alternative teacher to teach outside of his/her approved content area;

12.00(2)(m) the method of evaluation of the alternative teacher's proficiencies using performance evaluations, as based on the Teacher Quality Standards and as prescribed by section 5.00 of these rules;

12.00(2)(n) an inventory of Teacher Quality Standards for each alternative teacher in its program that documents how the alternative teacher demonstrates proficient knowledge and understanding of the standards and the English Language Leader Quality Standards;

12.00(2)(o) a schedule of mentor and principal observations, including a minimum of four alternative teacher observations by program leaders;

12.00(2)(p) the process by which performance evaluations of alternative teachers will be conducted, which must be consistent with the provisions of section 22-9-106, C.R.S.; and

12.00(2)(q) measurable objectives for the alternative teacher's preparation program.

12.00(3) When an entity is approved and offers a new educator preparation program, the Department may review the new educator preparation program no sooner than twelve months but not more than twenty-four months after the new preparation program is initially approved. The alternative teacher program may be approved for up to five years. An onsite evaluation will be conducted no more than once every five years for purposes of reauthorization.

13.0 **Individualized Alternative Principal Programs and Alternative Principal Programs**

The following will serve as standards for the initial and continuing approval of individualized alternative principal programs and alternative principal programs.

13.1 In designing an individualized alternative principal program, the school district, charter school, or nonpublic school shall, at a minimum, submit to the State Board:

13.01(1) documentation of the coursework, practicum and other educational requirements identified by the school district, charter school, or nonpublic school that will comprise the individualized alternative principal program plan and that will be completed while the applicant is employed under the principal authorization; and

13.01(2) a letter from the district, charter school, or nonpublic school stating its intention to employ the applicant as a principal or assistant principal upon issuance of the principal authorization~~;~~.

13.01(3) At a minimum, an individualized alternative principal program must ensure that:

13.01(3)(a) the applicant will attain the information, experience, training, and skills comparable to those possessed by a person who qualifies for an initial principal license as provided in section 22-60.5-301(1)(a), C.R.S.;

13.01(3)(b) upon completion, the candidate will be able to provide documented evidence of having met or surpassed the Principal Quality Standards cited in section 6.00 of these rules;

13.01(3)(c) the candidate will receive coaching and mentoring from one or more licensed principals and administrators, as well as continuing performance-based assessment of the candidate's skills development;

13.01(3)(d) except that, if the candidate participates in a nonpublic school's individualized alternative principal program approved by the State Board of Education, the candidate must receive coaching and mentoring from one or more principals and administrators who have three or more years of experience in a nonpublic school;

13.01(3)(e) the candidate demonstrates professional competencies using the assessment of quality standard measures in subject matter areas as specified by rule of the State Board pursuant to section 22-60.5-303, C.R.S.; and

13.01(3)(f) the candidate receives information and training on special education laws and regulations, as outlined in section 22-60.5-111(14)(c)(IV), C.R.S.

13.2 A school district or districts, BOCES, accepted institution of higher education, nonprofit organization, charter school, the institute, nonpublic school, or any combination thereof may apply to the State Board for approval as a designated agency of alternative principal programs under section 22-60.5- 305.5, C.R.S.

13.02(1) In designing an alternative principal program, the designated agency must, at a minimum, demonstrate that:

13.02(1)(a) the applicant will attain the information, experience, training, and skills comparable to those possessed by a person who qualifies for an initial principal license as provided in section 22-60.5-301(1)(a), C.R.S.;

13.02(1)(b) the program content meets or exceeds the Principal Quality Standards cited in section 6.00 of these rules;

13.02(1)(c) training of alternative principals will include a minimum of 225 clock-hours of planned instruction, and activities must include, but not be limited to, principal preparation courses that meet the Principal Quality Standards and English Language Learner Quality Standards.

13.02(1)(d) the candidate will receive coaching and mentoring from one or more licensed principals and administrators, as well as continuing performance-based assessment of the candidate's skills development;

13.02(1)(e) the candidate will be required to demonstrate professional competencies using the assessment of quality standard measures in subject matter areas as specified by rule of the State Board pursuant to section 22-60.5-303, C.R.S.;

13.02(1)(f) the candidate will receive information and training on special education laws and regulations, as outlined in section 22-60.5-111(14)(c)(IV), C.R.S.; and

13.02(1)(g) the alternative principal program will be designed to be completed in three years or less.

13.02(1)(g)(i) School districts may only employ a person under a principal authorization for three years, after which time, the person must obtain an initial or professional license in order to continue working as a principal.

13.02(2) Proposals submitted by entities for authorization as designated agencies of alternative principal programs must include, but not be limited to:

13.02(2)(a) demonstrated evidence of a need for the proposed program;

13.02(2)(b) evidence of the establishment of an advisory council by the designated agency;

13.02(2)(c) a listing of the advisory council's duties, which must include but need not be limited to: providing the designated agency with information regarding the organization, management, and operation of the approved alternative principal program;

13.02(2)(d) criteria for the selection of mentor principals which must include but need not be limited to: evidence of exemplary school leadership; the ability to model and counsel the alternative principal; relevant coursework; and a valid license and endorsement as a professional principal.

13.3 When a new designated agency is approved to offer a new alternative principal program, the department may review the new program no sooner than twelve months but not more than twenty-four months after the new program is initially approved. The designated agency that operates an alternative principal program will be reauthorized not more than once every five years.

14.0 **Colorado Teacher of the Year Program**

14.1 **Administration**

14.01(1) The Colorado Teacher of the Year is selected in accordance with the National Teacher of the Year selection criteria as articulated by the Council of Chief State School Officers.

14.01(2) The Department may reward the educator with gifts, services, and opportunities that may include:

14.01(2)(a) a sabbatical from teaching responsibilities that includes moneys awarded to the recipient's employer for the purpose of hiring a substitute teacher during the award recipient's sabbatical;

14.01(2)(b) a cash gift;

14.01(2)(c) travel and lodging expenses;

14.01(2)(d) a computer;

14.01(2)(e) supplies and equipment for the award recipient's classroom or school; and

14.01(2)(f) the opportunity to receive additional training or education.

14.01(3) During tenure as Colorado Teacher of the Year, the award recipient may participate in activities such as:

14.01(3)(a) attending local, regional, and national events related to the award recipient's designation as Colorado Teacher of the Year;

14.01(3)(b) promoting the teaching profession;

14.01(3)(c) teaching best practices to other teachers;

14.01(3)(d) teaching temporarily in other public schools or school districts;

14.01(3)(e) mentoring students in teacher preparation programs and supporting newer teachers in Colorado;

14.01(3)(f) collaborating with institutions of higher education in scholarly research and teaching; and

14.01(3)(g) participating in special projects relating to education that are important to the award recipient.

15.0 **Inactive Status of Licenses**

15.1 Holders of professional licenses may choose to place their licenses in inactive status by

notifying the Department, via an online application, of their intent to place a professional license on inactive status.

15.2 While on inactive status, the expiration date of a professional license is suspended and the individual is deemed as not holding the credential.

15.3 A person may return a professional license to active status at any time upon application.

15.03(a) Upon application to return to active status, the Department must reissue the professional license with a new expiration date reflecting the period remaining on the professional license as of the date the license-holder placed the license in inactive status.

15.03(b)The Department may, upon request of a license-holder, and with evidence of the license-holder's active military service, reissue the license with a new expiration date reflecting the amount of time which remained on the license prior to the license-holder's active military service, plus the amount of time during which the license-holder served in active military service.

15.4 Renewal of licenses previously inactive:

15.04(a) Any person who placed a license on inactive status may, but is not required, to complete professional development activities which meet the requirements of section 7.02 of these

rules. Such activities completed while on inactive status must apply to renewal of the person's professional license after the person returns to active status.

15.04(b) At the time of renewal, the license-holder must provide to the Department evidence of completion of the professional development activities which meet the requirements for license renewal as provided in section 7.02 of these rules and which were completed within the seven years preceding the date on which the professional license will expire after its return to active status.

16.0 **Waivers**

16.1 A written request for a waiver must be received by the State Board of Education at least 120 days prior to proposed implementation. The State Board is authorized to waive any requirement regarding alternative teacher programs or approved induction programs. Waiver applications must include:

16.01(1) the specific portion of these rules to be waived;

16.01(2) the rationale for the request;

16.01(3) detailed information on the innovative programs or plans to be instituted;

16.01(4) financial impact of the proposed waiver, if applicable;

16.01(5) reasons why these innovative programs or plans cannot be implemented under the applicable rule; and

16.01(6) a detailed plan for the evaluation of the innovative programs or plans to show their effectiveness in improving the quality of the affected educators.

Editor's Notes

History

Rules 2260.5-R-1.00, 15.00, 15.05 emer. rules eff. 08/14/2008.

Rules 2260.5-R-1.00, 15.00, 15.05 eff. 10/31/2008.

Rules 2260.5-R-1.16, 4.04 eff. 10/30/2009.

Rules 2260.5-R-1.00-2.04, 3.01, 3.03, 3.12, 4.03, 4.12, 4.17, 7.02, 13.00, 18.00-19.00 eff. 07/30/2010.

Rules 2260.5-R-1.19, 4.11, 4.14(11)(d-e) emer. rules eff. 09/16/2010.

Rules 2260.5-R-1.17, 4.11, 6.13, 10.05 eff. 12/31/2010.

Rules 2260.5-R-1.20, 8.22-8.23 eff. 01/31/2011.

Rules 2260.5-R-1.21, 4.16, 15.00-15.00(5) eff. 09/30/2012.

Rules 2260.5-R-2.01, 2.03, 3.01, 3.03, 3.05-3.07, 3.12, 4.02-4.04, 4.11, 4.13, 4.17, 8.02, 8.04, 8.14, 12.02,
15.03, 18.00, 23.01 eff. 01/30/2013.

Rules 2260.5-R-1.23, 3.01(2)(e)(ii)(3), 3.06(1), 3.12(3)(b)(i), 4.13(3), 4.13(5), 4.17 eff. 05/15/2014.

Rule 2260.5-R-8.20 eff. 07/30/2014.

Rule 2260.5-R-4.18 eff. 08/14/2014.

Entire rule eff. 03/30/2016.

Rules 2260.5-R-1.24, 2.01(26), 3.02(1), 3.05-3.07, 4.02(1), 4.09, 4.12-4.14, 4.17, 4.18, 7.02(1), 8.14, 9.01, 9.05-9.07, 10.02, 10.04-10.06, 11.09, 12.00, 12.02, 13.00, 13.01, 15.00, 15.01 eff. 06/14/2017.

Rules 2260.5-R-1.25, 2.01, 12.02(1), 13.00, 15.00, 18.00, 18.01 eff. 01/30/2018.

Entire rule eff. 08/14/2018.

Entire rule eff. 05/30/2019.

Entire rule eff. 07/30/2020.

Entire rule eff. 04/30/2021.

Entire rule eff. 12/30/2021.

Entire rule eff: tbd upon approval

Annotations

Introductory paragraph of Rule 2260.5-R-23.00 (adopted 11/10/2005) was not extended by House Bill 07-1167 and therefore expired 05/15/2007.

Rules 2260.5-R-3.03(2)(a), 3.06(1)(a), 3.06(1)(c), 3.07(1)(d), 4.13(4)(c), 4.17(7), 15.00(2)(d), 15.00(2)(j) (adopted 12/14/2006) were not extended by Senate Bill 08-075 and therefore expired 05/15/2008.

Rules 2260.5-R-3.07(1), 4.17(1), 4.17(2), 4.17(3) were repealed by Senate Bill 08-075, eff. 05/15/2008.

Rules 4.11(6)-4.11(6)(d) (adopted 08/08/2012) were not extended by Senate Bill 13-079 and therefore expired 05/15/2013.

Rule 4.04 (adopted 12/05/2012) was not extended by Senate Bill 15-100 and therefore expired 05/15/2015.

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Office of the Attorney General

Tracking number: 2022-00495

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado State Board of Education

on 10/12/2022

1 CCR 301-37

RULES FOR THE ADMINISTRATION OF THE EDUCATOR LICENSING ACT OF 1991

The above-referenced rules were submitted to this office on 10/17/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 31, 2022 16:07:34

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Education

Agency

Colorado State Board of Education

CCR number

1 CCR 301-101

Rule title

1 CCR 301-101 RULES FOR THE ADMINISTRATION OF EDUCATOR LICENSE ENDORSEMENTS 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF EDUCATION

Colorado State Board of Education

RULES FOR THE ADMINISTRATION OF EDUCATOR LICENSE ENDORSEMENTS

1 CCR 301-101

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

1.00 Statement of Basis and Purpose

The statutory basis for these rules is found in §§ 22-60.5-106 and 22-60.5-115, C.R.S. These rules establish the standards and criteria for the issuance of endorsements to licenses in subject areas or other areas of educational specialization for teachers, special services providers, principals and administrators.

2.0 General Licensing Regulations

The Colorado Department of Education has the sole authority to issue educator licenses and authorizations. Pursuant to 22-63-201 and 22-32-126, C.R.S., a Colorado license or authorization is required for employment as a teacher, special services provider or principal in a Colorado school or school district. All licenses and authorizations must be endorsed to indicate the grade levels/developmental levels and specialization area(s) which are appropriate to the applicant's preparation, training and experience.

2.1 Definitions

2.01(1) Accepted institution of higher education: An institution of higher education that offers at least the standard bachelor's degree and is recognized by one of the following regional associations: Western Association of Schools and Colleges; Northwest Association of Schools, Colleges and Universities; North Central Association of Colleges and Schools; New England Association of Schools and Colleges; Southern Association of Colleges and Schools; or Middle States Association of Colleges and Schools.

2.01(2) Administrator: Any person who may or may not be licensed, but who administers, directs or supervises an education instructional or education-related program, or a portion thereof, in any school or school district, or nonpublic school in the state and who is not the chief executive officer or an assistant chief executive officer of such school.

2.01(3) Approved induction program: A program of continuing professional development for initial license-holders that meets the requirements of the Colorado State Board of Education, and that upon completion leads to a recommendation for a professional license by the school district or districts, charter school, nonpublic school, or the institute providing such induction program.

2.01(4) Approved program of preparation: A program of study for the preparation of educators that meets the content requirements of the Colorado State Board of Education and for public and private institutions, is approved by Colorado Commission on Higher Education and that, upon completion, leads to a recommendation for licensure by an accepted institution of higher education.

2.01(5) Board of education: The governing body authorized by law to administer the affairs of any school district in the state except junior and community college districts. "Board of education" also includes a board of cooperative services organized pursuant to 22-5-101, C.R.S.

2.01(6) Charter school: A charter school authorized by a school district pursuant to Part 1 of Article 30.5 of Title 22 or a charter school authorized by the state charter school institute pursuant to Part 5 of Article 30.5 of Title 22.

2.01(7) Colorado Academic Standards: The state academic standards that identify the knowledge and skills that a student should acquire as the student progresses from preschool through elementary and secondary education, as adopted by the State Board of Education pursuant to section 22-7-1005, C.R.S. The Colorado Academic Standards herein incorporated by reference in these rules were adopted by the State Board of Education in December 2010 and are available at www.cde.state.co.us. Later amendments to the Colorado Academic Standards are not incorporated. The Colorado Department of Education maintains a copy of the standards readily available for public inspection at 201 East Colfax Avenue, Denver, Colorado, during regular business hours.

2.01(8) Department of education or Department: The Colorado State Department of Education as defined in 24-1-115, C.R.S.

2.01(9) Diversity: The backgrounds of all students and school personnel.

2.01(10) Endorsement: The designation on a license or an authorization of grade level(s) or developmental level(s), subject matter or service specialization in accordance with the preparation, training and experience of the holder of such license or authorization. Endorsements typically reflect major areas of specialization.

2.01(11) Endorsement/specialty area: The sequence of courses and experiences in the academic or professional area that the education student plans to teach, for the grade level(s) or developmental level(s) at which the student plans to teach, and/or for the services that the student plans to provide. Examples of specialty areas include science (grades 7-12), elementary education (grades K-6), school counselor (ages birth-21), reading specialist (grades K-12) and physical education (grades K-12).

2.01(12) Institute: The state charter school institute created pursuant to section 22-30.5-503, C.R.S.

2.01(13) Knowledge base: The assumptions, theories and research findings which provide the foundations that support the model(s) on which the program is founded, articulated, implemented and evaluated.

2.01(14) Licensure: The official recognition by a state governmental agency that an individual has met state-mandated minimum requirements and is approved to practice as a duly certified/licensed educator in the state.

2.01(15) Mentor administrator: Any administrator who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial administrator licensees, who has demonstrated outstanding administrative skills and school leadership and who can provide exemplary modeling and counseling to initial administrator license-holders participating in an approved induction program.

2.01(16) Mentor principal: Any principal who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial principal license-holders, who has demonstrated outstanding principal skills and school leadership and who can provide exemplary modeling and counseling to initial principal license-holders participating in an approved induction program.

2.01(17) Mentor special services provider: any special services provider who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial special services license-holders, who has demonstrated outstanding special services provider skills and school leadership and who can provide exemplary modeling and counseling to initial special services license-holders participating in an approved induction program.

2.01(18) Mentor teacher:

2.01(18)(a) A teacher designated by a school district, charter school, or nonpublic school, employing an alternative teacher, who has demonstrated outstanding teaching and school leadership and who can provide exemplary modeling and counseling to alternative teachers participating in an alternative teacher program; or

2.01(18)(b) Any teacher who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial teacher license-holders, who has demonstrated outstanding teaching and school leadership and who can provide exemplary modeling and counseling to initial teacher license-holders participating in an approved induction program.

2.01(18)(c) A teacher does not need to hold a mentor teacher endorsement as described in Rule 4.24 in order to be designated by a school district or districts, charter school, nonpublic school or the institute as described in Rule 2.01(18)(a) and 2.01(18)(b).

2.01(19) Nonpublic School: Any independent or parochial school that provides a basic academic education. Neither the State Board of Education nor any local school board of education has jurisdiction over the internal affairs of any independent or parochial school in Colorado.

2.01 (20) Practicum: An intensive experience in which education students practice and demonstrate professional skills and knowledge. Student teaching and internships are examples of a practicum.

2.01(21) Principal: Any person who is employed as the chief executive officer or an assistant chief executive officer of any school in the state and who administers, directs or supervises the education instruction program in such school or nonpublic school.

2.01(22) Professional education unit: The college, university, school, department or other administrative body within the institution of higher education that is primarily responsible for the preparation of teachers and other professional education personnel.

2.01(23) School: Any of the public schools of the state.

2.01(24) School district: Any school district organized and existing pursuant to law, but does not include junior or community college districts. “School district” includes a board of cooperative services organized pursuant to 22-5-101, C.R.S.

2.01(25) Special services provider: Any person other than a teacher, principal or administrator who is employed by any school district, charter school, nonpublic school, or the institute to provide professional services to students in direct support of the education instructional program.

2.01(26) State Board of Education: The State Board of Education established by Section 1 of Article IX of the Constitution of the State of Colorado.

2.01(27) Student teaching: Part of the 800 hours of field experience required in a teacher preparation program, it is an in-depth, direct teaching experience conducted in a school and classroom setting. It is considered a culminating field-based experience for the basic teacher preparation program where candidates practice and demonstrate professional skills and knowledge.

2.01(28) Teacher: Any person employed to instruct students in any school or nonpublic school in the state.

3.0 **Endorsement of Licenses or Authorization.**

Licenses and authorizations must be endorsed to indicate the grade levels/developmental levels and specialization area(s) which are appropriate to the applicant's preparation, training and experience.

3.1 **Initial Endorsements.**

3.01(1) Initial endorsements must be based upon:

3.01(1)(a) recommendation by a Colorado accepted institution of higher education verifying the satisfactory completion of an approved program for the endorsement; or

3.01(1)(b) recommendation by an accepted out-of-state institution of higher education and compliance with rule 2.03(3) of 1 CCR 301-37 or

3.01(1)(c) evaluation of licenses issued upon foreign degree programs for comparability to Colorado's standards; and

3.01(1)(d) fulfilling the requirements outlined below:

3.01(1)(d)(i) for an elementary education endorsement (grades K-6), passage of a Colorado State Board of Education-approved elementary education content test.

3.01(1)(d)(ii) for a special education generalist endorsement (ages 5 -21):

3.01(1)(d)(ii)(A) verification of 24 semester hours of specific coursework completed at an accepted institution of higher education or the equivalent as determined by the Department of Education through a transcript or portfolio review. The portfolio may include, but is not limited to, verification of teaching experience in the requested endorsement area, experiences outside of schools, in-service or continuing education, standardized assessments and recommendations from experts in the endorsement/specialty area to be taught. Such academic credit and portfolio experiences must be consistent with the content preparation requirements in the appropriate endorsement area found in section 4.00 of these rules; and

3.01(1)(d)(ii)(B) passage of the Colorado State Board of Education-approved special education generalist assessment and passage of a Colorado State Board of Education-approved elementary exam.

3.01(1)(d)(iii) for secondary (grades 7-12) and all K-12 and endorsement areas for ages birth-8:

3.01(1)(d)(iii)(A) a degree in the endorsement area; or

3.01(1)(d)(iii)(B) verification of 24 semester hours of specific coursework completed at an accepted institution of higher education or the equivalent as determined by the Department of Education through a transcript or portfolio review. The portfolio may include, but is not limited to, verification of teaching experience in the requested endorsement area, experiences outside of schools, in-service or continuing education, standardized assessments, and recommendations from experts in the endorsement/specialty area to be taught. Such academic credit and portfolio experiences must be consistent with the content preparation requirements in the appropriate endorsement area found in section 4.00 of these rules; or

3.01(1)(d)(iii)(C) passage of the Colorado State Board of Education-approved assessment of content area knowledge relevant to the area of endorsement.

3.2 **Additional Endorsements**

Second or subsequent endorsements may be awarded by the Department based upon one of the following:

3.02(1) the completion of an approved program of preparation at an accepted institution of higher education, which includes completion of field experiences, student teaching or practicum or internship, unless waived by the approved institution pursuant to the following:

3.02(1)(a) a waiver of field experience, student teaching, practicum or internship may be granted upon verification of satisfactory experience in the area of endorsement being sought. Waivers of coursework or other program requirements may also be granted for work experience, including teaching or administrative experience in schools.

3.02(1)(b) institutions of higher education must have written criteria, procedures and due-process procedures for the recognition of competencies acquired through experience. Such criteria and due-process procedures must include a process for appealing the denial of a request for waiver of field experience, student teaching, practicum, internship or other coursework or program requirements.

3.02(1)(c) applicants who complete approved programs for additional endorsements must provide evidence of successful completion of the Colorado State Board of Education–approved assessment of content area knowledge in the endorsement area being sought where required.

3.02(2) academic preparation, experience or assessment for endorsements in section 4.00 of these rules:

3.02(2)(a) for elementary education endorsement (grades K-6):

3.02(2)(a)(i) passage of a Colorado State Board of Education-approved elementary content test.

3.02(2)(b) for a special education generalist endorsement (ages 5-21):

3.02(2)(b)(i) verification of 24 semester hours of specific coursework completed at an accepted institution of higher education or the equivalent as determined by the Department of Education through a transcript or portfolio review. The portfolio may include, but is not limited to, verification of teaching experience in the requested endorsement area, experiences outside of schools, in-service or continuing education, standardized assessments, and recommendations from experts in the endorsement/specialty area to be taught. Such academic credit and portfolio experiences must be consistent with the content preparation requirements in the appropriate endorsement area found in section 4.00 of these rules; and

3.02(2)(b)(ii) passage of the Colorado State Board of Education-approved special education generalist assessment and passage of a Colorado State Board of Education-approved elementary education exam.

3.02(2)(c) for secondary (grades 7-12) and all K-12 and endorsements areas for ages birth-

8: 3.02(2)(c)(i) a degree in the endorsement area; or

3.02(2)(c)(ii) verification of 24 semester hours of specific coursework completed at an accepted institution of higher education or the equivalent as determined by the Department of Education through a transcript or portfolio review. The portfolio may include but is not limited to verification of teaching experience in the requested endorsement area, experiences outside of schools, in-service or continuing education, standardized assessments, and recommendations from experts in the endorsement/specialty area to be taught. Such academic credit and portfolio experiences must be consistent with the content preparation requirements in the appropriate endorsement area found in section 4.00 of these rules; or

3.02(2)(c)(iii) passage of the Colorado State Board of Education-approved assessment of content area knowledge relevant to the area of endorsement.

3.3 Development and Approval of New Endorsement Areas and Discontinuance of Endorsement Areas

3.03(1) The Colorado State Board of Education may establish by rule and regulation appropriate endorsements and the criteria for such endorsements.

3.03(2) The Department must utilize appropriate content area representatives from among the education community and interested stakeholders to develop recommendations for consideration by the State Board of Education with regard to the adoption of new endorsement areas or the discontinuance of endorsement areas that are no longer relevant or applicable to student needs.

3.03(3) In the event that the State Board of Education discontinues an endorsement that was previously offered, students who at the time of discontinuance are actively enrolled in a program for the discontinued endorsement must have five years from the date that the endorsement is discontinued to complete their program and apply to the Colorado Department of Education for the endorsement.

3.03(4) Applicants will have a maximum of five years from the date of a discontinued content assessment to use the successful content assessment scores for fulfillment of an endorsement criteria.

3.4 Review of License and Endorsement Standards

3.04(1) Pursuant to section 22-2-109(1)(g)-(i), C.R.S., the standards of qualification, preparation and experience required for the issuance of licenses and which prescribe standards for endorsements appropriate for licenses must be reviewed periodically for currency.

3.04(1)(a) The Colorado State Board of Education must establish a schedule for review of licensing/endorsement standards.

3.04(1)(b) The Colorado Department of Education must utilize representatives from all levels of education when reviewing and developing licensing endorsement standards.

4.0 Teaching Endorsements

The following shall serve as standards for endorsements on initial and professional teacher licenses:

4.1 Early Childhood Education (Ages Birth-8)

To be endorsed in early childhood education (ECE), an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in early childhood education; have demonstrated competency in research-based literacy instruction as outlined in rule 4.02(5) – 4.02(13) and; have demonstrated the competencies specified below:

4.01(1) Child growth and development: Understanding a child's growth, development and learning is paramount in providing experiences that foster each child's predictable steps and sequences of development. Knowing how children typically grow, develop and learn allows early childhood educators to plan, guide and monitor learning experiences that address the integration of developmental domains for each and every child. Developmentally appropriate learning experiences consider a child's developmental abilities, temperament, language and cultural background, needs and learning styles while recognizing factors such as family characteristics and community influences. Fully understanding the importance of child growth, development and learning means all children are valued individually and inclusivity is expected and respected.

4.01(1)(a) Knowledge of developmental domains, changes and milestones: ECE professionals are expected to understand, analyze and implement strategies that reflect current child-development pedagogy, theory and research. Primarily, ECE professionals use this knowledge to plan and implement developmentally appropriate environments and experiences to meet the diverse needs of children and families. The diverse needs include but are not limited to culture, language, economic and ability. In order for ECE professionals to provide pedagogically sound experiences for children and families, they need to identify and address children's diverse developmental abilities and collaborate with community partners to assess children's strengths and challenges.

4.01(1)(b) Individual needs and differences: ECE professionals identify children's and families' risk and protective factors and accordingly plan interventions to support children's growth and development. ECE professionals use evidence-based practices to assess and address children's individual needs with respect to culturally responsive curricula and environments.

4.01(1)(c) Special needs: ECE professionals understand and apply inclusive practices for children with diverse developmental abilities. ECE professionals create inclusive environments that respect the individual abilities of children and incorporate individual goals/outcomes into daily routines and practices.

4.01(1)(d) Fostering healthy attachment and relationships: ECE professionals apply knowledge of healthy caregiver/parent/child attachments to support individual child growth, development and learning. ECE professionals understand the importance of positive relationships and their foundation in social-emotional development and learning.

4.01(2) Child observation and assessment: Child observation and assessment enables ECE professionals to use reliable and valid procedures and practices to gather information on an individual child's growth and development. Through gathering information on growth, achievement, learning styles, interests, experiences, challenges and understandings of individual children, the curriculum can be enriched to support children through the developmental stages. Observation and assessment policies, procedures and practices should be sensitive to individual children's needs, culture, language and abilities. Policies, procedures and practices must incorporate ethical standards around confidentiality and unbiased documentation. Allocated time to share results with families and others involved with the child is a critical component to child observation and assessment.

4.01(2)(a) Principles: ECE professionals use a continuous authentic assessment process to ask questions, collect information (i.e., data), interpret the information and then make instructional decisions that are individualized and culturally responsive.

4.01(2)(b) Gathering and documenting: ECE professionals use a body of evidence from a variety of sources to systematically collect authentic assessment data. ECE professionals collaborate with specialized teams to use the assessment data to recognize and respond to children's developmental concerns through a multi-tiered system of supports.

4.01(2)(c) Summarizing and interpreting: ECE professionals link assessment data to the instructional needs of individual children, recognizing many influential factors.

4.01(2)(d) Data sharing and reporting: ECE professionals share assessment information to families and other professionals in a culturally sensitive, strength-based manner, using the families' home language.

4.01(3) Family and community partnerships: Recognizing that families are their child's first teachers and caregivers is the cornerstone of developing strong partnerships between families and early childhood educators. Children's lives are rooted in their families and communities, so valuing families in the context of their culture, language, home and community is paramount in building strong connections with children and their families. Celebrating and respecting diversity in terms of ability, language, values, customs, traditions, expectations and attitudes is essential for ECE professionals to understand in order to offer developmentally and culturally appropriate learning opportunities that will help children grow, develop and learn. Understanding that children develop in the context of different family structures and dynamics helps ECE professionals to honor the interests, needs, strengths and challenges of developing children as well. When ECE professionals work collaboratively with community organizations and agencies to meet children's needs and to encourage community involvement, children's development is enhanced. Collaborative, reciprocal family and community partnerships help to optimize a child's growth, development and learning.

4.01(3)(a) Valuing families: ECE professionals recognize, value and include families' preferences and perspectives when planning and implementing curricular decisions.

4.01(3)(b) Respect for diversity: ECE professionals implement culturally responsive practices and acknowledge diversity including cultural, language, economic, religious, family structure and ability level.

4.01(3)(c) Effective communication: ECE professionals communicate effectively with families using a variety of effective strategies that respect families' home language and individual communicative needs and preferences.

4.01(3)(d) Building reciprocal relationships with families: ECE professionals support families by building meaningful relationships with them so that families have the ability to engage in their children's development and learning experiences.

4.01(3)(e) Resources that support children and families: ECE professionals support and provide opportunities to families to engage with their children in meaningful ways. Resources are embedded within the community and reflect the diversity of the families.

4.01(4) Guidance: Incorporating responsive guidance strategies into an early childhood program provides opportunities for establishing secure, interpersonal peer-to-peer, adult-to-child and adult-to adult relationships. Developmentally appropriate guidance strategies help children to better understand themselves as individuals and as members of a group. A warm and caring, culturally and linguistically responsive environment in which staff consistently use a variety of evidence-based guidance strategies helps children and families feel respected, valued and accepted. Creating an inclusive and supportive culture is fostered through providing both individual and group guidance strategies.

4.01(4)(a) Positive interactions and relationships with individual children: ECE professionals provide responsive, caring environments for children and implement positive guidance strategies based on individualized needs and developmental characteristics.

4.01(4)(b) Child guidance and discipline – promoting social and emotional: ECE professionals implement evidence-based social-emotional practices that promote children's development of self-regulation that contributes to the foundation for future learning and emotional health.

4.01(4)(c) Communication: ECE professionals work collaboratively with families and specialists to assess and support children with challenging behaviors. Communication between families and professionals will be responsive and strength-based.

4.01(4)(d) Guidance and the role of staff and other adults: ECE Professionals will maintain a supportive environment for staff and families so that they can engage in effective communication, problem-solving and teaming.

4.01(5) Health, safety and nutrition: Optimal child development is enhanced if young children are safe from physical and emotional harm. In designing learning environments and experiences for young children, meeting the health, safety and nutritional needs are critical to child growth, development and learning. Environments for young children should be safe from hazards and potential injuries to enable them to explore and learn. Programs should ensure that children are protected from infectious diseases through the implementation of appropriate health, safety and sanitation policies, procedures and daily practices. ECE professionals should work in partnership with families and communities to create healthy, safe and nutritionally sound environments, while honoring family preferences for their children. ECE professionals establish a foundation for future healthy lifestyles and a pathway for lifelong health and well-being.

4.01(6) Professional development and leadership: ECE professionals who identify and conduct themselves as professionals play an important role in the growth, development and learning of children. ECE professionals see themselves as members of the larger community of specialized care and education professionals and have a full understanding of the context in which the early childhood profession originated. Those working in the field adopt professional responsibilities, which include adherence to ethical codes of conduct, advocacy and the effective communication of the importance of high-quality early childhood programming. The knowledge achieved in the profession is based on a foundation of research-based practices that is then implemented in all aspects of child, family, colleagues and community involvement. ECE professionals equipped with specialized education, training and coaching/mentoring are better able to provide environments and experiences that support every aspect of a child's growth, development and learning, including aspects related to a child's and family's diverse needs. Participation in advocacy efforts on behalf of children, families and the profession are critical to advancing the knowledge regarding the importance of high-quality early childhood education.

4.01(7) Program planning and development is vital to high-quality early childhood programs. Sustaining a philosophical base that utilizes research-driven practices with clear goals and objectives while striving for continuous quality improvement helps to ensure high-quality programming for children and their families. An important responsibility of an early childhood professional is to know and uphold rules, regulations and high-quality standards within the daily operations of the program. Professionals implementing best practices and upholding high-quality standards helps to create high-quality early care and learning environments. Participation in a strong strategic planning process that includes colleagues, community resources, and specialists and takes into account various aspects of organizational, personnel, and financial management is essential.

4.01(8) Teaching practices: ECE educators are responsible for planning, implementing and supporting intentional experiences that promote children's growth, development and learning in all developmental and academic domains as defined by the Colorado academic standards. Understanding that children learn from a supportive physical, social and temporal environment, it is important that ECE professionals create opportunities where all children can play interactively, communicate, create, explore and construct knowledge and skills to better understand their world. Establishing a learning environment with regard for student perspectives and that honors all children's individual cultures, strengths, languages, needs and interests and reflects diversity also helps to build a responsive early childhood setting. Planning and implementing a curriculum that responds to the developmental needs of each child and allows children to construct knowledge, skills, concepts, attitudes and dispositions through intentional experiences enhances the learning environment. Teaching practices reflect Colorado Teacher Quality Standards for effective teaching.

4.01(8)(a) Planning framework for curricula and learning environment: ECE professionals will plan, implement and evaluate intentional and differentiated instruction that supports the holistic development of all children while adhering to children's strengths, challenges, learning preferences and diversity. Curricula and learning will be embedded within the daily routines and natural environments so that learning is authentic, functional and meaningful to the child and family.

4.01(8)(b) Physical health development: ECE professionals plan, implement and adapt activities that promote physical development that is appropriate for children of all ability levels and include indoor and outdoor play experiences that are embedded within the daily routines and developmentally appropriate curriculum.

4.01(8)(c) Physical proximity and engagement: ECE professionals plan, implement and adapt activities that promote social engagement that is culturally appropriate for the children and families in their care.

4.01(8)(d) Language and research-based literacy development: ECE professionals plan, implement and adapt research-driven curricula through meaningful interactions and daily routines to encourage children of all ability levels to use their home language to understand language, various forms of literacy, interact with others and express themselves through verbal, nonverbal and written forms of communication.

4.01(8)(e) Cognitive development: ECE professionals plan, implement and adapt developmentally appropriate curricula throughout daily routines so that children of all ability levels are engaged in learning new concepts, completing tasks and adapting information through meaningful experiences and materials.

4.01(8)(f) Social-emotional development: ECE professionals plan, implement and adapt meaningful activities that focus on the promotion of self-regulation, pro-social interactions and emotional expression. Children who are socially and emotionally ready for learning and engagement understand and effectively express their feelings, cooperate with adults and peers and resolve conflicts with support.

4.01(8)(g) Fostering creativity: ECE professionals plan, implement and adapt curricula that provide children an opportunity to express themselves through a variety of creative means regardless of their individual abilities, language or culture.

4.01(8)(h) Knowledge of productivity: ECE professionals plan and implement a balance of experiences for children that address various levels of play, interactions and activity levels, in addition to responding to the diverse needs of the children in their care.

4.01(8)(i) How children learn and approaches to learning: ECE professionals plan, implement and adapt activities that promote all children's creativity, innovation, curiosity, exploration and problem-solving in learning environments and daily routines.

4.2 **Elementary Education Endorsement (Grades K-6)**

To be endorsed in elementary education, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program in elementary education including prescribed field experience and student teaching requirements; and have demonstrated the competencies specified below:

4.02(1) The elementary educator is knowledgeable about curriculum development and instruction and is able to:

4.02(1)(a) design and implement an integrated curriculum based upon adopted content standards including, but not limited to, language arts (e.g., reading, writing, speaking and listening), science, mathematics, social studies, the arts, health, physical education and technology.

4.02(1)(b) select and use equipment, materials and technology which support a wide variety of instructional strategies to be implemented based on adopted content standards and on both informal and formal assessments of student learning needs.

4.02(1)(c) implement appropriate strategies and activities to increase student achievement.

4.02(1)(d) understand and adhere to strict data privacy and security practices.

4.02(2) The elementary educator is knowledgeable about child development as it applies to learning and is able to:

4.02(2)(a) incorporate documented and proven theories of child development and learning as appropriate for all learners including, but not limited to, exceptional and linguistically diverse learners.

4.02(2)(b) plan and implement differentiated instructional strategies that address stages of individual development, personal traits and interests, language diversity and exceptionality.

4.02(2)(c) recognize and display respect for family, culture, economic and societal influences that affect students' learning and academic progress and draw upon their strengths and experiences in planning for instruction.

4.02(2)(d) effectively articulate the elements of and rationale for the instructional program to students, parents and other professionals.

4.02(3) The elementary educator is knowledgeable about classroom environment and is able to:

4.02(3)(a) provide a safe and engaging learning environment responsive to individual learner needs and student choices and interests.

4.02(3)(b) effectively utilize developmentally appropriate, learner-responsive time-management techniques.

4.02(3)(c) implement positive and effective classroom management strategies that encourage behaviors that will enhance learning for all students.

4.02(4) The elementary educator is knowledgeable about assessment and is able to:

4.02(4)(a) effectively administer a wide variety of ongoing formal and informal assessments that are developmentally appropriate, responsive to the needs of diverse learners and inclusive of adopted content standards.

4.02(4)(b) effectively utilize assessment results and related data to plan for appropriate student instruction.

4.02(4)(c) actively involve students in understanding the importance of assessment and its relationship to meeting learning objectives.

4.02(4)(d) effectively communicate with students, parents and other professionals concerning assessments and student performance.

4.02(5) The elementary educator is highly knowledgeable about research-based literacy development, is able to develop oral and written learning, as well as:

4.02(5)(a) understand and explain the language processing requirements of proficient reading and writing including phonological (speech sound) processing; orthographic (print) processing; semantic (meaning) processing; syntactic (sentence level) processing; discourse (connected text level) processing.

4.02(5)(b) understand and explain other aspects of cognition and behavior that affect reading and writing including attention, executive function, memory, processing speed and graphomotor control.

4.02(5)(c) define and identify environmental, cultural and social factors that contribute to literacy development (e.g., language spoken at home, language and literacy experiences, cultural values).

4.02(5)(d) know and identify phases in the typical developmental progression of oral language (semantic, syntactic, pragmatic); phonological skill; printed word recognition; spelling; reading fluency; reading comprehension; and written expression.

4.02(5)(e) understand and explain the known causal relationship among phonological skill, phonic decoding, spelling, accurate and automatic word recognition, text reading fluency, background knowledge, verbal reasoning skill, vocabulary, reading comprehension and writing.

4.02(5)(f) know and explain how the relationships among the major components of research-based literacy development change with reading development (i.e., changes in oral language, including phonological awareness; phonics and word recognition; spelling; reading and writing fluency; vocabulary; reading comprehension skills and strategies; written expression).

4.02(5)(g) know reasonable goals and expectations for learners at various stages of reading and writing development.

4.02(6) The elementary educator is knowledgeable about the structure of language including:

4.02(6)(a) phonology (the speech sound system), and is able to:

4.02(6)(a)(i) identify, pronounce, classify and compare the consonant and vowel phonemes of English.

4.02(6)(b) orthography (the spelling system), and is able to:

4.02(6)(b)(i) understand the broad outline of historical influences on English spelling patterns, especially Anglo-Saxon, Latin (romance) and Greek;

4.02(6)(b)(ii) define grapheme as a functional correspondence unit or representation of a phoneme;

4.02(6)(b)(iii) recognize and explain common orthographic rules and patterns in English;

4.02(6)(b)(iv) know the difference between “high frequency” and “irregular” words; and

4.02(6)(b)(v) identify, explain and categorize six basic syllable types in English spelling.

4.02(6)(c) morphology, and is able to:

4.02(6)(c)(i) identify and categorize common morphemes in English, including Anglo-Saxon compounds, inflectional suffixes, and derivational suffixes; Latin-based prefixes, roots, and derivational suffixes; and Greek-based combining forms.

4.02(6)(d) semantics, and is able to:

4.02(6)(d)(i) understand and identify examples of meaningful word relationships or semantic organization.

4.02(6)(e) syntax, and is able to:

4.02(6)(e)(i) define and distinguish among phrases, dependent clauses, and independent clauses in sentence structure; and

4.02(6)(e)(ii) identify the parts of speech and the grammatical role of a word in a sentence.

4.02(6)(f) discourse organization, and is able to:

4.02(6)(f)(i) explain the major differences between narrative and expository discourse;

4.02(6)(f)(ii) identify and construct expository paragraphs of varying logical structures (e.g., classification, reason, sequence); and

4.02(6)(f)(iii) identify cohesive devices in text and inferential gaps in the surface language of text.

4.02(7) The elementary educator is knowledgeable about the administration and interpretation of assessments for planning instruction, including:

4.02(7)(a) understanding the differences among screening, diagnostic, outcome and progress monitoring assessments.

4.02(7)(b) understanding basic principles of test construction including reliability, validity, norm-referencing and criterion-referencing.

4.02(7)(c) understanding the principles of progress monitoring and the use of graphs to indicate progress.

4.02(7)(d) knowing the range of skills typically assessed in terms of phonological skills, decoding skills, oral reading skills, spelling and writing.

4.02(7)(e) recognizing the content and purposes of the most common diagnostic tests used by psychologists and educational evaluators.

4.02(7)(f) interpreting measures of reading comprehension and written expression to make appropriate instructional recommendations.

4.02(8) The elementary educator is able to develop phonology, and is able to:

4.02(8)(a) identify the general goal of phonological skill instruction and be able to explicitly state the goal of any phonological teaching activity.

4.02(8)(b) know the progression of phonological skill development (i.e., rhyme, syllable, onset-rime, phoneme differentiation).

4.02(8)(c) identify the differences among various phonological manipulations, including identifying, matching, blending, segmenting, substituting and deleting sounds.

4.02(8)(d) understand the principles of phonological skill instruction: brief, multisensory, conceptual and auditory-verbal.

4.02(8)(e) understand the reciprocal relationship among phonological processing, reading, spelling and vocabulary.

4.02(8)(f) understand the phonological features of a second language, such as Spanish, and how they interfere with English pronunciation and phonics.

4.02(9) The elementary educator is able to develop phonics and word-recognition knowledge related to reading including:

4.02(9)(a) knowing or recognizing the appropriate sequence of phonics concepts from basic to advanced.

4.02(9)(b) understanding principles of explicit and direct teaching; model, lead, give guided practice and review.

4.02(9)(c) stating the rationale for multisensory and multimodal techniques.

4.02(9)(d) knowing the routines of a complete lesson format, from the introduction of a word-recognition concept to fluent application in meaningful reading and writing.

4.02(9)(e) understanding research-based adaptations of instruction for students with weaknesses in working memory, attention, executive function or processing speed.

4.02(10) The elementary educator is able to develop fluent, automatic reading of text:

4.02(10)(a) understanding the role of fluency in word recognition, oral reading, silent reading, comprehension of written discourse and motivation to read.

4.02(10)(b) understanding reading fluency as a stage of normal reading development, as the primary symptom of some reading disorders and as a consequence of practice and instruction.

4.02(10)(c) defining and identifying examples of text at a student's frustration, instructional and independent reading level.

4.02(10)(d) knowing sources of activities for building fluency in component reading skills.

4.02(10)(e) knowing which instructional activities and approaches are most likely to improve fluency outcomes.

4.02(10)(f) understanding techniques to enhance a student's motivation to read. 4.02(10)

(g) understanding appropriate uses of assistive technology for students with serious limitations in reading fluency.

4.02(10)(h) understand the relationship between accuracy and reading fluency.

4.02(11) The elementary educator is knowledgeable about vocabulary development related to reading instruction including:

4.02(11)(a) understanding the role of vocabulary development and vocabulary knowledge in comprehension.

4.02(11)(b) understanding the role and characteristics of direct and indirect (contextual) methods of vocabulary instruction.

4.02(11)(c) knowing varied techniques for vocabulary instruction before, during and after reading.

4.02(11)(d) understanding that word knowledge is multifaceted.

4.02(11)(e) understanding the sources of wide differences in students' vocabularies.

4.02(12) The elementary educator is able to develop text comprehension including: 4.02(12)

(a) being familiar with teaching strategies that are appropriate before, during and after reading and that promote reflective reading.

4.02(12)(b) contrasting the characteristics of major text genres, including narration, exposition and argumentation.

4.02(12)(c) understanding the similarities and differences between written composition and text comprehension, and the usefulness of writing in building comprehension.

4.02(12)(d) identifying in any text the phrases, clauses, sentences, paragraphs and "academic language" that could be a source of miscomprehension.

4.02(12)(e) understanding levels of comprehension including the surface code, text base and mental model (situation model).

4.02(12)(f) understanding factors that contribute to deep comprehension, including background knowledge, vocabulary, verbal reasoning ability, knowledge of literary structures and conventions, and use of skills and strategies for close reading of text.

4.02(13) The elementary educator is able to develop handwriting, spelling and written

expression: 4.02(13)(a) handwriting:

4.02(13)(a)(i) knowing research-based principles for teaching letter naming and letter formation, both manuscript and cursive; and

4.02(13)(a)(ii) knowing techniques for teaching handwriting fluency.

4.02(13)(b) spelling:

4.02(13)(b)(i) recognizing and explaining the relationship between transcription skills and written expression;

4.02(13)(b)(ii) identifying students' level of spelling development and orthographic knowledge; and

4.02(13)(b)(iii) recognizing and explaining the influences of phonological, orthographic, and morphemic knowledge on spelling.

4.02(13)(c) written expression:

4.02(13)(c)(i) understanding the major components and processes of written expression and how they interact (e.g., basic writing/transcription skills versus text generation);

4.02(13)(c)(ii) knowing grade and developmental expectation for students' writing in the following areas: mechanics and conventions of writing, composition, revision and editing processes; and

4.02(13)(c)(iii) understanding appropriate uses of assistive technology in written expression.

4.02(14) The elementary educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

4.3 Agriculture, Food and Natural Resources (Grades 7-12)

To be endorsed in agriculture, food and renewable natural resources, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in agriculture, food and renewable natural resources; and have demonstrated the competencies listed below:

4.03(1) The agriculture, food and renewable natural resources educator must have extensive preparation in agriculture, food and renewable natural resources and demonstrate knowledge in related content including, but not limited to, animal sciences; power, structural and technical systems; plant sciences; agribusiness systems; environmental science and natural resource systems; and food products and processing.

4.03(1)(a) The agriculture, food and renewable natural resources educator must be knowledgeable and able to effectively instruct students about one or more of the following content areas:

4.03(1)(a)(i) animal sciences to include, but not be limited to: trends in the animal industry, best practices for animal welfare, nutrition, reproduction, environmental management and performance;

4.03(1)(a)(ii) agricultural power, structural and technical systems to include, but not be limited to: physical science applications in agriculture PST systems; equipment operation, repair and maintenance; planning, building and maintaining agriculture structures; agricultural metal fabrication; and operation and utilization of geospatial technologies in agriculture;

4.03(1)(a)(iii) plant systems to include, but not be limited to: crop management planning; plant anatomy, classification and philosophy; propagation, culture and harvest of plant products; and principles of design in plant systems for environmental enhancement;

4.03(1)(a)(iv) agricultural business systems to include, but not be limited to: business management principles; financial and production data collection and recording; credit and cash management; business planning; and sales and marketing;

4.03(1)(a)(v) environmental science and natural resources to include, but not be limited to: natural resources use planning; interrelationships between natural resources and humans; sustainable production and use of natural resources; environmental analytical procedures; tools and equipment; environmental policies and regulations; and environmental service systems; and

4.03(1)(a)(vi) food products and processing to include, but not be limited to: food safety, sanitation and practices; food nutrition; biology, microbiology and chemistry; food processes, storage, distribution and consumption; and food industry scope and development.

4.03(1)(b) The agriculture, food and renewable natural resources educator is knowledgeable about and able to:

4.03(1)(b)(i) ensure that students' work reflects industry standards and that students remain aware of current issues in the field;

4.03(1)(b)(ii) maintain an active advisory committee(s) composed of local business/industry representatives to assure that implementation of the curriculum accurately reflects current industry conditions and standards, and to serve as a resource for the placement of students;

4.03(1)(b)(iii) acquire and allocate supplementary fiscal and human resources, as needed, from and within the school, community and industry;

4.03(1)(b)(iv) provide experiences in simulated or real workplace environments that can provide students with appropriate and applicable firsthand experience to enable them to make career decisions based on a knowledgeable perspective;

4.03(1)(b)(v) provide students with a wide variety of opportunities to gain experience with and be able to exercise initiative in applying the skills and abilities of organizational management and leadership, public speaking and parliamentary procedure, and to earn awards and recognition through participation in student vocational and community service organizations;

4.03(1)(b)(vi) provide students with the ability to evaluate, select, adapt and apply technology as needed;

4.03(1)(b)(vii) incorporate and reinforce practical applications of core content knowledge, skills and abilities in simulated or real-world situations and by coordinating instruction with other educational staff;

4.03(1)(b)(viii) present and discuss controversial issues related to agriculture and renewable resources in the instructional setting with clarity and without bias; and

4.03(1)(b)(ix) maintain a safe, well-equipped and well-maintained learning environment and instruct students in the safe and appropriate use, care and maintenance of tools, equipment and applicable substances and materials.

4.03(2) The agriculture, food and renewable resources educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

4.4 **Visual Arts (Grades K-12)**

To be endorsed in visual arts, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in the content of art; and have demonstrated the competencies listed below:

4.04(1) The visual arts educator is knowledgeable about and able to instruct students in:

4.04(1)(a) determining and interpreting meaning in works of art.

4.04(1)(b) creating personal meaning in art.

4.04(1)(c) identifying the variety of viewpoints and philosophies behind works of art.

4.04(2) The visual arts educator is able to effectively inform students about the terminology and facets of art inherent in their own and other works of art including, but not limited to:

4.04(2)(a) the vocabulary and critical language of arts discourse around relevant art processes.

4.04(2)(b) the expressive features and characteristics of art.

4.04(2)(c) the ability to create multiple solutions to visual arts problems.

4.04(3) The visual arts educator is able to effectively instruct students regarding:

4.04(3)(a) the preparation, research, safety, interrelationships, processes and materials applicable to areas of specialization in art including, but not limited to:

4.04(3)(a)(i) drawing, painting, sculpture, photography, printmaking, fibers, ceramics, jewelry, crafts and media arts; and

4.04(3)(a)(ii) appropriate hands-on art experiences taught in a curriculum designed around the state standards and focused on developing cognitive and manipulative skills.

4.04(4) The visual arts educator is able to teach students about the history of art including that in contemporary and past cultures, with an emphasis on:

4.04(4)(a) the contributions of the arts to the development of civilization and culture.

4.04(4)(b) the relationship of the arts to the culture/society in which they originated.

4.04(4)(c) the influence of the arts on subsequent and current culture(s).

4.04(4)(d) how the arts are an academic discipline that can relate, connect and transfer to a multitude of life experiences, subjects and disciplines such as math; science; reading, writing and communicating; and social studies.

4.04(5) The visual arts educator is able to instruct students on the objective and subjective evaluation and critique of art, and how to:

4.04(5)(a) formulate and articulate judgments about works of art based on objective and subjective rationale.

4.04(5)(b) engage in knowledgeable discourse about aesthetics, including the purpose and value of art to the individual and society, from a variety of philosophical stances.

4.04(6) The visual arts educator shall provide students with motivation and encouragement to pursue appropriate forms of self-expression in the visual and other arts.

4.04(7) The visual arts educator shall promote more advanced instruction where appropriate.

4.04(8) The visual arts educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

4.5 **Business and Marketing (Grades 7-12)**

To be endorsed in business and marketing an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved preparation program in business/marketing; and have demonstrated the competencies listed below:

4.05(1) The business/marketing educator must have extensive preparation in business and marketing and be knowledgeable about and able to effectively instruct students in the following content areas:

4.05(1)(a) economics, labor market conditions and micro- and macro-economic factors of a domestic and global economy.

4.05(1)(b) technology and its appropriate

applications. 4.05(1)(c) information management.

4.05(1)(d) accounting and finance including the basic functions of auditing, banking, investments, taxation, insurance and risk taking.

4.05(1)(e) personnel policies and human resource management including hiring, staff development, compensation and employee relations.

4.05(1)(f) business communications including the use of technology, written communication and presentation skills.

4.05(1)(g) business law, sales contracts, consumer law, employment (including personnel policies and practices), business organization and related matters.

4.05(1)(h) legislation as it affects business and/or marketing fields and issues.

4.05(1)(i) business and marketing ethics.

4.05(1)(j) new and traditional business and/or marketing options, as related to career skills and abilities and career development.

4.05(1)(k) marketing principles and practices of buyer analysis including, but not limited to, development and distribution of products and services.

4.05(2) The business/marketing educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

4.6 **(Rule Number Reserved.)**

4.7 **Drama Theatre Arts (Grades K-12)**

To be endorsed in drama theatre arts, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in drama theatre arts; be knowledgeable about the Colorado Academic Standards in drama and theatre arts and have demonstrated the competencies specified below:

4.07(1) The drama theatre arts educator is knowledgeable about the content and creative processes of drama theatre arts and is able to instruct students about:

4.07(1)(a) historical and cultural context including, but not limited to, global theatrical styles, techniques and traditions over time and acknowledging drama theatre arts in society as creative, expressive, communicable and social.

4.07(1)(b) a variety of approaches to critically analyze, observe and critique a variety of styles, genres, aesthetics and technical design, and uses of drama and theatre arts.

4.07(1)(c) skillful use of drama theatre arts literacy in students, demonstrating ways to read, write and communicate using the language of drama theatre arts.

4.07(1)(d) informed demonstration and identification of a variety of techniques and styles of drama theatre arts with confidence, expression, accuracy and intent.

4.07(1)(e) approaches to design, write, problem-solve and innovate to find their own unique dramatic voice.

4.07(2) The drama theatre arts educator is able to instruct, effectively demonstrate and provide experiences for students in various areas of drama theatre arts pedagogical theory and practice including, but not limited to:

4.07(2)(a) determining and interpreting meaning in dramatic works.

4.07(2)(b) methods of teaching drama theatre arts to students, as age and grade appropriate, and to other educators, as related but not limited to direction and selection of dramatic or theatrical subject matter; communication of ideas through drama and/or theatre; distinguishing theatrical forms and styles; creation of a variety of dramatic and/or theatrical works, employing skills related to dramatic and/or theatrical performances; evaluation of dramatic and/or theatrical works; and relating drama theatre arts to diverse cultures.

4.07(2)(c) knowledge and method of how drama theatre arts relates, informs, connects and transfers to other subjects and disciplines.

4.07(2)(d) knowledge and the ability to envision and implement the creative cyclical process, including critically responding to dramatic and/or theatrical works, the ability to create dramatic and/or theatrical works; and the ability to perform in a variety of dramatic and/or theatrical works.

4.07(3) The drama theatre arts educator shall facilitate students' learning in order to develop critical-thinking and reasoning skills, information literacy, collaboration, self-direction and invention skills for lifelong learning about drama theatre arts, including the personal pursuit of further experience in drama theatre arts.

4.07(4) The drama theatre arts educator shall self-assess and act upon feedback regarding the effectiveness of instruction, based on the achievement of students, and pursue continuous

professional development through appropriate activities and coursework and through participation in relevant professional organizations.

4.8 Computer Science (Grades K-12)

To be endorsed in computer science, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program, including prescribed field experience and student teaching requirements; have completed an approved program in computer science with a concentration in one or more of the content areas outlined in section 4.08(3) of these rules; and have demonstrated the competencies below:

4.08(1) The computer science teacher is knowledgeable about and able to demonstrate:

4.08(1)(a) computational thinking and concepts of programming, including:

4.08(1)(a)(i) problem-solving skills, variables and control structures, abstraction and algorithms;

4.08(1)(a)(ii) code comments, pseudocode, flowcharts and other documentation; and

4.08(1)(a)(iii) testing and debugging;

4.08(1)(b) hardware and software systems, including:

4.08(1)(b)(i) inputs and outputs;

4.08(1)(b)(ii) storage and the process of the transformation of data;

4.08(1)(b)(iii) specific functions and use of hardware; and 4.08(1)(b)

(iv) troubleshooting problems;

4.08(1)(c) internet and network systems, including:

4.08(1)(c)(i) the internet's role as facilitator of the transfer of information;

4.08(1)(c)(ii) a network as a series of interconnected devices and the internet as a series of interconnected networks; and

4.08(1)(c)(iii) basic internet safety;

4.08(1)(d) how to collect, store, transform, analyze, evaluate and secure data; and

4.08(1)(e) the impacts of computing, including:

4.08(1)(e)(i) the interaction between human and computing systems;

4.08(1)(e)(ii) the history of computer science;

4.08(1)(e)(iii) equity and access considerations;

4.08(1)(e)(iv) laws and ethics associated with the field of computer science and the ramifications of the misuse of technology; and

4.08(1)(e)(v) tradeoffs between usability and security in hardware, networks and the internet.

4.08(2) The computer science educator is able to:

4.08(2)(a) create and foster an engaging environment in which all students develop the requisite computer science skills to participate more fully in a technologically based collaborative society;

4.08(2)(b) analyze and evaluate computer science curricula to ensure age- and grade-appropriate content;

4.08(2)(c) effectively integrate technology into instructional and assessment strategies, as appropriate to computer science education and the learner;

4.08(2)(d) perform laboratory-based, hands-on activities, including unplugged activities, block-based programming and third-generation programming language, that demonstrate grade-appropriate programming concepts and proficiency; and

4.08(2)(e) implement instructional practices and grade-appropriate applications on the interrelationships between the field of computer science and disparate content areas to:

4.08(2)(e)(i) make concrete and abstract representations; and

4.08(2)(e)(ii) connect computer science with real-world situations.

4.08(3) The computer science educator is knowledgeable and able to effectively instruct students about:

4.08(3)(a) artificial intelligence;

4.08(3)(b) computational

sciences; 4.08(3)(c) computer

programming; 4.08(3)(d)

cybersecurity; 4.08(3)(e) data

science;

4.08(3)(f) hardware and network systems;

4.08(3)(g) machine learning; and 4.08(3)

(h) robotics.

4.08(4) The computer science educator is knowledgeable about the specific shifts in general instruction practices required for computer science education and is able to help students:

4.08(4)(a) develop resilience and perseverance with regard to computer science and computational learning experiences;

4.08(4)(b) attain a level of comfort with ambiguity and open-ended problems;

4.08(4)(c) see failure as an opportunity to learn and innovate;

4.08(4)(d) understand that computational thinking is a fundamental human ability and does not require a computer, and how that understanding can leverage the power of computers to solve a problem;

4.08(4)(e) recognize that not all problems can be solved computationally; and 4.08(4)

(f) understand the role and importance of cybersecurity.

4.08(5) The computer science educator shall self-assess and act upon feedback regarding the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations to keep abreast of the ever-changing developments in technology.

4.9 **English Language Arts (Grades 7-12)**

To be endorsed in English language arts, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in English language arts; be knowledgeable about the Colorado Academic Standards in reading, writing and communicating; and have demonstrated the competencies specified below:

4.09(1) The English language arts educator is knowledgeable about the content of the English language arts and is able to develop English language arts skills in students based on an applicable understanding of the history and structure of the English language including, but not limited to, the impact of literary and psycholinguistic, sociolinguistic, cultural, familial and other relevant factors, and is able to:

4.09(1)(a) articulate to students an understanding of the relationships between the English language arts and their applications including, but not limited to, reading, writing, speaking, listening and viewing.

4.09(1)(b) select, adapt and create resources, instructional materials and coursework which provide students at all academic levels with:

4.09(1)(b)(i) multiple and varied ways of reinforcing and adding to English language skills development;

4.09(1)(b)(ii) opportunities to gain an understanding and appreciation of the history, structure and evolving nature of the English language;

4.09(1)(b)(iii) the ability to use appropriate variations in language depending on purpose and audience; and

4.09(1)(b)(iv) the ability to use standard English language (e.g., usage, grammar, spelling and syntax) when communicating with and understanding others in a variety of formal and informal situations.

4.09(2) The English language arts educator is knowledgeable about literature written for adolescents and adults and is able to strategically and with intention present to students an age-appropriate selection of a wide and balanced variety of literary works, authors and genres including, but not limited to:

4.09(2)(a) traditional and contemporary literature, including young adult literature, representing a range of cultures and viewpoints from the United States and other countries.

4.09(2)(b) works of literary theory and literary criticism.

4.09(3) The English language arts educator is knowledgeable about appropriate, varied and high-quality literature which can demonstrate to students that literature is central to the humanities and provides a shared reference point from which questions of values, attitudes and beliefs can be explored, and is able to present opportunities for students to:

4.09(3)(a) learn to enjoy and appreciate literature.

4.09(3)(b) gain a critical understanding of a wide variety of literary types, styles and themes – both fiction and non-fiction.

4.09(3)(c) explore, analyze, interpret and evaluate literature.

4.09(3)(d) demonstrate their comprehension of texts in a variety of forms of literature and writings.

4.09(3)(e) use a range of written and oral, formal and informal means of responding to literature.

4.09(3)(f) gain an appreciation of literature that reflects the breadth and diversity of the human experience which serves as a mirror of their own experiences as well as a window into the experiences and perspectives of others.

4.09(4) The English language arts educator is knowledgeable about developing students' abilities to read strategically and is able to instruct them about skills related, but not limited to:

4.09(4)(a) analyzing, identifying and clarifying the meaning of texts.

4.09(4)(b) comprehending, interpreting and evaluating texts.

4.09(4)(c) choosing reading materials with increasing sophistication and complexity.

4.09(4)(d) understanding the synergistic relationship between reading and writing.

4.09(5) The English language arts educator is knowledgeable about a wide range of readings, from fiction and non-fiction print literature to non-print texts; classical literary genres to those in popular culture; and traditional to contemporary works, and is able to teach students the skills and abilities to:

4.09(5)(a) make sound choices for individual reading.

4.09(5)(b) read independently for pleasure, learning and research.

4.09(5)(c) develop individual strategies for reading and comprehending texts.

4.09(5)(e) ask strategic questions, predict, infer, paraphrase and summarize what is read.

4.09(5)(f) use a range of strategies to read with a critical eye to discern the craft of the written piece, rhetorical strategies, authorial intent and literary technique.

4.09(5)(g) compare the development of themes, concepts and authors’ writing styles by analyzing a variety of literary works.

4.09(6) The English language arts educator is knowledgeable about written communication and able to develop skills and abilities including, but not limited to:

4.09(6)(a) effective composition for different purposes and audiences, in a variety of ways and through a variety of genres.

4.09(6)(b) effective writing processes (e.g., planning, drafting, revising, proofreading, editing and publishing).

4.09(6)(c) effective use of the rules of written language.

4.09(6)(d) appropriate and effective thinking skills (e.g., problem-solving, analysis, synthesis, evaluation, etc.) to craft written work.

4.09(7) The English language arts educator is knowledgeable about oral communication and is able to develop appropriate student usage thereof including, but not limited to:

4.09(7)(a) employing communication strategies for different purposes and audiences in a variety of formats.

4.09(7)(b) utilizing appropriate oral communication processes (e.g., research, organization, presentation and incorporation of feedback).

4.09(7)(c) applying elements of effective communication (e.g., clarity of thought and speech, appropriateness of language, effective use of voice and articulation, and listening skills).

4.09(7)(d) employing listening and speaking as complementary processes.

4.09(8) The English language arts educator is knowledgeable about instructional strategies and is able to instruct so that students develop an appropriate vocabulary consisting of academic language as well as real-world language, and so that students are able to use written and oral language for a variety of communication purposes, by providing them with opportunities to:

4.09(8)(a) practice and gain proficiency in the art of written and oral communication for a variety of purposes and audiences.

4.09(8)(b) reinforce writing and speaking skills to underscore their importance in learning and communicating.

4.09(8)(c) experience thoughtful guided discourse that allows the practice of a variety of communication strategies.

4.09(8)(d) be evaluated on oral presentations and written work based upon a prearranged, clearly defined set of criteria that provides fair, consistent and constructive feedback for improvement.

4.09(9) The English language arts educator is knowledgeable about visual communication and information processes and is able to instruct students about:

4.09(9)(a) active and constructive viewing and the visual representation of ideas to assure clear understanding of what is intended.

4.09(9)(b) critically evaluating information, media and technology.

4.09(9)(c) utilizing technological resources for the access, selection and application of relevant information.

4.09(9)(d) identifying the influence of mode and style on representation of content.

4.09(9)(e) identifying relevant research for various purposes and materials.

4.09(10) The English language arts educator is knowledgeable about technology and media and is able to incorporate them into classroom use and instruction so that students become familiar with visual communication and information processes and are able to:

4.09(10)(a) acquire knowledge through the use of a variety of strategies, resources, processes and technologies.

4.09(10)(b) judge the quality, usefulness and appropriateness of media and technology presentations.

4.09(10)(c) use multi-media technology to communicate their own ideas in a variety of

ways. 4.09(10)(d) identify visual and electronic texts as significant components of the

English
language arts and be able to select, analyze and evaluate them based on need or usefulness.

4.09(11) The English language arts educator is knowledgeable about student assessments and is able to:

4.09(11)(a) develop a variety of ways students may demonstrate mastery appropriate to the English language arts classroom.

4.09(11)(b) articulate the relationship between standards, assessments, curricula and classroom instructional strategies.

4.09(11)(c) analyze and incorporate assessment data:

4.09(11)(c)(i) into the planning for individual and group instruction; and 4.09(11)

(c)(ii) into the diagnosis of individual student and group needs to increase and/or enhance achievement including, but not limited to, remediation or acceleration.

4.09(11)(d) incorporate a range of clearly identified, useful, appropriate, fair and equitable assessment methods to provide students:

4.09(11)(d)(i) feedback, guidance and instruction to increase their proficiency in reading, writing, speaking and listening;

4.09(11)(d)(ii) multiple opportunities to create products which demonstrate competence in communication through a variety of means including, but not limited to, audio/visual, written and oral presentation; and

4.09(11)(d)(iii) instruction based on assessments of students' needs and on approved standards for English language arts.

4.09(12) The English language arts educator is knowledgeable about literacy and is able to:

4.09(12)(a) provide students with extensive opportunities to acquire and use language and to evaluate literature and texts through reading, writing, speaking, listening and viewing.

4.09(12)(b) demonstrate and promote a commitment to the development of literacy and its applications.

4.09(12)(c) assist students whose first language is one other than English in developing fluency and competence in English language arts.

4.09(12)(d) develop materials and activities that promote student understanding of the synergistic interrelationship between all of the English language arts as defined in 4.09(1)(a).

4.09(12)(e) assist students in identifying and defining questions related to literature and other texts.

4.09(12)(f) effectively model to students the mastery of English oral and written language.

4.09(12)(g) select, adapt and create resources based on an assessment of student academic needs and relevant to required curricula, age grade-level expectations and levels of English-language proficiency.

4.09(12)(h) refine instruction and instructional materials based on student progress.

4.09(12)(i) create an inclusive, challenging, engaging classroom environment in which individual ideas are encouraged, acknowledged, respected and valued.

4.09(12)(j) incorporate student content standards into ongoing lesson

plans.

4.09(12)(k) use assessment results to evaluate and improve teaching effectiveness and to plan for professional growth.

4.09(13) The English language arts educator is able to effectively communicate to students, parents, staff and other interested audiences about curriculum, assessment, class requirements, methods of instructional delivery and high standards and expectations for all students.

4.09(14) The English language arts educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

4.10 **World Languages (Grades K-12)**

To be endorsed in a world language, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program for the preparation of world language teachers; be knowledgeable about the Colorado Academic Standards for world languages; and have demonstrated the competencies specified below:

4.10(1) Language proficiency: A competent world languages teacher is proficient in the language(s) taught, according to the proficiency guidelines outlined by the American Council of the Teaching of Foreign Languages; is able to communicate effectively in interpersonal, interpretive and presentational contexts at a minimum proficiency level, equivalent to the advanced low level defined by the council’s proficiency guidelines; and is able to:

4.10(1)(a) speak in the interpersonal mode of communication (except classical languages such as Greek and Latin, as there is no requirement for them to be spoken in interpersonal mode).

4.10(1)(b) interpret oral, printed and video texts and visual images by demonstrating both literal and figurative or symbolic comprehension.

4.10(1)(c) present oral and written information to audiences of listeners or readers.

4.10(2) Cultures, linguistics, literatures and concepts from other disciplines: A competent world languages teacher demonstrates understanding of the multiple content areas that comprise the field of world language learning, recognizes the changing nature of language and is able to:

4.10(2)(a) demonstrate understanding of the interrelatedness of perspectives, products and practices in the target cultures.

4.10(2)(b) demonstrate target cultural understandings and compare cultures through perspectives, products and practices of those cultures.

4.10(2)(c) identify the linguistic elements of the target language system needed to communicate in a variety of settings.

4.10(2)(d) demonstrate an understanding of linguistics and the changing nature of language, and compare language systems.

4.10(2)(e) identify distinctive viewpoints in the literary texts, films, art works and documents from a range of disciplines available only through the target language.

4.10(2)(f) demonstrate an understanding of texts on literary and cultural themes as well as interdisciplinary topics.

4.10(3) Language acquisition: A competent world languages teacher understands second language acquisition theories and their applications to teaching methodologies, and is able to:

4.10(3)(a) apply second language acquisition theories which can be used to help students develop proficiency, increase knowledge and strengthen cognitive skills.

4.10(3)(b) articulate curriculum and instruction to ensure a sequence of age-appropriate learning experiences, progressing from a simple to a more advanced use of the language.

4.10(3)(c) understand the proficiency range levels as defined by the American Council on the Teaching of Foreign Languages.

4.10(4) Diversity of learners: A competent world languages teacher understands how learners differ in their knowledge, experiences, abilities and approaches to language learning; creates interactive, engaging and supportive learning environments that encourage student self-motivation and promote their language learning and understanding; and is able to:

4.10(4)(a) demonstrate an understanding of child and adolescent development to create a supportive learning environment for each student.

4.10(4)(b) create an inclusive, caring, challenging and stimulating differentiated classroom environment in which meaningful communication in the target language occurs and in which all students learn through active participation.

4.10(4)(c) promote a learning environment that encourages lifelong learning and that goes beyond the classroom to include families and communities.

4.10(4)(d) provide learning experiences that reflect learner diversity.

4.10(4)(e) use a variety of language-appropriate resources, available technologies and current state world language standards which meet the instructional and linguistic needs of all students and foster critical and creative thinking.

4.10(5) Colorado Academic Standards in world languages in planning and instruction: A competent world languages teacher understands and uses the current Colorado Academic Standards in world languages to make instructional decisions and integrate them into curricular planning, and is able to:

4.10(5)(a) demonstrate an understanding of the Colorado Academic Standards in world languages and use them as a basis for instructional planning.

4.10(5)(b) align K-12 world language curriculum and instruction with the Colorado Academic Standards in world languages and local school district policies.

4.10(5)(c) integrate the Colorado Academic Standards in world languages into their classroom practice.

4.10(5)(d) use the Colorado Academic Standards in world languages to select and integrate texts including authentic texts, use technology, and adapt and create instructional materials for use in communication.

4.10(6) Assessment of languages and cultures and impact on student learning: A competent world languages teacher designs ongoing assessments using a variety of assessment models to show evidence of K-12 students' ability to communicate in the instructed language in interpersonal, interpretive and presentational modes; expresses understanding of cultural and literary products, practices and perspectives of the instructed language; and is able to:

4.10(6)(a) design ongoing, authentic performance assessments using a variety of assessment models for all learners.

4.10(6)(b) reflect on and analyze the results of student assessments and adjust instruction accordingly.

4.10(6)(c) use data to inform and strengthen instruction.

4.10(6)(d) interpret the results of student performances to all stakeholders in the community.

4.10(6)(e) build student responsibility for his/her own learning.

4.10(7) Professional learning and reflection: A competent teacher of world languages engages in ongoing professional learning opportunities to strengthen personal linguistic, cultural and pedagogical competence and promote reflection on practice, and in so doing is able to:

4.10(7)(a) demonstrate an understanding of the value of professional learning and reflection on instructional practice and professional growth.

4.10(7)(b) continually evaluate the effects of personal choices and their impact on student learning.

4.10(7)(c) reflectively evaluate the effect and impact of professional learning choices on instructional practice and student achievement.

4.10(7)(d) demonstrate an understanding of their professional responsibility to keep current with events relevant to the cultures of the target language.

4.10(7)(e) demonstrate an understanding of professional growth opportunities such as membership in professional organizations, accessing professional journals, attending conferences and study and/or travel abroad.

4.10(8) Advocacy: A competent teacher of world languages articulates the role and value of languages and cultures to interact successfully in the global community and is able to:

4.10(8)(a) articulate the role and value of languages and cultures in preparing students to interact in the global community.

4.10(8)(b) foster relationships with school colleagues, families and agencies in the larger community to support students' language learning and student achievement.

4.10(9) American Sign Language (ASL). To be endorsed in American Sign Language, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program; have completed an approved program for the preparation of American Sign Language teachers including prescribe field experience and student teaching requirements; and have demonstrated the competencies for American Sign Language.

4.10(10) The world language educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

4.11 **Health (Grades K-12)**

To be endorsed in health, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in health; be knowledgeable about the Colorado Academic Standards in comprehensive health and physical education and have demonstrated the competencies specified below:

4.11(1) The health educator is knowledgeable about the content of physical and mental health and is able to incorporate the following into the various aspects of health instruction and delivery, with recognition of the cultural, societal and familial sensitivity necessary to handle often controversial subject matter with students of differing personal characteristics and circumstances, backgrounds and developmental stages:

4.11(1)(a) information about ecology and its interaction with society as related, but not limited to, studies in such fields as the biological and behavioral sciences.

4.11(1)(b) bases for students to make informed and healthy life choices about current and continuing health issues of individuals in a society including, but not limited to: physical, emotional and social health; alcohol, tobacco and other controlled substances; prescription medication; wellness, nutrition and exercise; disease prevention and control; and communicable and non-communicable diseases.

4.11(1)(c) information on individual rights, options and responsibilities with regard to health care.

4.11(1)(d) information about physical and psychological human growth and development, as well as the status of and matters related to individual, self-monitored and family health, as relevant and appropriate to a health curriculum and program and the age and/or grade level of students.

4.11(2) The health educator is knowledgeable about evaluation and identification of criteria for evaluation and is able to articulate effectively to students regarding the use of valid and reliable health information and resources including, but not limited to:

4.11(2)(a) consumer health; public and school health care programs; informed selection of health products and services; consumer protection agencies and other related resources; health fallacies and superstitions; health insurance and plans; health care systems; health care-related technology; and accurate information-technology and other informational sources.

4.11(2)(b) identification of emerging health problems and issues in general, and specifics related to urban, suburban and rural areas.

4.11(3) The health educator is knowledgeable about and is able to effectively articulate to students the dynamics of accidents and how to create conditions conducive to safe living.

4.11(4) The health educator is knowledgeable about and able to effectively promote health and health care careers to students.

4.11(5) The health educator must be able to effectively integrate into instruction the following skills: collaboration, critical thinking and reasoning, information literacy, self-direction and invention.

4.11(6) The health educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

4.12 Family and Consumer Sciences (Grades 7-12)

To be endorsed in family and consumer sciences, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements, which must include but not be limited to general career/technical knowledge about the world of work and the skill and processes that cut across industries, as well as industry-specific knowledge and demonstrations of proficiency in the use of a variety of technological applications in a lab and/or natural setting; have completed an approved program in family and consumer sciences; and have demonstrated the competencies listed below:

4.12(1) The family and consumer sciences educator must have extensive preparation in family and consumer sciences and be knowledgeable about and able to effectively instruct students regarding the following content areas:

4.12(1)(a) human development and parenting including, but not limited to:

4.12(1)(a)(i) theories, principles and sequences of human development – prenatal through late adulthood – and family structures and functions, as they influence, support and/or inhibit human development;

4.12(1)(a)(ii) the family as the basis of a strong society including, but not limited to, the historical and cultural elements of family structures; what is essential for a healthy marriage (i.e., commitment and determination to build a long-lasting relationship); role expectations; nuclear and extended family interactions; and universal core values (e.g., caring, responsibility, respect, trust, relationships, et.al.);

4.12(1)(a)(iii) cultural and individual community differences; social issues; ethical conduct; and legal rights, obligations and responsibilities;

4.12(1)(a)(iv) selection of a spouse and development of a parenting partnership;

4.12(1)(a)(v) developmentally appropriate parenting skills including, but not limited to nurturing, intellectual and creative stimulation; health, nutrition and exercise; safety and constructive discipline of children; and

4.12(1)(a)(vi) strategies for balancing work and family life including, but not limited to time and financial management and criteria for evaluating family support services (e.g., child and elder care).

4.12(1)(b) nutrition and foods including, but not limited to:

4.12(1)(b)(i) food chemistry, preparation, packaging, food allergies, the global market and biotechnology;

4.12(1)(b)(ii) dietary elements and determination of adequacy; sources and functions of nutrients; criteria for making appropriate nutritional, fitness/exercise and wellness choices -- with recognition given to cultural considerations and style of life – and health and nutrition-related issues, conditions and diseases;

4.12(1)(b)(iii) food safety, personal hygiene and safety practices/standards according to industry standards, including official and/or accepted industry hygiene standards; and

4.12(1)(b)(iv) use of cooking tools and equipment; methods and terminology; use and conversion of recipes; incorporation of research, preparation, product and general technology; evaluation, use and preparation of convenience foods; and the basic skills of food preparation, balance, portion control and presentation.

4.12(1)(c) resource management including, but not limited to:

4.12(1)(c)(i) personal finance management principles and skills of the various life stages, such as budgeting, banking, saving and investment, credit (its use and misuse), insurance, taxes, estate planning and consideration of the effect of legislation, public policy and economic conditions on personal financial choices;

4.12(1)(c)(ii) consumer market skills such as rights and responsibilities, laws and public policy, comparative shopping, evaluation of advertising claims and consumer complaints, resources and options;

4.12(1)(c)(iii) consumer resource management skills such as values and goals, community resources, sound criteria for decision-making and information, technology and human resources;

4.12(1)(c)(iv) the active role consumers can play in business and public decision-making and policy-formation with regard to housing, clothing, transportation, energy conservation, environmental issues, etc.;

4.12(1)(c)(v) the principles and elements of design as applied to clothing and the housing environment and the consideration and selection of clothing and housing, as based on historical, psychological, physical, social and cultural needs in accordance with personal preference; and

4.12(1)(c)(vi) selection, use, care and disposal of fibers, fabrics and finishes as specifically applied to clothing and to the housing environment.

4.12(1)(d) interpersonal relationships including, but not limited to:

4.12(1)(d)(i) individual self-concept, wellness and responsible decision-making related to personal choices throughout various life stages in areas such as substance abuse, sexuality, violence and conflict resolution;

4.12(1)(d)(ii) personal goal-setting and decision-making; work ethic; communication, leadership, teamwork and negotiations skills; and coping strategies to handle and manage peer pressure, change and crisis situations; and

4.12(1)(d)(iii) cultural and style of life choices, social issues, and legal and ethical rights and responsibilities in a variety of life-affecting situations.

4.12(2) The family and consumer sciences educator is able to:

4.12(2)(a) use a variety of applicable assessment strategies to determine the learning needs, comprehension and levels of experience of participating students.

4.12(2)(b) design programs and activities for students that incorporate core and other academic skills and abilities with career/technical content to provide students relevant and current information about the key issues, concepts, competencies and skills necessary for personal application by the student and/or for work/employment in a specific industry.

4.12(2)(c) instruct students about employment basics and employability skills, family and consumer studies career pathways and qualities necessary to function in the work place.

4.12(2)(d) inform students about careers in family and consumer sciences professions and related fields, such as service-oriented industries, and about the role professional organizations play in the field.

4.12(2)(e) evaluate, purchase and maintain an inventory of appropriate equipment, technology, materials and products.

4.12(2)(f) demonstrate for and instruct students about necessary safety practices and procedures.

4.12(2)(g) demonstrate for and instruct students in the proper identification, storage, handling, use and disposal of food.

4.12(2)(h) articulate to students a well-founded philosophy regarding career and technical education to keep students aware of current issues in the field and present relevant and appropriate issues with clarity and without bias.

4.12(2)(i) arrange for and supervise relevant and appropriate experiences and opportunities in simulated or real-world environments to help students base their decision-making on first-hand knowledge and sound criteria, by providing:

4.12(2)(i)(i) coordination for cooperative/internship programs and off-site experiences for students by maintaining business/industry/inter-and intra-school partnerships and/or other community and school district contacts;

4.12(2)(i)(ii) students with a wide variety of opportunities to gain experience with and be able to exercise initiative in applying the skills and abilities required in family and consumer sciences, and to earn awards and recognition, through participation in student vocational and/or community service organizations; and

4.12(2)(i)(iii) supervision of students during community service, travel, conferences and related instructional family and consumer sciences activities.

4.12(3) The family and consumer sciences educator is able to demonstrate the value of family and consumer sciences professions by seeking professional development and by remaining current in the field and participating in appropriate professional organizations.

4.12(4) The family and consumer sciences educator is able to develop additional resources, as appropriate and necessary, from and within the community and the school itself.

4.12(5) The family and consumer sciences educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

4.13 Technology Education (Grades 7-12)

To be endorsed in technology education, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in technology education; and have demonstrated the competencies specified below:

4.13(1) Knowledge: The beginning technology educator must have:

4.13(1)(a) a basic understanding of the history of technology education and the historical development and trends of technology and technology education.

4.13(1)(b) extensive preparation in technology systems and processes and demonstrate applied knowledge with respect to the following areas:

4.13(1)(b)(i) communication/information including verbal, written, graphic and electronic components;

4.13(1)(b)(ii) transportation including power, energy and mechanical systems; and

4.13(1)(b)(iii) production including construction, manufacturing, authoring, design and prototyping.

4.13(1)(c) additional preparation and demonstrated applied knowledge in the natural physical sciences, including environmental science, as used in technological systems and processes.

4.13(1)(d) additional preparation and demonstrated applied knowledge in mathematics as used in technological systems and processes.

4.13(1)(e) extensive preparation in the principles of contextual learning methodology.

4.13(1)(f) a knowledge and understanding of workforce preparation documents and employability skills and standards.

4.13(1)(g) a basic understanding of the principles of high-productivity organizations from business and industry.

4.13(1)(h) a basic understanding of the economic, political and legal consequences inherent within the application of technological systems and processes to our society.

4.13(1)(i) extensive preparation in application of the various tools accessible by students to facilitate improved self-learning.

4.13(1)(j) a basic understanding of the methodologies of research into projected developments and applications of emerging technologies.

4.13(1)(k) an understanding of good questioning skills and techniques to be used with students and peers to collect, organize and interpret information.

4.13(1)(l) the knowledge and understanding to organize and manage a student organization.

4.13(2) Performance: The beginning technology educator is able to:

4.13(2)(a) manage all student work areas in a safe and prudent manner and guide students in the safe use of tools, systems and processes in school-based and work-based learning sites.

4.13(2)(b) guide students to become knowledgeable in:

4.13(2)(b)(i) the application of academic concepts from math, science and communications as they apply to technological systems and processes;

4.13(2)(b)(ii) the allocation of resources such as time, money, materials, facilities and human resources;

4.13(2)(b)(iii) the acquisition, evaluation, organization, interpretation and communication of information related to technological systems and processes:

4.13(2)(b)(iv) the selection and application of technology appropriate to tasks; 4.13(2)

(b)(v) the maintenance of systems of information, technology and records; and

4.13(2)(b)(vi) the application of relevant conflict resolution techniques as applied to the workplace.

4.13(2)(c) work as a team member in conjunction with academic and other occupational educators to develop systems that support learning across curricular disciplines.

4.13(2)(d) demonstrate competency in the management of equipment, materials, supplies and people.

4.13(2)(e) demonstrate good questioning skills and techniques to be used with students and peers to collect, organize and interpret information.

4.13(2)(f) employ interpersonal and organizational skills to develop an ongoing working relationship with community business and industry partners.

4.13(2)(g) communicate the possible career pathways for students entering an occupation in the communications, transportation, architecture, construction, manufacturing and environmental areas.

4.13(2)(h) guide students in the use of communication technologies to research occupational clusters occupational opportunities.

4.13(2)(i) guide students to develop problem-solving techniques or adopt problem-solving techniques from other sources.

4.13(2)(j) demonstrate the proper use of tools, systems and processes appropriate to the course content with respect to the acceptable standards of business and industry.

4.13(2)(k) construct individual and cooperative learning experiences which integrate school- based and work-based learning for students utilizing student-centered approaches.

4.13(2)(l) reinforce the academic concepts by demonstrating their practical applications.

4.13(3) The technology educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

4.14 **Secondary Mathematics (Grades 7-12)**

To be endorsed in secondary mathematics, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program, including prescribed field experience and student teaching requirements; have completed an approved program in mathematics; be knowledgeable about the Colorado Academic Standards in mathematics in grades 7 through 12; and have demonstrated the competencies specified below:

4.14(1) Develop in students an understanding and use of: 4.14(1)

(a) number sense, properties and operations.

4.14(1)(b) patterns, functions and algebraic structures.

4.14(1)(c) measurement.

4.14(1)(d) data analysis, statistics and probability.

4.14(1)(e) functions and use of variables.

4.14(1)(f) shape, dimension and geometric relationships.

4.14(2) The mathematics educator is able to effectively demonstrate to students and instruct: 4.14(2)

(a) approaches to problem-solving that utilize mathematical content in identifying, analyzing, formulating and solving problems that occur in mathematical processes and everyday situations.

4.14(2)(b) the utilization of mathematical ideas, both verbally and in writing, using both everyday language and mathematical terminology.

4.14(2)(c) the utilization of verbal and written discourse, between teacher and students and among students, to develop and extend students' mathematical understanding.

4.14(2)(d) the construction and evaluation of mathematical conjectures and arguments to validate one's own mathematical thinking.

4.14(2)(e) independent study in mathematics.

4.14(2)(f) the use of mathematics in studying patterns and relationships.

4.14(2)(g) the interrelationships within mathematics; how to connect concrete, pictorial and abstract representations; and the connections between mathematics and other disciplines and real-world situations through the selection of appropriate applications from such fields as natural sciences, social sciences, business and engineering, and is able to:

4.14(2)(g)(i) utilize a wide variety of resource materials, including, but not limited to, manipulative materials, graphing calculators, computers and other technologies as tools in learning and for the application(s) of mathematics;

4.14(2)(g)(ii) utilize assessment data to monitor students' acquisition of mathematical skills and abilities and in the process of determining appropriate delivery of instruction based on identified student need and to select appropriate mathematical tasks to reinforce and promote students' development of mathematical concepts and skills;

4.14(2)(g)(iii) create an engaging and effective environment in which all students develop mathematically in order to participate more fully in a technologically based society;

4.14(2)(g)(iv) create an environment in which reflection, uncertainty and inquiry are incorporated in the learning of mathematical skills, abilities and concepts; and

4.14(2)(g)(v) apply appropriate knowledge of current research in the teaching and learning of mathematics and incorporate national, state and local guidelines related to mathematics instruction.

4.14(3) The mathematics educator shall consistently seek out professional development in the field of mathematics, which can provide enhanced knowledge, skills and abilities in the content area, and participate in professional organizations appropriate and relevant to the field.

4.15 **Music (Grades K-12)**

To be endorsed in music, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in music; be knowledgeable about the Colorado Academic Standards in music; and have demonstrated the competencies specified below:

4.15(1) The music educator is knowledgeable about the content and creative processes of music and is able to:

4.15(1)(a) teach the historical and cultural context of music including, but not limited to, global musical styles, techniques and traditions over time and acknowledging music in society as creative, expressive, communicable and social.

4.15(1)(b) use a variety of approaches to critically analyze, observe and critique a variety of styles, genres, aesthetics and technical aspects of music.

4.15(1)(c) develop music literacy in students, demonstrating ways to read, write and communicate using the language of music.

4.15(1)(d) provide informed demonstration and identification of a variety of techniques and styles of music with confidence, expression, accuracy and intent.

4.15(1)(e) use a variety of approaches to teach students to design, write, problem-solve and innovate to find their own unique musical voice.

4.15(2) The music educator is able to instruct about, effectively demonstrate and provide experiences for students in various areas of music pedagogical theory and practice including, but not limited to:

4.15(2)(a) determining and interpreting meaning in musical works.

4.15(2)(b) methods of teaching music to students, as age and grade appropriate, and to other educators, regarding the direction and selection of musical repertoire; communication of ideas through music; distinguishing musical forms and styles; creation of a variety of musical works; employing skills related to musical performances; evaluation of musical works and relating music to diverse cultures.

4.15(2)(c) knowledge and method of how music relates, informs, connects and transfers to other subjects and disciplines.

4.15 (2)(d) knowledge and the ability to envision and implement the creative cyclical process, including applying and demonstrating a variety of music theory skills, creating musical works; expressing music in a performance setting; and critiquing, evaluating and refining musical works.

4.15 (3) The music educator shall facilitate students' learning in order to develop critical-thinking and reasoning skills, information literacy, collaboration, self-direction and invention skills for lifelong learning about music including the personal pursuit of further experience in music.

4.15(4) The music educator shall self-assess and act upon feedback regarding the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

4.16 **Physical Education (Grades K-12)**

To be endorsed in physical education, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in physical education; be knowledgeable about the Colorado Academic Standards in comprehensive health and physical education; and have demonstrated the competencies specified below:

4.16(1) The physical education educator is knowledgeable about the content of physical education and is able to:

4.16(1)(a) articulate effectively to students, other educators and interested stakeholders the socio-cultural, philosophical and psychological foundations of physical education, including the historical development of play, games, dance and sports, and the study of human growth and development.

4.16(1)(b) effectively articulate the physical and biological science foundations of physical education including, but not limited to, such areas as human anatomy, exercise physiology, kinesiology and health.

4.16(1)(c) effectively instruct students about the fundamentals of physical movement including the patterns and types of movement, gymnastics, tumbling, games, team and individual sports, physical fitness and perceptual motor activities.

4.16(2) The physical education educator is knowledgeable about and able to demonstrate and effectively instruct students at appropriate age/grade levels about:

4.16(2)(a) four or more individual and/or dual activities including, but not limited to, wrestling, track and field, tennis, bowling, golf, badminton, archery, rodeo, gymnastics, aquatics, rhythm, dance, weight-training and fitness.

4.16(2)(b) four or more team sports and/or games including, but not limited to, baseball, softball, basketball, lacrosse, field hockey, water polo, flag and contact football, soccer, volleyball and skiing.

4.16(3) The physical education educator is knowledgeable about and able to demonstrate the organization, planning, administering, teaching and evaluating of a program of physical education including, but not limited to:

4.16(3)(a) adaptive physical education.

4.16(3)(b) first aid.

4.16(3)(c) prevention and care of athletic

injuries. 4.16(3)(d) rules and officiating.

4.16(3)(e) analyses and techniques involved with competitive sports.

4.16(4) The physical education educator provides students with motivation and encouragement to establish attitudes and behaviors and to pursue activities which will result in lifetime fitness.

4.16(5) The physical education educator is able to effectively integrate into instruction the following skills: collaboration, critical thinking and reasoning, information literacy, self-direction and invention.

4.16(6) The physical education educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

4.17 **Science (Grades 7-12)**

To be endorsed in science, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in science; be knowledgeable about the Colorado Academic Standards in science; and have demonstrated the competencies specified below:

4.17(1) The science educator is knowledgeable about the content, concepts and skills of the sciences and is able to effectively instruct students regarding physical, life and earth sciences and applicable mathematics.

4.17(2) The science educator must have completed an area or areas of concentration in, demonstrate knowledge of, and effectively instruct students about one or more areas selected from:

4.17(2)(a) physics including, but not limited to, general and experimental physics, mechanics, electricity, magnetism, quantum and atomic physics, sound, and optics.

4.17(2)(b) chemistry including, but not limited to, general chemistry, organic chemistry, inorganic chemistry, analytical chemistry and physical chemistry.

4.17(2)(c) biology including, but not limited to, general biology, environmental biology, biotechnology, genetics, evolution, human anatomy, ecology, molecular biology, and matter and energy in living systems.

4.17(2)(d) earth and space science including, but not limited to, historical and physical geology, astronomy, environmental science, meteorology, oceanography, geomorphology, stratigraphy, mineralogy and earth systems.

4.17(2)(e) general science including, but not limited to, general chemistry, physics, biology, earth and space science, environmental science and applicable mathematics.

4.17(3) The science educator is knowledgeable about and is able to:

4.17(3)(a) effectively articulate to students current issues and events affecting or affected by science; age-/grade-appropriate controversial topics from multiple science perspectives, including historical and philosophical bases; and an analytical approach to students with clarity and without bias.

4.17(3)(b) effectively demonstrate to students and instruct students on the use of a wide variety of science tools, primary and secondary source materials, print resources, laboratory and natural settings, and technological resources.

4.17(3)(c) effectively instruct students about the design of experiments; data reporting; use of appropriate and relevant technology; interpretation of results; and the steps which may be taken in the presentation of the processes involved and the results obtained.

4.17(3)(d) effectively instruct students in core scientific practices which include, but are not limited to, asking questions and defining problems; analyzing and interpreting data; engaging in argument from evidence; constructing explanations and designing solutions; developing and using models; planning and carrying out investigations; obtaining, evaluating, and communicating information; and using mathematics and computational thinking.

4.17(3)(e) effectively integrate technology into instructional and assessment strategies, as appropriate to science education and the learner.

4.17(3)(f) effectively instruct students about the interconnected nature of science as it is practiced and experienced in the real world, including the connections between and among the various science disciplines and within other disciplines.

4.17(3)(g) effectively demonstrate for and instruct students about the basic elements of the nature of science including, but not limited to, inquiry, curiosity, discovery, openness to new ideas and skepticism.

4.17(3)(h) effectively communicate to students the historical and dynamic nature of science.

4.17(3)(i) demonstrate for students the connection between an inquiry-based lesson and a larger conceptual-based module and the linkage of both to state-approved student science academic standards.

4.17(3)(j) effectively demonstrate for and instruct students in the linkage(s) between curriculum, instruction and assessment as they relate to state-approved student science academic standards.

4.17(3)(k) effectively demonstrate for and instruct students about safety considerations in science instruction and in the science classroom including, but not limited to, proper use, storage and disposal or maintenance of biological, chemical and scientific equipment and specimens.

4.173)(l) instruct and supervise students in the proper preparation and use of laboratory equipment and materials.

4.17(3)(m) evaluate laboratory settings, equipment, materials and procedures to identify and manage the resolution of potential safety hazards.

4.17(3)(n) provide solutions to equipment problems and be able to make minor adjustments in the operation of equipment.

4.17(3)(o) incorporate into planning information related to state and federal regulations, legal issues and guidelines pertaining to scientific materials and specimens.

4.17(4) The science educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

4.18 **Social Studies (Grades 7-12)**

To be endorsed in social studies, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in social studies; be knowledgeable about and able to instruct students in the Colorado Academic Standards in social studies; and have demonstrated the competencies specified below:

4.18(1) The social studies educator is knowledgeable about social studies including history, geography, political science and economics, and is able to effectively instruct students about:

4.18(1)(a) history including, but not limited to, Colorado, the United States and world history.

4.18(1)(b) geography including, but not limited to, cultural and physical geography, human geography and globalization.

4.18(1)(c) political science including, but not limited to, that of the United States and comparative state, local and other national governments.

4.18(1)(d) economics including, but not limited to, that of comparative economic theories, applications and institutions, past and present; micro-, macro-and global economics; and personal financial literacy.

4.18(1)(e) the behavioral and social sciences including, but not limited to, psychology, sociology, anthropology and concepts related and integral to the historical and current organization of culture and society.

4.18(2) The social studies educator is knowledgeable about and is able to:

4.18(2)(a) effectively demonstrate and instruct students about civil discourse in the classroom, including the utilization of oral and written communication and presentation.

4.18(2)(b) effectively analyze social and historical events from multiple perspectives for students and articulate an appropriate analytical approach with clarity and balance and without bias.

4.18(2)(c) effectively integrate discussion of and address with students grade level/age-appropriate current events and issues, including controversial issues, with clarity and balance and without bias.

4.18(2)(d) effectively instruct students about the use of primary and secondary source documents acquired through appropriate use of technology and other relevant means as part of informed research, and in the acquisition and enhancement of knowledge and skills.

4.18(2)(e) effectively teach students the skills of data analysis and interpretation.

4.18(2)(f) promote to students appropriate, relevant, positive and productive community service and experiences.

4.18(2)(g) provide students with identifiable connections between the various social science disciplines and other disciplines.

4.18(2)(h) implement informal and formal assessment tools relevant and appropriate to the social studies classroom, and apply assessment data to planning for student instruction.

4.18(2)(i) effectively demonstrate and instruct students about elements of social studies applications including, but not limited to, inquiry, an openness to new ideas, skepticism, analysis, problem-solving, decision-making and active citizenship, and provide opportunities for students to utilize these skills.

4.18(2)(j) integrate into instruction and provide opportunities for students to develop the skills of collaboration, critical-thinking and reasoning, information literacy, self-direction and invention.

4.18(3) The social studies educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

4.19 **Reserved**

4.20 **Dance (Grades K-12)**

To be endorsed in dance, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in dance; be knowledgeable about and able to instruct students in the Colorado Academic Standards in dance; and have demonstrated the competencies specified below:

4.20(1) The dance educator is knowledgeable about the art of dance and is able to:

4.20(1)(a) teach the historical and cultural context including, but not limited to, global dance styles and traditions over time, acknowledging dance in society as creative, expressive, communicable and social.

4.20(1)(b) instruct students to use criticism and analysis to reflect upon and understand new works, reconstructions and masterpieces.

4.20(1)(c) apply the skillful use of dance literacy and the use of traditional and/or non-traditional notation systems via words, symbols and/or media technology.

4.20(1)(d) implement the choreographic process as the art of making dance using form, intent, dynamics and principles of time, space and energy, structure and design.

4.20(1)(e) help students develop the skills and technique that produce competence and confidence during performance, and the ability to communicate choreographic intent.

4.20(2) The dance educator is able to instruct, effectively demonstrate and provide experiences for students in various areas of dance pedagogical theory and practice including, but not limited to:

4.20(2)(a) dance theory aligned with safe and developmentally appropriate pedagogical approaches.

4.20(2)(b) methods of teaching dance to students, as age and grade appropriate, and to other educators as related, but not limited to, the creative process; direction and selection of all performance repertoire and productions in the school setting; and performance, evaluation, choreography, and cultural and historical context.

4.20(2)(c) knowledge and method of how dance relates, informs, connects and transfers to other subjects and disciplines.

4.20(2)(d) knowledge and the ability to envision and implement the creative cyclical process, including the skills of movement, technique and performance; the ability to create, compose, and choreograph; an understanding of historical and cultural context, and the ability to reflect, connect and respond.

4.20(3) The dance educator shall facilitate students' learning in order to develop critical-thinking and reasoning skills, information literacy, collaboration, self-direction and invention skills for lifelong learning about dance including the physical benefits and personal pursuit of further experience in dance.

4.20(4) The dance educator shall self-assess and act upon feedback regarding the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

4.21 **Culturally and Linguistically Diverse Education (Grades K-12)**

To be endorsed in culturally and linguistically diverse (CLD) education, an applicant must hold an earned bachelor's degree or higher from an accepted institution of higher education; must hold a Colorado initial or professional teacher or special services license; and must have demonstrated competencies specified below by completion of a Colorado State Board of Education-approved program for the preparation of an educator of culturally and linguistically diverse student populations in accordance with 3.02(1) or by verification of 24 semester hours of specific coursework from an accepted institution of higher education as determined by the Department of Education through a transcript review in accordance with 3.02(2)(a).

4.21(1) The educator of CLD student populations must be knowledgeable about, understand and be able to use the major theories, concepts and research related to language acquisition and language development for CLD students. In support of student learning, the candidate must demonstrate understanding and ability to implement research-based knowledge about:

4.21(1)(a) linguistics that include orthography, phonology, morphology, vocabulary, syntax, semantics and pragmatics applied to English language development for culturally and linguistically diverse students.

4.21(1)(b) instructional practices that support acquisition of English language as an additional language for CLD students.

4.21(1)(c) written and oral discourse that includes intention and functions of speech, genres and organizational features and patterns.

4.21(1)(d) sociolinguistics that include cultural references, register, varieties of dialects and accents, and nonverbal communication.

4.21(2) The educator of CLD student populations must be knowledgeable about, understand and be able to apply the major theories, concepts and research related to research-based literacy development for CLD students. In support of student learning, the CLD educator must demonstrate understanding and ability to implement research-based knowledge about:

4.21(2)(a) research-based literacy instruction including the identification and use of linguistic interdependence to support development of the components of language development (listening, speaking, reading, writing and critical-thinking) in English for CLD students.

4.21(2)(b) the basic elements of research-based literacy and the ability to provide effective instruction that is systematic, explicit, comprehensive and effective in support of the English language developmental needs of CLD students.

4.21(2)(c) language and literacy development for CLD students for social and instructional purposes in the school setting, with an emphasis on communication of information, ideas and concepts necessary for academic success, particularly in language arts, mathematics, science and social studies.

4.21(2)(d) the contribution of native language to acquisition of English as an additional language.

4.21(2)(e) the distinction between language differences and learning disabilities.

4.21(3) The educator of CLD student populations must understand and implement strategies and select materials to aid English language and content learning. In support of student learning, the CLD

educator must demonstrate understanding of and the ability to implement research-based knowledge about:

4.21(3)(a) the functions of the English language to second language learners to support their development of both social and academic language skills.

4.21(3)(b) effective instructional techniques, methodologies and strategies to develop English language literacy and to meet the diverse needs of second language learners, including those students with learning disorders.

4.21(3)(c) effective instruction and instructional planning that is systemic, sequential, well-articulated and delivered in an engaging environment.

4.21(3)(d) selection and utilization of instructional materials and resources that are age-, grade level- and language proficiency-appropriate, that are aligned with the curriculum, English language proficiency standards and English language arts content standards, and that maintain and/or improve student achievement.

4.21(3)(e) maintenance and support of high academic performance standards and expectations for CLD student populations.

4.21(3)(f) providing instructional strategies that integrate the development of English language literacy and content literacy to improve student access to content curricula, particularly in language arts, mathematics, science and social studies.

4.21(4) The educator of CLD student populations must be knowledgeable about, understand and be able to apply the major theories, concepts and research related to culture, diversity and equity in order to support academic access and opportunity for CLD student populations. In support of student learning, the CLD educator must be able to demonstrate knowledge and understanding of:

4.21(4)(a) Colorado state law and federal law, history and socio-political context related to CLD student populations, education, multicultural education and bilingual education.

4.21(4)(b) the role of culture in language development and academic success.

4.21(4)(c) the relation of cultural identity and heritage language to English language learning and academic success.

4.21(4)(d) the contribution of heritage language maintenance to the development of English language literacy.

4.21(4)(e) the relationship of culture to family and community involvement in schools in order to communicate, collaborate and enhance parental involvement.

4.21(5) The educator of CLD student populations must be knowledgeable about, understand and be able to use progress monitoring in conjunction with formative and summative assessments to support student learning. In support of student learning, the candidate must demonstrate knowledge and ability to:

4.21(5)(a) assist content teachers in the interpretation of summative assessments of content knowledge, including national content assessments and Colorado-approved content assessments, for the purpose of guiding instruction and learning for CLD students.

4.21(5)(b) administer and interpret the results of summative assessments of English language proficiency, including national and Colorado-approved content assessments for the purpose of assessing English proficiency and guiding instruction.

4.21(5)(c) develop, administer and interpret the results of formative assessments and progress monitoring of English language proficiency that are appropriate for the language proficiency level of the student for the purpose of guiding instruction.

4.21(5)(d) communicate and collaborate with other educators, special services providers and student population family members to identify and assist in the implementation of a comprehensive instructional plan that responds to the socio-economic, academic and linguistic needs of CLD students.

4.21(6) The culturally and linguistically diverse education educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

4.22 **Culturally and Linguistically Diverse (CLD) Bilingual Education Specialist (Grades K-12)**

To be endorsed as a CLD bilingual education specialist, an applicant must hold an earned bachelor's degree or higher from an accepted institution of higher education; must hold a Colorado initial or professional teacher license; must have completed an approved program for the preparation of an educator of bilingual education; and must have demonstrated the competencies specified below:

4.22(1) The CLD bilingual education specialist must be knowledgeable about and able to

demonstrate: 4.22(1)(a) a high level of proficiency in the standards noted in rule

4.22(1)-(5);

4.22(1)(b) ability to implement research-based knowledge to effectively deliver literacy and content instruction in a heritage language of a current Colorado student population;

4.22(1)(c) research-based knowledge and ability to utilize students' heritage language to help them transition skills and strategies learned in the heritage language to literacy and content areas in English;

4.22(1)(d) demonstrate the research-based knowledge and ability to plan and implement lessons to help students make cross-language connections;

4.22(1)(e) a high level of biliteracy and academic language proficiency in English and in one other heritage language used by Colorado students – as determined by the Department -
- including, but not limited to, reading, writing, listening, oral communication and critical thinking;

4.22(1)(f) understanding and ability to implement research-based knowledge to discriminate between effective and ineffective bilingual programs in order to develop and deliver effective research-informed structures and programs that support bilingual development;

4.22(1)(g) proficiency and ability to teach in a non-English language; and

4.22(1)(h) understanding of research-based knowledge of the culture and history of a heritage language community of Colorado students.

4.22(2) The culturally and linguistically diverse education bilingual specialist shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

4.23 **Middle School Mathematics (Grades 6-8)**

To be endorsed in middle school mathematics, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program, including prescribed field experience and student teaching requirements; have completed an approved program in middle school mathematics; be knowledgeable about the Colorado Academic Standards in mathematics grades 6 through 8; and have demonstrated the competencies specified below:

4.23(1) Develop in students an understanding and use of:

4.23(1)(a) number and quantity;

4.23(1)(b) algebra and functions;

4.23(1)(c) measurement;

4.23(1)(d) data, statistics, and probability; and

4.23(1)(e) geometry.

4.23(2) The mathematics educator is able to effectively demonstrate to students and instruct:

4.23(2)(a) approaches to problem-solving that utilize mathematical content in identifying, analyzing, formulating and solving problems that occur in mathematical processes and everyday situations;

4.23(2)(b) the utilization of mathematical ideas, both verbally and in writing, using both everyday language and mathematical terminology;

4.23(2)(c) the utilization of verbal and written discourse, between teacher and students and among students, to develop and extend students' mathematical understanding;

4.23(2)(d) the construction and evaluation of mathematical conjectures and arguments to validate one's own mathematical thinking;

4.23(2)(e) independent study in mathematics;

4.23(2)(f) the use of mathematics in studying patterns and relationships;

4.23(2)(g) the interrelationships within mathematics; how to connect concrete, pictorial and abstract representations; and the connections between mathematics and other disciplines and real-world situations through the selection of appropriate applications from such fields as natural sciences, social sciences, business and engineering, and is able to:

4.23(2)(g)(i) utilize a wide variety of resource materials, including, but not limited to, manipulative materials, graphing calculators, computers and other technologies as tools in learning and for the application(s) of mathematics;

4.23(2)(g)(ii) utilize assessment data to monitor students' acquisition of mathematical skills and abilities and in the process of determining appropriate delivery of instruction based on identified student need and to select appropriate mathematical tasks to reinforce and promote students' development of mathematical concepts and skills;

4.23(2)(g)(iii) create an engaging and effective environment in which all students develop mathematically in order to participate more fully in a technologically based society;

4.23(2)(g)(iv) create an environment in which reflection, uncertainty and inquiry are incorporated in the learning of mathematics skills, abilities and concepts; and

4.23(2)(g)(v) apply appropriate knowledge of current research in the teaching and learning of mathematics and incorporate national, state and local guidelines related to mathematics instruction.

4.23(3) The mathematics educator shall consistently seek out professional development in the field of mathematics, which can provide enhanced knowledge, skills and abilities in the content area, and participate in professional organizations appropriate and relevant to the field.

4.24 **Mentor Teacher (Grades K-12)**

To be endorsed as a Mentor Teacher, an applicant must hold a valid Colorado professional teacher license, have completed an approved Mentor Teacher training program provided by an educator preparation program and have demonstrated the competencies below. Upon completion of an approved Mentor Teacher training program, the candidate must also have completed at least one full school year of successful experience serving as a Mentor Teacher for a teacher candidate who is participating in clinical practice.

4.24(1) The mentor teacher develops instructional leadership skills to advance mentoring, the teaching profession, and equitable outcomes for every student.

4.24(1)(a) Develops and continuously pursues professional growth goals and short-term goal setting that are informed by mentor and beginning teacher data of practice and student learning data.

4.24(1)(b) Collects and analyzes mentor and beginning teacher data of practice to inform instructional mentoring decisions that are based on short-term goals and will improve beginning teacher practice and the academic, social, and emotional learning of every student

4.24(1)(c) Supports the work of collaborative partnerships with school and district instructional leaders, teacher leaders, and school communities to advance the teaching profession and advocate for equitable outcomes for every student.

4.24(1)(d) Participates in and contributes to beginning teacher professional learning that is aligned with professional teaching standards, school and district instructional goals, and promotes development of optimal learning environments and rigorous content learning for every student.

4.24(2) Deepens and maintains own expertise around the practices that maximize student achievement including deep content knowledge, social and emotional learning, learner variability, culturally responsive pedagogy, and professional ethics.

4.24(2)(a) Deepens and maintains own knowledge of Colorado Academic Standards and evidence outcomes, lessons, and curriculum to ensure that every student has instruction that supports maximum achievement.

4.24(2)(b) Deepens and maintains own knowledge of research-based practices that create emotionally, intellectually, and physically safe classroom environments for every student.

4.24(2)(c) Engages in district and school-offered professional learning opportunities to deepen and maintain knowledge of strategies and research-based frameworks designed to support the beginning teacher to expect, plan for, and meet the variable learning needs of every student.

4.24(2)(d) Deepens and maintains own knowledge of best practices for coaching the beginning teacher in the use of equity principles and culturally responsive pedagogy to identify and address inequitable practices and reflecting on their own practice through an equity lens.

4.24(3) Creates and maintains collaborative, respectful, instructionally focused mentoring partnerships to foster beginning teacher ownership of continuous improvement of practice and advance the learning of every student.

4.24(3)(a) Cultivates relational trust, caring, mutual respect, and honesty with the beginning teacher to build ownership, solve problems, and foster beginning teacher agency, resilience, and commitment to the success of every student.

4.24(3)(b) Uses purposeful language and instructionally focused tools and protocols to efficiently and effectively engage the beginning teacher in collaborative, instructionally focused, problem-solving conversations and reflective analysis to promote beginning teacher agency and improved student academic, social, and emotional growth.

4.24(3)(c) Creates strategic, flexible, and individualized mentoring outcomes and plans for meetings with the beginning teacher to address the needs of diverse beginning teacher contexts and advance beginning teacher practice and the learning of every student.

4.24(3)(d) Facilitates reflective conversations about race, culture, and the diversity of the school and community to improve instruction and ensure that every student has what they need to be successful academically, socially, and emotionally.

4.24(3)(e) Utilizes reflective conversations to build the beginning teacher’s capacity to create effective partnerships with families and local communities to improve instruction and learning for students of all backgrounds.

4.24(4) Builds beginning teacher capacity to advance equitable learning by providing rigorous, standards-aligned instruction that meets the needs of every student.

4.24(4)(a) Advances standards-aligned instruction and student learning of rigorous content by engaging the beginning teacher in ongoing, data-driven teaching-coaching cycles to advance equitable learning for every student.

4.24(4)(b) Builds beginning teacher capacity to advance the learning of every student through use of appropriate assessments of student academic, social, and emotional skills.

4.24(4)(c) Builds beginning teacher capacity to analyze student learning data to guide the planning and delivery of standards-aligned instruction that meets the variable learning needs of every student.

4.24(4)(d) Builds beginning teacher capacity for continuous improvement through meaningful, ongoing, and actionable feedback that is aligned to the professional growth plan that will be used to inform the beginning teacher's annual evaluation.

4.24(5) Builds beginning teacher capacity to advance equitable and inclusive learning by providing an environment that is culturally responsive and meets the diverse academic, social, and emotional needs of every student.

4.24(5)(a) Engages beginning teacher in developing and applying research-based knowledge, skills, and strategies to create emotionally, intellectually, and physically safe learning environments for every student.

4.24(5)(b) Builds beginning teacher capacity to advance equitable and inclusive instruction for every student based on applying principles of equity, culturally responsive pedagogy, and professional ethics.

4.24(5)(c) Builds beginning teacher capacity to establish and maintain an inclusive classroom environment that fosters self-regulation and learner agency.

4.24(5)(d) Builds beginning teacher capacity to equitably meet the diverse learning needs of every student through the instructional use of technology, including the ability to adapt to contexts in which access to technology is limited.

5.0 Special Education and Gifted Education (Ages 5-21)

5.1 Special Education Core (Ages 5-21)

As outlined in section 22-60.5-106(2) C.R.S., the Department is required to endorse a teacher license with special education if the teacher has completed a program in special education offered by an accepted institution of higher education, which program content has been approved by the Colorado State Board of Education. The following Council for Exceptional Children (CEC) Special Education Preparation Standards and Initial Special Education Knowledge and Skill Common Items (ISCI) were adopted for 9.00 licensing rules.

The Special Education Core endorsement represents the competencies, knowledge and skills expected of all special education teachers at all levels. The core includes preparation standards in the seven areas of learner development and individual learning differences, learner environments, curricular content knowledge, assessment, instructional planning and strategies, professional learning and practice, and collaboration, and key elements and common items within each standard.

5.01(1) Learner development and individual learning differences: Beginning special education professionals understand how exceptionalities may interact with development and learning and use this knowledge to provide meaningful and challenging learning experiences for individuals with exceptionalities:

5.01(1)(a) Beginning special education professionals understand how language, culture and family background influence the learning of individuals with exceptionalities.

5.01(1)(b) Beginning special education professionals use understanding of development and individual differences to respond to the needs of individuals with exceptionalities.

5.01(1)(c) Beginning special education professionals are knowledgeable of:

5.01(1)(c)(i) typical and atypical human growth and development;

5.01(1)(c)(ii) similarities and differences among individuals with exceptionalities;

5.01(1)(c)(iii) educational implications of characteristics of various exceptionalities;

5.01(1)(c)(iv) family systems and the role of families in supporting development.

5.01(1)(c)(v) cultural perspectives influencing the relationships among families, schools and communities as related to instruction;

5.01(1)(c)(vi) variations in beliefs, traditions and values across and within cultures and their effects on relationships among individuals with exceptionalities, family and schooling;

5.01(1)(c)(vii) characteristics and effects of the cultural and environmental milieu of the individual with exceptionalities and the family;

5.01(1)(c)(viii) similarities and differences of individuals with and without exceptionalities;

5.01(1)(c)(ix) effects of various medications on individuals with exceptionalities;

5.01(1)(c)(x) effects an exceptional condition(s) can have on an individual's life;

5.01(1)(c)(xi) impact of learners' academic and social abilities, attitudes, interests and values on instruction and career development;

5.01(1)(c)(xii) differing ways of learning of individuals with exceptionalities, including those from culturally diverse backgrounds, and strategies for addressing these differences;

5.01(1)(c)(xiii) effects of cultural and linguistic differences on growth and development;

5.01(1)(c)(xiv) characteristics of one's own culture and use of language and the ways in which these can differ from other cultures and uses of languages; and

5.01(1)(c)(xv) ways of behaving and communicating among cultures that can lead to misinterpretation and misunderstanding.

5.01(2) Learning environments: Beginning special education professionals create safe, inclusive, culturally responsive learning environments so that individuals with exceptionalities become active and effective learners and develop emotional well-being, positive social interactions and self-determination.

5.01(2)(a) Beginning special education professionals through collaboration with general education and other colleagues create safe, inclusive, culturally responsive learning environments to engage individuals with exceptionalities in meaningful learning activities and social interactions.

5.01(2)(b) Beginning special education professionals use motivational and instructional interventions to teach individuals with exceptionalities how to adapt to different environments.

5.01(2)(c) Beginning special education professionals know how to intervene safely and appropriately with individuals with exceptionalities in crisis.

5.01(2)(d) Beginning special education professionals are knowledgeable of:

5.01(2)(d)(i) demands of learning environments;

5.01(2)(d)(ii) basic classroom management theories and strategies for individuals with exceptionalities;

5.01(2)(d)(iii) effective management of teaching and learning;

5.01(2)(d)(iv) teacher attitudes and behaviors that influence behavior of individuals with exceptionalities;

5.01(2)(d)(v) social skills needed for educational and other environments;

5.01(2)(d)(vi) strategies for crisis prevention and intervention;

5.01(2)(d)(vii) strategies for preparing individuals to live harmoniously and productively in a culturally diverse world;

5.01(2)(d)(viii) ways to create learning environments that allow individuals to retain and appreciate their own and each other's respective language and cultural heritage;

5.01(2)(d)(ix) ways cultures are negatively stereotyped; and

5.01(2)(d)(x) strategies used by diverse populations to cope with a legacy of former and continuing racism.

5.01(2)(e) Beginning special education professionals demonstrate the skills to: 5.01(2)(e)

(i) create a safe, equitable, positive and supportive learning environment in which diversities are valued;

5.01(2)(e)(ii) identify realistic expectations for personal and social behavior in various settings;

5.01(2)(e)(iii) identify supports needed for integration into various program placements;

5.01(2)(e)(iv) design learning environments that encourage active participation in individual and group activities;

5.01(2)(e)(v) modify the learning environment to manage behaviors;

5.01(2)(e)(vi) use performance data and information from all stakeholders to make or suggest modifications in learning environments;

5.01(2)(e)(vii) establish and maintain rapport with individuals with and without exceptionalities;

5.01(2)(e)(viii) teach self-advocacy;

5.01(2)(e)(ix) create an environment that encourages self-advocacy and increased independence;

5.01(2)(e)(x) use effective and varied behavior management strategies;

5.01(2)(e)(xi) use the least intensive behavior management strategy consistent with the needs of the individual with exceptionalities;

5.01(2)(e)(xii) design and managing daily routines;

5.01(2)(e)(xiii) organize, develop and sustain learning environments that support positive intra-cultural and intercultural experiences;

5.01(2)(e)(xiv) mediate controversial intercultural issues among individuals with exceptionalities within the learning environment in ways that enhance any culture, group or person;

5.01(2)(e)(xv) structure, direct and support the activities of para-educators, volunteers and tutors; and

5.01(2)(e)(xvi) use universal precautions.

5.01(3) Curricular content knowledge: Beginning special education professionals use knowledge of general and specialized curricula to individualize learning for individuals with exceptionalities. Beginning special education professionals understand the central concepts, structures of the discipline and tools of inquiry of the content areas they teach, and can organize this knowledge, integrate cross-disciplinary skills and develop meaningful learning progressions for individuals with exceptionalities.

5.01(3)(a) Beginning special education professionals understand and use general and specialized content knowledge for teaching across curricular content areas to individualize learning for individuals with exceptionalities.

5.01(3)(b) Beginning special education professionals modify general and specialized curricula to make them accessible to individuals with exceptionalities.

5.01(3)(c) Beginning special education professionals are knowledgeable of:

5.01(3)(c)(i) theories and research that form the basis of curriculum development and instructional practice;

5.01(3)(c)(ii) scope and sequences of general and special

curricula; 5.01(3)(c)(iii) national, state and local curricula

standards; and

5.01(3)(c)(iv) technology for planning and managing the teaching and learning environment.

5.01(3)(d) Beginning special education professionals demonstrate the skills to:

5.01(3)(d)(i) identify and prioritize areas of the general curriculum and accommodations for individuals with exceptionalities; and

5.01(3)(d)(ii) integrate affective, social and life skills with academic curricula.

5.01(4) Assessment: Beginning special education professionals use multiple methods of assessment and data-sources in making educational decisions.

5.01(4)(a) Beginning special education professionals select and use technically sound formal and informal assessments that minimize bias.

5.01(4)(b) Beginning special education professionals use knowledge of measurement principles and practices to interpret assessment results and guide educational decisions for individuals with exceptionalities.

5.01(4)(c) Beginning special education professionals in collaboration with colleagues and families use multiple types of assessment information in making decisions about individuals with exceptionalities.

5.01(4)(d) Beginning special education professionals engage individuals with exceptionalities to work toward quality learning and performance and provide feedback to guide them.

5.01(4)(e) Beginning special education professionals are knowledgeable of:

5.01(4)(e)(i) basic terminology used in assessment;

5.01(4)(e)(ii) legal provisions and ethical principles regarding assessment of individuals;

5.01(4)(e)(iii) screening, pre-referral, referral and classification procedures;

5.01(4)(e)(iv) use and limitations of assessment instruments; and 5.01(4)

(e)(v) national, state and local accommodations and modifications.

5.01(4)(f) Beginning special education professionals demonstrate the skills to:

5.01(4)(f)(i) gather relevant background information;

5.01(4)(f)(ii) administer nonbiased formal and informal assessments;

5.01(4)(f)(iii) use technology to conduct assessments;

5.01(4)(f)(iv) develop or modify individualized assessment strategies;

5.01(4)(f)(v) interpret information from formal and informal assessments;

5.01(4)(f)(vi) use assessment information in making eligibility, program and placement decisions for individuals with exceptionalities, including those for culturally and/or linguistically diverse backgrounds;

5.01(4)(f)(vii) report assessment results to all stakeholders using effective communication skills;

5.01(4)(f)(viii) evaluate instruction and monitor progress of individuals with exceptionalities; and

5.01(4)(f)(ix) create and maintain records.

5.01(5) Instructional planning and strategies: Beginning special education professionals select, adapt and use a repertoire of evidence-based instructional strategies to advance learning of individuals with exceptionalities.

5.01(5)(a) Beginning special education professionals consider an individual's abilities, interest learning environments, and cultural and linguistic factors in the selection, development and adaptation of learning experiences for individual with exceptionalities.

5.01(5)(b) Beginning special education professionals use technologies to support instructional assessment, planning and delivery for individuals with exceptionalities.

5.01(5)(c) Beginning special education professionals are familiar with augmentative and alternative communication systems and a variety of assistive technologies to support the communication and learning of individuals with exceptionalities.

5.01(5)(d) Beginning special education professionals use strategies to enhance language development and communication skills of individuals with exceptionalities.

5.01(5)(e) Beginning special education professionals develop and implement a variety of education and transition plans for individuals with exceptionalities across a wide range of settings and different learning experiences in collaboration with individuals, families and teams.

5.06(5)(f) Beginning special education professionals teach to mastery and promote generalization of learning.

5.06(5)(g) Beginning special education professionals teach cross-disciplinary knowledge and skills such as critical-thinking and problem-solving to individuals with exceptionalities.

5.01(5)(h) Beginning special education professionals are knowledgeable of: 5.01(5)(h)

(i) roles and responsibilities of the para-educator related to instruction, intervention and direct service;

5.01(5)(h)(ii) evidence-based practices validated for specific characteristics of learners and settings; and

5.01(5)(h)(iii) augmentative and assistive communication strategies.

5.01(5)(i) Beginning special education professionals demonstrate the skills to:

5.01(5)(i)(i) develop and implement comprehensive, longitudinal individualized programs in collaboration with team members;

5.01(5)(i)(ii) involve the individual and family in setting instructional goals and monitoring progress;

5.01(5)(i)(iii) use functional assessments to develop intervention plans;

5.01(5)(i)(iv) use task analysis;

5.01(5)(i)(v) sequence, implement and evaluate individualized learning objectives;

5.01(5)(i)(vi) develop and select instructional content, resources and strategies that respond to cultural, linguistic and gender differences;

5.01(5)(i)(vii) incorporate and implement instructional and assistive technology into the educational program;

5.06(5)(i)(viii) prepare lesson plans;

5.06(5)(i)(ix) prepare and organize materials to implement daily lesson plans.

5.06(5)(i)(x) use instructional time effectively;

5.06(5)(i)(xi) make responsive adjustments to instruction based on continual observations;

5.01(5)(i)(xii) prepare individuals to exhibit self-enhancing behavior in response to societal attitudes and actions;

5.01(5)(i)(xiii) use strategies to facilitate integration into various settings; 5.01(5)(i)

(xiv) teach individuals to use self-assessment, problem-solving and

other
cognitive strategies to meet their needs;

5.01(5)(i)(xv) select, adapt and use instructional strategies and materials according to characteristics of the individual with exceptionalities;

5.01(5)(i)(xvi) use strategies to facilitate maintenance and generalization of skills across learning environments;

5.01(5)(i)(xvii) use procedures to increase the individual's self-awareness, self-management, self-control, self-reliance and self-esteem;

5.01(5)(i)(xviii) use strategies that promote successful transitions for individuals with exceptionalities;

5.01(5)(i)(xix) use strategies to support and enhance communication skills of individuals with exceptionalities;

5.01(5)(i)(xx) use communication strategies and resources to facilitate understanding of subject matter for individuals with exceptionalities whose primary language is not the dominant language; and

5.01(5)(i)(xxi) modify instructional practices in response to ongoing assessment data.

5.01(6) Professional learning and ethical practice: Beginning special education professionals use foundational knowledge of the field and their professional ethical principles and practice standards to inform special education practice, to engage in lifelong learning and to advance the profession.

5.01(6)(a) Beginning special education professionals use professional ethical principles and professional practice standards to guide their practice.

5.01(6)(b) Beginning special education professionals understand how foundational knowledge and current issues influence professional practice.

5.01(6)(c) Beginning special education professionals understand that diversity is a part of families, cultures and schools, and that complex human issues can interact with the delivery of special education services.

5.01(6)(d) Beginning special education professionals understand the significance of lifelong learning and participate in professional activities and learning communities.

5.01(6)(e) Beginning special education professionals advance the profession by engaging in activities such as advocacy and mentoring.

5.01(6)(f) Beginning special education professionals provide guidance and direction to para-educators, tutors and volunteers.

5.01(6)(g) Beginning special education professionals are knowledgeable of:

5.00(6)(g)(i) models, theories, philosophies and research methods that form the basis for special education practice;

5.01(6)(g)(ii) laws, policies and ethical principles regarding behavior management planning and implementation;

5.01(6)(g)(iii) relationship of special education to the organization and function of educational agencies;

5.01(6)(g)(iv) rights and responsibilities of individuals with exceptionalities, parents, teachers, other professionals and schools related to exceptionalities;

5.01(6)(g)(v) issues in definition and identification of individuals with exceptionalities, including those from culturally and linguistically diverse backgrounds;

5.01(6)(g)(vi) issues, assurances and due process rights related to assessments, eligibility and placement within a continuum of services;

5.01(6)(g)(vii) family systems and the role of families in the educational process;

5.01(6)(g)(viii) historical points of view and contribution of culturally diverse groups;

5.01(6)(g)(ix) impact of the dominant culture on shaping schools and the individuals who study and work in them;

5.01(6)(g)(x) potential impact of differences in values, languages and customs that can exist between the home and school;

5.01(6)(g)(xi) personal cultural biases and difference that affect one's teaching;

5.01(6)(g)(xii) importance of the teacher serving as a model for individuals with exceptionalities;

5.01(6)(g)(xiii) continuum of lifelong professional development; and 5.01(6)(g)

(xiv) methods to remain current regarding research-validated practice.

5.01(6)(h) Beginning special education professionals demonstrate the skills to:

5.01(6)(h)(i) practice within the CEC code of ethics and other standards of the profession;

5.01(6)(h)(ii) uphold high standards of competence and integrity and exercise sound judgment in the practice of the profession;

5.01(6)(h)(iii) act ethically in advocating for appropriate services;

5.01(6)(h)(iv) conduct professional activities in compliance with applicable laws and policies;

5.01(6)(h)(v) demonstrate commitment to developing the highest education and quality-of-life potential of individuals with exceptionalities;

5.01(6)(h)(vi) demonstrate sensitivity for the culture, language, religion, gender, disability, socio-economic status and sexual orientation of individuals;

5.01(6)(h)(vii) practice within one's skill limits and obtain assistance as needed;

5.01(6)(h)(viii) use verbal, nonverbal and written language effectively; 5.01(6)(h)

(ix) conduct self-evaluation of instruction;

5.01(6)(h)(x) access information on exceptionalities;

5.01(6)(h)(xi) reflect on one's practice to improve instruction and guide professional growth;

5.01(6)(h)(xii) engage in professional activities that benefit individuals with exceptionalities, their families and one's colleagues;

5.01(6)(h)(xiii) demonstrate commitment to engage in evidence-based practices; and

5.01(6)(h)(xiv) articulate personal philosophy of special education.

5.01(7) Collaboration and cultural responsiveness: Beginning special education professionals collaborate with families, other educators, related service providers, individuals with exceptionalities and personnel from community agencies in culturally responsive ways to address the needs of individuals with exceptionalities across a range of learning experiences.

5.01(7)(a) Beginning special education professionals use the theory and elements of effective collaboration.

5.01(7)(b) Beginning special education professionals serve as a collaborative resource to colleagues.

5.01(7)(c) Beginning special education professionals use collaboration to promote the well-being of individuals with exceptionalities across a wide range of settings and collaborators.

5.01(7)(d) Beginning special education professionals are knowledgeable of:

5.01(7)(d)(i) models and strategies of consultation and collaboration; 5.01(7)

(d)(ii) roles of individuals with exceptionalities, families and school and community personnel in planning of an individualized program;

5.01(7)(d)(iii) concerns of families of individuals with exceptionalities and strategies to help address these concerns; and

5.01(7)(d)(iv) culturally responsive factors that promote effective communication and collaboration with individuals with exceptionalities, families, school personnel and community members.

5.01(7)(e) Beginning special education professionals demonstrate the skills to:

5.01(7)(e)(i) maintain confidential communication about individuals with exceptionalities;

5.01(7)(e)(ii) collaborate with families and others in assessment of individuals with exceptionalities;

5.01(7)(e)(iii) foster respectful and beneficial relationships between families and professionals;

5.01(7)(e)(iv) assist individuals with exceptionalities and their families in becoming active participants in the educational team;

5.01(7)(e)(v) plan and conduct collaborative conferences with individuals with exceptionalities and their families;

5.01(7)(e)(vi) collaborate with school personnel and community members in integrating individuals with exceptionalities into various settings;

5.01(7)(e)(vii) use group problem solving skills to develop, implement and evaluate collaborative activities;

5.01(7)(e)(viii) model techniques and coach others in the use of instructional methods and accommodations;

5.01(7)(e)(ix) communicate with school personnel about the characteristics and needs of individuals with exceptionalities;

5.01(7)(e)(x) communicate effectively with families of individuals with exceptionalities from diverse backgrounds; and

5.01(7)(e)(xi) observe, evaluate and provide feedback to para-educators.

5.2 **Special Education Specialist (Ages 5-21)**

To be endorsed as a special education specialist, an applicant must hold a Colorado initial or professional teacher license as a special education generalist or demonstrate through multiple performance measures the competencies required for a special education generalist endorsement; hold an earned master's or higher degree in special education from an accepted institution of higher education; have completed an approved program for the preparation of special education specialists, including prescribed field experience requirements; ensure that instruction is consistent with Colorado Academic Standards, Colorado accreditation requirements and school district and school priorities and objectives; and have demonstrated the competencies specified below:

5.02(1) The special education specialist is knowledgeable about professional leadership; the critical roles and responsibilities of effective ethical leadership; best instructional practices; how to effectively address outcomes for all learners, including those with disabilities; and is able to:

5.02(1)(a) use the Colorado standards to develop individualized educational plans (IEPs) for students with diverse educational needs.

5.02(1)(b) recognize limitations of professional expertise and collaborate and consult with appropriate support services to meet the needs of students and their families.

5.02(1)(c) effectively coach and mentor other education professionals to ensure that individuals with disabilities have access to and appropriately participate in the general education curriculum and instructional programs.

5.02(1)(d) initiate effective collaborative relationships with other community agencies and programs, where appropriate, to gain access to resources and to promote improved quality of education for students with disabilities.

5.02(1)(e) effectively articulate and model to other professionals the legal and ethical aspects of the special education profession.

5.02(1)(f) demonstrate effective consultation and collaboration skills with students, families and professional colleagues in administrative, instructional and intervention settings.

5.02(1)(g) provide leadership in transitioning students within and across systems so that students have the skills, knowledge and ability they need to achieve desired outcomes.

5.02(1)(h) develop and effectively use accountability systems to document the academic and related success of students with disabilities, and to improve instruction and the provision of services.

5.02(1)(i) assume proactive roles in management, governance and leadership within relevant professional organizations and educational systems.

5.02(1)(j) develop and implement professional development programs and constructive evaluation procedures designed to improve instructional content and practices.

5.02(1)(k) mentor colleagues using a variety of adult learning methods including, but not limited to, coaching and demonstrating effective instructional delivery.

5.02(1)(l) engage in ongoing and sustained professional development.

5.02(2) The special education specialist is knowledgeable about the foundations of special education and the legal framework, historical precedents, curricular foundations and cultural and socio-economic factors affecting students with disabilities, and is able to:

5.02(2)(a) develop, implement and supervise individualized education planning.

5.02(2)(b) consult and collaborate effectively, with educators, families and community members to facilitate learning.

5.02(2)(c) modify and create successful learning environments for all children and youth, and incorporate knowledge of effective and proven past practices, cultural influences and socio-economic factors.

5.02(2)(d) evaluate and select effective appropriate curriculum-related materials to improve student learning.

5.02(3) The special education specialist is knowledgeable about learning needs and effective instructional approaches for learners with special needs and is able to:

5.02(3)(a) assess the influence of economic, cultural, sociological and linguistic factors on learning and address this in planning for student learning.

5.02(3)(b) use a variety of continuous monitoring strategies to measure learning, adjust instruction and enhance student progress towards standards' acquisition in literacy and numeracy.

5.02(3)(c) effectively demonstrate, effectively implement and evaluate a wide variety of appropriate instructional strategies.

5.02(3)(d) develop and effectively implement instructional programs for acquisition, maintenance, generalization and application of knowledge and skills.

5.02(3)(e) effectively teach students methods of attaining educational goals, and assist them in developing the means to act independently.

5.02(3)(f) design, communicate and implement effective accommodations for use in a variety of environments.

5.02(3)(g) effectively teach the assessment, use and implementation of assistive technology to students and colleagues.

5.02(4) The special education specialist is knowledgeable about cognition, communication and language; proven documented theories of cognition, communication and language development; curriculum planning; instruction and evaluation and is able to:

5.02(4)(a) assess and evaluate the communicative and cognitive skills of students with disabilities in coordination with other related-profession specialists.

5.02(4)(b) assist in the design of curriculum and instruction based on cognitive, communicative and language assessment results.

5.02(4)(c) incorporate principles of speech and language acquisition into the teaching of research-based literacy skills including the graphophonemic, syntactic, semantic and pragmatic aspects of language development and communicative competence.

5.02(4)(d) use assessment strategies to identify cognitive, language and communication needs affected by cultural, language-diversity, neurological and psycholinguistic factors and address these needs in planning.

5.02(5) The special education specialist is knowledgeable about social and emotional needs including the behavioral, social and emotional needs inherent in the development of learners with disabilities, and is able to:

5.02(5)(a) assess the impact of psychological, sociological, cultural and ecological factors on the development and implementation of educational interventions to positively affect the behavior of students with special needs.

5.02(5)(b) develop, implement and coordinate functional behavioral assessments.

5.02(5)(c) choose, use and interpret behavior and social assessment tools.

5.02(5)(d) develop, implement, supervise, evaluate and modify individual behavior support plans.

5.02(5)(e) apply effective educational practices designed to improve the acquisition of social skills.

5.02(5)(f) apply fair, consistent and effective systemic management strategies to prevent problem behavior.

5.02(5)(g) select, apply and monitor educational interventions to safely, effectively manage students in crisis.

5.02(5)(h) assess and monitor the impact of psychopharmacological interventions on student learning and behavior.

5.02(5)(i) apply information about mental illness to the development, evaluation and implementation of educational interventions.

5.02(6) The special education specialist is knowledgeable about specialized educational needs and the unique characteristics of learners with significant health, physical, sensory and communication concerns across learning environments, and is able to:

5.02(6)(a) assess, develop and implement appropriate and effective accommodations for learners with health, physical and sensory needs.

5.02(6)(b) analyze, select and implement effective assistive technologies to facilitate students' learning communication.

5.02(6)(c) demonstrate and implement strategies that enhance mobility, appropriate positioning and environmental access for learners with significant physical and health needs.

5.02(6)(d) collaborate with appropriate health professionals to assist in the development and implementation of health care plans.

5.02(6)(e) analyze, select and implement strategies that effectively support access to the general education curriculum for learners with health, physical and sensory needs.

5.02(7) The special education specialist is knowledgeable about practice-based inquiry, is a reflective practitioner and is able to:

5.02(7)(a) engage in professional discourse about effective and proven research-based practices.

5.02(7)(b) use qualitative and quantitative forms of inquiry to collect, analyze and synthesize data to improve practice.

5.02(7)(c) collaborate with colleagues and parents to study, analyze and respond to data that positively affect practices and policies for whole school improvement.

5.02(7)(d) utilize proven and effective research to guide practice and create appropriate and effective learning experiences for students.

5.02(7)(e) select and use appropriate inquiry tools.

5.02(7)(f) design and implement documented and effective research models that constructively challenge hypotheses about teaching and learning.

5.02(7)(g) disseminate documented, proven, effective practice(s).

5.02(7)(h) gain access via technology and other means to a range of databases to acquire relevant information and support practice.

5.02(7)(i) adhere to ethical principles for conducting research with human subjects.

5.02(7)(j) involve students, parents and colleagues in the design, implementation and analysis of effective classroom practice.

5.02(7)(k) evaluate the effects of choices and actions on student learning and modify learning and related plans accordingly.

5.3 Special Education Specialist : Visually Impaired (Ages Birth-21)

To be endorsed as a special education specialist: visually impaired, an applicant must hold an earned master's or higher degree in special education visual impairment or its equivalent (as determined by the Department) from an accepted institution of higher education; have completed an approved program for the preparation of special education specialists: visually impaired including prescribed field experience requirements; and have demonstrated the competencies specified below:

5.03(1) The special education specialist: visually impaired is knowledgeable about the foundations of special education including, but not limited to, the legal framework, historical precedents, auricular foundation and cultural and socio-economic factors affecting students with visual impairment(s) and other disabilities, and is able to:

5.03(1)(a) articulate to a variety of audiences the models, theories, historical foundation and philosophies that provide the bases for special education practice related to learners who are visually impaired.

5.03(1)(b) articulate to a variety of audiences variations in beliefs, traditions and values across cultures and their effect on attitudes toward and expectations for students with visual impairment(s).

5.03(1)(c) identify and gain access to federal entitlements that provide specialized equipment and materials for students with visual impairment(s).

5.03(1)(d) articulate and explain current educational definitions, identification criteria, labeling issues, and incidence and prevalence figures for students with visual impairment(s) and deaf blindness.

5.03(2) The special education specialist: visually impaired is knowledgeable about the characteristics of learners, human development and the implications of blindness, visual impairment(s) and deaf blindness upon developmental and academic skills acquisition, and is able to articulate and incorporate into the planning for students relevant information about:

5.03(2)(a) the structure, function and normal development of the human visual system.

5.03(2)(b) basic terminology, manifestations and educational implications of diseases and disorders of the human visual system.

5.03(2)(c) effects of medication(s) on the function(s) of the visual system.

5.03(2)(d) the development of other senses when vision is impaired.

5.03(2)(e) the effects of visual impairment(s) on early development of motor skills, cognition, social/emotional interaction, self-help, communication and early literacy.

5.03(2)(f) similarities and differences between the cognitive, physical, cultural, social, emotional, sensory and literacy needs of students with and without visual impairment(s).

5.03(2)(g) differential characteristics of students with visual impairments including levels of severity and the impact of concomitant additional disabilities.

5.03(2)(h) the effects of visual impairment(s) on the family and the reciprocal impact on the individual's self-esteem.

5.03(2)(i) psychosocial aspects of visual impairment(s).

5.03(2)(j) the impact of visual impairment(s) and deaf blindness on formal and incidental learning experiences.

5.03(2)(k) psychosocial aspects of visual impairment(s).

5.03(3) The special education specialist: visually impaired is knowledgeable about visual disorders and is able to:

5.03(3)(a) explain the characteristics of visual disorders to families and to other educational service providers.

5.03(3)(b) describe the effects of visual impairment(s) – with and without additional disabilities – on development, learning and literacy.

5.03(3)(c) provide information regarding the cognitive, communication, physical, medical, cultural, social, emotional, sensory and literacy needs of students with visual impairment(s) to their families and to educational and related service providers.

5.03(3)(d) recommend adaptations within instructional environments to identify and accommodate individual sensory need(s).

5.03(4) The special education specialist: visually impaired is knowledgeable about assessment and evaluation and is able to:

5.03(4)(a) complete accurate assessments of students' developmental and academic performance, apply the information in planning for students and articulate to a variety of audiences regarding:

5.03(4)(a)(i) specialized terminology used in the medical diagnoses and educational assessment(s) of students with visual impairment(s);

5.03(4)(a)(ii) specific assessments that measure functional vision and learning modalities;

5.03(4)(a)(iii) ethical considerations, legal provisions, regulations and guidelines related to the valid and relevant assessment of students with visual impairment(s);

5.03(4)(a)(iv) specialized policies and procedures for screening, pre-referral, referral, classification and placement of students with visual impairment(s);

5.03(4)(a)(v) alternative assessment tools and techniques for students with visual impairment(s) including, but not limited to, state- or district-level alternate assessment practices;

5.03(4)(a)(vi) appropriate interpretation and application of assessment scores for students with visual impairment(s) and deaf blindness; and

5.03(4)(a)(vii) the relationship(s) between assessment, individualized family service plan (IFSP) and individualized education plan (IEP) development, and placements, as each affects the educational services provided to students with visual impairment(s).

5.03(5) The special education specialist: visually impaired is knowledgeable about and able to evaluate the validity of individual tests for use with students with visual impairment(s) and is able to:

5.03(5)(a) use disability-specific assessment instruments.

5.03(5)(b) adapt and implement a variety of assessment procedures in evaluating students with visual impairments and deaf blindness.

5.03(5)(c) interpret eye reports and other information related to the visual impairment(s) including, but not limited to, low-vision evaluation reports to students with visual impairment(s), their families and to other educational and related service providers.

5.03(5)(d) utilize assessment and performance data to develop specific recommendations for modification(s) of and accommodations for the student's learning environment(s) and educational materials.

5.03(5)(e) conduct, interpret and apply the results of formal and informal assessment(s) of functional vision and learning modalities.

5.03(5)(f) create and maintain disability-related records for students with visual impairment(s).

5.03(5)(g) gather background information and family history relevant to the individual student's visual status and instructional needs.

5.03(5)(h) incorporate assessment information into the development of IFSPs and lEPs.

5.03(5)(i) utilize assessment information to develop literacy modality plans for students with visual impairment(s).

5.03(6) The special education specialist: visually impaired is knowledgeable about instructional content and practice, specialized instructional strategies and appropriate accommodation(s), and is able to demonstrate these strategies and/or teach learners with visual impairment(s):

5.03(6)(a) the use of the abacus, slate and stylus, Braille writer, electronic note taker(s), talking calculator, tactile graphics, computers and other types of access and adaptive technology.

5.03(6)(b) basic concepts related to content standards.

5.03(6)(c) increasing visual access to and within learning environments related to instruction, the use of print adaptations and optical and non-optical devices.

5.03(6)(d) increasing non-visual access to learning environments.

5.03(6)(e) alternative reasoning and decision-making skills.

5.03(6)(f) organization and study skills.

5.03(6)(g) structured pre-cane orientation and mobility assessment and instruction.

5.03(6)(h) tactual perceptual skills.

5.03(6)(i) health and health issues.

5.03(6)(j) adapted physical and recreational skills.

5.03(6)(k) social and daily living skills.

5.03(6)(l) developing career awareness and providing them with vocational counseling.

5.03(6)(m) promoting self-advocacy.

5.03(6)(n) identifying sources of and acquiring specialized instructional and other relevant materials.

5.03(6)(o) identifying techniques for the adaptation of instructional methods and materials.

5.03(7) The special education specialist: visually impaired is knowledgeable about planning for the instruction of students with visual impairment(s) and is able to:

5.03(7)(a) develop comprehensive short- and long-range individualized learning programs for students with visual impairment(s) and deaf blindness.

5.03(7)(b) prepare appropriate individual and group lesson plans.

5.03(7)(c) involve the student with visual impairment(s) in setting instructional goals and charting progress.

5.03(7)(d) select, adapt and utilize instructional strategies and materials appropriate to the learning needs of the student with visual impairment(s).

5.03(7)(e) use strategies to help students learn, maintain new skills and be able to generalize those skills across other learning environments.

5.03(7)(f) choose and implement instructional techniques that promote successful transitions for students with visual impairment(s).

5.03(7)(g) evaluate and modify instruction according to student need.

5.03(7)(h) interpret and use multiple sources of assessment data in planning for the instruction of students with visual impairment(s) and deaf blindness.

5.03(7)(i) choose and use appropriate forms of technology to accomplish instructional objectives for students with visual impairment(s) and integrate technology into the instructional process.

5.03(7)(j) sequence, implement and evaluate learning objectives based on standards-based education and the expanded core curriculum for students with visual impairment(s).

5.03(7)(k) teach students with visual impairment(s) to think, solve problems and utilize other cognitive strategies to meet individual learning needs.

5.03(8) The special education specialist: visually impaired is knowledgeable about effective planning for and management of the teaching and learning environment to provide a setting conducive to group and individualized learning, and is able to:

5.03(8)(a) transcribe, proofread and interline materials in contracted literary, Nemeth and foreign language Braille codes.

5.03(8)(b) utilize specialized equipment and software, such as Braille writers, slate and stylus, computerized Braille transcription and tactile image enhancers, to prepare adapted or modified materials in Braille, accessible print, tactile and other formats appropriate to the assessed needs of students with visual impairment(s).

5.03(8)(c) obtain and organize materials intended to implement instructional objectives for students with visual impairment(s).

5.03(8)(d) design multisensory learning environments that engage the active participation of students with visual impairment(s) in group and individual activities.

5.03(8)(e) design and implement strategies and techniques that facilitate the inclusion of students with visual impairment(s) into a wide variety of educational and community settings.

5.03(8)(f) direct the activities of a classroom paraprofessional, volunteer, peer tutor or Braille transcriber.

5.03(8)(g) create learning environments that encourage self-advocacy and independence for students with visual impairment(s).

5.03(9) The special education specialist: visually impaired is knowledgeable about promoting appropriate student behavior and social interaction skills and demonstrates:

5.03(9)(a) effective learning environment management which engenders positive behavior(s) between and among students, such as, but not limited to, strategies that:

5.03(9)(a)(i) identify ways to address attitudes and behaviors that can positively or negatively influence the deportment and achievement of students with visual impairments;

5.03(9)(a)(ii) effectively instruct students in the development of the social skills needed across educational and living environments;

5.03(9)(a)(iii) identify strategies for preparing students with visual impairment(s) to live harmoniously and productively in a diverse world; and

5.03(9)(a)(iv) identify and address inappropriate behaviors attributable to or caused by visual impairment(s).

5.03(10) The special education specialist: visually impaired is knowledgeable about and able to manage student behavior(s) and learning through:

5.03(10)(a) the modification of the learning environment including, but not limited to, schedule, physical arrangement and/or materials.

5.03(10)(b) the selection, implementation and evaluation of appropriate and applicable classroom management strategies for students with visual impairment(s).

5.03(10)(c) the incorporation of social skills training into the curriculum.

5.03(10)(d) utilization of procedures intended to increase student self-awareness, self- control, self-reliance and self-esteem.

5.03(10)(e) preparing students with visual impairment(s) to present themselves in a socially appropriate manner, providing information about, but not limited to, that related to grooming, dress and interpersonal skills.

5.03(10)(f) preparing students to adapt to progressive eye conditions when necessary.

5.03(10)(g) preparing students with visual impairment(s) to appropriately and effectively utilize the services of support personnel.

5.03(10)(h) preparing students with visual impairment(s) to gain access to information about services provided in and for the community.

5.03(10)(i) preparing students with visual impairment(s) to act appropriately in social situations.

5.03(10)(j) preparing students with visual impairment(s) to respond to societal attitudes and actions with positive behavior(s) and self-advocacy.

5.03(11) The special education specialist: visually impaired is knowledgeable about communication and collaborative partnerships and demonstrates:

5.03(11)(a) effective communication and the ability to collaborate with students, their families, and school and community personnel in identifying and addressing:

5.03(11)(a)(i) typical and/or specific concerns of parents of students with visual impairment(s) and appropriate strategies to assist them in resolving concerns;

5.03(11)(a)(ii) roles of students with visual impairment(s), parents, educational service providers and community personnel in planning individualized programs for students;

5.03(11)(a)(iii) strategies for assisting families and other team members in planning appropriate transitions for students with visual impairment(s);

5.03(11)(a)(iv) unique services, networks and organizations that serve as resources to/for students with visual impairment(s);

5.03(11)(a)(v) roles of paraprofessionals or para-educators who work directly with students with visual impairment(s) and deaf blindness; and

5.03(11)(a)(vi) the necessity for role models for students with visual impairment(s).

5.03(12) The special education specialist: visually impaired demonstrates the ability to collaborate with others and is able to:

5.03(12)(a) identify and implement strategies for working with students with disabilities, parents, and school and community persons, in a wide variety of learning and learning-related environments.

5.03(12)(b) communicate and consult with students, parents, education service providers and community personnel.

5.03(12)(c) foster respectful and beneficial relationships between and among families and professionals.

5.03(12)(d) encourage and assist families in becoming active participants in the education of their own children.

5.03(12)(e) plan and conduct conferences with families or primary caregivers as required and/or necessary.

5.03(12)(f) collaborate with general education teachers and other school and community personnel regarding the integration of students with disabilities into the general learning environment.

5.03(12)(g) communicate with general education teachers, administrators and other school personnel about the characteristics and needs of students with disabilities.

5.03(12)(h) assist families and other team members in understanding the impact of visual impairment(s) and deaf blindness on learning and experience.

5.03(12)(i) report results of specialized assessments to students with visual impairment(s), their families and pertinent team members in relevant and appropriate ways.

5.03(12)(j) manage and direct the activities of para-educators or peer tutors who work with students with visual impairment(s).

5.03(13) The special education specialist: visually impaired is knowledgeable about professionalism and ethical practices and demonstrates:

5.03(13)(a) appropriate professional practices in contributing to the field of education and to the academic achievement of each individual student including, but not limited to:

5.03(13)(a)(i) decision-making based on the ethical considerations governing the profession of special education, especially as related to the field of the education of the visually impaired learner;

5.03(13)(a)(ii) recognizing cultural bias and how it can affect teaching;

5.03(13)(a)(iii) serving as a role model for students with visual impairment(s);

5.03(13)(a)(iv) participation in consumer and professional organizations and remaining up-to-date with publications and journals relevant to the field of visual impairments; and

5.03(13)(a)(v) the ability to research information related to the learning needs of and outcomes for students with visual impairment(s).

5.03(14) The special education specialist: visually impaired functions in a professional manner by:

5.03(14)(a) demonstrating professional ethics.

5.03(14)(b) accepting the personal characteristic(s) of students with and without visual impairment(s).

5.03(14)(c) remaining up-to-date on literature related to students with visual impairment(s).

5.03(14)(d) participating in professional organizations representing the field of visual impairment(s), as appropriate.

5.03(14)(e) engaging in professional-growth activities which may benefit students with visual impairment(s), their families and/or colleagues.

5.03(14)(f) practicing self-assessment related to instruction, and seeking professional development activities which support the advancement of personal skills and knowledge.

5.4 Special Education Specialist: Deaf/Hard-of-Hearing (Ages Birth-21)

To be endorsed as a special education specialist: deaf/hard-of-hearing, an applicant must hold an earned master's or higher degree in special education: deaf/hard-of-hearing or its equivalent – as determined by the Department of Education – from an accepted institution of higher education; have completed an approved program for the preparation of special education specialists: deaf/hard of hearing including prescribed field experience requirements; and have demonstrated the competencies specified below:

5.04(1) The special education specialist: deaf/hard-of-hearing is knowledgeable about the philosophical, historical and legal foundations of special education and is able to articulate and incorporate into planning for students:

5.04(1)(a) current definitions of students with hearing loss including terminology, identification criteria, labeling issues and current incidence and prevalence figures.

5.04(1)(b) models, theories and appropriate philosophies that provide the basis for educational practice relevant to students who are deaf or hard-of-hearing.

5.04(1)(c) variations in beliefs, traditions and values across cultures and within society, and the effect of the relationships between children who are deaf or hard-of-hearing, their families, schools and communities, and can:

5.04(1)(c)(i) identify resources, model programs, organizations, agencies, research centers and technology that can be of assistance in working with students who are deaf or hard-of-hearing;

5.04(1)(c)(ii) apply understanding of proven theory, of philosophy and of models of effective practice to the education of students who are deaf or hard-of-hearing; and

5.04(1)(c)(iii) articulate the pros and cons of current issues and trends in special education and in educating students who are deaf or hard-of-hearing.

5.04(2) The special education specialist: deaf/hard-of-hearing is knowledgeable about factors that impact the learning of students who are deaf or hard-of-hearing and is able to articulate and incorporate into planning for these students:

5.04(2)(a) relevant elements of learning necessary for enhancement of cognitive, emotional and social development.

5.04(2)(b) proven and effective research on communication, socialization and cognition.

5.04(2)(c) cultural dimensions of being deaf or hard-of-hearing.

5.04(2)(d) the specific impact of various etiologies of hearing loss on the sensory, motor and/or learning capability.

5.04(2)(e) knowledge of the effect of family involvement, onset of hearing loss, age of identification, amplification and provision of services.

5.04(2)(f) knowledge of the impact of early and ongoing comprehensible communication.

5.04(2)(g) the effect of sensory input, including both incidental communication and experiences, on the development of language and cognition.

5.04(3) The special education specialist: deaf/hard-of-hearing is knowledgeable about and is able to:

5.04(3)(a) demonstrate effective communication strategies to students who are deaf or hard-of-hearing.

5.04(3)(b) describe how to make incidental learning opportunities accessible.

5.04(3)(c) articulate the interrelationship between communication, socialization and cognition.

5.04(4) The special education specialist: deaf/hard-of-hearing is knowledgeable about the assessment, effective teaching, service and special services provision and the evaluation of students who are deaf or hard-of-hearing, and is able to:

5.04(4)(a) implement formal and informal assessment procedures for eligibility, placement and program planning.

5.04(4)(b) articulate legal provisions, regulations and guidelines regarding unbiased diagnostic assessment(s) and the use of instructional assessment measures.

5.04(4)(c) incorporate into planning the specifics of policies regarding referral and placement procedures.

5.04(4)(d) demonstrate amplification system's parts and articulate function, benefits and limitations of options in group and personal amplification.

5.04(4)(e) administer assessment procedures and instruments for students who are deaf or hard-of-hearing and those with additional disabilities, and utilize appropriate assessment tools and informal assessment and evaluation procedures, utilizing natural/heritage/preferred language.

5.04(4)(f) use assessment data in making informed instructional decisions and for planning individual programs that result in appropriate service delivery and intervention for students who are deaf or hard-of-hearing.

5.04(4)(g) troubleshoot amplification problems and explain the parts and functions of group and personal amplification.

5.04(4)(h) develop and implement effective communication plans.

5.04(4)(i) plan an educational program to address the needs of students who are deaf or hard-of-hearing and who may have additional disabilities or conditions that impact learning.

5.04(5) The special education specialist: deaf/hard-of-hearing is knowledgeable about content standards and practice and is able to:

5.04(5)(a) identify and utilize specialized instructional materials relevant to specific student need and content standards.

5.04(5)(b) incorporate into planning information related but not limited to the syntactic, semantic use of American Sign Language (ASL) and English.

5.04(5)(c) incorporate into planning information related to languages and systems used to communicate with individuals who are deaf or hard-of-hearing.

5.04(5)(d) articulate normal speech development and characteristics of speech development for deaf or hard-of-hearing students.

5.04(5)(e) implement assessment procedures and curricula designed for:

5.04(5)(e)(i) the speech development of students who are deaf or hard-of-hearing and those who may have additional disabilities;

5.04(5)(e)(ii) ASL and English language development;

5.04(5)(e)(iii) stimulating the utilization of residual hearing;

5.04(5)(e)(iv) strategies/techniques related to the promotion of reading development; and

5.04(5)(e)(v) written language development.

5.04(5)(f) design and implement strategies and techniques for positively affecting the speech development of students who are deaf or hard-of-hearing.

5.04(5)(g) design and implement strategies/techniques to effectively instruct students about ASL and English language development.

5.04(5)(h) design and implement strategies/techniques for the stimulation and utilization of residual hearing.

5.04(5)(i) address in planning ways to facilitate cultural identity, linguistic, academic, cognitive, physical and social-emotional development.

5.04(5)(j) plan effective multi-level lessons.

5.04(5)(k) incorporate proven and effective research-supported instructional strategies and practices.

5.04(5)(l) implement strategies and procedures that effectively facilitate the deaf or hard-of-hearing student's transition to new settings and to meeting life challenges.

5.04(5)(m) communicate with advanced proficiency in relevant language(s) (English, ASL) and/or sign systems.

5.04(5)(n) select, modify, design, produce and utilize specialized and appropriate media, instructional materials, resources and technology.

5.04(5)(o) infuse communication skills into academic areas.

5.04(5)(p) apply appropriate and effective first- and second-language teaching strategies to meet student need.

5.04(5)(q) promote and encourage speech development; ASL and English language development; the utilization of residual hearing; reading and written language development to students who are deaf or hard-of-hearing.

5.04(5)(r) implement multi-level lessons for students who are deaf or hard-of-hearing.

5.04(5)(s) develop effective transition plan for students who are deaf or hard-of-hearing.

5.04(6) The special education specialist: deaf/hard-of-hearing is knowledgeable about the learning environment and is able to:

5.04(6)(a) demonstrate the adaptations needed within a variety of learning environments and within the community for students who are deaf or hard-of-hearing.

5.04(6)(b) manage assistive devices appropriate for students who are deaf or hard-of-hearing.

5.04(6)(c) select, implement and evaluate effective classroom management strategies.

5.04(6)(d) adapt learning environments to effectively meet needs of students who are deaf or hard-of-hearing and those who may have additional disabilities or special needs.

5.04(6)(e) plan and effectively implement instruction for students who are deaf or hard-of-hearing and those with additional disabilities or special needs.

5.04(7) The special education specialist: deaf/hard-of-hearing is knowledgeable about promoting student social interaction and independence and is able to:

5.04(7)(a) demonstrate processes for establishing ongoing interactions of students who are deaf or hard-of-hearing with peers and role models who are deaf, hard-of-hearing or hearing.

5.04(7)(b) provide opportunities for interaction with communities of individuals who are deaf, hard-of-hearing or hearing on the local, state and national levels.

5.04(7)(c) provide students with a wide variety of communication strategies which allow effective interaction with people and in places, situations and organizations within the community.

5.04(7)(d) implement strategies for teaching appropriate social skills and behavior in a variety of situations to students who are deaf or hard-of-hearing.

5.04(7)(e) provide appropriate methods of effective self-advocacy to students who are deaf or hard-of-hearing.

5.04(7)(f) articulate social/emotional/psychological developmental and social/emotional issues related to students who are deaf or hard-of-hearing.

5.04(7)(g) promote independence and responsibility to students who are deaf or hard-of-hearing.

5.04(7)(h) effectively teach students who are deaf or hard-of-hearing:

5.04(7)(h)(i) how to use support personnel and contact resources appropriately and effectively;

5.04(7)(h)(ii) how to be self-advocates;

5.04(7)(h)(iii) how to be independent and take responsibility for their own actions;

5.04(7)(h)(iv) about legal procedures, their rights and how to take appropriate action;

5.04(7)(h)(v) to express emotions appropriately; and

5.04(7)(h)(vi) how to use a wide variety of assistive devices.

5.04(8) The special education specialist: deaf/hard-of-hearing is knowledgeable about communication and collaborative partnerships and is able to:

5.04(8)(a) provide a wide variety of resources to family members and professionals who are deaf or hard-of-hearing; to assist them in dealing with educational concerns and options, utilizing relevant available services and determining appropriate communication modes; and to identify cultural and community opportunities for students who are deaf or hard-of-hearing.

5.04(8)(b) identify and articulate appropriate roles and responsibilities of educators and support personnel including, but not limited to, interpreters, note-takers and paraprofessionals in the delivery of education and education-related activities and programs to students who are deaf or hard-of-hearing.

5.04(8)(c) articulate the effects of communication on the development of family relationships and strategies to facilitate communication in families with children who are deaf or hard-of-hearing.

5.04(8)(d) articulate appropriate strategies to promote partnerships and to overcome barriers between families and professionals to effectively meet the needs of students who are deaf or hard-of-hearing.

5.04(8)(e) articulate to families and professionals the educational options, communication modes/philosophies, services, cultural issues and community resources available for children who are deaf or hard-of-hearing.

5.04(8)(f) facilitate communication between the child who is deaf and his or her family and/or other caregivers when, and as, appropriate.

5.04(8)(g) facilitate/oversee coordination of and supervise support personnel including but not limited to interpreters, note-takers and paraprofessionals, to meet the needs of students who are deaf or hard-of-hearing.

5.04(8)(h) use collaborative strategies and effective communication skills with individuals who are deaf or hard-of-hearing, parents, school and community personnel in various learning environments.

5.04(8)(i) advocate for meeting the social-emotional, educational and communication needs of students who are deaf or hard-of-hearing in a wide variety of settings.

5.04(9) The special education specialist: deaf/hard-of-hearing is knowledgeable about professionalism and ethical practice and is able to:

5.04(9)(a) acquire the additional knowledge and skills necessary to effectively educate students who are deaf or hard-of-hearing and to work successfully with their families, other professionals and interested stakeholders.

5.04(9)(b) participate in relevant professional and other organizations and remain current regarding publications and journals relevant to the field of educating students who are deaf or hard-of-hearing.

5.04(9)(c) self-assess, design and implement an ongoing professional development plan relevant to being an effective educator of students who are deaf and hard-of-hearing.

5.5 Early Childhood Special Education Specialist (Ages Birth-8)

To be endorsed as an early childhood special education specialist for ages birth-8, an applicant must have completed a degree or non-degree program at the graduate level in early childhood special education that includes field-based experience or practicum; have demonstrated the competencies found at 5.01 of these rules and 5.08 of 1 CCR 301-37; and have demonstrated the additional competencies, knowledge and skills specified below:

5.05(1) Assessment: Advanced early childhood special education specialists use valid and reliable assessment practices to minimize bias.

5.05(1)(a) Advanced early childhood special education specialists are knowledgeable of:

5.05(1)(a)(i) evaluation processes and determination of eligibility;

5.05(1)(a)(ii) a variety of methods for assessing and evaluating the performance of individuals with exceptionalities;

5.05(1)(a)(iii) strategies for identifying individuals with exceptionalities; and 5.05(1)

(a)(iv) evaluating an individual’s success in the general education curriculum.

5.05(1)(b) Advanced early childhood special education specialists possess specialized knowledge of:

5.05(1)(b)(i) policy and research implications that promote recommended practices in assessment and evaluation; and

5.05(1)(b)(ii) systems and theories of child and family assessment.

5.05(1)(c) Advanced early childhood special education specialists demonstrate the skills to:

5.05(1)(c)(i) design and use methods for assessing and evaluating programs; 5.05(1)

(c)(ii) design and implement research activities to examine the effectiveness of instructional practices;

5.05(1)(c)(iii) advocate for evidence-based practices in assessment; and

5.05(1)(c)(iv) report the assessment of individuals' performance and evaluation of instructional programs.

5.05(1)(d) Advanced early childhood special education specialists demonstrate the specialized skills to:

5.05(1)(d)(i) provide leadership in the development and implementation of unbiased assessment and evaluation procedures that include family members as an integral part of the process;

5.05(1)(d)(ii) provide leadership in the development and implementation of unbiased assessment and evaluation procedures for childcare and early education environments and curricula; and

5.05(1)(d)(iii) provide leadership when selecting effective formal and informal assessment instruments and strategies.

5.05(2) Curricular content knowledge: Advanced early childhood special education specialists use their knowledge of general and specialized curricula to improve programs, supports and services at classroom, school, community and system levels.

5.05(2)(a) Advanced early childhood special education specialists possess specialized knowledge of at least one developmental period or one particular area of disability or delay.

5.05(2)(b) Advanced early childhood special education specialists demonstrate the specialized skills to:

5.05(2)(b)(i) apply various curriculum theories and early learning standards, and evaluate their impact;

5.05(2)(b)(ii) integrate family and social systems theories to develop, implement, and evaluate family and educational plans;

5.05(2)(b)(iii) incorporate and evaluate the use of universal design and assistive technology in programs and services;

5.05(2)(b)(iv) design, implement, and evaluate plans to prevent and address challenging behaviors across settings;

5.05(2)(b)(v) design, implement, and evaluate developmentally responsive learning environments, preventative strategies, program wide behavior supports, and tiered instruction; and

5.05(2)(b)(vi) apply interdisciplinary knowledge from the social sciences and the allied health fields.

5.05(3) Programs, services and outcomes: Advanced early childhood special education specialists facilitate the continuous improvement of general and special education programs, supports, and services at the classroom, school, and system levels for individuals with exceptionalities.

5.05(3)(a) Advanced early childhood special education specialists are knowledgeable of:

5.05(3)(a)(i) effects of the cultural and environmental milieu of the child and the family on behavior and learning;

5.05(3)(a)(ii) theories and methodologies of teaching and learning, including adaptation and modification of curriculum;

5.05(3)(a)(iii) continuum of program options and services available to individuals with exceptionalities;

5.05(3)(a)(iv) pre-referral intervention processes and strategies;

5.05(3)(a)(v) process of developing individual educational programs (IEPs); and

5.05(3)(a)(vi) developmentally appropriate strategies for modifying instructional methods and the learning environment.

5.05(3)(b) Advanced early childhood special education specialists possess specialized knowledge of a range of delivery systems for programs and services available for infants and young children and their families

5.05(3)(c) Advanced early childhood special education specialists demonstrate the skills

to: 5.05(3)(c)(i) develop programs, including the integration of related services, for individuals with exceptionalities based upon a thorough understanding of individual differences;

5.05(3)(c)(ii) connect educational standards to specialized instructional services;

5.05(3)(c)(iii) improve instructional programs using principles of curriculum development and modification and learning theory; and

5.05(3)(c)(iv) incorporate essential components into individualized education plans.

5.05(3)(d) Advanced early childhood special education specialists demonstrate the specialized skills to:

5.05(3)(d)(i) design, implement, and evaluate home and community-based programs and services;

5.05(3)(d)(ii) address medical and mental health issues and concerns when planning, implementing, and evaluating programs and services; and

5.05)3)(d)(iii) use recommended practices to design, implement and evaluate transition programs and services.

5.05(4) Research and inquiry: Advanced early childhood special education specialists conduct, evaluate and use inquiry to guide professional practice.

5.05(4)(a) Advanced early childhood special education specialists are knowledgeable of evidence-based practices validated for specific characteristics of learners and settings.

5.05(4)(b) Advanced early childhood special education specialists demonstrate the skills to:

5.05(4)(b)(i) identify and use the research literature to resolve issues of professional practice;

5.05(4)(b)(ii) evaluate and modify instructional practices; and

5.05(4)(b)(iii) use educational research to improve instruction, intervention strategies and curricular materials.

5.05(4)(c) Advanced early childhood special education specialists demonstrate the specialized skills to:

5.05(4)(c)(i) create and/or disseminate new advances and evidence-based practices;

5.05(4)(c)(ii) help others understand early development and its impact across the life span; and

5.05(4)(c)(iii) interpret and apply research to the provision of quality services and program practices to infants, young children and their families in a variety of educational and community settings.

5.05(5) Leadership and policy: Advanced early childhood special education specialists provide leadership to formulate goals, set and meet high professional expectations, advocate for effective policies and evidence-based practices, and create positive and productive work environments.

5.05(5)(a) Advanced early childhood special education specialists are knowledgeable of:

5.05(5)(a)(i) needs of different groups in a pluralistic society;

5.05(5)(a)(ii) evidence-based theories of organizational and educational leadership;

5.05(5)(a)(iii) emerging issues and trends that potentially affect the school community and the mission of the school;

5.05(5)(a)(iv) federal and state education laws and regulations;

5.05(5)(a)(v) current legal, regulatory, and ethical issues affecting education; and

5.05(5)(a)(vi) responsibilities and functions of school communities and boards.

5.05(5)(b) Advanced early childhood special education specialists possess specialized knowledge of:

5.05(5)(b)(i) sociocultural, historical and political forces that influence diverse delivery systems, including mental health;

5.05(5)(b)(ii) policy and emerging trends that affect infants and young children, families, resources and services; and

5.05(5)(b)(iii) community resources on national, state and local levels that impact program planning and implementation and the individualized needs of the child and family.

5.05(5)(c) Advanced early childhood special education specialists demonstrate the skills to:

5.05(5)(c)(i) promote a free appropriate public education in the least restrictive environment;

5.05(5)(c)(ii) promote high expectations for self, staff, and individuals with exceptionalities;

5.05(5)(c)(iii) advocate for educational policy within the context of evidence-based practices; and

5.05(5)(c)(iv) mentor teacher candidates, newly certified teachers and other colleagues.

5.05(5)(d) Advanced early childhood special education specialists demonstrate the specialized skills to:

5.05(5)(d)(i) advocate on behalf of infants and young children with exceptional needs, and their families, at local, state and national levels;

5.05(5)(d)(ii) provide leadership to help others understand policy and research that guide recommended practices;

5.05(5)(d)(iii) provide leadership in the collaborative development of community-based services and resources; and

5.05(5)(d)(iv) provide effective supervision and evaluation.

5.05(6) Professional and ethical practice: Advanced early childhood special education specialists use foundational knowledge of the field and professional ethical principles and practice standards to inform special education practice, engage in lifelong learning, advance the profession and perform leadership responsibilities to promote the success of professional colleagues and individuals with exceptionalities.

5.05(6)(a) Advanced early childhood special education specialists are knowledgeable of:

5.05(6)(a)(i) legal rights and responsibilities of individuals, staff and parents/guardians;

5.05(6)(a)(ii) moral and ethical responsibilities of educators; and 5.05(6)

(a)(iii) human rights of individuals with exceptionalities and families.

5.05(6)(b) Advanced early childhood special education specialists demonstrate the skills to:

5.05(6)(b)(i) model ethical behavior and promote professional standards;

5.05(6)(b)(ii) implement practices that promote success for individuals with exceptionalities;

5.05(6)(b)(iii) use ethical and legal discipline strategies;

5.05(6)(b)(iv) disseminate information on effective school and classroom practices;

5.05(6)(b)(v) create an environment which supports continuous instructional improvement; and

5.05(5)(b)(vi) develop and implement a personalized professional development plan.

5.05(6)(c) Advanced early childhood special education specialists demonstrate the specialized skills to:

5.05(6)(c)(i) engage in reflective inquiry and professional self-assessment;

5.05(6)(c)(ii) participate in professional mentoring and other types of reciprocal professional development activities; and

5.05(6)(c)(iii) participate actively in organizations that represent recommended practices of early intervention and early childhood special education on a national, state, and local level.

5.05(7) Collaboration: Advanced early childhood special education specialists collaborate with stakeholders to improve programs, services and outcomes for individuals with exceptionalities and their families.

5.05(7)(a) Advanced early childhood special education specialists are knowledgeable of:

5.05(7)(a)(i) methods for communicating goals and plans to stakeholders; and

5.05(7)(a)(ii) roles of educators in integrated settings.

5.05(7)(b) Advanced early childhood special education specialists possess specialized knowledge of:

5.05(7)(b)(i) roles and responsibilities of personnel in the development and implementation of team-based early childhood special education and early intervention services; and

5.05(7)(b)(ii) theories, models and research that support collaborative relationships.

5.05(7)(c) Advanced early childhood special education specialists demonstrate the skills to:

5.05(7)(c)(i) collaborate to enhance opportunities for learners with exceptionalities; and

5.05(7)(c)(ii) apply strategies to resolve conflict and build consensus.

5.05(7)(d) Advanced early childhood special education specialists demonstrate the specialized skills to:

5.05(7)(d)(i) implement and evaluate leadership and models of collaborative relationships; and

5.05(7)(ii) collaborate with stakeholders in developing and implementing positive behavior support plans to prevent and address challenging behavior.

5.6 **Gifted Education Core (Ages 4-21)**

To hold the gifted education core endorsement, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; must hold a Colorado initial or professional teacher or special services license; have completed an approved program for the preparation of gifted education educators, including prescribed field experience and student teaching requirements; have passed any required general education content and/or gifted education assessments; and have demonstrated competency in the seven areas specified below:

5.06(1) Learner development and individual learning differences: An educator with a gifted education core endorsement understands variations in learning and development in cognitive and affective areas between and among individuals with gifts and talents and applies this understanding to provide appropriately meaningful and challenging learning experiences for individuals with

exceptionalities. This educator understands that learner differences and development are manifest and monitored via data, bodies of evidence, advanced learning plans (ALPs), academic and affective goals, and multi-tiered system of supports systemic intervention strategies and tools for differentiation, acceleration and enrichment that address advanced learning differences and to support optimal continual development of individual growth and potential. The gifted educator applies knowledge of:

5.06(1)(a) gifted learner development in order to:

5.06(1)(a)(i) apply documented current theories related to intelligence, creativity, brain research, underlying exceptional cognition, asynchronicity and the expression of talent as it applies to all gifted students, including early childhood students, twice-exceptional learners (i.e., gifted and talented students with disabilities), highly gifted students, underachieving high-potential students, culturally and ethnically diverse gifted students, high-potential linguistically diverse students, students with unique affective needs, high-potential economically disadvantaged students and others;

5.06(1)(a)(ii) understand documented theories of human development, ages 4-21, as specifically related to developmentally appropriate strategies for gifted and talented learners;

5.06(1)(a)(iii) recognize the unique characteristics of gifted, talented and creative students, preschool through grade 12, and seek opportunities for enhancing their achievement as well as social-emotional development;

5.06(1)(a)(iv) apply understanding of development and individual academic and affective differences to respond to the needs of individuals with gifts;

5.06(1)(a)(v) identify how families and communities contribute to the development of individuals with gifts and talents and support their roles in the development of individuals with gifts; and

5.06(1)(a)(vi) recognize the influence of social and emotional development on interpersonal relationships and learning of individuals with gifts and talents.

5.06(1)(b) learning traits, needs and differences in order to:

5.06(1)(b)(i) evaluate the need for and draw upon multiple, appropriate gifted learner data, advanced learning plans (ALPs), evidence-based practices for differentiation including acceleration strategies, systemic support systems, strategies and specialized support services to assist with meeting the unique learning-related affective, social and cognitive needs of gifted and talented students related but not limited to:

5.06(1)(b)(i)(A) various types of giftedness and talent, including creativity;

5.06(1)(b)(i)(B) asynchronous development (i.e., the incongruences that may occur between a student's intellectual maturity and his/her social, emotional and physical development);

5.06(1)(b)(i)(C) psychological support;

5.06(1)(b)(i)(D) cognitive development and affective characteristics; and

5.06(1)(b)(i)(E) social and behavioral characteristics and needs, impact of multiple exceptionalities and multi-potentialities on gifted students.

5.06(1)(b)(ii) interpret gifted learner data to develop and monitor advanced learning plans (ALPs) and provide appropriate evidence-based practices for differentiation to support ongoing academic achievement and learning-related affective development of gifted and talented students; and

5.06(1)(b)(iii) apply concepts and interrelationships of giftedness, intelligence, creativity and leadership.

5.06(1)(c) diversity in order to:

5.06(1)(c)(i) recognize how language, culture, economic status, family background and/or area of disability can influence the learning of individuals with gifts and talents;

5.06(1)(c)(ii) appreciate influences of diversity factors, different beliefs, traditions and values across and within diverse groups as cognitive, social, emotional, cultural, linguistic and environmental effects that enhance or inhibit the development of giftedness; and

5.06(1)(c)(iii) seek to understand how language, culture and family background interact with an individual's predispositions to impact academic and social behavior, attitudes, values and interests.

5.06(2) Learning environment and structures: An educator with a gifted education core endorsement creates safe, inclusive and culturally responsive learning environments so that individuals with gifts and talents become effective learners and develop social and emotional well-being. The gifted educator applies knowledge of:

5.06(2)(a) social-emotional aspects in order to:

5.06(2)(a)(i) apply strategies for addressing specific social and emotional aspects that are unique to the gifted learner;

5.06(2)(a)(ii) create a safe, nurturing classroom environment that encourages mutual respect and emotional well-being;

5.06(2)(a)(iii) establish an environment in which creativity and giftedness can emerge and where students can feel safe to acknowledge, explore and express their uniqueness;

5.06(2)(a)(iv) acknowledge the value of each gifted student's contributions to the quality of learning; and

5.06(2)(a)(v) demonstrate understanding of the multiple environments that are part of a continuum of services for individuals with gifts and talents, including the advantages and disadvantages of various settings, by intentionally modifying classroom environments for different purposes.

5.06(2)(b) diversity in order to create a classroom environment that values diversity and individuality and fosters understanding and features intercultural experiences.

5.06(2)(c) skill development in order to:

5.06(2)(c)(i) plan for the development of coping skills in individuals with gifts and talents to address personal and social issues including discrimination and stereotyping;

5.06(2)(c)(ii) modify learning environments to enhance the independence, self-awareness and self-efficacy of gifted students;

5.06(2)(c)(iii) support students as they adapt to changes in their learning environments; and

5.06(2)(c)(iv) apply strategies for the development in gifted students of habits of mind, attitudes and skills needed for future success, such as the production of knowledge; independent, lifelong learning; self-evaluation; interdependence and goal-setting (realistic, challenging goals for self, academics and school-to-career).

5.06(2)(d) relationships in order to:

5.06(2)(d)(i) establish a nurturing, respectful and caring relationship with each student and encourage relationships among students;

5.06(2)(d)(ii) plan for the development of social interaction that encourages positive relationships among students and that builds collaboration skills; and

5.06(2)(d)(iii) facilitate appropriate flexible grouping practices for educational reasons.

5.06(3) Instructional planning and strategies: An educator with a gifted education core endorsement selects, adapts and uses a repertoire of evidence-based instructional strategies to advance the learning of individuals with gifts and talents. The gifted educator applies knowledge of:

5.06(3)(a) curriculum in order to:

5.06(3)(a)(i) develop long-range plans anchored in both general and special

curricula; 5.06(3)(a)(ii) apply theories and research models that form the basis of

curriculum
development and instructional practice for individuals with gifts and talents;

5.06(3)(a)(iii) design and prescribe appropriate differentiated gifted program and curriculum options that are based on research-supported instructional strategies which include conceptual depth, advanced technological skills, accelerated presentation and pace, and creativity;

5.06(3)(a)(iv) apply documented best practices for teaching gifted and talented students, including those practices for the design and delivery of curriculum and the assessment of student learning including varied options and methods for acceleration, modification of content, content extensions (for depth and complexity) and expanded learning opportunities for students in order to meet specialized needs that may include resources beyond the classroom (mentorships, internships, dual enrollment, etc.);

5.06(3)(a)(v) foster the development of leadership skills through structured group processes;

5.06(3)(a)(vi) create environments and communicate high expectations for gifted students through rigorous learning activities; and

5.06(3)(a)(vii) promote active engagement in meaningful and challenging activities that extend learning.

5.06(3)(b) diversity in order to:

5.06(3)(b)(i) demonstrate understanding of cultural and linguistic factors, as well as the implications of being gifted and talented;

5.06(3)(b)(ii) design differentiated learning plans for individuals with gifts and talents including twice-exceptional students and individuals from diverse backgrounds;

5.06(3)(b)(iii) integrate perspectives of diverse groups into planning instruction for individuals with gifts and talents; and

5.06(3)(b)(iv) select curriculum resources, strategies and product options that respond to cultural, linguistic and intellectual differences.

5.06(3)(c) social-emotional aspects in order to plan and implement strategies for addressing the unmet social and emotional strengths and needs facing gifted students that differ from those of the general population.

5.06(3)(d) data-driven decisions in order to:

5.06(3)(d)(i) systematically translate shorter-range ALP academic and affective goals and objectives that take into consideration an individual's abilities and needs, the learning environment and cultural and linguistic factors; and

5.06(3)(d)(ii) evaluate the match between the identified educational needs of the student and appropriate and relevant strategies, programs and services.

5.06(4) Curricular content knowledge: An educator with a gifted education core endorsement demonstrates mastery of and pedagogical expertise in the content taught and uses knowledge of general and specialized curricula to advance learning for individuals with gifts and talents. The gifted educator applies knowledge of:

5.06(4)(a) differentiation in order to:

5.06(4)(a)(i) provide needs-based intensive research-based literacy and numeracy skill development and integrate such skills into lessons and assignments as well as across subject areas;

5.06(4)(a)(ii) implement cognitively engaging instruction intended to enhance student thinking, involve them in their own academic progress and create climates that encourage risk-taking, thinking outside the box and real-life scenarios;

5.06(4)(a)(iii) interpret data in order to supplement or modify assessments to address learning needs of individuals with gifts and talents;

5.06(4)(a)(iv) apply research-based effective differentiation strategies and instructional best practices to address all needs, including affective needs, of gifted learners; and

5.06(4)(a)(v) select, adapt and create appropriate, challenging materials in order to differentiate instructional strategies through general and specialized curricula.

5.06(4)(b) diversity in order to:

5.05(4)(b)(i) apply understanding of diversity and individual learning differences to inform the selection, development and implementation of comprehensive curricula for individuals with exceptionalities; and

5.05(4)(b)(ii) integrate perspectives of diverse groups into planning instruction for individuals with gifts and talents.

5.06(4)(c) cross-disciplinary curriculum in order to:

5.06(4)(c)(i) develop lessons that reflect the interconnectedness of content areas/disciplines;

5.06(4)(c)(ii) understand the role of central key concepts and structures of the discipline in order to implement instructional strategies that ensure that instruction articulates content and interdisciplinary connections;

5.06(4)(c)(iii) use understanding of gifted learner needs to organize knowledge, integrate cross-disciplinary skills and apply meaningful learning progressions within and across grade levels; and

5.06(4)(c)(iv) accelerate learning by elaborating on current lesson with connections to prior lessons within the content area and/or with other disciplines.

5.06(4)(d) thinking skills in order to:

5.06(4)(d)(i) implement tools of inquiry in content areas including higher-level thinking, critical-thinking and reasoning;

5.06(4)(d)(ii) apply strategies of creativity, acceleration, depth and complexity in academic subject matter and specialized domains; and

5.06(4)(d)(iii) facilitate in-depth studies, individual investigations and learner-directed experiences.

5.06(5) Assessment and evaluation: An educator with a gifted education core endorsement is knowledgeable about the identification and assessment of student needs and uses formative and summative information from data to incorporate appropriate planning, methods and processes to meet the needs of gifted and talented students in all domains. Advanced learning plans (ALPs) serve as a “road map” and are collaboratively developed specific to individual gifted learner needs and goals and are used to determine acceleration needs, differentiation of instruction and provisions for affective support.
The gifted educator applies knowledge of:

5.06(5)(a) diversity in order

to:

5.06(5)(a)(i) understand factors inhibiting the recognition of the potential of students who are gifted from underserved populations (including, but not limited to, students who are female, disabled, racially or ethnically diverse, economically disadvantaged, underachieving, rural and/or highly gifted or twice-exceptional) and use multiple sources, portfolios and other data for a body of evidence when considering students for identification;

5.06(5)(a)(ii) apply defensible methods for screening, identifying and assessing students who are gifted, including under-served populations;

5.06(5)(a)(iii) demonstrate understanding of the unique and sophisticated means by which individuals with gifts and talents including those from culturally diverse backgrounds may demonstrate their learning; and

5.06(5)(a)(iv) use assessment results to develop long- and short-range goals and objectives that take into consideration an individual's abilities and needs, the learning environment and other factors related to diversity.

5.06(5)(b) identification in order to:

5.06(5)(b)(i) understand the process of and procedures for identification, legal policies and ethical principles of measurement and assessment related to referral, eligibility, program planning, instruction and placement for individuals with gifts and talents;

5.06(5)(b)(ii) implement technically sound, valid and reliable qualitative and quantitative instruments that minimize bias in identifying students for gifted education programs and services;

5.06(5)(b)(iii) use multiple methods of assessment and data sources in making educational decisions about identification of individuals with gifts and talents; and

5.06(5)(b)(iv) assess social-emotional needs of the gifted student in order to develop ALP goals specific to affective needs of the individual.

5.06(5)(c) instruction in order to:

5.06(5)(c)(i) use and interpret qualitative and quantitative assessments and information, aligned with Department of Education identification guidelines and procedures, to develop a profile of the strengths and weaknesses of each student with gifts and talents;

5.06(5)(c)(ii) interpret results of relevant data to diagnose educational needs and align instruction with academic standards and student assessment results;

5.06(5)(c)(iii) monitor and adjust instruction to enhance ongoing learning progress and modify learning plans based on ongoing assessment of individuals progress;

5.06(5)(c)(iv) apply a variety of pre-, formative and summative assessment methods and evaluate student performance based on multiple measures, employing alternative assessments and technologies such as performance-based assessment, portfolios and computer simulations, differentiated product-based assessments and off-level standardized assessments;

5.06(5)(c)(v) use assessment results to select, adapt and create materials to differentiate instructional strategies and general and specialized curricula to challenge individuals with gifts and talents at appropriate instructional levels. Use knowledge of measurement principles and practices to differentiate assessments and interpret results to guide educational decisions for individuals with gifts and talents;

5.06(5)(c)(vi) understand the affective aspects of giftedness that may affect a learner's achievement (perfectionism, self-concept, etc.); and

5.06(5)(c)(vii) use results from technically sound informal assessments (surveys, checklists, screening tools, observations, et.al.) to determine appropriate affective supports.

5.06(5)(d) communication in order to:

5.06(5)(d)(i) provide and implement actionable, timely, specific and individualized feedback for growth, learning and challenge;

5.06(5)(d)(ii) involve students in self-assessment and use formal and informal assessment feedback to monitor their learning;

5.06(5)(d)(iii) engage individuals with gifts and talents in evaluating the quality of their own learning and performance and in setting future goals and objectives; and

5.06(5)(d)(iv) communicate and interpret assessment information to students with gifts and talents and their parents/guardians.

5.06(5)(e) assessment of programming in order to:

5.06(5)(e)(i) provide information and input for evaluation of gifted programming; and

5.06(5)(e)(ii) evaluate implementation and effectiveness of strategies used to ensure delivery of program/service goals and objectives for all gifted learners, including those from diverse cultural and/or linguistic backgrounds.

5.06(6) Professional learning and ethical practice: An educator with a gifted education core endorsement applies foundational knowledge of the field and professional ethical principles and programming standards to inform gifted education practice, to engage in lifelong learning and to advance the profession. The gifted educator applies knowledge of:

5.06(6)(a) foundations in order to demonstrate knowledge about the foundations of the education of the gifted and the talented student including, but not limited to, the history of the education of the gifted and talented; proven and documented theories of giftedness; the wide variety of curricular strategies that provide for the effective teaching of gifted and talented students to include the current and evolving discipline based on philosophies, evidence-based principles and theories, relevant laws and policies, and diverse and historical points of view; and human issues.

5.06(6)(b) diversity in order to:

5.06(6)(b)(i) demonstrate understanding of key issues and trends including diversity and inclusion that connect general, special and gifted and talented education;

5.06(6)(b)(ii) respond appropriately to the impact of culture and language as it interacts with an individual’s gifts and talents;

5.06(6)(b)(iii) recognize and plan for the many aspects of diversity of individuals with gifts and talents and their families;

5.06(6)(b)(iv) understand that personal and cultural frames of reference affect one’s teaching of individuals with gifts and talents, including biases about individuals from diverse backgrounds and twice-exceptional learners; and

5.06(6)(b)(v) assess and evaluate personal skills and limitations in regard to the impact of the dominant culture's role in shaping schools and recognize how differences in values, languages and customs between school and home may provide opportunities for adjustments.

5.06(6)(c) ethical practice in order to:

5.06(6)(c)(i) maintain confidentiality of student, family and fellow teacher interactions, as well as student data, while using professional ethical principles, ethical practices and specialized program standards with all individuals with exceptionalities by supporting and using linguistically and culturally responsive practices;

5.06(6)(c)(ii) act in compliance with laws, policies and standards of ethical practice by engaging in professional activities that promote growth in individuals with gifts and talents and update him/herself on evidence-based best practices; and

5.06(6)(c)(iii) support positive and productive work environments by creating and maintaining collegial and productive work environments that respect and safeguard the rights of individuals with exceptionalities and their families.

5.06(6)(d) professional growth in order to:

5.06(6)(d)(i) view him/herself as a lifelong learner and regularly reflect on and adjust teaching practices, including self-evaluation of instruction by practice through continuous research-supported professional development;

5.06(6)(d)(ii) reflect on personal practice to improve teaching and guide professional growth by involvement in professional development organizations, conferences, workshops and publications that are relevant to the field of gifted education; and

5.06(6)(d)(iii) continuously broaden and deepen professional knowledge and expand expertise in regard to instructional technologies, curriculum standards, effective teaching strategies and assistive technologies that support access to and learning of challenging content by including current state standards, skills and local and state input.

5.06(7) Collaboration and communication: An educator with a gifted education core endorsement possesses skills in communicating, teaming and collaborating with diverse individuals and across diverse groups; demonstrates competence in interpersonal and technical communication skills as well as advanced oral and written skills; and applies knowledge of regulations and laws regarding confidentiality. The gifted educator applies knowledge of:

5.06(7)(a) ethics in order to maintain confidential communication about individuals with gifts and talents.

5.06(7)(b) cultural responsiveness in order to:

5.06(7)(b)(i) provide guardians/parents with information in their native language regarding diverse behaviors and characteristics that are associated with giftedness and information that explains the nature and purpose of gifted programming options;

5.06(7)(b)(ii) understand how the characteristics of one's own culture and use of standard English can differ from other cultures and uses of language;

5.06(7)(b)(iii) adjust and match communication methods to an individual's language proficiency and cultural and linguistic differences; and

5.06(7)(b)(iv) implement ways of behaving and communicating that lead to more accurate interpretation and greater understanding among all cultural and linguistic groups.

5.06(7)(c) effective communication in order to:

5.06(7)(c)(i) recognize the importance of using verbal, nonverbal and written language effectively;

5.06(7)(c)(ii) use communication strategies and resources to facilitate understanding of subject matter for individuals with gifts and talents who are English language learners;

5.06(7)(c)(iii) collaborate with families, professional colleagues and other educators to use data to make identification decisions and select, adapt and use evidence-based strategies that promote challenging learning opportunities in general and specialized curricula;

5.06(7)(c)(iv) implement strategies for advocating for students who are gifted and for enhancing community perceptions, interactions and involvement regarding gifted education;

5.06(7)(c)(v) facilitate school to career/life actions in a collaborative context that includes individuals with gifts and talents, families, professional colleagues and personnel from other agencies, as appropriate; and

5.06(7)(c)(vi) effect change by establishing a leadership role with parents, colleagues and other stakeholders through planned involvement and collaborative efforts that promote gifted student education.

5.06(8) An educator with a gifted education core endorsement is knowledgeable about professionalism and ethical practice and is able to:

5.06(8)(a) acquire the additional knowledge and skills necessary to effectively educate students with gifts and talents and to work successfully with their families, other professionals and interested stakeholders.

5.06(8)(b) participate in relevant professional and other organizations and remain current regarding publications and journals relevant to the field of educating students with gifts and talents.

5.06(8)(c) self-assess, design and implement an ongoing professional development plan relevant to being an effective educator of students with gifts and talents.

5.7 **Gifted Education Specialist (Ages 4-21)**

To be endorsed as a gifted education specialist, a candidate must hold an earned master's or higher degree in gifted education from an accepted institution of higher education; have completed an approved program for the preparation of gifted education specialists, including prescribed field experience and student teaching requirements; hold a Colorado initial or professional teacher license with a gifted education core endorsement or demonstrate through multiple performance measures the competencies required for a gifted education core endorsement:

5.07(1) Leadership and policy: The gifted education specialist provides leadership to formulate goals, set and meet high professional expectations, advocate for effective policies and evidence-based practices and is guided by professional ethics and practice standards. In this advanced role, the gifted educator has leadership responsibilities for promoting the success of individuals with exceptional learning needs, their families and colleagues. The gifted education specialist creates supportive environments that safeguard the legal rights of students, families and school personnel through policies and procedures that promote ethical and professional practice. The gifted education specialist applies knowledge of:

5.07(1)(a) accountability in order to:

5.07(1)(a)(i) articulate public policy as it relates to the development and implementation of programs and strategies for gifted and talented students that are consistent with and aligned to adopted policies and objectives of the school district;

5.07(1)(a)(ii) integrate gifted education into the school's and district's educational program design, the delivery of instruction and other educational processes, and the organization of the school day;

5.07(1)(a)(iii) understand legal issues impacting the field of gifted education;

5.07(1)(a)(iv) prepare budgets, grants and reports;

5.07(1)(a)(v) apply knowledge of theories, evidence-based practices, relevant laws and policies to advocate for programs, supports and a continuum of services for individuals with exceptionalities; and

5.07(1)(a)(vi) ensure privacy issues in regard to individual students and record- keeping.

5.07(1)(b) collaboration in order to:

5.07(1)(b)(i) demonstrate effective leadership skills for designing and implementing programs for and delivering instruction to gifted students;

5.07(1)(b)(ii) utilize effective leadership skills for designing and implementing programs for and delivering instruction to gifted students;

5.07(1)(b)(iii) provide leadership to create procedures that respect all individuals and permit professionals to practice ethically;

5.07(1)(b)(iv) create positive and productive work environments by sharing information regarding positive impacts with colleagues;

5.07(1)(b)(v) implement strategies to promote collegial understanding of the academic and affective needs of gifted students among regular classroom teachers, administrators and boards of education; and

5.07(1)(b)(vi) work with professional, governmental and/or community agencies to advocate for curricular, school and instructional improvements.

5.07(1)(c) advocacy in order to:

5.07(1)(c)(i) communicate with policy makers and the general public about issues inherent in the education of gifted and talented students and about how to resolve concerns appropriately, effectively and practically;

5.07(1)(c)(ii) discuss potential improvements to policies and procedures with administrators to better address student, family and school needs;

5.07(1)(c)(iii) contribute to school and/or district committees to improve and align gifted services for students and their families;

5.07(1)(c)(iv) promote appropriate programming regarding the education of gifted and talented students to external agencies and groups;

5.07(1)(c)(v) promote policies and practices that improve programs, services and outcomes for individuals with exceptionalities;

5.07(1)(c)(vi) seek allocation of appropriate resources for the preparation and professional development of all personnel who serve individuals with exceptionalities; and

5.07(1)(c)(vii) provide opportunities and support for acceleration for gifted students in content, process and/or product.

5.07(1)(d) professional development in order to:

5.07(1)(d)(i) promote high professional self-expectations and help others understand the needs of individuals with exceptional learning needs within the context of an organization's mission;

5.07(1)(d)(ii) plan, facilitate and/or provide professional development activities for increasing the knowledge and skills of regular classroom teachers in the areas of gifted identification methods and procedures, specific research-based instructional strategies and curriculum for gifted learners, and assessment methods and data-analysis to enhance the general improvement of the education of gifted and talented students;

5.07(1)(d)(iii) structure, direct and supervise the activities of para-educators, volunteers and tutors; and

5.07(1)(d)(iv) participate in self-evaluation and in organizations and activities that provide professional development opportunities and information that can increase professional competence and contribute to the advancement of the education of the gifted and talented student.

5.07(2) Collaboration, communication and coordination: The gifted education specialist has a deep understanding of the centrality and importance of consultation and collaboration to the roles within gifted education and uses this deep understanding to improve programs, services and outcomes for individuals with exceptional learning needs. The gifted education specialist understands the significance of the role of collaboration and promotes understanding, resolves conflicts and builds consensus among both internal and external stakeholders to provide services to individuals with exceptional learning needs and their families. The gifted education specialist possesses current knowledge of research on stages and models in both collaboration and consultation, and ethical and legal issues related to consultation and collaboration, and applies knowledge of:

5.07(2)(a) diversity in order to recognize cultural factors that promote effective communication and collaboration and to respond respectfully to individuals, families, school personnel and specific communities/community members in order to enhance or improve opportunities for gifted students.

5.07(2)(b) collaboration in order to:

5.07(2)(b)(i) maximize opportunities to promote understanding, resolve conflicts and build consensus for improving programs, services and outcomes for individuals with exceptionalities;

5.07(2)(b)(ii) identify effective communication, collaboration, consultation and leadership skills and apply these skills to the effective implementation of education for gifted learners;

5.07(2)(b)(iii) apply effective models and strategies for consultation, conferencing and collaboration with families and individuals with gifts and talents;

5.07(2)(b)(iv) coordinate transitions between grade levels and buildings; 5.07(2)(b)

(v) implement goals and expectations through the advanced learning plan (ALP) process; and

5.07(2)(b)(vi) identify stakeholders and develop an ongoing plan for including and communicating with all stakeholders including classroom teachers, special services providers, parents, community members and students.

5.07(2)(c) effective problem-solving in order to:

5.07(2)(c)(i) use group problem-solving skills to develop, implement and evaluate collaborative activities;

5.07(2)(c)(ii) identify potential problems or issues, brainstorm possible solutions, evaluate and select best alternatives, develop a plan for implementation, implement and reflect on the process and results; and

5.07(2)(c)(iii) implement strategic planning in collaboration with teachers and district or administrative unit personnel in order to improve gifted student services.

5.07(3) Research and inquiry: The gifted education specialist has a comprehensive knowledge of gifted education as an evolving and changing discipline based on philosophies, evidence-based principles and theories, relevant laws and policies, diverse and historical points of view and issues that have influenced and continue to influence gifted education and the education of and services for individuals with exceptionalities both in school and in society. The gifted education specialist applies knowledge of:

5.07(3)(a) gifted education history and current theories in order to:

5.07(3)(a)(i) demonstrate comprehensive understanding of the foundations of education of the gifted and the talented student including but not limited to the history of the education of the gifted and talented, as well as proven and documented theories of giftedness;

5.07(3)(a)(ii) distinguish between theory and empirically proven research;

5.07(3)(a)(iii) apply understanding of current literature related to gifted education;

5.07(3)(a)(iv) recommend a variety of research-based curricular strategies that provide for the effective teaching of gifted and talented students; and

5.07(3)(a)(v) identify, critique and utilize research and applicable theory of curricular strategies as a basis for decision-making and practice for gifted students.

5.07(3)(b) data-analysis and measurement in order to: 5.07(3)

(b)(i) interpret data as a basis for decision-making;

5.07(3)(b)(ii) conduct action research in order to investigate an area of interest/s to effect change at a local level; and

5.07(3)(b)(iii) evaluate identification procedures, curriculum and gifted programming policies and procedures to revise and improve gifted student education and opportunities.

5.07(4) Curriculum content: Curriculum and instructional planning is at the center of gifted and talented education. The gifted education specialist develops long-range plans anchored in both general and special curricula and systematically translates shorter-range goals and objectives that take into consideration an individual's abilities and needs, the learning environment and cultural and linguistic factors. Understanding of these factors, as well as the implications of being gifted and talented, guides the selection, adaptation and creation of materials and use of differentiated instructional strategies. Learning plans are modified based on ongoing assessment of the individual's progress. The gifted education specialist applies knowledge of:

5.07(4)(a) research in order to:

5.07(4)(a)(i) use information from theories and research to revise and/or differentiate units, lesson plans and strategies for curriculum development and instructional practice for individuals with gifts and talents;

5.07(4)(a))(ii) apply appropriate theoretical models, structures and systems to the development of gifted programs and services; and

5.07(4)(a)(iii) evaluate and recommend program/services prototypes, grouping practices and educational principles that offer appropriate foundations for the development of a defensible program/service for gifted education.

5.07(4)(b) general and specialized curricula in order to:

5.07(4)(b)(i) develop long-range plans anchored in both general and special curricula, and systematically translate shorter-range goals and objectives that take into consideration an individual's abilities and needs, the learning environment and cultural and linguistic factors;

5.07(4)(b)(ii) improve programs, supports and services at classroom, school, community and educational system levels;

5.07(4)(b)(iii) apply pedagogical content knowledge to instructing learners with gifts and talents;

5.07(4)(b)(iv) emphasize the development, practice and transfer of advanced knowledge and skills across environments throughout the lifespan leading to creative, productive careers in society for individuals with gifts and talents;

5.07(4)(b)(v) develop scope and sequence plans for individuals with gifts and talents; and

5.07(4)(b)(vi) provide opportunities for acceleration in content areas.

5.07(4)(c) diversity in order to:

5.07(4)(c)(i) apply understanding of diversity and individual learning differences to inform the selection, development and implementation of comprehensive curricula for individuals with exceptionalities; and

5.07(4)(c)(ii) select curriculum resources, strategies and product options that respond to cultural, linguistic and intellectual differences among individuals with gifts and talents.

5.07(4)(d) differentiation in order to:

5.07(4)(d)(i) recognize features that distinguish differentiated curriculum from general curricula for individuals with exceptional learning needs;

5.07(4)(d)(ii) align differentiated instructional plans with local, state and national curricular standards;

5.07(4)(d)(iii) select and adapt a variety of differentiated curricula that incorporate advanced, conceptually challenging, in-depth, distinctive and complex content; and

5.07(4)(d)(iv) apply models for delivery of appropriately differentiated content, processes, products, affects and learning environments (i.e., unique, complex and abstract) designed to meet the unique cognitive and affective needs of gifted learners.

5.07(4)(e) standards in order to:

5.07(4)(e)(i) use deep understanding of educational standards to help all individuals with exceptional learning needs access challenging curriculum; and

5.07(4)(e)(ii) apply knowledge of common core standards and understand the levels of rigor embedded in the standards.

5.07(4)(f) individual differences in order to:

5.07(4)(f)(i) emphasize curriculum for individuals with gifts and talents within cognitive, affective, aesthetic, social and linguistic domains;

5.07(4)(f)(ii) integrate academic and career guidance experiences into the learning plan for individuals with gifts and talents; and

5.07(4)(f)(iii) provide and/or facilitate social-emotional support to meet specific gifted student affective needs.

5.07(5) Assessment: Assessment is critical to the advanced role of the gifted education specialist. Underlying assessment is the knowledge of systems, theories and standards-related educational assessment, along with skills in examining the technical adequacy of instruments and the implementation of evidence-based practices in assessment. It is critical that assessments that minimize bias are used in the selection of instruments, methods and procedures for both programs and individuals. With respect to assessment of individuals with gifts and talents, the gifted education specialist applies knowledge and skill to all stages and purposes of assessment, including the identification of abilities, strengths and interests, and when monitoring and reporting learning progress in the general education curriculum as well as in the specialized curriculum in their gifted education placement. The gifted education specialist applies knowledge of:

5.07(5)(a) technical aspects in order to understand measurement theory and practices for addressing issues of validity, reliability, norms, bias and limitations as well as interpretation of assessment results.

5.07(5)(b) assessment for identification in order to:

5.07(5)(b)(i) recommend and implement valid and reliable assessment practices and approaches to minimize bias for identifying students with gifts and talents;

5.07(5)(b)(ii) review, select and use multiple psychometrically sound, nonbiased, equitable qualitative and quantitative instruments from a variety of sources to identify individuals with gifts and talents in order to assess their diverse abilities, strengths, talents and interests;

5.07(5)(b)(iii) provide assessment tools in the child’s native language or in nonverbal formats.

5.07(5)(b)(iv) interpret multiple assessments in different domains and understand the uses and limitations of the assessments in identifying the needs of students with gifts and talents; and

5.07(5)(b)(v) inform all parents/guardians about the identification process, obtain parental/ guardian permission for assessments, use culturally sensitive checklists and elicit evidence regarding the child’s interests and potential outside of the classroom setting.

5.07(5)(c) assessment of instruction in order to:

5.07(5)(c)(i) monitor the progress of individuals with gifts and talents in the general education and specialized curricula;

5.07(5)(c)(ii) pre-assess the learning needs of individuals with gifts and talents in various domains and adjust instruction based on ongoing, continual assessment;

5.07(5)(c)(iii) analyze student results in order to determine most effective practices and supports;

5.07(5)(c)(iv) provide appropriate assessments that require higher-level thinking and application of skills to a final product or performance; and

5.07(5)(c)(v) monitor and adjust expectations for student goals as stated on the advanced learning plan.

5.07(6) Professional and ethical practice: The gifted education specialist uses foundational knowledge of the field, professional ethical principles and program standards to inform gifted education practice, engage in lifelong learning, advance the profession and perform leadership responsibilities to promote the success of professional colleagues and individuals with exceptionalities. The gifted education specialist applies knowledge of:

5.07(6)(a) professional development in order to:

5.07(6)(a)(i) lead professional development efforts and facilitate learning communities to increase professional knowledge and expertise focused on addressing gifted student needs;

5.07(6)(a)(ii) align professional development initiatives with school and district initiatives that address gifted education instructional strategies based on current research;

5.07(6)(a)(iii) advocate for professional development that is evidence-based and targeted toward improving gifted student outcomes;

5.07(6)(a)(iv) plan, present and evaluate professional development focusing on effective and ethical practice at all organizational levels; and

5.07(6)(a)(v) collaborate with district personnel and teachers to develop and implement a long-term professional development plan focused on increasing educator knowledge in the area of gifted education.

5.07(6)(b) diversity in order to:

5.07(6)(b)(i) demonstrate high professional expectations and ethical practice and create supportive environments that increase diversity at all levels of gifted and talented education;

5.07(6)(b)(ii) model and promote respect for all individuals and facilitate ethical professional practice; and

5.07(6)(b)(iii) understand and implement district and state policies designed to foster equity in gifted programming and services.

5.07(6)(c) professional responsibility in order to:

5.07(6)(c)(i) actively facilitate and participate in the preparation and induction of prospective gifted educators;

5.07(6)(c)(ii) promote the advancement of the gifted profession;

5.07(6)(c)(iii) implement performance feedback from supervisor and/or colleagues to improve practice;

5.07(6)(c)(iv) advocate for laws based on solid evidence-based knowledge to support high-quality education for individuals with exceptional learning needs;

5.07(6)(c)(v) conduct applied work to contribute to field; and 5.07(6)

(c)(vi) ensure confidentiality of student information and records.

5.07(7) Programming services and program evaluation: The gifted education specialist facilitates the continuous improvement of general and gifted education programs, supports and services at the classroom, school and system levels for individuals with exceptionalities. The gifted education specialist applies knowledge of:

5.07(7)(a) programming services in order to:

5.07(7)(a)(i) apply knowledge of cognitive science, learning theory and instructional technologies to improve instructional programs at the school- and system-wide level;

5.07(7)(a)(ii) design and develop systematic program and curriculum models for enhancing talent development in multiple settings; and

5.07(7)(a)(iii) implement knowledge of program strategies, such as acceleration and enrichment, and research regarding effective instructional strategies to services for gifted and/or talented students.

5.07(7)(b) diversity in order to:

5.07(7)(b)(i) apply knowledge of special populations of gifted and talented students in the development of appropriate program and instructional-delivery decisions based on the unique and varied characteristics and needs of such students including, but not limited to, early childhood students; twice-exceptional learners (i.e., gifted and talented students with disabilities); highly gifted students; underachieving, high-potential students; culturally and ethnically diverse students; students with unique affective needs and high-potential, economically disadvantaged students; and

5.07(7)(b)(ii) apply understanding of the effects of cultural, social and economic diversity and variations of individual learners' differences to inform development of programs, supports and services for individuals with exceptional learning needs.

5.07(7)(c) program evaluation in order to:

5.07(7)(c)(i) implement strategies to conduct program/service evaluation for continued improvement;

5.07(7)(c)(ii) design and implement research activities to evaluate the effectiveness of instructional practices and to assess progress toward the organizational vision, mission and goals of their programs;

5.07(7)(c)(iii) develop procedures for continuous improvement management systems;

5.07(7)(c)(iv) design and implement evaluation activities to improve programs, supports and services for individuals with exceptionalities;

5.07(7)(c)(v) evaluate progress toward achieving the vision, mission and goals of programs, services and supports for individuals with exceptionalities;

5.07(7)(c)(vi) prepare for, participate in and evaluate results from the Colorado Gifted Education Review (CGER) process and develop goals and next steps as reflected in the CGER Timeline and the Unified Improvement Plan, Gifted Addendum (UIP-Gifted); and

5.07(7)(c)(vii) ensure that the district's gifted definition, identification process, programming options based on individual ALPs and assessments are aligned and effective in meeting gifted learner needs.

5.8 Special Education Generalist (Ages 5-21)

To hold an endorsement as a special education generalist, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved program for the preparation of special education generalists, including prescribed field experience and student teaching requirements; have passed the approved elementary education content and special education assessments; and have demonstrated the competencies specified below:

5.08(1) The special education generalist is knowledgeable about research-based student literacy and the development of reading, writing, communicating and listening skills in order to provide specially designed instruction and facilitate access to the general education curriculum in a variety of settings and is able to:

5.08(1)(a) plan and organize reading and writing instruction and interventions informed by a variety of ongoing student assessment.

5.08(1)(b) use knowledge of typical and atypical language and cognitive development to guide the choice of instructional strategies and interventions in meeting the learning needs of individual students.

5.08(1)(c) develop in students the phonological and linguistic skills related to reading, including, but not limited to, phonemic awareness, concepts of print, systematic explicit phonics and other word identification strategies to enhance vocabulary development and spelling instruction.

5.08(1)(d) develop reading comprehension skills in students, including, but not limited to, comprehension strategies within a variety of genres, literary response and analysis and content area literacy and the promotion of independent reading.

5.08(1)(e) increase oral and written English language arts skills and proficiency of students, including, but not limited to, the appropriate and correct use of vocabulary and standard English; punctuation; grammar; sentence structure and spelling; as well as an understanding of the relationship(s) between reading, writing and communicating and is further able to:

5.08(1)(e)(i) design instruction and interventions based on the unique strengths and needs of students with disabilities to assist them in their acquisition of reading, writing and communicating skills;

5.08(1)(e)(ii) apply a variety of effective evidence- and/or research-based instructional strategies and curricular approaches to the teaching of reading and writing skills; and

5.08(1)(e)(iii) match appropriate instructional strategies to student needs related to the acquisition of knowledge and skills in required content areas, such as reading, writing and communicating.

5.08(1)(f) incorporate Colorado Academic Standards into instructional strategies and interventions for teaching reading, writing and communicating.

5.08(2) The special education generalist is knowledgeable about mathematics and mathematics instruction and is able to collaborate and consult with content-area teachers in developing students' knowledge and skills in the use of number systems, number sense, geometry, measurement, statistics, probability, mathematical functions and the use of variables.

5.08(3) The special education generalist is knowledgeable about standards and assessment, instructional strategies and interventions, planning practices, assessment techniques and appropriate adaptations to ensure student learning within a standards-aligned curriculum and is able to:

5.08(3)(a) design short- and long-range standards-aligned instruction and intervention plans.

5.08(3)(b) develop valid and reliable assessment tools for the classroom.

5.08(3)(c) develop and utilize a wide variety of progress-monitoring tools.

5.08(3)(d) develop and utilize a wide variety of informal and formal assessments, including, but not limited to, rubrics, and can:

5.07(3)(d)(i) develop and utilize adapted assessment of student performance; and

5.07(3)(d)(ii) communicate the strengths and limitations of a wide variety of formal and informal assessment tools; select and use these instruments in screening, pre-referral, referral and eligibility determination for special education and to guide instruction.

5.08(3)(e) assess and evaluate the effects of a wide variety of teaching strategies and interventions on student performance related, but not limited to, academic standards as demonstrated by the special education generalist's ability to link appropriate adaptations of instructional strategies, interventions and assessments to student learner needs, based on evaluation(s) of those needs.

5.08(3)(f) interpret and utilize assessment data in planning for standards-aligned instruction and incorporating scores, including grade score versus standard score, percentile ranks, age/grade equivalents and stanines, and is able to interpret and summarize the educational implications of these to relevant stakeholders.

5.08(3)(g) provide effective and timely verbal and written feedback to students to guide and improve their academic performance related to meeting academic standards.

5.08(3)(h) prepare students for the Colorado Measures of Academic Success (CMAS) and any other formal and informal assessments of academic achievement.

5.08(3)(i) ensure that instruction is consistent with Colorado Academic Standards, Colorado accreditation requirements and school district and school priorities and objectives.

5.08(4) The special education generalist is knowledgeable about the general academic content of and basic concepts related to civics, economics, foreign language, geography, history, science, music, visual arts and physical education in order to collaborate with the general classroom teacher to provide the adaptations necessary for students to access and learn the content areas and is able to:

5.08(4)(a) analyze, critically review and incorporate effective documented evidence and/or research-based strategies and interventions into collaborative and/or consultative roles with other professionals as related to planning for instructional delivery to students.

5.08(4)(b) collaborate and consult with other school professionals, families and students to assist learners in gaining access to learning accommodations that may be required for them to meet academic standards.

5.08(4)(c) assist in the adaptation of student content acquisition through general knowledge of the concepts incorporated in the Colorado Academic Standards and by:

5.08(4)(c)(i) identifying the unique strengths and needs of students with disabilities as related to acquisition of content, skills and knowledge;

5.08(4)(c)(ii) employing a wide variety of approaches to assist in the adaptation of the teaching of content areas to support students in meeting the academic standards;

5.08(4)(c)(iii) collaborating and consulting with content-area teachers in adapting curriculum and instruction to support students with disabilities in meeting Colorado Academic Standards; and

5.08(4)(c)(iv) collaborating and consulting with other professionals in the design and implementation of instruction to meet the needs of learners from a wide variety of cultures and socio-economic backgrounds.

5.08(4)(d) assist other educators in the enrichment and enhancement of content knowledge to extend student learning by demonstrating the ability to locate, analyze, select and apply evidence- and/or research-based best practices that have been proven to generate improved student outcomes.

5.08(4)(e) collaborate or consult with the general education classroom teacher with the incorporation of research-based literacy and mathematics across content areas.

5.08(5) The special education generalist is knowledgeable about classroom and instructional management and is able to demonstrate such practices as effective time management, communication and accurate and timely record-keeping in support of increased student learning and outcomes and is able to:

5.08(5)(a) create a learning environment characterized by appropriate student behavior, efficient use of time and disciplined student acquisition of content knowledge, skills and the application thereof through:

5.08(5)(a)(i) the provision of a safe and productive learning environment responsive to the physical, social, cognitive, academic, linguistic, cultural and functional needs of student learners;

5.08(5)(a)(ii) the provision of information to general classroom teachers about effective classroom management practices and organizational techniques that address the needs of individual or groups of students with varying instructional needs;

5.08(5)(a)(iii) the utilization of management and organizational techniques designed for students with differing needs and levels of needs;

5.08(5)(a)(iv) evaluation to determine specific learner academic needs and to match student strengths with appropriate curriculum and instructional delivery strategies in an environment organized to encourage optimal learning;

5.08(5)(a)(v) the design of behavior plans that incorporate evidence- and/or research-based instructional strategies into teaching about and the student acquisition of problem-solving, conflict resolution and social interaction skills; and

5.08(5)(a)(vi) the creation of conditions and the teaching of skills that engage students as active participants in their own educational planning, including, but not limited to, goal-setting and goal attainment.

5.08(5)(b) apply consistent and fair disciplinary practices in the classroom and demonstrate the ability to:

5.08(5)(b)(i) maintain adequate and appropriate data regarding student behavior to determine whether student actions are a manifestation of a disability and/or to address such implication(s) in the expulsion process.

5.08(5)(b)(ii) match classroom management and organizational techniques to the needs of groups of students.

5.08(5)(b)(iii) apply effective evidence- and research-based classroom management and organizational techniques, including the implementation of positive behavior intervention support systems.

5.08(5)(b)(iv) conduct and interpret functional behavioral assessments.

5.08(5)(b)(v) develop and implement collaborative behavior support plans in cooperation with other team members, students and parents.

5.08(5)(b)(vi) interpret, design and implement positive behavioral and intervention support systems based on data drawn from functional behavioral assessments.

5.08(5)(c) apply appropriate intervention strategies and practices to ensure that an effective learning environment is maintained and is able to:

5.08(5)(c)(i) provide information to general classroom teachers about how to evaluate and match specific learner needs and strengths with appropriate curriculum and instruction strategies to optimize student engagement and learning; and

5.08(5)(c)(ii) implement a wide variety of effective research-based instructional strategies and explain the reasoning and purpose behind the implementation of specific teaching strategies.

5.08(5)(d) raise the academic performance level of a group of students to a higher level over time.

5.08(5)(e) teach strategies to improve cognitive processes associated with various kinds of learning, including but not limited to those related to critical and creative thinking; problem-structuring and problem-solving; invention; and memorization and recall and provide strategies to address each so that students are assisted in mastering academic standards through the educator's application of knowledge related to the 21st-century skills, cognitive, communication, physical, cultural, social, educational, self-determination, transitional and affective needs of all students, including those with disabilities.

5.08(5)(f) Collaborate with teacher-librarians and/or other library personnel and resource specialists to instruct students on how to gain access to, retrieve, analyze, synthesize and evaluate information and to incorporate information-gathering literacy skills into curriculum delivery and into the enhancements of standards-aligned learning.

5.08(5)(g) accurately assess, document and report ongoing student achievement in a timely and concise manner.

5.08(5)(h) communicate effectively with parents, families or guardians to involve them as participants and partners in student learning by providing them information about resources and by assisting and encouraging families in their efforts to support the academic progress of the learner from within the home environment by addressing cultural, socio-economic and linguistic diversity issues and other life-affecting conditions.

5.08(5)(i) communicate about a variety of assessment results and their implications for and to students, parents, guardians, professionals, administrators and the community:

5.08(5)(i)(i) effectively interpret and communicate orally and in writing student assessment results to a variety of stakeholders, including, but not limited to, those involved in instructional and support services planning and delivery, students and their parents/guardians;

5.08(5)(i)(ii) assist students in transferring and applying acquired knowledge and skills to home, community and work life;

5.08(5)(i)(iii) assist students in their transition from one setting or level to another in collaboration with family, educators, other professionals and relevant community representatives as appropriate; and

5.08(5)(i)(iv) identify and utilize resources and strategies that promote effective partnerships between students, families, school, district and other programs and the community.

5.08(6) The special education generalist is knowledgeable about orientation of instruction toward meeting student need(s); responsive to the unique needs and experiences students bring to the classroom, including those based on culture, community, ethnicity, economics, linguistics, age-appropriateness and innate learning abilities; understands learning exceptionalities and conditions that affect the rate and extent of student learning and the adaptation of instruction for all learners and is able to:

5.08(6)(a) employ a wide variety of teaching techniques to match the intellectual, emotional, physical and social level of each student and is able to select a wide variety of age-appropriate teaching strategies and materials to achieve different curricular purposes by:

5.08(6)(a)(i) analyzing the unique strengths and needs of students with disabilities in relation to the learning process and life experience and planning and implementing instruction for appropriate student outcomes; and

5.08(6)(a)(ii) incorporating and utilizing strategies that mitigate the influence of diversity on assessment, eligibility, programming, accessibility and placement of students with exceptional learning needs.

5.08(6)(b) assist in the design and/or adaptation of standards-aligned instructional delivery in response to identified student need, including that of exceptional learners and of

English language-acquisition learners, and can effectively collaborate and consult with other professionals to:

5.08(6)(b)(i) develop and provide appropriate curriculum, instruction and interventions that meet the unique needs of students with disabilities; and

5.08(6)(b)(ii) gain access to services that meet the needs of learners and families from a variety of cultures.

5.08(6)(c) incorporate knowledge about the effect of educational disabilities and giftedness on student learning to optimize and individualize instruction and to assist in planning for students' transition to post-school and work life.

5.08(6)(d) follow procedures specified in state, federal and local regulation and policy and can:

5.08(6)(d)(i) identify and provide pre-referral intervention(s) to determine the least restrictive learning environment for a student, whether in special or general education setting(s), as determined by the special education assessment process;

5.08(6)(d)(ii) communicate to a variety of stakeholders about the applicable history and foundations of federal, state and local policy and the legal requirements that provide the basis for special education and its practice(s);

5.08(6)(d)(iii) communicate effectively to a variety of stakeholders about the procedural safeguards inherent in due process rights as related to assessment, eligibility and placement;

5.08(6)(d)(iv) communicate to a variety of stakeholders about the rights and responsibilities of parents, students with disabilities, teachers, other professionals and schools as related to special education;

5.08(6)(d)(v) make ethical decisions with regard to identification, assessment, instructional and service delivery for students in special education; and

5.08(6)(d)(vi) coordinate, schedule and supervise para-educators to ensure that students' education programs are implemented effectively.

5.08(6)(e) develop and implement mandated and other individualized education programs related, but not limited, to:

5.08(6)(e)(i) student education, behavior and transition in collaboration with parents and families, students and other education professionals; and

5.08(6)(e)(ii) measurable goals, objectives and adaptations based on student need.

5.08(6)(f) collect and utilize data on student achievement, incorporated into the development of individualized education plans (IEPs) and be able to:

5.08(6)(f)(i) assess and report progress regarding student attainment of annual goals and/or objectives; and

5.08(6)(f)(ii) modify student plans in a timely way based on student data.

5.08(6)(g) collaborate and consult with other professionals on the development of a student education plan with regard to strategies that may be applied when a medical condition or medication must be considered in terms of its current or potential effect on a student's learning and/or behavior.

5.08(7) The special education generalist is knowledgeable about and skilled in technology and its instructional applications, the use(s) of technology in support of instruction delivery and the enhancement of student learning and is able to:

5.08(7)(a) collaborate and consult with the general education teacher with regard to the multiple use(s) of technology in the delivery of standards-aligned instruction.

5.08(7)(b) incorporate technology to increase student achievement by utilizing:

5.08(7)(b)(i) assistive technology to support communication in collaboration or consultation with, and utilizing the expertise of, other skilled/trained professionals; and

5.08(7)(b)(ii) current educational and assistive technologies to meet the instructional needs of students with disabilities.

5.08(7)(c) utilize technology to manage student education programs and to communicate relevant information to a wide variety of stakeholders.

5.08(7)(d) apply technology to data-driven assessment(s) of learning.

5.08(7)(e) instruct, or ensure instruction of, and support students with disabilities in their acquisition of technology skills according to need(s), level(s) of learning and requirements for assistive technology.

5.08(8) The special education generalist is knowledgeable about the relationship of education to democracy, including, but not limited to, the school's role in teaching and perpetuating a democratic system of government; educational governance; careers in teaching and the relationship(s) between the various governmental entities that create laws, rules, regulations and policies that determine education and special education practices and is able to:

5.08(8)(a) model and articulate democratic ideals to students and other stakeholders as related, but not limited to:

5.08(8)(a)(i) teaching about productive citizenship; and

5.08(8)(a)(ii) teaching and perpetuating the principles of a democratic republic.

5.08(8)(b) model for and develop in students positive and accepted behavior(s) to accepted standards and respect for the rights of others as necessary for successful personal, family and community involvement and well-being.

5.08(8)(c) demonstrate respect for and effectively address in planning the influences that affect educational practice, including, but not limited to:

5.08(8)(c)(i) federal and state constitutional provisions;

5.08(8)(c)(ii) federal and state executive, legislative and legal policies;

5.08(8)(c)(iii) the roles of elected officials in policy-making;

5.08(8)(c)(iv) local board of education, school district and school administration policies and those of boards of cooperative services;

5.08(8)(c)(v) the influence of nontraditional and nonpublic schools, including charter schools, private schools and home schooling; and

5.08(8)(c)(vi) public sector input from business, advocacy groups and the public.

5.08(8)(d) promote teaching as a worthy career and describe the wide variety of

career
paths in education.

5.08(8)(e) self-evaluate performance and participate in professional development options and organizations that can improve that performance.

5.9 **Early Childhood Special Education (Ages Birth-8)**

To be endorsed in early childhood special education, for ages birth-8, an applicant must hold a bachelor's or higher degree from a four-year accepted institution of higher education; have completed an approved program in early childhood special education, that includes student teaching and practicum; have demonstrated the competencies found at 9.00 of the rules for the Administration of the Educator Licensing Act of 1991; and have demonstrated the additional competencies specified below:

Colorado's Competencies for Early Childhood Educators and Administrators and Colorado Educator licensing rules at 4.01 for early childhood educators represent the universal level/foundational knowledge and skills necessary for working with young children.

The early childhood special education rules at 5.09 are at the targeted, intensive, specialized level for children with disabilities and exceptional needs. The Council for Exceptional Children (CEC) Specialty Set: Early Childhood and Early Intervention Special Education (ECSE) (2015) were adopted for 5.09 licensing rules.

5.09(1) Learner development and individual learning differences (builds upon rule 4.01(1)(b)): Beginning early childhood special education professionals understand how exceptionalities may interact with development and learning and use this knowledge to provide meaningful and challenging learning experiences for individuals with exceptionalities.

5.09(1)(a) Beginning early childhood special education professionals are knowledgeable

of: 5.09(1)(a)(i) theories of typical and atypical early childhood development; 5.09(1)(a)

(ii) biological and environmental factors that affect pre-, peri- and postnatal development and learning;

5.09(1)(a)(iii) specific disabilities, including the etiology, characteristics and classification of common disabilities in infants and young children, and specific implications for development and learning in the first years of life;

5.09(1)(a)(iv) impact of medical conditions and related care on development and learning;

5.09(1)(a)(v) factors that affect the mental health and social-emotional development of infants and young children;

5.09(1)(a)(vi) infants and young children develop and learn at varying rates;

5.09(1)(a)(vii) impact of child's abilities, needs and characteristics on development and learning;

5.09(1)(a)(viii) impact of language delays on cognitive, social-emotional, adaptive, play, temperament and motor development; and

5.09(1)(a)(ix) impact of language delays on behavior.

5.09(1)(b) Beginning early childhood special education professionals demonstrate the skills to:

5.09(1)(b)(i) develop, implement and evaluate learning experiences and strategies that respect the diversity of infants and young children and their families;

5.09(1)(b)(ii) develop and match learning experiences and strategies to characteristics of infants and young children;

5.09(1)(b)(iii) support and facilitate family and child interactions as primary contexts for development and learning;

5.09(1)(b)(iv) support caregivers to respond to a child's cues and preferences, establish predictable routines and turn-taking, and facilitate communicative initiations; and

5.09(1)(b)(v) establish communication systems for young children that support self-advocacy.

5.09(2) Learning environments (builds upon rule 4.01(8)(a) and 4.01(4)(a): Beginning early childhood special education professionals create safe, inclusive, culturally responsive learning environments so that individuals with exceptionalities become active and effective learners and develop emotional well-being, positive social interactions and self-determination.

5.09(2)(a) Beginning early childhood special education professionals are knowledgeable of the impact of social and physical environments on development and learning.

5.09(2)(b) Beginning early childhood special education professionals demonstrate the skills to:

5.09(2)(b)(i) select, develop, and evaluate developmentally and functionally appropriate materials, equipment and environments;

5.09(2)(b)(ii) organize space, time, materials, peers and adults to maximize progress in natural and structured environments;

5.09(2)(b)(iii) embed learning opportunities in everyday routines, relationships, activities and places;

5.09(2)(b)(iv) structure social environments, using peer models, proximity and responsive adults to promote interactions among peers, parents and caregivers;

5.09(2)(b)(v) provide a stimulus-rich indoor and outdoor environment that employs materials, media and adaptive and assistive technology, responsive to individual differences;

5.09(2)(b)(vi) implement basic health, nutrition and safety management procedures for infants and young children; and

5.09(2)(b)(vii) use evaluation procedures and recommend referral with ongoing follow- up to community health and social services.

5.09(3) Curricular content knowledge (builds upon rule 4.01(8)): Beginning early childhood special education professionals use knowledge of general and specialized curricula to individualize learning for individuals with exceptionalities.

5.09(3)(a) Beginning early childhood special education professionals are knowledgeable

of: 5.09(3)(a)(i) concepts of universal design for learning;

5.09(3)(a)(ii) theories and research that form the basis of developmental and academic curricula and instructional strategies for infants and young children; and

5.09(3)(a)(iii) developmental and academic content.

5.09(3)(b) Beginning early childhood special education professionals demonstrate the skills to:

5.09(3)(b)(i) apply current research to the five developmental domains, play and temperament in learning situations;

5.09(3)(b)(ii) plan, implement and evaluate developmentally appropriate curricula, instruction and adaptations based on knowledge of individual children, the family and the community;

5.09(3)(b)(iii) implement and evaluate preventative and reductive strategies to address challenging behaviors; and

5.09(3)(b)(iv) plan and implement developmentally and individually appropriate curriculum.

5.09(4) Assessment (builds upon rule 4.01(2)): Beginning early childhood special education professionals use multiple methods of assessment and data-sources in making educational decisions.

5.09(4)(a) Beginning early childhood special education professionals are knowledgeable of the:

5.09(4)(a)(i) role of the family in the assessment process;

5.09(4)(a)(ii) legal requirements that distinguish among at-risk, developmental delay and disability;

5.09(4)(a)(iii) alignment of assessment with curriculum, content standards and local, state and federal regulations; and

5.09(4)(a)(iv) connection of curriculum to assessment and progress monitoring activities.

5.09(4)(b) Beginning early childhood special education professionals demonstrate the skills to:

5.09(4)(b)(i) assist families in identifying their concerns, resources and priorities;

5.09(4)(b)(ii) integrate family priorities and concerns in the assessment process;

5.09(4)(b)(iii) assess progress in the five developmental domains, play and temperament;

5.09(4)(b)(iv) select and administer assessment instruments in compliance with established criteria;

5.09(4)(b)(v) use informal and formal assessment to make decisions about infants' and young children's development and learning;

5.09(4)(b)(vi) gather information from multiple sources and environments; 5.09(4)(b)

(vii) use a variety of materials and contexts to maintain the interest of infants and young children in the assessment process;

5.09(4)(b)(viii) participate as a team member to integrate assessment results in the development and implementation of individualized plans;

5.09(4)(b)(ix) emphasize child's strengths and needs in assessment reports;

5.09(4)(b)(x) produce reports that focus on developmental domains and functional concerns; and

5.09(4)(b)(xi) conduct ongoing formative child, family and setting assessments to monitor instructional effectiveness.

5.09(5) Instructional planning and strategies (builds upon rule 4.01(8)): Beginning early childhood special education professionals select, adapt, and use a repertoire of evidence-based instructional strategies to advance learning of individuals with exceptionalities.

5.09(5)(a) Beginning early childhood special education professionals demonstrate the skills to:

5.09(5)(a)(i) facilitate child-initiated development and learning;

5.09(5)(a)(ii) use teacher-scaffolded and -initiated instruction to complement child-initiated learning;

5.09(5)(a)(iii) link development, learning experiences and instruction to promote educational transitions;

5.09(5)(a)(iv) use individual and group guidance and problem-solving techniques to develop supportive relationships with and among children;

5.09(5)(a)(v) use strategies to teach social skills and conflict resolution; 5.09(5)(a)

(vi) use a continuum of intervention strategies to support access of young children in the general curriculum and daily routines;

5.09(5)(a)(vii) develop, implement and evaluate individualized plans with family members and other professionals as a member of a team;

5.09(5)(a)(viii) design intervention strategies incorporating information from multiple disciplines;

5.09(5)(a)(ix) implement developmentally and functionally appropriate activities, using a variety of formats, based on systematic instruction;

5.09(5)(a)(x) align individualized goals with developmental and academic content;

5.09(5)(a)(xi) develop individualized plans that support development and learning as well as caregiver responsiveness;

5.09(5)(a)(xii) develop an individualized plan that supports the child's independent functioning in the child's natural environments; and

5.09(5)(a)(xiii) make adaptations for the unique developmental and learning needs of children, including those from diverse backgrounds.

5.09(6) Professional learning and ethical practice (builds upon rule 4.01(6)): Beginning early childhood special education professionals use foundational knowledge of the field and the their professional ethical principles and practice standards to inform early childhood special education practice, to engage in lifelong learning, and to advance the profession.

5.09(6)(a) Beginning early childhood special education professionals are knowledgeable of:

5.09(6)(a)(i) historical, philosophical foundations and legal basis of services for infants and young children both with and without exceptional needs;

5.09(6)(a)(ii) trends and issues in early childhood education, early childhood special education and early intervention;

5.09(6)(a)(iii) legal, ethical and policy issues related to educational, developmental and medical services for infants, young children and their families; and

5.09(6)(a)(iv) advocacy for professional status and working conditions for those who serve infants, young children and their families.

5.09(6)(b) Beginning early childhood special education professionals demonstrate the skills to:

5.09(6)(b)(i) recognize signs of emotional distress, neglect and abuse, and follow reporting procedures;

5.09(6)(b)(ii) integrate family systems theories and principles into professional practice;

5.09(6)(b)(iii) respect family choices and goals;

5.09(6)(b)(iv) participate in activities of professional organizations relevant to early childhood special education and early intervention;

5.09(6)(b)(v) apply evidence-based and recommended practices for infants and young children including those from diverse backgrounds;

5.09(6)(b)(vi) advocate on behalf of infants, young children and their families; and

5.09(6)(b)(vii) implement family services consistent with due process safeguards.

5.09(7) Collaboration (builds upon rule 4.01(3)): Beginning early childhood special education professionals collaborate with families, other educators, related service providers, individuals with exceptionalities and personnel from community agencies in culturally responsive ways to address the needs of individuals with exceptionalities across a range of learning experiences.

5.09(7)(a) Beginning early childhood special education professionals are knowledgeable of structures supporting interagency collaboration, including interagency agreements, referral and consultation.

5.09(7)(b) Beginning early childhood special education professionals demonstrate the skills to:

5.09(7)(b)(i) apply models of team process in early childhood;

5.09(7)(b)(ii) collaborate with caregivers, professionals and agencies to support children's development and learning;

5.09(7)(b)(iii) support families' choices and priorities in the development of goals and intervention strategies;

5.09(7)(b)(iv) implement family-oriented services based on the family's identified resources, priorities and concerns;

5.09(7)(b)(v) provide consultation in setting serving infants and young children;

5.09(7)(b)(vi) involve families in evaluation of services;

5.09(7)(b)(vii) participate as a team member to identify and enhance team roles, communication and problem-solving;

5.09(7)(b)(viii) employ adult learning principles in consulting and training family members and service providers;

5.09(7)(b)(ix) assist the family in planning for transition; and

5.09(7)(b)(x) implement processes and strategies that support transitions among settings for infants and young children.

6.0 Graduate Endorsements

The following shall serve as standards for endorsements requiring the completion of graduate-level academic degrees and/or programs. All endorsement standards must be reviewed as needed for continuing appropriateness, applicability and benefit to Colorado students and schools.

6.1 (Rule number reserved.)

6.2 Teacher-Librarian (grades K-12)

To be endorsed as a teacher-librarian, an applicant must hold an earned bachelor's degree from an accepted institution of higher education; hold a Colorado initial or professional teacher license; have completed an approved program in library science or the equivalent, including field work in diverse K-12 settings and grade levels and a supervised practicum or internship that includes both elementary and secondary school library experience (the practicum or internship may be waived by the accepted

institution upon comparable teacher-librarian experience as determined by the educator preparation program); and have demonstrated knowledge and performance competency, including, but not limited to, those listed below:

6.02(1) Quality standard 1: mastery and pedagogical instruction – A teacher demonstrates mastery of and pedagogical expertise in the content area(s) taught. The elementary teacher is an expert in research-based literacy and mathematics and is knowledgeable in all other content areas taught (e.g., science, social studies, the arts, physical education or world languages). The secondary teacher has knowledge of research-based literacy and mathematics and is an expert in specific content area(s) (CDE Model Teacher Evaluation System). A candidate for a teacher librarian endorsement demonstrates skills to implement the principles of effective teaching and learning that contribute to an active, inquiry- and standards-based approach to learning. The candidate develops lessons that reflect the interconnectedness of content areas/disciplines and makes use of a variety of instructional strategies and assessment tools to design and develop learning experiences in partnership with classroom teachers and other educators (AASL).

6.02(1)(a) Instructional pedagogy – The candidate employs inquiry-based instructional design including differentiated instruction to reach all learners. The candidate is also knowledgeable in designing and delivering learning instruction along with technology literacy, information literacy and digital citizenship that empowers K-12 students to be workforce ready.

6.02(1)(b) Instructional design – The candidate is knowledgeable about leadership techniques for facilitating a standards-based backward design process for authentic, active learning lessons and units. The candidate provides an environment where students can practice and learn new strategies and receive feedback while learning content and demonstrating understanding.

6.02(1)(c) Children's and young adult literature reading promotion – The candidate promotes reading for children, young adults and other education professionals through the use of high-quality, high-interest literature in print and digital formats that reflect diverse developmental, cultural, social and linguistic needs of K-12 students and communities. The candidate is aware of current trends in literature and displays the ability to work within the school-wide culture to foster curiosity in student and staff learners. The candidate is knowledgeable about a variety of innovative formats to teach, enrich and expand critical, creative and independent thinking.

6.02(1)(d) Research-based Literacy strategies – The candidate demonstrates knowledge of research-based reading strategies including reading fluency and reading comprehension to increase students' reading levels, developmental abilities and personal interests. The candidate demonstrates the importance of systematic and explicit reading development tied to the overall school goals for literacy development in students.

6.02(2) Quality standard 2: safe, inclusive, respectful environment – A teacher establishes safe, inclusive and respectful learning environments for a diverse population of students.

6.02(2)(a) Respect for diversity – The candidate demonstrates the ability to develop a collection of reading and information materials in print and digital formats that support the diverse developmental, cultural, social and linguistic needs of K-12 students and their communities.

6.02(2)(b) Equitable access – The candidate demonstrates the ability to develop solutions for addressing physical, social and intellectual barriers to equitable access to resources and services. The candidate works with the school administration team to allow for collaboration and flexibility to be able to teach at point of need. The candidate allows for and supports flexibility so that the library is available during and after school hours for

students, teachers, parents and the community. The candidate demonstrates the ability to develop and support 24/7 access to learning resources.

6.02(3) Quality standard 3: plan and deliver effective instruction – A teacher plans and delivers effective instruction and creates environments that facilitate learning for students (CDE Model Teacher Evaluation System).

6.02(3)(a) Collaboration in planning and teaching -- The candidate demonstrates the ability to work with other teachers from a variety of disciplines and grade levels to systematically integrate Colorado Academic Standards skills. The candidate develops a collaborative culture and demonstrates the ability to model for students how to work collaboratively with one another and provide evidence of new thinking and learning.

6.02(3)(b) Technology integration – The candidate is knowledgeable in recommending current and meaningful use of technology and is part of school-level technology discussions. The candidate models a classroom that integrates skills from the Colorado Academic Standards (i.e., critical thinking, invention, information literacy and digital citizenship) through the use of innovative technology strategies. The candidate demonstrates the ability to utilize a variety of current technology tools in the classroom and to incorporate emerging tools as they become available, as well as the ability to have a digital presence within their schools and learning communities.

6.02(3)(c) Assessment of learning – The candidate demonstrates the ability to develop consistent means of assessing how well students are acquiring essential skills and knowledge through the use of formative or summative assessments such as rubrics, checklists and journaling.

6.02(3)(d) Learning environment – The candidate demonstrates the ability to create and maintain a flexible, dynamic learning environment with the goal of producing successful learners skilled in multiple literacies.

6.02(3)(e) Collection development – The candidate demonstrates the ability to develop and implement policies in collaboration with district and appropriate school personnel for collection development/selection, weeding criteria and the reconsideration of challenged resources, with procedures used to defend the challenged material, that is consistent with the mission, goals and objectives of the school building and school district, through:

6.02(3)(e)(i) materials acquisition and organization – The candidate demonstrates the ability to select a balanced collection of digital and print resources that meet the diverse curricular, personal and professional needs of students, teachers and administrators. The candidates demonstrates the ability to organize collections for easy access, one that aligns to curriculum, meets independent reading needs and reflects diverse points of view;

6.02(3)(e)(ii) resource review – The candidate identifies and provides support for diverse student information needs. The candidate models multiple strategies for students, other teachers and administrators to locate, evaluate and ethically use information for specific purposes. The candidate collaborates with students, other teachers and administrators to efficiently access, interpret and communicate information; and

6.02(3)(e)(iii) materials deselection – The candidate regularly weeds the collection to create a viable and current collection for an aesthetically pleasing environment designed to meet the diverse curricular, personal and professional needs of students, teachers and administrators.

6.02(3)(f) Program management – The candidate designs strong library programs with resources, services, policies, procedures and programming that are aligned with the school's goals. The candidate demonstrates the ability to practice the ethical principles of their profession, advocate for intellectual freedom and privacy, and promote and model digital citizenship and responsibility. The candidate educates the school community on the ethical use of information and ideas.

6.02(3)(g) Supervision – The candidate demonstrates knowledge of the ability to recruit, supervise and evaluate library staff and volunteers.

6.02(3)(h) Budget management – The candidate demonstrates the ability to prepare, justify and maintain the school library program budget to ensure funding for the continuous acquisition of standards-based curriculum materials and services. The candidate displays the knowledge to pursue school-aligned alternative funding sources (such as grants or sponsorships) at the local, state and national level to enhance library funding and general program support.

6.02(3)(i) Program analysis/advocacy – The candidate uses evidence-based action research to collect data. The candidate interprets and uses data to create and share new knowledge to improve practice in school libraries. The candidate shows the ability to manage, organize and evaluate school library physical resources (facilities), fiscal resources (budgets) and human resources (personnel) to ensure the school library program recognizes, celebrates and advocates for the curricular, personal and professional needs of all stakeholders.

6.02(4) Quality standard 4: reflect on practice –A teacher reflects on personal teaching practice (CDE Model Teacher Evaluation System).

6.02(4)(a) Strategic planning – The candidate displays the leadership skills to develop school-aligned yearly goals (growth plans, action plans, etc.) as a guide to creating a library program and instruction that positively impacts student achievement and helps students thrive in today's society. The candidate demonstrates the ability to effectively use feedback and data to measure implementation of yearly growth plan goals. The candidate makes effective use of data and information to assess how the library program addresses the needs of diverse communities.

6.02(4)(b) Lifelong learning – The candidate plans for ongoing professional growth and know-how to articulate a personal learning network:

6.02(4)(b)(i) instructional/digital coach – The candidate displays the ability to work directly and indirectly with teachers, staff and the building principal(s) to improve the effectiveness of classroom instruction and increase student learning, performance and overall achievement especially in the areas of technology skills and digital literacy (information literacy, technology literacy and digital citizenship); and

6.02(4)(b)(ii) professional development – The candidate demonstrates the ability to be an instructional leader who develops and leads a variety of technology professional development opportunities (aligned with school's goals) for staff.

6.02(5) Quality standard 5: leadership and professional learning – A teacher demonstrates leadership (CDE Model Teacher Evaluation System).

6.02(5)(a) Development and/or leading professional learning networks (PLN's) –The teacher-librarian educator shall self-assess effectiveness based on student achievement

and pursue continuous professional development in a variety of ways (e.g. digitally, in-person and networking) through appropriate activities, coursework and participation in relevant professional organizations.

6.02(5)(b) Family and community engagement – The candidate understands the importance of partnering with families to coordinate learning between home and school and advocates for the inclusion of teachers and families in education and government decision-making processes.

6.3 **Adapted Physical Education (Ages 3-21)**

To be endorsed in adapted physical education, an applicant must hold a Colorado initial or professional license with a physical education endorsement; have completed an approved graduate-level program in adapted physical education for school-aged children, including a 200-hour practicum across elementary and secondary grade levels; and have demonstrated the competencies below:

6.03(1) The adapted physical education educator has a strong foundational knowledge of the major theories, concepts and research pertaining to:

6.03(1)(a) human growth and development and its unique application to students with disabilities including;

6.03(1)(a)(i) the principles behind how motor skills are learned and developed;

6.03(1)(a)(ii) advanced motor development, gross motor skills and patterns, physical and motor fitness, and the physiological and biomechanical applications for students with disabilities; and

6.03(1)(a)(iii) psychomotor, cognitive and affective learning outcomes of physical education;

6.03(1)(b) the disability categories and other impairments and their effect on typical development including;

6.03(1)(b)(i) the specific learning styles, contraindications and medical implications associated with different disabilities;

6.03(1)(b(ii) communication styles of students with disabilities, including those who are nonverbal or have limited verbal expression, and the use of assistive technology; and

6.03(1)(b)(iii) the unique social-emotional attributes of students with disabilities and their effect on peer interaction and participation;

6.03(1)(c) the needs and characteristics of students with disabilities and the developmental challenges that can prevent them from participating in physical education exercises and activities including;

6.03(1)(c)(i) the use of and safety concerns related to specialized equipment used by students with disabilities;

6.03(1)(c)(ii) the social implications and impact the use of such equipment has on the student, educator and classroom environment; and

6.03(1)(d) creating safe, engaging and inclusive environments for all students to receive services, support and instruction in the least restrictive environment.

6.03(2) The adapted physical education educator is knowledgeable about the importance of student evaluation, and the administration and use of standardized and/or criterion-referenced instruments for assessing and determining the current level of motor performance in students with disabilities via:

6.03(2)(a) fitness and motor skills tests, reflex and perceptual inventories, motor development profiles and direct measures;

6.03(2)(b) the comparison of norm-referenced and criterion-reference assessments; 6.03(2)

(c) formal and informal methods for gathering both qualitative and quantitative data on motor performance, physical fitness, play, recreation, leisure and sports concepts and skills; and

6.03(2)(d) effective and appropriate reporting and communication about assessment results to all members of the individualized education program (IEP) team.

6.03(3) The adapted physical education educator is knowledgeable about the professional, legal and ethical practices of adapted physical education and:

6.03(3)(a) understands federal and state special education laws and other regulations that govern adapted physical education in the state of Colorado, including:

6.03(3)(a)(i) the IEP development process and implementation;

6.03(3)(a)(ii) eligibility requirements for adapted physical education services;

6.03(3)(a)(iii) the adapted physical education educator's role in the IEP process and data collection for progress monitoring; and

6.03(3)(b) conducts themself in an ethical manner when providing programs and services for students with disabilities.

6.03(4) The adapted physical education educator is knowledgeable about the methodology of teaching and engaging students with disabilities and able to:

6.03(4)(a) advocate for and effectively implement appropriate instructional strategies, adaptations and accessibility for attaining individualized, measurable goals for students with disabilities using safe and developmentally appropriate physical education in a variety of settings, related to:

6.03(4)(a)(i) behavior management;

6.03(4)(a)(ii) equipment development and adaptation (e.g., modifications and/or accommodations);

6.03(4)(a)(iii) unified physical education, reverse inclusion and team and/or co-teaching; and

6.03(4)(a)(iv) research- and evidence-based practice;

6.03(4)(b) collaborate and consult with other instructors and service providers, family members and community-based organizations;

6.03(4)(c) develop and implement extracurricular athletic programs and interscholastic adapted sports programs for students with disabilities; and

6.03(4)(d) implement sequential and continuous transition planning for students with disabilities to ensure postsecondary and workforce readiness, successful transition to adulthood, and enhance the student's ability to incorporate appropriate fitness and wellness activities across the student's lifespan.

6.03(5) The adapted physical education educator is knowledgeable about the cultural values of students with disabilities and able to demonstrate and effectively instruct these students about:

6.03(5)(a) the activities specified in section 4.16 of these rules;

6.03(5)(b) movement opportunities and sport and recreation options outside the classroom for lifelong wellness, including intramural and lifetime sports and community-based support services and funding;

6.03(5)(c) emotional regulation; and

6.03(5)(d) social skills, identity, self-advocacy and acceptance of self and peers.

6.03(6) The adapted physical education educator shall self-assess the effectiveness of instruction and practice based on their students with disabilities' achievement and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

6.4 **Reading Specialist (Grades K-12)**

To be endorsed as a reading specialist, an applicant must hold a Colorado initial or professional teacher license hold a master's or higher degree in reading; have completed an approved graduate program for the preparation of reading specialists at an accepted institution of higher education, including a supervised practicum or internship as a reading specialist; have three or more years of full-time, demonstrated classroom teaching experience; must be knowledgeable about research-based literacy instruction as outlined in rule 4.02(5) – 4.02(13) and the Colorado Academic Standards in reading, writing and communicating, and must demonstrate the competencies below:

6.04(1) The reading specialist is knowledgeable about literacy assessments and evaluation and is able to:

6.04(1)(a) utilize and implement validated screening assessments designed to identify students at risk for reading difficulties, including students who are multi-lingual and English-language learners;

6.04(1)(b) utilize information from screening (interim) assessments, diagnostic surveys, progress monitoring and descriptive data to:

6.04(1)(b)(i) make instructional decisions regarding content, entry point, pace, intensity and student group; and

6.04(1)(b)(ii) determine appropriate methods for literacy instruction and intervention.

6.04(1)(c) support teachers in administering, understanding, interpreting and using the results of formal and informal assessments in reading, spelling, writing and relevant literacy subskills that are targeted for instruction;

6.04(1)(d) administer and interpret diagnostic assessments of: 6.04(1)(d)

(i) phonological and phonemic awareness;

6.04(1)(d)(ii) decoding skill, oral reading fluency and comprehension; and

6.04(1)(d)(iii) spelling and writing.

6.04(1)(e) utilize formative and summative assessment data to:

6.04(1)(e)(i) evaluate instructional effectiveness at all levels – student, classroom, grade, school and district – to inform decisions about resources and instruction; and

6.04(1)(e)(ii) set and evaluate specific and measurable short- and long-term goals for the student, classroom and/or school.

6.04(2) The reading specialist is knowledgeable about the nature, manifestations and prevalence of and research-supported treatments for reading and writing difficulties and:

6.04(2)(a) recognizes that dyslexia, dysgraphia and other reading disorders exist along a continuum of severity;

6.04(2)(b) understands how reading difficulties and their characteristics may change over time in response to instruction and development;

6.04(2)(c) understands how both intrinsic and extrinsic factors contribute to reading difficulties, including how certain conditions/exceptionalities can affect reading (e.g., Attention Deficit Hyperactivity Disorder, Autism Spectrum Disorder and language processing and comprehension disorders);

6.04(2)(d) recognizes the social-emotional impact reading difficulties may have on students and their families;

6.04(2)(e) has a foundational knowledge of the tenets of National Institute of Child Health and Human Development (NICHD)/International Dyslexia Association's (IDA) definition of dyslexia; and

6.04(2)(f) recognizes the distinguishing characteristics of a person with dyslexia.

6.04(3) The reading specialist is trained to effectively instruct, direct or supervise instruction of students with reading disorders and demonstrates expertise and advanced knowledge and application of:

6.04(3)(a) processes, strategies and approaches to reading;

6.04(3)(b) explicit, systemic and evidence-based learning and instruction addressing:

6.04(3)(b)(i) the five components of scientifically based reading, including phonemic awareness, phonics, vocabulary, fluency, and comprehension;

6.04(3)(b)(ii) cognitive skills associated with reading success (e.g., working memory, rapid naming ability, metacognition);

6.04(3)(b)(iii) oral language and writing development; and

6.04(3)(c) targeted, structured multisensory instruction strategies for phonologically based disorders.

6.04(4) The reading specialist shall self-assess the effectiveness of instruction, direction and/or supervision based on the achievement of students and pursue continuous professional

development through appropriate activities, coursework and participation in relevant professional organizations.

6.5 Director of Special Education (Grades K-12)

The director of special education must hold an earned master's or higher degree in special education or a graduate degree that demonstrates knowledge and application of standards for the specialist (as determined by the Department) from an accepted institution of higher education; have completed a minimum of two years of experience working with students with disabilities; have completed an approved program for the preparation of special education directors, including a supervised field-based experience; and meet the standards for professional competency outlined in rule 1 CCR 301-37 6.11-6.19 for the initial administrator license with a director of special education endorsement.

6.6 Director of Gifted Education (Grades K-12)

The director of gifted education must hold an earned master's or higher degree in gifted education from an accepted institution of higher education or a graduate degree that demonstrates knowledge and application of standards for the specialist (as determined by the Department); have completed a minimum of two years of experience working with students with exceptional academic and talent aptitude (gifted students); have completed an approved program for the preparation of gifted education directors, including a supervised field-based experience; and meet the standards for professional competency outlined in rule 1 CCR 301-37 6.20-29 for the initial administrator license with a director of gifted education endorsement.

7.0 Special services endorsements

The following shall serve as standards for special services endorsements on an initial or professional special services provider license.

7.1 School Audiologist (Ages Birth-21)

To be endorsed as a school audiologist, an applicant must hold an earned master's or higher degree from an accepted institution of higher education or, for candidates who graduate after 2007, hold a clinical doctorate from an accepted institution of higher education; have successfully completed an approved program in audiology; have successfully completed a practicum or internship in a school setting equivalent to a minimum of eight weeks, full-time, under the supervision of a professionally licensed or masters-level licensed audiologist; and have passed an approved national audiology exam. The school audiologist is knowledgeable about and able to demonstrate the competencies specified below:

7.01(1) The school audiologist is knowledgeable about the procedures necessary to identify hearing loss in children/students including, but not limited to, the following and is able to:

7.01(1)(a) perform identification audiometric procedures including pure tone audiometric screening, immittance measurements, otoacoustic emissions and other electrophysiological measurements.

7.01(1)(b) establish, administer and coordinate hearing and/or auditory processing disorders (APD) identification programs.

7.01(1)(c) train and supervise audiology support or other personnel as appropriate to screening for hearing loss and/or APD.

7.01(1)(d) maintain accurate and accountable records for referral and follow-up of hearing screenings.

7.01(2) The school audiologist is knowledgeable about and is able to effectively implement the procedures necessary to assess hearing loss in children/students including but not limited to:

7.01(2)(a) performing comprehensive audiologic evaluations including pure tone air and bone conduction measures; speech reception and word recognition measures, such as situational functional hearing measures; immittance measures; otoscopy and other tests including interpretation of electrophysiological measures; and differential determination of auditory disorders and/or APD to determine the range, nature and degree of hearing loss and communication function.

7.01(2)(b) performing comprehensive educationally and developmentally relevant audiologic assessments of children/students ages birth to 21 using bias-free procedures appropriate to receptive and expressive ability and behavioral functioning.

7.01(2)(c) providing recommendations for appropriate medical, educational and community referral for other services as necessary for the identification and management of children/students with hearing loss and/or APD and their families/guardians.

7.01(2)(d) interpreting in writing and verbally audiologic assessment results, functional implications and management recommendations to educational personnel, parents/guardians and other appropriate individuals including physicians and professionals, as part of a multidisciplinary process.

7.01(2)(e) selecting, maintaining and calibrating audiologic equipment.

7.01(2)(f) providing access to assessment information through interpreters/translators.

7.01(3) The school audiologist is knowledgeable about procedures of evaluation and provision of amplification instrumentation to children/students in school and is able to:

7.01(3)(a) determine children's/students' needs for and the appropriateness of hearing aids, cochlear implants and other hearing-assistance technology.

7.01(3)(b) perform the appropriate selection, verification and maintenance of hearing-assistance technology, including ear mold impressions and modifications.

7.01(3)(c) evaluate situational functional communication performance to validate amplified or electrically stimulated hearing ability.

7.01(3)(d) plan and implement orientation and education programs to assure realistic expectations and to improve acceptance of, adjustment to and benefit from hearing aids, cochlear implants and hearing-assistance technology.

7.01(3)(e) assess whether hearing aids, cochlear implants and other hearing-assistance technology, as used in school, are functioning properly.

7.01(3)(f) notify parent/guardian when a repair and/or maintenance of personal hearing-assistance devices is required.

7.01(4) The school audiologist is knowledgeable about and able to:

7.01(4)(a) identify appropriate intervention methods, necessary levels of service and vocational and work-study programming as part of a multidisciplinary team process that integrates:

7.01(4)(a)(i) auditory skill development, aural rehabilitation and listening-device orientation and training;

7.01(4)(a)(ii) speech skill development including phonology, voice and rhythm;

7.01(4)(a)(iii) visual communication systems and strategies including speech-reading, manual communication and cued speech;

7.01(4)(a)(iv) language development, i.e. expressive and receptive oral, signed, cued and/or written language including pragmatics;

7.01(4)(a)(v) the selection and use of appropriate instructional materials and media;

7.01(4)(a)(vi) the structuring of learning environments including acoustic modifications;

7.01(4)(a)(vii) case management and care coordination with family/parent/guardian, school and medical and community services;

7.01(4)(a)(viii) habilitative and compensatory skill training to reduce academic deficits related but not limited to reading and writing;

7.01(4)(a)(ix) social skills, self-esteem and self-advocacy support and training;

7.01(4)(a)(x) the transition between, but not limited to, levels, schools, programs and agencies; and

7.01(4)(a)(xi) support for a variety of education options for children/students with hearing loss and/or APD.

7.01(4)(b) develop and implement treatment plans that facilitate communication competence and which may include, but need not be limited to, speech-reading, auditory/aural development, communication strategies and visual-communication systems and strategies.

7.01(4)(c) provide and/or make recommendations with regard to assistive technology such as, but not limited to, hearing aids and hearing-assistance technology, to include radio/television, telephone, pager and alerting convenience.

7.01(4)(d) provide developmentally appropriate aural rehabilitation services including, but not limited to, programming in the child's natural environment, if appropriate, in the areas of speech-reading, listening, communication strategies, use and care of hearing aids, cochlear implants, hearing-assistance technology and self-management of hearing needs.

7.01(4)(e) provide information and training to teachers, administrators, children/students, parents/guardians and other appropriate professionals and individuals regarding hearing and auditory development; hearing loss and/or APD and implications for communication, learning, psychosocial development and the setting and meeting of vocational goals; hearing aids, cochlear implants and hearing assistance devices; effective communication strategies; effects of poor classroom acoustics and other environmental barriers to learning; and EHDI (early hearing loss detection and intervention) programs and resources.

7.01(4)(f) apply appropriate instructional modifications and classroom accommodations to curricula delivery and academic methodology, materials and facilities.

7.01(4)(g) conduct analyses of classroom acoustics and make recommendations for improvement of the listening environment using principles of classroom acoustics, acoustical measurement and acoustical modifications.

7.01(5) The school audiologist is knowledgeable about the parameters of information counseling and advocacy and is able to:

7.01(5)(a) counsel families/guardians and children/students with hearing loss and/or APD to provide emotional support, information about hearing loss and the implications thereof, and strategies to maximize communication, academic success and psycho-social development.

7.01(5)(b) assure that parents/guardians receive comprehensive, unbiased information regarding hearing loss, communication options, educational programming and amplification options, including cochlear implants in cases of severe to profound hearing loss.

7.01(5)(c) demonstrate sensitivity to cultural diversity and other differences in characteristics including those found among individuals and within family/guardian systems and deaf culture.

7.01(5)(d) demonstrate effective interpersonal communication skills in a variety of settings for a variety of circumstances.

7.01(6) The school audiologist is knowledgeable about the parameters associated with hearing conservation and is able to:

7.01(6)(a) develop, implement and/or manage programs for the prevention of hearing loss.

7.01(6)(b) provide education, when appropriate, as related to and regarding access to hearing protection devices.

7.01(7) The school audiologist is knowledgeable about ethical conduct and is able to:

7.01(7)(a) comply with federal and state laws, regulations and policies including local district and school policies and relevant case law regarding referral, assessment, placement, related processes and the delivery of service(s).

7.01(7)(b) effectively articulate the role of the school audiologist as part of the special education team within the learning community.

7.01(7)(c) incorporate knowledge of school systems, multidisciplinary teams and community, national and professional resources into planning.

7.01(7)(d) effectively collaborate with teachers, parents and related personnel in case management with flexibility and in a professional manner.

7.01(7)(e) utilize a range of interpersonal communication skills such as, but not limited to, consultation, collaboration, counseling, listening, interviewing and teaming, as appropriate, in the identification of, prevention of harm to, assessment of and/or intervention with children/students suspected of or identified as having auditory disabilities.

7.01(7)(f) mentor and supervise audiology support personnel so that the auditory needs of children/students are effectively addressed.

7.01(7)(g) maintain accurate records and data relevant to the planning, management and evaluation of programs.

7.01(7)(h) educate other professionals and the community about implications of hearing loss.

7.01(7)(i) initiate requests or network to acquire support when needed.

7.2 School Occupational Therapist (Ages Birth-21)

To be endorsed as a school occupational therapist, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have successfully completed an American Occupational Therapy Association-accredited college or university program in occupational therapy; have successfully completed a practicum or internship, as required by the school of occupational therapy attended, which may be held in a variety of settings; hold a valid occupational therapy license issued by the Colorado Department of Regulatory Agencies and have passed the occupational therapy national registration examination administered by the national board for certification in occupational therapy. The school occupational therapist is knowledgeable about and is able to demonstrate the competencies specified below:

7.02(1) The school occupational therapist is knowledgeable about the legal framework of occupational therapy within the public school system and is able to:

7.02(1)(a) articulate the letter and intent of federal, special education and state laws and policies related to school-based occupational therapy, including issues related to potential safety and liability.

7.02(1)(b) articulate to a variety of audiences the role of school-based occupational therapy for ages birth-21 including, but not limited to, the school occupational therapist's contribution to:

7.02(1)(b)(i) students' individualized education plans and programs (IEP) and individualized family service plan (IFSP);

7.02(1)(b)(ii) students' participation within the general education curriculum including, but not limited to, academic, non-academic and extracurricular activities and in the community including, but not limited to, vocational and independent living training; and

7.02(1)(b)(iii) early intervention for children ages birth-2 and preschoolers ages 3-5, including working with families and caregivers and with consideration for natural environments.

7.02(2) The school occupational therapist is knowledgeable about processes for determining eligibility for special education services, the need for related services and the design and implementation of IEPs. The school occupational therapist, working with other educational professionals and interdisciplinary team members, is able to:

7.02(2)(a) consult with team on pre-referral strategies in support of a student's participation and performance within the educational context.

7.02(2)(b) evaluate student eligibility for early intervention or special education services and to make referrals when pre-referral interventions prove ineffective or inadequate.

7.02(2)(c) adhere to all established confidentiality and due process policies and procedures.

7.02(2)(d) advocate for student access to and participation in the general curriculum and in the least restrictive environment.

7.02(3) The school occupational therapist is knowledgeable about appropriate and accurate assessment of a student's occupational and physical abilities and how to determine the need for adaptive equipment, and is able to:

7.02(3)(a) complete and evaluate observations and/or screenings of a student's strengths, problems and potential issues within the educational setting.

7.02(3)(b) coordinate data-gathering from record reviews, interviews, checklists, specific observations and/or collaboration or consultation to avoid duplication of service(s) and/or assessment(s), including interpretation of medical records and prescriptions as applied to the educational environment.

7.02(3)(c) identify and select appropriate, valid and reliable assessments to measure contextual factors, activity demands and student factors related to academic achievement.

7.02(3)(d) assess a student's occupational performance during activities of daily living including, but not limited to, hygiene, functional mobility, eating, dressing, toileting, communication and meal preparation.

7.02(3)(e) assess a student's performance skills; motor skills including, but not limited to, posture, mobility, coordination, strength and effort, and energy; process skills, including but not limited to, energy, knowledge, temporal organization, organizing space and objects and adaptation; and communication/interaction skills including, but not limited to, body language, information exchange and relations with others.

7.02(3)(f) assess the student's performance context related to cultural, physical, social, personal, temporal and virtual aspects.

7.02(3)(g) assess factors internal to the student including, but not limited to, those physical, cognitive and psycho-social factors that influence development and performance and those which interact with illness, disease and disability.

7.02(3)(h) identify environmental factors that can either support or hinder a student's academic performance.

7.02(3)(i) interpret assessment data to develop and refine hypotheses about the student's academic performance and effectively communicate, both verbally and in writing, assessment results to a variety of audiences including, but not limited to, educators paraprofessionals, parents and students, as appropriate.

7.02(3)(j) within the context of an IEP or IFSP team, use clinical experience, clinical observation and professional judgment, as well as assessment data to plan and develop appropriate and targeted student objectives to be measured regularly for systematic comparisons of current and past student performance.

7.02(3)(k) report regular progress in attainment of the student's goals and objectives and make appropriate modifications, as needed, to the student's IEP or IFSP.

7.02(4) The school occupational therapist is knowledgeable about how to promote student engagement in everyday educational occupations and activities and how to support student participation in education and community contexts, and is able to:

7.02(4)(a) provide appropriate classroom and environmental modifications and accommodations.

7.02(4)(b) adapt curriculum, curriculum materials and presentation style to the unique fine, visual, sensor and gross motor needs of each student.

7.02(4)(c) integrate appropriate equipment and/or devices, including low and high technology, to facilitate functional and independent skills and minimize deficiencies and increased deformity.

7.02(4)(d) participate in program or curriculum development representing the needs of diverse learners to provide building level interventions, as needed and as appropriate.

7.02(4)(e) identify and utilize intervention approaches based on documented evidence of research-based best practices.

7.02(4)(f) provide school occupational therapy reports to students and families on a regular basis, coinciding with the school district's progress reporting schedule and format

7.02(5) The school occupational therapist is knowledgeable about how to create, communicate and sustain effective collaborative relationships with relevant individuals, families, schools and communities and is able to:

7.02(5)(a) communicate effectively with students, families, teachers and other professionals including, but not limited to, those in the private sector to appropriately plan for meeting a student's needs and to avoid duplication of service(s).

7.02(5)(b) communicate respectfully and sensitively to students and adults.

7.02(5)(c) teach, facilitate, coordinate, schedule and supervise paraprofessionals, other staff members and family members/guardians to ensure that IEPs are effectively implemented.

7.02(5)(d) facilitate and/or assist in transition of students from one setting to another in collaboration with students, their families, other educational staff, support-related professionals and/or community organization representatives, as appropriate.

7.02(5)(e) identify and utilize resources and strategies that promote effective partnerships with individuals, families, school personnel and appropriate community entities.

7.02(5)(f) demonstrate the skills needed for the design and application of therapeutic strategies based on the defined needs, motivational levels, interests, preferences and individual backgrounds and characteristics of students.

7.02(6) The school occupational therapist is knowledgeable about ethical and legal standards of the practice of occupational therapy in the state of Colorado and is able to:

7.02(6)(a) address ethical considerations in all student- and occupation-related practices.

7.02(6)(b) recognize cultural and other biases and modify IEPs and IFSPs accordingly.

7.02(6)(c) interpret literature and apply documented, successful, evidence-based research and practice related to school occupational therapy.

7.02(6)(d) deliver occupational therapy services in accordance with the American Occupational Therapy Association's standards and policies and those of the state of Colorado.

7.02(6)(e) demonstrate compliance with the most current occupational therapy code of ethics for the American Occupational Therapy Association.

7.3 School Orientation and Mobility Specialist (Ages Birth-21)

To be endorsed as a school orientation and mobility specialist, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have successfully completed an approved preparation program for school orientation and mobility specialists; have successfully completed a practicum or internship in a school setting, equivalent to a minimum of 320 hours, full-time, under the supervision of an Academy of Certification of Vision Rehabilitation and Education Professionals (ACVREP)-licensed orientation and mobility specialist; have passed the ACVREP examination and hold a current and valid ACVREP orientation and mobility certificate. The orientation and mobility specialist must have demonstrated the competencies specified below:

7.03(1) The school orientation and mobility specialist is knowledgeable about the legal framework, historical and auricular foundations and cultural social-economic factors affecting students with visual impairments and other concomitant disabilities, and about systems of orientation and mobility and is able to:

7.03(1)(a) articulate the history and philosophy of instructional practices as related to orientation and mobility instruction for children and youth with visual impairments.

7.03(1)(b) incorporate and address in planning variations in beliefs, traditions and values across cultures and their potential effect on attitudes toward and expectations for individuals with visual impairments.

7.03(1)(c) research, identify and apply for appropriate and relevant federal entitlements that provide specialized equipment and materials for individuals with visual impairments.

7.03(1)(d) communicate effectively with regard to current educational definitions, identification criteria, labeling issues and incidence and prevalence figures for individuals with visual impairments to a variety of audiences, as needed and appropriate.

7.03(1)(e) describe the use of the long cane as a mobility system; the different types of long canes, adapted canes and adaptive mobility devices and their strengths and limitations as travel tools in consideration of individual travel needs and travel environments; and articulate and utilize prescription techniques for canes, adapted canes and adaptive mobility devices.

7.03(1)(f) describe the dog guide as a mobility system; the methods and strategies for providing orientation assistance to a dog guide user; and the process for making referrals to dog guide training centers.

7.03(1)(g) describe the use and application of electronic travel aids (ETAs) as a supplementary mobility system; how ETAs are classified and the basic principles of operating commercially available ETAs.

7.03(1)(h) explain the uses and applications of optical and non-optical devices as a supplementary mobility system; the classification and basic principles of operation of optical and non-optical devices and the various ways in which persons with visual impairments may use these devices in travel environments.

7.03(1)(i) describe the use of ambulatory aids such as, but not limited to, support canes, walkers, crutches and wheelchairs, and the manner in which these devices may be used by individuals who are blind or visually impaired.

7.03(1)(j) articulate the correlation between and the advantages and disadvantages of mobility systems for persons with a range of visual impairment, including those with concomitant disabilities, and communicate this information effectively to students and their families.

7.03(2) The school orientation and mobility specialist is knowledgeable about human development and the implications of blindness/visual impairment and deaf-blindness upon development, and orientation and mobility skill acquisition. The school orientation and mobility specialist is able to:

7.03(2)(a) explain the structure, function and normal development of the human visual system and the impact on development of other sensory systems when vision is or becomes impaired.

7.03(2)(b) describe and interpret basic terminology, manifestations, movement and travel implications of diseases and disorders of the human visual system.

7.03(2)(c) explain the classification and quantification of hearing loss; the special auditory needs of persons with visual impairments; the use of hearing aids by persons with visual impairments and the uses of audiometric data for traffic interpretation.

7.03(2)(d) describe the role of perception as it pertains to cognition, sensation, attention, memory, cognitive mapping, orientation and the utilization of information as conveyed through sensory means.

7.03(2)(e) articulate the effects of medications on the functioning of the sensory systems and on general mobility.

7.03(2)(f) describe the impact of and needs generated by hearing loss on an individual's modes of communication, movement and travel.

7.03(2)(g) explain the effects of visual impairment, with and without additional disabilities, on early development of motor and cognition abilities, self-esteem, social/emotional interaction, self-help, communication, travel safety and orientation and mobility skill(s) acquisition.

7.03(2)(h) describe the impact of vision loss on the family and the strategies available to family members, caregivers and support systems in encouraging and supporting independence.

7.03(2)(i) describe the similarities and differences between the sensory, cognitive, physical, cultural, social, emotional and travel needs of students with and without visual impairments.

7.03(2)(j) discuss the role and function of incidental learning when vision is impaired as related to concept development and travel skills.

7.03(2)(k) recommend adaptations across student travel environments that can address and accommodate individual sensory and physical needs.

7.03(3) The school orientation and mobility specialist is knowledgeable about the accurate assessment of students' sensory, developmental and orientation and mobility performance and is able to:

7.03(3)(a) interpret and apply specialized terminology as used in medical diagnoses of eye reports, low vision evaluation reports, orientation and mobility assessment(s) of individuals with visual impairments and those with concomitant disabilities.

7.03(3)(b) articulate the rudimentary practices used for screening hearing function(s) and ensure that hearing is screened prior to assessment of orientation and mobility knowledge and skills.

7.03(3)(c) gather background information and family history relevant to the individual student's visual status and orientation and mobility needs.

7.03(3)(d) utilize in planning data from specific and appropriate orientation and mobility assessments to measure functional vision and orientation and mobility knowledge and skills, including, but not limited to, concept development, sensory-motor function and informal and formal mobility techniques.

7.03(3)(e) address in planning ethical considerations, legal provisions, regulations, policies and guidelines for the valid orientation and mobility assessment of individuals with visual impairments, including those with concomitant disabilities.

7.03(3)(f) adapt and implement a variety of orientation and mobility assessment procedures when evaluating individuals with visual impairments, including those with concomitant disabilities.

7.03(3)(g) incorporate into planning the interpretation and application of assessment results from related professional fields in conjunction with orientation and mobility assessments of individuals with visual impairments, including those with concomitant disabilities.

7.03(3)(h) implement appropriate strategies to assess environments for accessibility and safety.

7.03(3)(i) analyze and utilize assessment information in the development of the individualized family service plans (IFSP) and individualized education programs (IEP) for individuals with visual impairment, including those with concomitant disabilities.

7.03(3)(j) write behaviorally stated goals and objectives that are realistic, measurable, appropriately sequenced and based on assessment findings.

7.03(3)(k) apply strategies and methods for using assessment information to the ongoing evaluation of student progress and implement appropriate program adaptations and remediation strategies, accordingly.

7.03(3)(l) create and accurately maintain required school records with regard to orientation and mobility assessments for individuals with visual impairments, including those with concomitant disabilities.

7.03(4) The school orientation and mobility specialist is knowledgeable about specialized instruction and appropriate modifications and accommodations for learners with visual impairment and is able to:

7.03(4)(a) establish appropriate and effective communication, interaction and rapport with children/students of all ages and their families or others who may be accountable.

7.03(4)(b) counsel students regarding the setting of high but achievable mobility goals; choosing a mobility system and related matters involving the use of mobility skills in daily living; and recognize and incorporate into planning students' evolving attitudes toward orientation and mobility instruction.

7.03(4)(c) identify resources and/or acquire and utilize and/or design and produce appropriate media and materials that support orientation and mobility instruction including, but not limited to, visual, tactile and auditory maps, models, graphic aids and recorded information.

7.03(4)(d) apply observational techniques appropriate to orientation and mobility instruction.

7.03(4)(e) implement instructional strategies that can enable person(s) with visual impairments to use sensory information in travel environments.

7.03(4)(f) design and implement instructional programs using the optical and non-optical devices recommended by eye care professionals for use in travel environments.

7.03(4)(g) evaluate and select environments for the introduction, development and reinforcement of orientation and mobility knowledge and skills.

7.03(4)(h) demonstrate the construction, assembly and maintenance of the long cane and other adaptive mobility devices; articulate the nomenclature related to the cane and its parts; use appropriate resources for procuring long canes and other devices and demonstrate proficiency in maintaining and repairing canes and other adaptive mobility devices.

7.03(4)(i) provide student instruction and support to address sensory skills, body image concept development, directionality, environmental concepts, address systems, interpretation of traffic patterns and related orientation and mobility concepts.

7.03(4)(j) modify and provide instruction related to techniques of trailing, upper and lower body protection, squaring off, search, room familiarization, use of landmarks and cues, solicitation of assistance and human guides.

7.03(4)(k) modify and provide instruction related to appropriate cane techniques and their applications in indoor and outdoor environments including but not limited to diagonal cane and touch technique; touch technique modifications, including three-point touch, touch and slide, touch and drag; constant contact technique and the use of the cane for shore-lining.

7.03(4)(l) provide instruction on techniques for using adaptive mobility devices in indoor and outdoor environments.

7.03(4)(m) provide instruction with regard to orientation and travel skills including, but not limited to, route planning; direction taking; distance measurement and estimation; utilization of compass directions; recovery techniques; analysis and identification of intersections and traffic patterns; use of traffic control devices; negotiation of public conveyance systems, such as elevators and escalators; techniques for crossing streets; and techniques for travel in indoor, outdoor, residential, small business, business district, mall and rural area environments.

7.03(4)(n) select appropriate distances and positioning relative to the student for safe and effective instruction as the student advances through the orientation and mobility program, which may best facilitate progress as skills relevant to a wide variety and complexity of environments are introduced.

7.03(4)(o) select, design, implement and utilize “drop-off” lessons for the assessment of orientation and mobility skills.

7.03(4)(p) instruct students on how to address travel needs when the distance between the instructor and the student is remote, and develop and facilitate “solo” lessons and independent travel experiences.

7.03(4)(q) articulate the role of regular and special education personnel and related service professionals who may be involved in interdisciplinary, multidisciplinary or trans-disciplinary instruction of the child/student.

7.03(4)(r) develop appropriate lesson plans and record pertinent anecdotal lesson notes concisely.

7.03(5) The school orientation and mobility specialist is knowledgeable about effective communication and successful collaboration with students, their families and relevant education and community personnel and is able to:

7.03(5)(a) describe and respond to movement and travel-related concerns of parents of individuals with visual impairments with varied and appropriate strategies to assist them in addressing such concerns.

7.03(5)(b) articulate the roles of individuals with visual impairments to parents and other family members, educational service providers and relevant community personnel, in planning for students' individualized orientation and mobility programs.

7.03(5)(c) describe the roles of and be able to provide direction for paraprofessionals or para-educators who assist with the orientation and mobility instruction of students with visual impairments.

7.03(5)(d) utilize appropriate strategies for assisting families and other team members in planning for level-transitioning of students with visual impairments.

7.03(5)(e) provide resources for service, networking and organization specifically oriented to students with visual impairments and deaf-blindness to families, related professionals and other support personnel.

7.03(5)(f) advocate for the necessity of role models for students with visual impairments and deaf-blindness.

7.03(5)(g) utilize appropriate and effective communication, consultation and collaboration skills and strategies in working with students with visual impairment, parents, regular and special education staff and community personnel regarding students' orientation and mobility needs and program(s).

7.03(5)(h) initiate and coordinate respectful and beneficial relationships between and among families and relevant professionals, where appropriate, to encourage and assist families in becoming informed and active participants in students' orientation and mobility programs.

7.03(5)(i) plan and conduct conferences with families or primary caregivers as required and/or necessary.

7.03(5)(j) manage and direct the activities of para-educators or peer tutors who work with individuals with visual impairments.

7.03(6) The school orientation and mobility specialist is knowledgeable about adhering to ethical and appropriate professional practices in contributing to the orientation and mobility skill development of children/students and is able to:

7.03(6)(a) apply the ethical considerations governing the profession of orientation and mobility to the education of the learner who is visually impaired, recognizing the importance of the orientation and mobility specialist as a role model for students with visual impairment(s).

7.03(6)(b) recognize cultural and other biases to assure that instruction of students is discrimination-free.

7.03(6)(c) articulate and address in planning concerns related to student safety and potential liability and keep current on national and local environmental accessibility standards.

7.03(6)(d) engage in the activities of professional organizations which represent and advocate for the field of visual impairment, whenever relevant.

7.03(6)(e) keep current on literature and documented effective research applicable to individuals with visual impairments and orientation and mobility needs and apply relevant information to planning and objectives setting for students.

7.03(6)(f) practice professional self-assessment and seek out professional development activities that support the advancement of personal skills and knowledge and which can benefit students with visual impairments, their families and/or colleagues, and to maintain ACVREP certification.

7.4 **School Physical Therapist (Ages Birth-21)**

To be endorsed as a school physical therapist, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed a physical therapy program accredited by the American Physical Therapy Association's (APTA) Commission on the Accreditation of Physical Therapy Education (CAPTE); have successfully completed an appropriate practicum or internship as required by the physical therapy program attended; hold a valid physical therapy license issued by the Colorado Department of Regulatory Agencies and have demonstrated the competencies specified below:

7.04(1) The school physical therapist is knowledgeable about the legal framework of physical therapy within the public school system and is able to:

7.04(1)(a) articulate the letter and intent of state and federal special education law, rule and policy, including local education agency policy, as related to school-based physical therapy and including, but not limited to, issues related to safety and liability.

7.04(1)(b) describe the etiology of various physical and medical conditions that impact the functional ability of the student within the school, home and community environments.

7.04(1)(c) articulate the difference between medically based physical therapy management and general physical therapy management as a related service under IDEA, and adapt physical therapy management strategies from the medical model to the educational model.

7.04(1)(d) utilize strategies that consider the influence of diversity on assessment, eligibility determination, intervention planning and placement of individuals with exceptional learning needs.

7.04(2) The school physical therapist is knowledgeable about the process of determining eligibility for special education services and/or related services; designing and implementing Individualized Educational Programs (IEPs) and/or Individualized Family Service Plans (IFSPS) and is able to:

7.04(2)(a) implement pre-referral interventions as part of a special education team that supports the student's participation and performance within the educational context.

7.04(2)(b) refer students for special education when the education team determines that pre-referral interventions have been ineffective or inadequate.

7.04(2)(c) participate as needed on an interdisciplinary team to evaluate student eligibility for early intervention or special education services.

7.04(2)(d) adhere to all established confidentiality and due process guidelines and procedures.

7.04(2)(e) advocate for student access to and participation in the general curriculum and the least restrictive environment.

7.04(3) The school physical therapist is knowledgeable about completing accurate assessments of a student's physical abilities and needs for adaptive equipment, and is able to:

7.04(3)(a) complete and evaluate observations and/or screenings to assess a student's strengths and challenges within the educational setting.

7.04(3)(b) provide gross motor and fine motor screenings to determine if a child is in need of a complete evaluation.

7.04(3)(c) coordinate data-gathering from record reviews, interviews, checklists, specific observations, interpretation of medical records and identification of prescriptions and medications taken, as each applies to the educational environment, and to collaborate or consult with others, when indicated, in order to avoid duplication of services and/or assessment.

7.04(3)(d) identify and select valid and reliable assessment methods to measure contextual factors, activity demands and student factors that may be affecting school performance.

7.04(3)(e) where appropriate, conduct tests and measures of the following areas and evaluate for performance within the educational setting: muscle strength, force, endurance and tone; reflexes and automatic reactions, movement skill and accuracy; joint motion, mobility and stability; sensation and perception; peripheral nerve integrity; locomotor skill, stability and endurance; activities of daily living; cardiac, pulmonary and vascular functions; fit, function and comfort of seating and positioning equipment, prosthetic, orthotic and other assistive devices; posture and body mechanics; limb length, circumference and volume; thoracic excursion and breathing patterns; vital signs and physical home and school environments.

7.04(3)(f) incorporate strategies that consider the influence of diversity on assessment, eligibility, programming and placement of individuals with exceptional learning needs.

7.04(3)(g) identify and address in planning environmental factors that may support or hinder a student's performance.

7.04(3)(h) interpret assessment data to develop and refine hypotheses about the student's performance.

7.04(3)(i) interpret and communicate verbally and in writing the results of the assessment process for a variety of audiences including, but not limited to, teachers, paraprofessionals, related service professionals, students and parents/guardians, as appropriate.

7.04(3)(j) use proven documented evidence of clinical experience, clinical observation, professional judgment, test results and evidence in relevant literature within the context of lEPs or IFSPs to plan and develop appropriate and measurable student-targeted outcomes.

7.04(3)(k) report progress in the attainment of annual goals and objectives and make appropriate modifications, as needed, to the student's IEP or IFSP.

7.04(4) The school physical therapist is knowledgeable about developing and providing related-service support to special education communities for students with disabilities and is able to:

7.04(4)(a) apply current proven effective practice appearing in the literature related to the practice of physical therapy in the school environment and to the development of strategies that can gain maximum access for and participation in a free and appropriate public education by all students.

7.04(4)(b) provide appropriate classroom and environmental modifications and accommodations to facilitate students' ability to receive and participate in an appropriate public education.

7.04(4)(c) reinforce functional behavior(s) as related to the cognitive, communicative, social/emotional and physical needs of students.

7.04(4)(d) integrate appropriate equipment and/or devices including low and high technology to facilitate more functional and independent skills within the educational environment.

7.04.(4)(e) identify safety concerns and appropriate interventions for both the student and the provider, in the case of providing physical assistance to the student, to prevent injury.

7.04(4)(f) identify appropriate strategies and interventions to assist the student in obtaining improved functional academic performance through consultation and direct and/or indirect intervention(s).

7.04(4)(g) identify and utilize intervention approaches based on established best practices and documented research-based evidence including remediation and/or appropriate adaptations for positioning needs, and adaptive/assistive equipment needs and/or the need for physical or manual assistance to perform functional life skills within the educational environment, home or community.

7.04(4)(h) provide school physical therapy reports to students and families on a regular basis that coincide with the school district's progress reporting schedule and format.

7.04(4)(i) directly supervise unlicensed persons at school locations, in accordance with Colorado's Physical Therapy Practice Act, to facilitate a student's ability to participate in the educational process.

7.04(5) The school physical therapist is knowledgeable about how to create, communicate in and sustain effective collaborative relationships with relevant individuals, families, schools and communities and is able to:

7.04(5)(a) communicate respectfully and sensitively to students and adults.

7.04(5)(b) communicate effectively with students, families, teachers and other professionals including those from the private sector to appropriately plan for a student's services and to avoid duplication of service(s).

7.04(5)(c) communicate with relevant providers and educators about the functional impact of students' disabilities on the ability to perform within the school environment.

7.04(5)(d) identify resources and strategies that promote effective partnerships with individuals, families, school personnel and community representatives.

7.04(5)(e) teach, facilitate, coordinate, schedule and provide supervision to paraprofessionals, other staff members and family members/guardians, as appropriate, to ensure that the IEP and/or IFSP is effectively implemented.

7.04(5)(f) serve as an advocate for student's right to the least restrictive environment in an appropriate public education.

7.04(5)(g) collaborate with colleagues and the school team to establish, write and measure appropriate and relevant student outcomes that are consistent with the functional skills that must be acquired by students so that they become as independent as possible within the educational environment, at home and/or in the community.

7.04(5)(h) facilitate and/or assist in the development of the effective transition of students from one setting to another in collaboration with the students, their families/guardians or other professionals including community representatives to promote a continued level of functional performance at the new setting.

7.04(6) The school physical therapist is knowledgeable about the ethical and legal standards of physical therapy practice in the state of Colorado and is able to:

7.04(6)(a) recognize and address in planning the effect of cultural bias on practice.

7.04(6)(b) evaluate and apply current effective evidence-based practice related to school physical therapy.

7.04(6)(c) practice within the ethical and legal standards of the practice of physical therapy according to Colorado's Physical Therapy Practice Act and the American Physical Therapy Association's standards and policies, and demonstrate compliance with the most current physical therapy code of ethics of the American Physical Therapy Association.

7.04(6)(d) routinely evaluate and measure personal performance as a physical therapist to ensure therapeutic efficacy and achievement of appropriate outcomes, and participate in

professional development and professional organizations which lead to increased knowledge and growth in skills and abilities.

7.5 **School Nurse (Ages Birth–21)**

To be endorsed as a school nurse, an applicant must hold an earned bachelor's or higher degree in nursing from an accepted institution of higher education or have successfully completed 3 years of practical experience working with school aged children and completed a nursing education program for a Registered Nurse (RN) or Bachelor's of Science in Nursing (BSN) program recognized by the U.S. Secretary of Education as a specialized accrediting agency, such as but not limited to the Commission on Collegiate Nursing Education (CCNE) or the Accreditation Commission for Education in Nursing (ACEN); have successfully completed the requirements for and hold a license to practice professional nursing in Colorado pursuant to the provisions of the Colorado Nurse Practice Act (section 12-38-101, et. seq., C.R.S.) or hold a license in another state and be practicing in Colorado pursuant to the nurse licensing compact (section 24-60-3202, C.R.S); have successfully completed field experiences and a supervised practicum as prescribed by the preparing institution, including experiences with school age children in a community health/public health or school setting. The initially licensed school nurse must participate in an approved induction program that will enable the nurse to be knowledgeable about and able to demonstrate the competencies specified below, which have been endorsed by the American Nurses' Association and the National Association of School Nurses as standards of care and the standards of professional performance for school nurses.

7.05(1) The school nurse is knowledgeable about the standards of care of school nursing practice and is able to:

7.05(1)(a) assess student health status using data collected from the student, parent, school staff and other relevant health care providers.

7.05(1)(b) conduct basic screening programs to identify potential health issues that may affect a child's ability to learn.

7.05(1)(c) conduct physical assessments and specific screening tests, counseling and conferencing to determine the physical, social and mental status of the student.

7.05(1)(d) assess the school environment and program(s) to determine modifications that are necessary to address student health and safety needs.

7.05(2) The school nurse has the knowledge to make nursing diagnoses and is able to:

7.05(2)(a) validate student, family and group assessment data.

7.05(2)(b) interpret health history information, medical reports, nursing observations and test results using educational terminology.

7.05(2)(c) establish student and school health care priorities.

7.05(3) The school nurse has the knowledge of how to set health priorities in the school setting and is able to:

7.05(3)(a) evaluate health outcomes of school environment and program changes and create situation-specific methods of results-measurement.

7.05(3)(b) assess the cultural health beliefs of students to determine the impact on health care delivery, health care compliance and on education in the classroom.

7.05(3)(c) identify resources needed to achieve objectives and establish time frames and criteria to measure results.

7.05(4) The school nurse is knowledgeable about planning and is able to:

7.05(4)(a) review assessment information and relate findings to functioning levels and needs of students within the school setting.

7.05(4)(b) develop a school health care plan to meet students' individual health needs within the school setting.

7.05(4)(c) develop a plan to promote health and wellness and reduce risk factors within the school setting.

7.05(4)(d) collaborate with school personnel, community professionals and other resources to plan health-related and informational activities for students, educational staff and relevant others.

7.05(5) The school nurse is knowledgeable about plan implementation and is able to:

7.05(5)(a) manage health care plans for students with identified special health needs within the school setting.

7.05(5)(b) provide direct delivery of health services for students, when and if

appropriate. 7.05(5)(c)delegate to, train and supervise appropriate school personnel to

implement
specific health care procedures.

7.05(5)(d) help clients to obtain resources and services. 7.05(5)

(e) adhere to professional standards and state regulations.

7.05(5)(f) coordinate care to meet the health needs of students, their families and related vulnerable populations.

7.05(6) The school nurse is knowledgeable about evaluation for purposes of plan updating and is able to:

7.05(6)(a) monitor progress toward meeting student health care plan outcomes and revise plans as needed to meet identified ongoing or emerging needs of the student.

7.05(6)(b) evaluate school or district health care policies and procedures, counseling and classroom teaching outcomes.

7.05(6)(c) evaluate health care delivery models.

7.05(6)(d) monitor health outcomes of school environment and program changes.

7.05(7) The school nurse is knowledgeable about what constitutes quality of care and is able to:

7.05(7)(a) develop recommendations to enhance the school environment and/or to modify a school program to meet student health and safety needs.

7.05(7)(b) evaluate school staff trained to carry out designated health care procedures.

7.05(7)(c) participate in quality assurance activities, such as the development of relevant policies and procedures.

7.05(8) The school nurse is knowledgeable about performance appraisal and is able to:

7.05(8)(a) effectively appraise performance through constructive comments from peers and supervisors, self-assessment and adherence to relevant regulations.

7.05(8)(b) develop personal goals for professional development.

7.05(9) The school nurse is knowledgeable about professional development and participates in relevant continuing education programs.

7.05(10) The school nurse is knowledgeable about the necessity for collegiality in the school setting to meet the health needs of students and relevant needs of their families related to student achievement, and is able to:

7.05(10)(a) collaborate with school personnel, students, parents, primary health care providers and relevant others to establish an effective reciprocal referral system.

7.05(10)(b) participate as a member of an interdisciplinary school health and/or relevant education team to positively affect student well-being.

7.05(10)(c) participate in appropriate and relevant professional and community organizations.

7.05(11) The school nurse is knowledgeable about the ethics of the profession and is able to:

7.05(11)(a) demonstrate through application an understanding and incorporation of professional standards and state regulations in an education and/or health care setting.

7.05(11)(b) recognize the need for and maintain confidentiality.

7.05(11)(c) recognize and demonstrate respect for students' and families' cultural health care beliefs and student and family autonomy and rights.

7.05(12) The school nurse is knowledgeable about the positive aspects of collaboration and is able to:

7.05(12)(a) articulate clearly the value and role of the nurse in the school setting.

7.05(12)(b) work within the organizational structures that influence the delivery of school health services and be an advocate for the health and well-being of students within the school setting.

7.05(12)(c) act as liaison between school, community health agencies, care providers, parents and students to meet the objectives of student health care plans.

7.05(13) The school nurse is knowledgeable about applicable research and is able to:

7.05(13)(a) base practice on current knowledge, theory and research on which there is documented evidence of effectiveness.

7.05(13)(b) participate in ongoing relevant research activities.

7.05(14) The school nurse is knowledgeable about resource utilization and is able to:

7.05(14)(a) assess the economic, legal and political factors that influence health care delivery in schools and communities and constructively address applicable factors within the school setting.

7.05(14)(b) collaborate with community agencies to reduce duplication and expand resources.

7.05(15) The school nurse is knowledgeable about communication, including non-verbal communication, and its effect, and is able to:

7.05(15)(a) articulate issues clearly to a wide variety of audiences in a wide variety of situations and settings.

7.05(15)(b) interpret health history information, medical reports, nursing observations and test results, and communicate clearly to appropriate staff and/or students and/or their families.

7.05(15)(c) document interventions accurately in a timely way and in a retrievable and understandable format.

7.05(15)(d) effectively use technology to acquire up-to-date information and to expand skills and resources.

7.05(16) The school nurse is knowledgeable about program management and is able to:

7.05(16)(a) develop effective community partnerships and a wide range of accessible resources.

7.05(16)(b) design disease prevention and health promotion strategies and programs for students, their families, when appropriate, and other relevant staff.

7.05(16)(c) implement and oversee recommended modifications of the school environment and programs to meet identified student health and safety needs and to reduce injuries.

7.05(16)(d) provide health consultation, health education and health promotion for students, families, where appropriate, and staff to improve school attendance.

7.05(16)(e) advise and consult with other relevant health care providers as appropriate to address the needs of students within the school setting.

7.05(16)(f) evaluate health care delivery models and apply relevant elements within the school setting.

7.05(17) The school nurse is knowledgeable about of health education and is able to:

7.05(17)(a) develop and effectively implement lesson plans pertinent to identified health education needs.

7.05(17)(b) assess student and staff education needs for relevant health information and provide staff with health education programs, information, resources and materials, developmentally appropriate for the student population being served, to promote health/wellness and to prevent illness and injury.

7.05(17)(c) inform students and parents of patient rights.

7.05(18) The school nurse shall self-assess the effectiveness of practice, direction and/or supervision based on the well-being, needs and achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

7.6 **School Psychologist (Ages Birth-21)**

To be endorsed as a school psychologist, an applicant must have:

(a) completed an approved specialist-level program with a minimum of 60 graduate semester hours or a doctoral program for the preparation of school psychologists, serving children/students, ages birth-21, at an accepted institution of higher education;

(b) passed the national school psychology examination;

(c) successfully completed practicums (consisting of a sequence of closely supervised on-campus or field-based activities, designed to develop and evaluate a candidate's mastery of distinct professional skills, consistent with program and/or course goals);

(d) successfully completed an internship (consisting of a full-time experience over one year, or half-time over two consecutive years, with a minimum of 1200 clock-hours, of which at least 600 hours must be in a school setting which requires a candidate to demonstrate, under supervision, the ability to integrate knowledge and skills in all the professional practice standards, and to provide a wide range of outcome-based school psychological services; and may include, beyond the 600 hours in the school setting, other acceptable internship experiences including in private, state-approved educational programs or in other appropriate mental health or education-related programs); and

(e) a valid National Certified School Psychologist (NCSP) credential, issued by the national school psychology certification board; or

(f) if an applicant holds a valid license issued by the Colorado State Board of Psychologist Examiners per department of regulatory agencies rules, or is eligible to sit for licensure examinations, that applicant must provide an institutional recommendation from the professional education unit of an accepted institution of higher education with an approved school psychology program, verifying that the applicant has acquired the specified competencies listed in these rules, including completion of an appropriate internship and have achieved a passing score on the national school psychology examination.

7.06(1) The school psychologist is knowledgeable about human learning processes from infancy to young adulthood, techniques to assess these processes, and direct and indirect services applicable to the development of cognitive and academic skills; and is able to:

7.06(1)(a) apply learning, motivation and developmental theories to improve learning and achievement for all children/students.

7.06(1)(b) utilize developmentally appropriate practices that support the education of children/students ages birth-21 with disabilities or delays in development.

7.06(1)(c) use results from ongoing assessment(s) in the development of appropriate cognitive and academic goals for children/students with differing abilities, disabilities, strengths and needs.

7.06(1)(d) implement interventions such as consultation, behavioral assessment/intervention and counseling to achieve student goals.

7.06(1)(e) evaluate the effectiveness of interventions and modify as necessary and appropriate.

7.06(2) The school psychologist is knowledgeable about a wide variety of models and methods of informal and formal assessment across ages birth-21 that can identify strengths and needs, and measure progress and functioning, in school, home and community environments, and is able to:

7.06(2)(a) select evaluation methods and instruments that are most appropriate and based upon effective up-to-date measurement theory and research.

7.06(2)(b) implement a systematic process to collect data including, but not limited to, test administration; interviews and observations; behavioral, curriculum- and play- based assessments and ecological or environmental evaluations.

7.06(2)(c) translate assessment results into empirically based decisions about service delivery to promote child/student achievement.

7.06(2)(d) evaluate the outcomes of programs and services incorporating appropriate and relevant research design, statistics and methodology.

7.06(3) The school psychologist is knowledgeable about typical and atypical human developmental processes from birth to adulthood; the techniques to assess these processes; and the application of direct and indirect services for individuals, groups and families and, in collaboration with others, is able to:

7.06(3)(a) develop appropriate behavioral, affective, adaptive, social and transition goals for students of varying abilities, disabilities, strengths and needs.

7.06(3)(b) implement interventions and services including, but not limited to, consultation, behavioral assessment and intervention, counseling and interagency collaboration based on identified goals.

7.06(3)(c) evaluate the intervention(s) and modify as needed and appropriate to increase and assure effectiveness.

7.06(4) The school psychologist is knowledgeable about individual diversity, abilities and disabilities, and the influence of social, cultural, ethnic, socio-economic, gender-related and linguistic factors on development, learning and behavior, and is able to:

7.06(4)(a) identify biological, cognitive, affective, developmental, social and cultural bases that contribute to individual differences.

7.06(4)(b) identify risk and resiliency factors.

7.06(4)(c) recognize psychopathology and articulate its potential influence on school functioning.

7.06(4)(d) demonstrate the sensitivity, skills and respect necessary to work with diverse types of individuals and families.

7.06(4)(e) display respect for diversity in social and cultural backgrounds and linguistic differences when working with families, school personnel and community agencies.

7.06(4)(f) select and/or adapt prevention and intervention strategies based on individual characteristics, strengths and needs to improve learning, achievement and adaptive functioning for all children/students.

7.06(5) The school psychologist is knowledgeable about general education, special education, other educational and related services, the importance of multiple systems and their interactions, and organizational practices that maximize learning, and is able to:

7.06(5)(a) develop and implement policies and practices that create and maintain safe, supportive and effective learning environments.

7.06(5)(b) participate in and facilitate school reform efforts.

7.06(5)(c) translate federal and state law, state rules and regulations and local policy into building- and district-level practice.

7.06(6) The school psychologist is knowledgeable about models of effective evidence-based programs as related to health promotion; school safety; and primary, secondary and tertiary intervention, and is able to:

7.06(6)(a) implement school-wide prevention and intervention programs which may include, but are not limited to, individual and group counseling, affective education and positive behavior interventions and supports to promote the mental health, physical well-being and the achievement of children/students of all ages.

7.06(6)(b) participate in risk assessments and crisis response planning, to promote and maintain school safety.

7.06(6)(c) respond effectively to crisis situations.

7.06(7) The school psychologist is knowledgeable about collaboration and consultation models and methods and their applications in school, family and community systems, and is able to:

7.06(7)(a) consult and collaborate effectively with children/students, school personnel, families and community professionals to promote and provide comprehensive services to children and families and to advance student achievement.

7.06(7)(b) communicate information that is readily understandable to students, families, educators and community members during meetings, in-services and consultations.

7.06(7)(c) promote family involvement in education and service delivery.

7.06(7)(d) collaborate with families and other service providers to meet the needs of infants, toddlers and preschoolers in home and community settings.

7.06(7)(e) link community resources that serve infants, toddlers, children, adolescents, young adults and their families and facilitate children's/students' transitions across various service delivery systems.

7.06(8) The school psychologist is knowledgeable about the history and foundations of school psychology, standards for legal and ethical practice, evidence-based service models and methods and public policy, and is able to:

7.06(8)(a) demonstrate professional leadership that exemplifies a personal and professional commitment to ethical, professional and legal standards.

7.06(8)(b) practice in accordance with all applicable federal and state statutes, rules, regulations and local policies, especially those concerning due process, informed consent, privacy rights and confidentiality.

7.06(8)(c) integrate information sources and current technology to enhance quality of service.

7.06(8)(d) utilize data-based decision-making in all aspects of professional practice. 7.06(8)

(d) maintain professional preparation, development and supervision as related to the population served.

7.06(8)(e) contribute professionally to the advancement of school psychology.

7.06(9) The school psychologist shall self-assess the effectiveness of practice, direction and/or supervision based on the well-being and achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

7.7 School Social Worker (Ages Birth-21)

To be endorsed as a school social worker, the candidate must hold an earned master's or higher degree in social work from an accepted institution of higher education; have documented evidence of completion of coursework in the areas of school and special education law, including content covering Functional Behavior Assessment (FBA) and the development of behavior intervention plans; have successfully completed one of the following – the Colorado Assessment for Licensed Clinical Social Workers or the Colorado State Board of Education-adopted assessment for school social workers; have successfully completed a supervised, 900 clock-hour practicum of in the field of social work, which must have been completed in a school, social service agency, mental health clinic or facility and/or hospital setting; and have successfully completed at least one field experience with school age children/students and which should: enable the social worker to synthesize and apply a broad range of relevant knowledge and skills; include opportunities to analyze, intervene and evaluate in ways that are highly differentiated, discriminating and self-critical; and differentially refine the candidate’s communication skills with a variety of client populations, colleagues and members of the community.

7.07(1) The school social worker is knowledgeable about the history and foundations of school social work; standards for legal and ethical practice; proven-effective evidenced-based models and methods and public policy; and is able to:

7.07(1)(a) demonstrate professional leadership and ethical practice in accordance with federal, state and local legislation, regulations and policies.

7.07(1)(b) demonstrate personal and professional commitment to the values and ethics of the social work profession through application of the national association of social workers professional standards and code of ethics in ethical decision-making.

7.07(1)(c) remain current regarding effective evidence-based practice.

7.07(1)(d) apply federal, state and local legislation, regulations and policies to ethical and legal interventions.

7.07(1)(e) establish priorities and models for the delivery of school social work services that include individual and group counseling, advocacy, case management, consultation and crisis intervention to meet the needs of all learners.

7.07(1)(f) conduct in-services for faculty and staff on child protection and school attendance issues and develop other training and educational programs in collaboration with local community agencies and other pertinent entities in support of the goals and mission of the educational institution.

7.07(1)(g) counsel parents and students about due process rights, as mandated by special education legislation, and advise school personnel so that they are knowledgeable about and able to meet their legal responsibilities to all students.

7.07(1)(h) comply with the legal mandates of confidentiality and maintain adequate safeguards to protect the privacy and confidentiality of student and family information.

7.07(2) The school social worker is knowledgeable about systems change and is able to:

7.07(2)(a) acquire or gain access to resources which can eliminate service deficiencies in the local education agency or in the community which negatively affect the ability of children/students to benefit from the educational system.

7.07(2)(b) identify and collaborate with individuals who function as formal or informal leaders in their communities to develop and enhance networks that can complement the services of the local education and community agencies.

7.07(2)(c) identify areas of need not being addressed by the local education agency and community and work to initiate those services.

7.07(2)(d) document problems and recommend solutions to appropriate decision-makers in the local education agency or community.

7.07(2)(e) advocate for appropriate change among educators, other professionals and citizens and provide leadership on committees and advisory boards at local, state, regional and national level to assure that the needs of all learners are met.

7.07(2)(f) use mediation and conflict-resolution strategies to resolve children's/students' educational and parental concerns.

7.07(2)(g) document the need and advocate for policy change at the local, state, regional and national level that can empower children/students and their families to gain access to and effectively use formal and informal community resources.

7.07(3) The school social worker is knowledgeable about communication, consultation and collaboration and is able to:

7.07(3)(a) act as a consultant to personnel and others in the local education agency, including members of school boards and representatives of the community, to promote understanding and effective utilization of school social work services.

7.07(3)(b) act as a consultant to teachers, parents and others to facilitate understanding of how factors in the home, local education agency and community affect children's/students' educational experience(s).

7.07(3)(c) act as a consultant on policy matters including but not limited to such issues as, discipline, suspension, expulsion, attendance, confidentiality, multicultural factors and child abuse and neglect.

7.07(3)(d) work collaboratively to develop cooperative service arrangements and to mobilize the resources of local education agencies and the community to meet the needs of children/students and families, and to serve as liaison between parents, community and school(s).

7.07(3)(e) as an effective member of an interdisciplinary team, bring unique skills, abilities and a systems perspective to the assessment and diagnosis of children's/students' needs.

7.07(3)(f) initiate and support activities that can assist in overcoming institutional barriers and gaps in service.

7.07(3)(g) demonstrate the professional skills, values and abilities necessary to facilitate the meeting of the objectives set by the interdisciplinary team to ensure student success.

7.07(3)(h) provide appropriate case planning and management services and coordinate service planning with school and/or district and community personnel.

7.07(3)(i) through modeling and coaching teach individuals to be effective group members, in therapeutic groups or in task-oriented work groups.

7.07(3)(j) effectively advocate for children/students and their families in a variety of circumstances which may have a negative effect on learning including, but not limited to, those related to suspension and expulsion, discrimination, immigration, homelessness, chronic, acute and communicative diseases and other health issues; substance abuse and other at-risk conditions.

7.07(4) The school social worker is knowledgeable about educational planning and is able to: 7.07(4)

(a) ensure that children's/students' educational plans are based on assessments relevant to the concerns raised in the referral and include goals, objectives and interventions to achieve desired outcomes, methods of evaluation and outcome criteria.

7.07(4)(b) ensure that plans are designed to enhance children's/students' positive educational experiences and involve the family, other team members and school and community resources, as appropriate.

7.07(4)(c) provide services to children/students that build on individual strengths and maximize opportunities to participate in the planning process and in directing the learning experience.

7.07(4)(d) develop and implement an intervention plan or, when the most suitable types of intervention are not available, design an alternative plan intended to enhance children's/students' ability to benefit from their educational experience.

7.07(4)(e) conduct culturally sensitive assessments and participate in IEP planning for and service delivery to all learners.

7.07(4)(f) incorporate into the educational planning process appropriate curricula and approaches to teaching and learning acceptable in the context of the local education agency.

7.07(5) The school social worker is knowledgeable about prevention and intervention and is able to:

7.07(5)(a) use basic helping skills including, but not limited to, interviewing, questioning and counseling to assist children/students and/or families in addressing problems they are experiencing with social functioning and the effects of such actions on student achievement, by working with them to develop alternative strategies based on clearly defined, evidence-based treatment modes or models.

7.07(5)(b) counsel students and parents about actions which interfere with effective education and student achievement.

7.07(5)(c) conduct small group activities which can serve as environments for teaching children/students effective daily living skills and as conduits for communicating information intended to enhance social functioning or the facilitation of problem resolution.

7.07(5)(d) conduct classroom programs, when indicated, that can provide students with affective knowledge and skills.

7.07(5)(e) conduct parent groups, as appropriate and indicated, relevant to their support of student achievement.

7.07(5)(f) implement appropriate school intervention and prevention programs in response to demonstrated need to ensure a safe and civil learning environment for all students, which may include, but need not be limited to, crisis intervention, conflict resolution and substance abuse prevention.

7.07(5)(g) complete in-depth psychosocial assessments of children/students and of family functioning as related to planning for the improvement of student achievement.

7.07(5)(h) develop measurable and appropriate behavioral, affective, adaptive, social and academic objectives for students with varying abilities, disabilities, strengths and needs.

7.07(5)(i) treat those in need or in crisis situations with respect, empathy, dignity and a consistently positive approach to problem resolution.

7.07(5)(j) utilize family strengths and structure(s) to enable families to function as advocates for themselves and for their children's education and well-being.

7.07(6) The school social worker is knowledgeable about social and cultural foundations and is able to:

7.07(6)(a) apply proven theories of human growth and development related to students, ages birth-21 including, but not limited to, learning systems, communications, social learning and behavioral theory in working with children/students.

7.07(6)(b) incorporate diversity factors and the special educational needs of culturally and linguistically different populations into the planning process for students.

7.07(6)(c) ensure that children and their families are provided services within the context of multicultural understanding and with consideration given to addressing the sensitivities that enhance families' support of children's learning experiences.

7.07(6)(d) conduct culturally sensitive assessments of problem learning areas and recommend interventions to meet needs and to promote student achievement.

7.07(6)(e) demonstrate the ability to select and/or adapt strategies based on the needs of at-risk children/students and those with identified disabilities.

7.07(6)(f) address in planning biological and environmental factors which affect children's/students' ability to function effectively and to achieve in school.

7.07(6)(g) identify racial and ethnic barriers within the local education agency and develop strategies to lessen and overcome the negative effects of such barriers on children/students and on the learning climate of the local education agency.

7.07(6)(h) create opportunities for students and staff to recognize diversity in positive ways and to facilitate the understanding and acceptance of cultural and other influencing differences.

7.07(7) The school social worker is knowledgeable about assessment and is able to:

7.07(7)(a) assist local education agencies in the identification of students needing specialized and or support services.

7.07(7)(b) perform need-assessments as the foundation of effective program planning for children/students and families that include, but are not limited to:

7.07(7)(b)(i) a study of bio-psychosocial factors that may interfere with the children's/students' adjustment to and performance in school and which may involve assessment(s) of the student's physical, cognitive and emotional development and adaptive behavior as manifested in the family's related history;

7.07(7)(b)(ii) assessment of the student's behavior and attitudes in a variety of settings;

7.07(7)(b)(iii) assessment of the patterns of the child's/student's interpersonal relationships as observed in the family, local education agency and community settings;

7.07(7)(b)(iv) assessment of the aspects of the biological, medical, psychological, cultural, sociological, emotional, legal and environmental factors that affect reports on the student's behavior by teachers and other personnel in their roles with/within the local education agency;

7.07(7)(b)(v) identification of formal and informal policies of the local education agency and other institutional factors that may affect the student's behavior;

7.07(7)(b)(vi) assessment of patterns of achievement and adjustment at critical points in the child's/student's growth and development; and

7.07(7)(b)(vii) assessment of the existence of, accessibility to and utilization of community resources for children/students and families.

7.07(7)(c) incorporate students' needs-assessment information into and write a comprehensive, timely and appropriate social-developmental history.

7.07(7)(d) utilize appropriately administered formal and informal objective measures including but not limited to measures of adaptive and functional behavior, self-esteem, social skills, attitudes, emotional health and interests.

7.07(7)(e) consider placement and service options for students in a variety of contexts.

7.07(8) The school social worker is knowledgeable about current effective research and program evaluation and is able to:

7.07(8)(a) maintain accurate data and records relevant to the planning, management and evaluation of the school social work program.

7.07(8)(b) maintain ongoing assessments of evidenced-based, educationally related social programs implemented in the local education agency, related community and in the region, which address such issues as, but not limited to, students dropping out of school or having poor attendance, advocate for program changes to address such issues and participate in program development and implementation processes, as appropriate.

7.07(8)(c) engage in critical self-evaluation to assess efficacy and to improve skills and service delivery.

7.07(8)(d) collect, analyze and publish data and present technical information to a variety of audiences and in a variety of contexts, including the general public, public officials, elected and appointed, and/or other decision-makers and policymakers responsible for programs and for program changes that can effect public education and related child welfare matters.

7.07(8)(e) assume responsibility for continuing to develop a knowledge base and the skills necessary to remain current in the field and to develop and gain access to support systems that enhance personal growth and professional identity.

7.07(8)(f) participate in professional and community organizations as relevant and appropriate.

7.8 School Speech-Language Pathologist (Ages Birth-21)

To be endorsed as a school speech-language pathologist, an applicant must hold an earned master's or higher degree in communication disorders or speech-language pathology from an accepted institution of higher education; have completed a school speech-language pathology program accredited by the Council on Academic Accreditation (CAA) in the audiology and speech-language pathology of the American Speech-Language-Hearing Association (ASHA); have passed a national state-approved speech-language pathologist specialty-area test; have successfully completed a practicum or internship with children/students ages birth-21 in a school setting, equivalent to a minimum of eight weeks full-time, under the supervision of a professionally licensed school speech-language pathologist; and must demonstrate the competencies specified below:

7.08(1) The school speech-language pathologist is knowledgeable about basic human communication, including swallowing processes, and biological, neurological, acoustic, psychological, developmental, linguistic and cultural bases, and must incorporate into planning for students:

7.08(1)(a) the analysis, synthesis and evaluation of information related to basic human communication and its processes.

7.08(1)(b) utilization of knowledge about normal development in the identification of delayed/disordered speech and language skills.

7.08(1)(c) information about the interrelated and interdependent components of communication as related to its impact on the learner across environments.

7.08(2) The school speech-language pathologist is knowledgeable about the principles and methods of prevention of communication and swallowing disorders for students (ages birth-21), including

consideration of anatomical/physiological, psychological, developmental, and linguistic and cultural correlates of the disorders, and is able to:

7.08(2)(a) analyze, synthesize and evaluate the nature of speech, language, hearing and communication disorders, including swallowing disorders, and other differences including, but not limited to:

7.08(2)(a)(i) the etiologies, characteristics and anatomical/physiological, acoustic, psychological, developmental and linguistic and cultural correlates, in each of the following:

7.08(2)(a)(i)(A) articulation, fluency, and voice and resonance, including respiration and phonation;

7.08(2)(a)(i)(B) receptive and expressive language including, but not limited to, phonology, morphology, syntax, semantics, and pragmatics, in speaking, listening, reading, writing and manual modalities;

7.08(2)(a)(i)(C) hearing including its impact on speech and language; 7.08(2)(a)

(i)(D) swallowing including oral, pharyngeal, esophageal and related functions, and the oral function of feeding;

7.08(2)(a)(i)(E) cognitive aspects of communication, such as attention, memory, sequencing, problem-solving and executive functioning;

7.08(2)(a)(i)(F) the social aspects of communication, such as challenging behavior, ineffective social skills and lack of communication opportunities; and

7.08(2)(a)(i)(G) communication modalities, such as oral, written, manual, augmentative and alternative communication techniques and assistive technologies.

7.08(2)(b) articulate to a variety of stakeholders the role of oral language as a precursor to research-based literacy development, including information related to reciprocal spoken/written language relationships, and reading and writing as acts of communication and as tools of learning.

7.08(2)(c) differentiate between classroom oral language content, form and use, and conversational language.

7.08(2)(d) identify traits of typical reading and writing development in the context of the general education curriculum.

7.08(2)(e) act as a resource to schools, parents and the community regarding all aspects of communication.

7.08(2)(f) model and articulate the overall importance of communication and its relationship to academic achievement.

7.08(2)(g) collaborate with other professionals to identify risk factors related to communication development among students ages birth-21.

7.08(2)(h) conduct screening, prevention and intervention procedures.

7.08(2)(i) identify and monitor added literacy risks for students being treated for spoken language difficulties.

7.08(2)(j) monitor classroom progress and other factors that justify formal referral for assessment.

7.08(3) The school speech-language pathologist is knowledgeable about principles and methods of evaluation of communication and communication disorders for students ages birth-21, and is able to:

7.08(3)(a) participate on child study teams as an active member of the decision-making process for special education referrals.

7.08(3)(b) collaborate with assessment teams in the utilization of a broad repertoire of formal and informal assessment strategies to help identify students' strengths and challenges with the various aspects of communication.

7.08(3)(c) evaluate the psychometric characteristics of formal and informal assessment instruments.

7.08(3)(d) select developmentally, culturally and linguistically appropriate formal and informal assessment tools and procedures to identify needs of students suspected of having difficulties in communication.

7.08(3)(e) analyze assessment data to determine students' specific communication needs and eligibility for services, and for incorporation into individual educational plans (IEPs).

7.08(3)(f) interpret data clearly in verbal and written form for a wide range of audiences, including educators, related professionals, families and students, where appropriate.

7.08(3)(g) integrate assessment information from other professionals in the eligibility decision-making process.

7.08(3)(h) consult with government agencies, teachers, school administrators and other health professionals on indications, timing, need and use of diagnostic assessments.

7.08(3)(i) collaborate with assessment teams regarding evaluation strategies to identify whether a language difference or disorder might be at the root of concerns related to difficulty in a student’s acquisition of literacy and/or any of its essential skills.

7.08(4) The school speech-language pathologist is knowledgeable about evidence-based and best-practice techniques, procedures and tools for intervention and remediation of communication disorders, including augmentative/alternative/assistive technology, and is able to:

7.08(4)(a) plan and implement an appropriate service-delivery model for each identified student based on assessment results.

7.08(4)(b) comply with federal, state and local laws, rules, policies, guidelines procedures and relevant case law.

7.08(4)(c) model and demonstrate the use of augmentative/alternative/assistive technology.

7.08(4)(d) be accountable through the collection of timely and appropriate data and the maintaining of accurate and timely records.

7.08(4)(e) identify and gain access to sources of, and synthesize and translate common principles of, research and documented evidence-based and proven best practices related to the planning for and the implementation of intervention plans and strategies.

7.08(4)(f) implement current state-of-the-art technology to maximize students' communication skills.

7.08(4)(g) adapt general and special education curriculum to meet the requirements of individual students with regard to Colorado Academic Standards and access skills.

7.08(4)(h) work collaboratively with students, general education teachers, school personnel, families and the community to provide integrated communication services.

7.08(4)(i) provide culturally and developmentally appropriate curriculum-relevant intervention based on identified needs and proven effective research and practice.

7.08(4)(j) develop setting-appropriate intervention plans with measurable and achievable goals to meet identified students' need(s).

7.08(4)(k) maintain a safe and effective learning environment conducive to student achievement.

7.08(5) The school speech-language pathologist is knowledgeable about ethical conduct and professional development and is able to:

7.08(5)(a) articulate the role of the speech-language pathologist as an integral part of the special education services team and the learning community.

7.08(5)(b) collaborate with teachers, parents and related personnel in case management in a flexible and professional manner.

7.08(5)(c) communicate effectively with families to maintain their involvement with the student's assessment and intervention team.

7.08(5)(d) utilize a range of interpersonal communication skills including, but not limited to, consultation, collaboration, counseling, listening, interviewing and teaming as appropriate to identification, prevention, assessment and/or intervention with students with suspected or identified communication disabilities.

7.08(5)(e) mentor and supervise speech-language pathology assistants, graduate student interns and other support personnel so that the communication needs of students are addressed effectively and confidentially.

7.08(5)(f) participate in professional development opportunities to improve skills, and educate other professionals regarding risk factors to students, involving all means of communication.

7.08(5)(g) conduct research, initiate requests or network with related professionals to acquire support as needed.

7.08(5)(h) routinely evaluate and measure personal performance as a speech/language pathologist to ensure professional efficacy and achievement of appropriate outcomes, and participate in professional development and professional organizations to increase knowledge and growth in skills and abilities.

7.9 **School Counselor (PreK-12)**

To be endorsed as a school counselor, applicants must hold a master's or higher degree in school counseling from a regionally accredited institution of higher education; have successfully completed an approved program in school counseling as defined by accreditation by the Council for Accreditation of Counseling & Related Educational Programs or demonstrate equivalent coursework and training experiences; have passed a state-approved assessment in school counseling; have completed a minimum of 100 clock-hours of a practicum, scheduled throughout the program, and a 600 clock-hour internship, supervised by a licensed school counselor in a school setting with multiple grade levels of students. The internship must provide opportunities for the candidate, under the supervision of a licensed school counselor, to engage in a variety of activities that an effective school counselor would be expected to perform as identified in the 2016 Council for Accreditation of Counseling and Related Educational Programs Standards (Colorado School Counseling Standards) effective July 1, 2016 and accessible at www.cacrep.org.

7.09(1) The school counselor demonstrates mastery of and expertise in all aspects of school counseling and is able to:

7.09(1)(a) develop, organize, administer and evaluate school counseling programs;

7.09(1)(b) apply appropriate modalities for the school setting;

7.09(1)(c) counsel students individually and in group settings;

7.09(1)(d) support and/or establish safe, inclusive and respectful environments that recognize the diversity and needs of the student population; and

7.09(1)(e) plan, deliver and monitor services and specially designed instruction that facilitate learning for all students.

7.09(2) The school counselor demonstrates leadership through collaboration with educators, administrators, families and community organizations to advocate for students.

7.09(3) The school counselor shall self-assess the effectiveness the school counseling program, reflect on personal practice and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

Editor’s Notes

History

New rule eff. 08/14/2018.

New rule eff. [tbd]

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Tracking number: 2022-00497

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado State Board of Education

on 10/12/2022

1 CCR 301-101

RULES FOR THE ADMINISTRATION OF EDUCATOR LICENSE ENDORSEMENTS

The above-referenced rules were submitted to this office on 10/17/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 31, 2022 16:04:41

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Education

Agency

Colorado State Board of Education

CCR number

1 CCR 301-111

Rule title

1 CCR 301-111 RULES FOR THE ADMINISTRATION OF THE SCHOOL LEADERSHIP PILOT PROGRAM 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF EDUCATION

Colorado State Board of Education

RULES FOR THE ADMINISTRATION OF THE SCHOOL LEADERSHIP PROGRAM 1 CCR

301-111

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

1.00 STATEMENT OF BASIS AND PURPOSE

Section 22-13-201, et seq. C.R.S., creates the School Leadership Program. The program provides embedded, experiential professional development to a cohort of school principals to improve the quality of school principals and empower them to exercise distributive and collaborative leadership that supports collaboration among the professional educators in the building. Pursuant to statute, the Colorado Department of Education designs and implements the program.

The statutory authority for these rules is found in section 22-13-203(3), C.R.S., which requires the State Board to adopt rules regarding time frames, procedures, and content for program applications.

2.0 DEFINITIONS

2.1 "Department" means the Department of Education created and existing pursuant to section 24-1- 115, C.R.S.

2.2 "Program" means the School Leadership Program created in section 22-13-203, C.R.S.

2.3 "Public school" means a school that derives its support, in whole or in part, from money raised by a general state or school district tax and includes a school of a school district, a public school operated by a board of cooperative services, and an institute charter school authorized by the State Charter School Institute pursuant to part 5 of Article 30.5 of Title 22.

2.4 "School principal" means an individual who is employed as the chief administrative officer of a public elementary, middle, or high school in Colorado.

2.5 "State Board" means the state board of education created in Section 1 of Article IX of the State Constitution.

3.0 APPLICATIONS

School principals who seek to receive training through the program must submit an application to the Department.

3.1 Application timeline

3.01(1) The Department will make the application form available to applicants by June 30th each year.

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3.01(2) Applications must be submitted to the Department by August 15th each year.

3.01(3) The Department will notify all applicants as to whether they have been selected to receive professional development through the program no later than August 31st annually..

3.2 **Application contents**

3.02(1) The Department will develop a program application form. Each application must specify:

3.02(1)(a) Applicant name

3.02(1)(b) Race

3.02(1)(c) Gender

3.02(1)(d) School at which the applicant serves as a school principal

3.02(1)(e) School level and type (e.g. elementary, K-8, middle, high, Alternative Education Campus)

3.02(1)(f) District in which applicant is employed

3.02(1)(g) Years of school leadership experience

3.02(1)(h) District setting (urban, suburban, rural) as determined by the Department and outlined in the application materials

3.02(1)(i) School Performance Framework rating for school at which the applicant serves as a school principal

3.02(2) In addition to the information in Rule 3.02(1), each application must include open-ended questions developed by the Department, which address school leadership topics, including but not limited to:

3.02(2)(a) Cohort learning

3.02(2)(b) Positive climate and culture

3.02(2)(c) Distributive leadership

3.02(2)(d) Daily workload and

priorities

3.02(2)(e) Increased student academic outcomes

3.02(2)(e)(i) For elementary or K-8 school principals, increased student academic outcomes in reading proficiency

3.02(2)(f) Teacher retention 3.02(2)

(g) Self-reflection and

feedback

3.02(3) Documented evidence that the applicant's employer and building staff support the applicant's participation in the School Leadership Program.

Editor's Notes

History

New rule eff. 04/01/2020.

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Tracking number: 2022-00498

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado State Board of Education

on 10/12/2022

1 CCR 301-111

RULES FOR THE ADMINISTRATION OF THE SCHOOL LEADERSHIP PILOT PROGRAM

The above-referenced rules were submitted to this office on 10/17/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 31, 2022 16:12:16

Philip J. Weiser
Attorney General
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Permanent Rules Adopted

Department

Department of Education

Agency

Colorado State Board of Education

CCR number

1 CCR 301-113

Rule title

1 CCR 301-113 RULES FOR THE ADMINISTRATION OF THE EDUCATOR RECRUITMENT AND RETENTION PROGRAM 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF EDUCATION

Colorado State Board of Education

RULES FOR THE ADMINISTRATION OF THE EDUCATOR RECRUITMENT AND RETENTION PROGRAM

1 CCR 301-113

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

1.00 STATEMENT OF BASIS AND PURPOSE

Section 22-60.3-202, et seq. C.R.S., creates the Educator Recruitment and Retention Program. The purpose of the program is to provide support to members of the armed forces, nonmilitary-affiliated educator candidates, and local education providers to recruit, select, train, and retain highly qualified educators across the state.

The statutory authority for these rules is found in section 22-60.3-202(5), C.R.S., which permits the State Board to adopt rules as necessary to implement the program.

2.0 DEFINITIONS

2.1 "Alternative teacher" means a teacher who has been issued an alternative teacher license as defined in 22-60.5.-201(a), C.R.S.

2.2 "CTE credential" means Career and Technical Education authorization as defined in 22-60.5-111(9) C.R.S.

2.3 "Department" means the Department of Education created and existing pursuant to section 24-1-115, C.R.S.

2.4 "Educator preparation program" means an approved program of preparation, as defined in section 22-60.5-102(8), or an alternative teacher program, as defined in section 22-60.5-102(5), or other organization that provides educator preparation for a qualified program participant and is approved by the Department.

2.5 "Program" means the Educator Recruitment and Retention Program created in section 22-60.3-202, C.R.S.

2.6 "Local Education Provider" means a school district, a charter school authorized by a school district pursuant to part 1 of article 30.5 of title 22, a charter school authorized by the State Charter School Institute pursuant to part 5 of article 30.5 of title 22, or a Board of Cooperative Services created and operating pursuant to article 5 of title 22 that operates one or more public schools.

2.7 "Member of the armed forces" means a member of the Army, Air Force, Navy, Marine Corps, Coast Guard, Space Force, or any of the armed forces' active reserve components, or of the National Guard.

2.8 "Qualified program participant" means an individual who meets the program criteria and is either a member of the armed forces or a nonmilitary-affiliated educator candidate.

2.9 "Rural School District" means a school district in Colorado that the Department determines is rural, based on the geographic size of the school district and the distance of the school district from the

nearest large, urbanized area, and the total student enrollment is six thousand five hundred or fewer students.

2.10 "Separation" means honorable discharge, release from active duty, release from custody and control of the armed forces, or a similar change in active or reserve status.

2.11 "Shortage area" means an educator shortage area, as determined by the State Board of Education.

2.12 "Small rural school district" means a school district in Colorado that the Department determines is rural, based on the geographic size of the school district and the distance of the school district from the nearest large, urbanized area, and that enrolls fewer than one thousand students in pre-kindergarten through twelfth grade.

2.13 "State Board" means the State Board of Education created and existing pursuant to section 1 of article IX of the state constitution.

2.14 "Temporary educator eligibility (TEE) educator" means an educator who has been issued a temporary educator eligibility authorization as defined in 22-60.5-11(5).

3.0 FINANCIAL ASSISTANCE

3.1 A member of the armed forces with honorable discharge status or currently serving, or a nonmilitary-affiliated educator candidate may apply to the program to receive financial assistance of up to $10,000 for the tuition cost of an educator preparation program in which the applicant is enrolled.

3.2 The department shall review each application and determine whether the applicant meets the following criteria for participation in the program:

3.02(1) Is enrolled in a Colorado-approved traditional or alternative educator preparation program or institute of higher education for applicants pursuing a CTE credential; and

3.02(2) Meets one of the following:

3.02(2)(a) Has an earned bachelor's or higher degree from a regionally accredited college or university and has secured employment as an alternative teacher or temporary educator eligibility (TEE) educator in a rural or small rural district; or

3.02(2)(b) Is currently employed as a paraprofessional in a school district, charter school or BOCES and is working toward a baccalaureate degree as required to pursue a professional teaching license; or

3.02(2)(c) Has secured a position as a CTE instructor in a rural or small rural district and meets state CTE requirements:

3.02(2)(c)(i) as outlined in 23-60-304(3)(a) and section 4.04 of 1 CCR 301-37; or

3.02(2)(c)(ii) has the equivalent of eighteen (18) semester hours of postsecondary enrollment and six (6) years of military experience that are applicable to a CTE credential.

3.3 Subject to available appropriations, upon determination of qualification, the Department shall provide to the educator preparation program in which the qualified program participant is enrolled financial assistance for the tuition cost of the educator preparation program up to the total amount of the applicant's award. The maximum award for each applicant is $10,000.

3.03(1) As a condition of receiving financial assistance, applicants must agree to serve for a minimum of three years in a rural or small rural district or in an educator shortage area, as determined by the State Board of Education. Residency year(s) in an approved alternative preparation program can count towards the years of teaching in a rural or small rural school district or an educator shortage area.

3.03(1)(a) For programs that are more than one year in length, payments may be made to the educator preparation program in multiple installments throughout the duration of the program. For programs lasting more than one year, or for situations requiring payments to be made subsequent to the year of the original award, payment will depend on availability of funds for the fiscal year in which payment is requested.

3.03(1)(a)(i) The Department will issue a grant award letter to the educator preparation program for an amount of up to $10,000. The total amount of payment(s) made will depend on the actual tuition amount of the educator preparation program. The grant payments may not exceed the tuition amount of the program.

3.4 If the qualified program participant does not fulfill the service condition outlined in Rule 3.03(1), and without documentation of good cause (such as illness, death, spouse military transfer, etc.), the participant shall repay the awarded financial assistance to the Department within 90 days of leaving their employment in a rural school district, small rural school district, or educator shortage area.

3.04(1) Program participants must sign an agreement acknowledging the commitment to teach in a rural school district, small rural district, or shortage area for three years as a condition of funding and agreeing to pay back the funds if they do not complete the service obligation.

3.04(2) Program participants must also annually certify their continued employment in a rural school district, small rural district, or shortage area for the entire three-year service period.

4.0 APPLICATIONS

Qualified program participants who wish to receive financial assistance must submit an application to the Department.

4.1 Application timeline

4.01(1) The Department will make the application form available to applicants by February 1, 2022, and annually every year after that.

4.01(2) Applications will be accepted on a rolling basis.

4.01(3) The Department will notify applicants of the decision on their application within 60 days of receipt of the application.

4.2 Application contents

4.02(1) The Department will develop a program application form. Each application, at a minimum, must specify:

4.02(1)(a) Applicant name

4.02(1)(b) Race

4.02(1)(c) Gender

4.02(1)(d) Educator preparation program in which the applicant is currently enrolled

4.02(1)(e) Military status

4.02(1)(f) Highest level of education attained

4.02(1)(g) Applicable employment as a paraprofessional

4.02(1)(h) Documentation of relevant coursework, military experience, or other professional experience which meets the eligibility criteria for a CTE credential

4.02(1)(i) Relevant employment documentation:

4.02(1)(i)(i) Current verification of employment as a CTE instructor, alternative teacher, or paraprofessional; or

4.02(1)(i)(ii) Executed intent to hire form

4.02(1)(k) Agreement to teach for three years in a rural or small rural school district or shortage area and agreement to provide the Department with annual certification of such employment on a form provided by the Department.

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Tracking number: 2022-00499

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado State Board of Education

on 10/12/2022

1 CCR 301-113

RULES FOR THE ADMINISTRATION OF THE EDUCATOR RECRUITMENT AND RETENTION PROGRAM

The above-referenced rules were submitted to this office on 10/17/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 31, 2022 16:10:31

Philip J. Weiser
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Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Insurance

CCR number

3 CCR 702-1

Rule title

3 CCR 702-1 ADMINISTRATIVE PROCEDURES 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-1

ADMINISTRATIVE PROCEDURES

Regulation 1-1-10

CONCERNING APPOINTMENT OF INSURANCE COMPANY REGISTERED AGENTS

Section 1 Authority

This regulation is being promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-108(7), 10-1-109, 10-3-107, and 10-3-109(3), C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to ensure compliance with the requirement for insurance companies engaged in the business of insurance in this state to maintain a registered agent in the state as required by § 10-3-107, C.R.S. The appointment of a registered agent in accordance with this regulation will also apply to insurers' obligations under § 10-3-1117, C.R.S.

Section 3 Applicability

This regulation shall apply to all insurance companies engaged in the business of insurance in this state.

Section 4 Rules

A. All insurance companies holding a Certificate of Authority in this state must file with the Commissioner a fully executed Uniform Consent to Service of Process form (Form 12), available on NAIC's Uniform Certificate of Authority Application website, to name a registered agent in this state to receive service of process.

1. Domestic insurance companies should file a Form 12 – Uniform Consent to Service with the Division. Foreign companies must submit a Form 12 through the National Association of Insurance Commissioners' Uniform Certificate of Authority Application (UCAA) through the Corporate Amendment App.

2. It is the intent of the Division that the Division will not serve as the registered agent in this state for a company holding a Certificate of Authority.

3. Insurance companies should also file with the Colorado Secretary of State to conform the registered agent between the corporate (Secretary of State) filing and the Uniform Consent to Service of Process (Division of Insurance).

4. Note: Filing the Form 12 with the Division of Insurance **WILL NOT** change the registered agent with the Colorado Secretary of State. Each company is responsible for recording the change of registered agent for corporate purposes with the Secretary of State.

B. Complete Form 12

1. A fully and properly completed Form 12 must include the following to designate a registered agent in Colorado:

   a. Applicant Company Officers' Certification and Attestation;

   b. Name of the registered agent (entity);

   c. Phone number of the registered agent;

   d. Email address of the registered agent;

   e. Colorado mailing address of the registered agent;

   f. Colorado street address of registered agent and

   g. Resolution authorizing Appointment of Attorney.

2. An acknowledgement that the registered agent information has been received and recorded in the Division's records will be sent to the company.

3. Failure to file a correct and complete Form 12 will subject a company to the penalties established under § 10-3-109(3), C.R.S. Penalties for failing to file a correct and complete Form 12 will be assessed starting January 1, 2023.

D. On the first business day of every month, the Division will post the revised list of registered agents on the Division's website.

Section 5 Service of Process

A. When service is made on the Division, the Division will determine if the insurance company has designated a registered agent (other than the Division) and will handle the services follows:

1. When the insurance company has designated a registered agent, and the registered agent appears on the list published on the Division's website, the Division will reject the service of process.

2. If the insurance company has designated a registered agent but the change has not been published on the Division's website, the Division will accept the service of process and send a copy of it to the secretary of the company and a copy to the registered agent.

3. If the insurance company has not designated a registered agent, the Division will accept service of process and send a copy of it to the secretary of the company. Accompanying the service will be notification that unless the company files a Form 12 to designate a registered agent in the State of Colorado by December 1, 2022, the Division will begin enforcement proceedings.

Section 6 Auto Liability Disclosures

A. The Division will modify its online auto liability disclosure application to remove companies who have filed a Form 12 with a registered agent in Colorado. To request an auto liability disclosure, the requesting party shall submit the request to the registered agent of the insurance company. Hard copy requests for auto liability disclosure where the insurance company has designated a registered agent will be rejected and returned to the requesting party.

C. Auto liability disclosures submitted to the Division, either online or in hard copy, where the insurance company has not filed a Form 12 to designate a registered agent other than the Division will be sent to the company contact email address currently on file with the Division. Notification will accompany the service that unless the company files a Form 12 to designate a registered agent in the State of Colorado, the Division will begin enforcement proceedings.

Section 7 Severability

If any provision of this regulation or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of this regulation shall not be affected.

Section 8 Enforcement

Noncompliance with this regulation may result in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition of civil penalties, issuance of cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process.

Section 9 Effective Date

This regulation shall become effective November 30, 2022.

Section 10 History

New regulation effective November 30, 2022.

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Tracking number: 2022-00505

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Insurance

on 10/10/2022

3 CCR 702-1

ADMINISTRATIVE PROCEDURES

The above-referenced rules were submitted to this office on 10/11/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 27, 2022 14:15:38

Philip J. Weiser
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Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Insurance

CCR number

3 CCR 702-4 Series 4-2

Rule title

3 CCR 702-4 Series 4-2 LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General) 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Regulation 4-2-88

CONCERNING GAG CLAUSES IN INDIVIDUAL AND GROUP HEALTH BENEFIT PLANS

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109, 10-16-109, 10-16-704(18), C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to align Colorado law with the federal "No Surprises Act", Pub. L. 116-260, as amended, pursuant to the Commissioner's rulemaking authority, and to increase price and quality transparency by removing gag clauses on information for plan sponsors and group and individual consumers.

Section 3 Applicability

This regulation applies to carriers offering individual, small group, large group and student health benefit plans on or after January 1, 2022.

Section 4 Definitions

A. "Business associate" shall have the same meaning as found in 45 CFR § 160.103.

B. "Carrier" shall have the same meaning as found at § 10-16-102(8), C.R.S.

C. "Covered person" shall have the same meaning as found at § 10-16-102(15), C.R.S.

D. "Network" shall have the same meaning as found at § 10-16-102(45), C.R.S.

E. “Provider” shall have the same meaning as found at § 10-16-102(56), C.R.S.

F. “Health benefit plan” shall have the same meaning as found at § 10-16-102(32), C.R.S.

Section 5 Prohibition on Gag Clauses on Price and Quality Information for Group Health Plans

A carrier offering group health benefit coverage may not enter into an agreement with a health care provider, network or association of providers, third-party administrator, or other service provider offering access to a network of providers that would directly or indirectly restrict a health insurance carrier offering such coverage from:

A. Providing provider-specific cost or quality of care information or data, through a consumer engagement tool or any other means, to referring providers, the plan sponsor, covered persons, or individuals eligible to become covered persons of the plan or coverage;

B. Electronically accessing de-identified claims and encounter information or data for each covered person in the plan or coverage, upon request, and including, on a per claim basis:

1. financial information, such as the allowed amount, or any other claim-related financial obligations included in the provider contract;

2. provider information, including name and clinical designation;

3. service codes; or

4. any other data element included in claim or encounter transactions.

C. Sharing information or data described in Sections 5.A or 5.B or directing that such data be shared with a business associate.

Section 6 Prohibition on Gag Clauses on Price and Quality Information for Individual Health Plans

A carrier offering individual health benefit coverage may not enter into an agreement with a health care provider, network or association of providers, or other service provider offering access to a network of providers that would directly or indirectly restrict the health insurance carrier offering such coverage from:

A. Providing provider-specific price or quality of care information, through a consumer engagement tool or any other means, to referring providers, covered persons, or individuals eligible to become covered persons of the plan or coverage; or

B. Sharing information or data described in Section 6.A, for plan design, plan administration, and plan, financial, legal, and quality improvement activities with a business associate.

Section 7 Public Disclosure and Confidentiality

A. Nothing in Sections 5.A or 6.A prevents a health care provider, network or association of providers, or other service provider from placing reasonable restrictions on the public disclosure of the information in Sections 5 or 6.

B. Nothing in this regulation shall be construed to modify or eliminate existing privacy protections and standards under Colorado or Federal law, including but not limited to, the privacy regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act

of 1996, the amendments made by the Genetic Information Nondiscrimination Act of 2008, and the Americans with Disabilities Act of 1990.

Section 8 Severability

If any provision of this regulation or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of this regulation shall not be affected.

Section 9 Incorporation by Reference

45 CFR § 160.103 published by the Government Printing Office shall mean 45 CFR § 160.103 as published on the effective date of this regulation and does not include later amendments to or editions of 45 CFR § 160.103. A copy of 45 CFR § 160.103 may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202. A certified copy of 45 CFR § 160.103 may be requested from the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, CO 80202. A charge for certification or copies may apply. A copy may also be obtained online at www.ecfr.gov.

"No Surprises Act", Pub. L. 116-260, shall mean Pub. L. 116-260 as published on the effective date of this regulation and does not include later amendments to or editions of Pub. L. 116-260. A copy of Pub. L. 116-260 may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202. A certified copy of Pub. L. 116-260 may be requested from the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, CO 80202. A charge for certification or copies may apply. A copy may also be obtained online at www.congress.gov.

Section 10 Enforcement

Noncompliance with this Regulation may result in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition of civil penalties, issuance of cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process.

Section 11 Effective Date

This new regulation shall be effective on November 30, 2022.

Section 12 History

New regulation effective November 30, 2022.

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Office of the Attorney General

Tracking number: 2022-00507

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Insurance

on 10/10/2022

3 CCR 702-4 Series 4-2

LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)

The above-referenced rules were submitted to this office on 10/11/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 27, 2022 11:10:11

Philip J. Weiser
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by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Insurance

CCR number

3 CCR 702-4 Series 4-2

Rule title

3 CCR 702-4 Series 4-2 LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General) 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Amended Regulation 4-2-67

CONCERNING CARRIER DISCLOSURES FOR EMERGENCY AND NON-EMERGENCY OUT-OF-NETWORK SERVICES

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109(1), 10-16-109, 10-16-704(12)(b) and 10-16-708, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to establish requirements for carriers to provide disclosures concerning a covered person's financial responsibility for emergency and non-emergency services rendered by out-of-network providers.

Section 3 Applicability

This regulation applies to carriers offering individual, small group and large group health benefit plans whose members may receive services from out-of-network providers on or after January 1, 2022, which are subject to the requirements of §§ 10-16-704(3) and 10-16-704(5.5), C.R.S.

Section 4 Definitions

A. "Carrier" shall have the same meaning as found at § 10-16-102(8), C.R.S.

B. "Covered person" shall have the same meaning as found at § 10-16-102(15), C.R.S.

C. "Emergency services" shall have the same meaning as found at § 10-16-704(19)(e)(I), C.R.S.

D. "Health care services" shall have the same meaning as found at § 10-16-102(33), C.R.S.

E. “Out-of-network provider” means, for the purposes of this regulation, a provider in this state that has not entered into a contract with a carrier or with its contractor or subcontractor to provide health care services to covered persons.

F. “Participating provider” shall have the same meaning as found at § 10-16-102(46), C.R.S.

G. “Preauthorization” means, for the purposes of this regulation, a pre-service or pre-treatment confirmation provided by a carrier, at the request of a covered person and/or his or her healthcare provider, indicating that the service(s) and/or treatment(s) being considered by the covered person will be covered by his or her health plan.

H. “Prior authorization” shall have the same meaning as found at § 10-16-112.5(7)(d), C.R.S.

I. “Provider” shall have the same meaning as found at § 10-16-102(56), C.R.S.

J. “Publicly available” means, for the purposes of this regulation, searchable on the carrier’s public website, displayed in a manner that is easily accessible, without barriers, and that ensures that the information is accessible to the general public, including that it is findable through public search engines. The carrier’s public website must be accessible free of charge, without having to establish a user account, password, or other credentials, accept any terms or conditions, and without having to submit any personal identifying information.

Section 5 Disclosure Requirements

A. When a covered person has incurred a claim for emergency or non-emergency health care services from an out-of-network provider, and the claim is subject to the requirements of §§ 10-16- 704(3) or 10-16-704(5.5), C.R.S., the carrier shall provide the disclosure contained in Appendix A as a separate document with any explanation of benefits form (EOB) that is provided to the covered person related to the payment and/or denial of an incurred claim subject to this regulation.

B. The disclosure contained in Appendix A of this regulation shall be made publicly available on a carrier’s website in a clear and conspicuous manner.

C. Carriers shall make the disclosure contained in Appendix A available in Spanish and available in languages other than English upon request to the carrier.

Section 6 Severability

If any provision of this regulation or the application of it to any person or circumstances is for any reason held to be invalid, the remainder of this regulation shall not be affected.

Section 7 Enforcement

Noncompliance with this regulation may result in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition of civil penalties, issuance of cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process.

Section 8 Effective Date

This regulation shall become effective November 30, 2022.

Section 9 History

Emergency regulation effective December 20, 2019.
Regulation effective April 15, 2020.
Regulation effective November 30, 2022.

Appendix A: Emergency and Non-emergency Services Disclosure

Your Rights and Protections Against Surprise Medical Bills

When you get emergency care or get treated by an out-of-network provider at an in-network hospital or ambulatory surgical center, you are protected from surprise billing or balance billing.

What is "balance billing" (sometimes called "surprise billing")?

When you see a doctor or other health care provider, you may owe certain out-of-pocket costs, such as a copayment, coinsurance, and/or a deductible. You may have other costs or have to pay the entire bill if you see a provider or visit a health care facility that isn't in your health plan's network.

"Out-of-network" describes providers and facilities that haven't signed a contract with your health plan. Out-of-network providers may be permitted to bill you for the difference between what your plan agreed to pay and the full amount charged for a service. This is called "**balance billing**." This amount is likely more than in-network costs for the same service and might not count toward your annual out-of-pocket limit.

"Surprise billing" is an unexpected balance bill. This can happen when you can't control who is involved in your care—like when you have an emergency or when you schedule a visit at an in-network facility but are unexpectedly treated by an out-of-network provider.

You are protected from balance billing for:

Emergency services

If you have an emergency medical condition and get emergency services from an out-of- network provider or facility, the most the provider or facility may bill you is your plan's in- network cost-sharing amount (such as copayments and coinsurance). You **can't** be balance billed for these emergency services. This includes services you may get after you're in stable condition, unless you give written consent and give up your protections not to be balanced billed for these post-stabilization services.

Certain services at an in-network hospital or ambulatory surgical center

When you get services from an in-network hospital or ambulatory surgical center, certain providers there may be out-of-network. In these cases, the most those providers may bill you is your plan's in-network cost-sharing amount. This applies to emergency medicine, anesthesia, pathology, radiology, laboratory, neonatology, assistant surgeon, hospitalist, or intensivist services. These providers **can't** balance bill you and may **not** ask you to give up your protections not to be balance billed.

If you get other services at these in-network facilities, out-of-network providers **can't** balance bill you, unless you give written consent and give up your protections.

You're never required to give up your protections from balance billing. You also aren't required to get care out-of-network. You can choose a provider or facility in your plan's network.

When balance billing isn't allowed, you also have the following protections:

- You are only responsible for paying your share of the cost (like the copayments, coinsurance, and deductibles that you would pay if the provider or facility was in-network). Your health plan will pay out-of-network providers and facilities directly.

- Your health plan generally must:

    - Cover emergency services without requiring you to get approval for services in advance (prior authorization).

    - Cover emergency services by out-of-network providers.

    - Base what you owe the provider or facility (cost-sharing) on what it would pay an in-network provider or facility and show that amount in your explanation of benefits.

    - Count any amount you pay for emergency services or out-of-network services toward your deductible and out-of-pocket limit.

If you believe you've been wrongly billed, please contact your insurance company at the number on your ID card, or the Division of Insurance at 303-894-7490, 1-800-930-3745, or DORA_Insurance@state.co.us.

Visit the CMS No Surprises Act website for more information about your rights under federal law.

Visit DOI Out-of-Network website for more information about your rights under Colorado state law.

Ambulance Information: Balance billing claims related to services provided by air ambulances are governed by federal law. Services provided by ground ambulances are regulated by Colorado state law and do not allow private companies to balance bill. However, you may be balance billed for emergency services you receive if the ambulance service provider is a publicly funded fire agency or if the ambulance services are for a non-emergency, such as ambulance transport between hospitals, that is not a post-stabilization service.

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Tracking number: 2022-00509

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Insurance

on 10/10/2022

3 CCR 702-4 Series 4-2

LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)

The above-referenced rules were submitted to this office on 10/11/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 27, 2022 11:13:48

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Insurance

CCR number

3 CCR 702-4 Series 4-2

Rule title

3 CCR 702-4 Series 4-2 LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General) 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Regulation 4-2-87

CONCERNING OCCUPATIONAL ACCIDENT INSURANCE COVERAGE

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109 and 40-11.5-102(5), C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to establish the minimum coverage requirements for carriers offering occupational accident insurance coverage pursuant to § 40-11.5-102(5), C.R.S.

Section 3 Applicability

This regulation applies to all insurers offering occupational accident insurance coverage in Colorado pursuant to § 40-11.5-102(5), C.R.S.

Section 4 Definitions

A. "Insurer" shall have the same meaning as found at § 10-1-102(13), C.R.S.

B. "Certification" means, for the purposes of this regulation, the form that contains the necessary elements of certification, as determined by the Commissioner, which has been signed by the designated officer of the entity.

C. "Commercial vehicle" shall have the same meaning as found at § 42-4-235(1)(a)(I)(B), C.R.S.

D. "Limited benefit health coverage" means, for the purposes of this regulation, any type of health coverage that is not a health benefit plan.

E. “Motor carrier” shall have the same meaning as found at § 42-4-235(1)(c), C.R.S.

F. “Occupational accident insurance coverage” means, for the purposes of this regulation, insurance purchased by an independent contractor or sole proprietor pursuant to § 40-11.5-102(5), C.R.S. that provides coverage at a minimum aggregate policy limit of $1,500,000 for all benefits paid for the benefit of the operator, including medical, temporary and permanent disability, death and dismemberment, and survivor benefits.

G. “Operator” shall have the same meaning as found at § 40-11.4-102 (6)(a)(II), C.R.S.

H. “SERFF” means, for the purpose of this regulation, the NAIC System for Electronic Rate and Form Filing.

I. “Signature” includes an electronic signature as found at § 24-71.3-102(8), C.R.S.

Section 5 Coverage and Filing Requirements

A. An insurer may issue occupational accident insurance coverage, with benefits payable up to a policy limit of at least $1,500,000, if the following conditions are met:

1. The occupational accident insurance coverage shall provide, at a minimum, for injuries sustained in the course of working as an independent contractor or sole proprietor under a written agreement with a motor carrier company:

a. Temporary and permanent disability benefits;

b. Death, including survivor benefits, and dismemberment benefits; and

c. Medical expense benefits, to cover the following services:

(1) Ambulatory patient services;

(2) Emergency services;

(3) Hospitalization services;

(4) Laboratory and radiology services;

(5) Behavioral health, mental health, and substance use disorder and services;

(6) Prescription drug coverage; and,

(7) Dental coverage

B. All occupational accident insurance coverage rates shall be filed with the Division prior to such policies being marketed or issued in Colorado.

1. The rate SERFF filing requirements are as follows:

a. Type of Insurance (TOI) Code: H21 - Other;

b. Filing Type: Rate;

c. Effective Date Requested: This date must be a prospective date after the submission of the rate filing. Carriers shall submit rate filings for rate increases to the Commissioner at least sixty (60) days prior to the proposed implementation date of the rates.

d. Requested Filing Mode: ‘File & Use’ or ‘Review & Approval’;

e. Market Type: Individual or Group. All associations must be reviewed by the Division prior to issuance of coverage. The Association By-laws and Articles of Incorporation shall be submitted in a separate filing under the H21 – Other TOI code.

f. Filing Description shall include reference to Occupational Accident Coverage;

g. Form Schedule Tab: this tab shall be completed with all forms to which this filing applies, including policies, certificates, applications, etc. and

h. Rate/Rule Schedule tab shall be completed and shall include the rating manual and underwriting guidelines.

2. The rate filing shall also include a compliant actuarial memorandum and rate template according to Colorado Insurance Regulation 4-2-11. Additional guidance is also included in Regulation 4-2-11.

C. All occupational accident insurance coverage form filings shall be submitted to the Division for review and shall comply with the requirements found in Colorado Insurance Regulation 4-2-40.

1. The form SERFF filing requirements are as follows:

a. Type of Insurance (TOI) Code: H21 - Other;

b. Filing Type: Form;

c. Effective Date Requested: This date shall be a prospective date that is at least thirty-one (31) days after the filing submission date.

d. Requested Filing Mode: ‘File & Use’;

e. Market Type: Individual or Group. All associations must be reviewed by the Division prior to issuance of coverage. The Association By-laws and Articles of Incorporation shall be submitted in a separate filing under the H21 – Other TOI code.

f. Filing Description shall include reference to Occupational Accident Coverage; and

g. Form Schedule Tab: this tab shall be completed with all forms to which this filing applies, including policies, certificates, applications, etc. The forms shall be attached to this tab.

2. The form filing shall also include a completed form certification according to Colorado Insurance Regulation 4-2-40 Appendix A Form Health – Colorado Health Coverage Certification Form for Listings of New and/or Revised Policy Forms. Additional guidance is also included in Regulation 4-2-40. This certification shall include a 'live' or 'wet' signature of a qualified officer or comply with § 24-71.3-102(8), C.R.S.

3. The policies and certificates shall follow the requirements found in Colorado Insurance Regulation 4-2-34. The section names in the policies and certificates shall be as stated in the regulation and in the order demonstrated in the regulation.

D. Insurers that wish to offer occupational accident coverage shall have an accident and health line of authority.

Section 6 Required Disclosure

A. All occupational accident insurance coverage policies issued to comply with § 40-11.5-102(5), C.R.S. shall include the following statement in bold type on the policy's face page, and on the front page of the application:

"THIS IS AN OCCUPATIONAL ACCIDENT INSURANCE POLICY THAT PROVIDES LIMITED BENEFIT COVERAGE FOR ONLY THOSE ACCIDENT RELATED INJURIES SUSTAINED AS AN OPERATOR OF A COMMERCIAL VEHICLE AS AN INDEPENDENT CONTRACTOR OR SOLE PROPRIETOR AND IS NOT A SUBSTITUTE FOR MAJOR MEDICAL COVERAGE."

B. Not including the required disclosure statement shall be considered a deceptive trade practice and a violation of § 10-3-1104, C.R.S.

Section 7 Severability

If any provision of this regulation or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of this regulation shall not be affected.

Section 8 Enforcement

Noncompliance with this regulation may result in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition of civil penalties, issuance of cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process.

Section 9 Effective Date

This regulation shall become effective on November 30, 2022.

Section 10 History

New regulation effective November 30, 2022.

PHILIP J. WEISER
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NATALIE HANLON LEH
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Office of the Attorney General

Tracking number: 2022-00506

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Insurance

on 10/10/2022

3 CCR 702-4 Series 4-2

LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)

The above-referenced rules were submitted to this office on 10/11/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 28, 2022 15:14:58

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Insurance

CCR number

3 CCR 702-4 Series 4-2

Rule title

3 CCR 702-4 Series 4-2 LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General) 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Regulation 4-2-89

COMPENSATION DISCLOSURES FOR HEALTH INSURANCE CARRIERS

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109, 10-16-109, and 10-16-133(6)(b), C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to align disclosure requirements related to insurance producer compensation for health insurance carriers offering individual health benefit plans or short-term limited duration health insurance policies under the federal "No Surprises Act", Pub. L. 116-260, as amended, with Colorado law.

Section 3 Applicability

The requirements of this regulation apply to all health insurance carriers offering individual health insurance coverage or short-term limited duration insurance coverage in the state of Colorado.

Section 4 Definitions

A. "Carrier" shall have the same meaning as found at § 10-16-102(8), C.R.S.

B. "Commission schedule" means an itemized list or table that provides the commission levels that are paid by a carrier to an insurance producer for the sale, placement, or renewal of individual health insurance coverage or short-term limited-duration insurance.

C. "Direct compensation" means monetary amounts, including sale and base commissions, paid by a carrier that are attributable directly to the policy, certificate, or contract of insurance and that are paid to an insurance producer for the enrollment, selection, sale, placement, or renewal of individual health insurance coverage or short-term limited-duration insurance.

D. "Health benefit plan" shall have the same meaning as found at § 10-16-102(32), C.R.S.

E. “Indirect compensation” means payments by a carrier attributable indirectly to a policy, certificate or contract of insurance to insurance producers, and other persons for items other than sales and base commission. Examples of indirect compensation include service fees, consulting fees, finders’ fees, profitability and persistency bonuses, awards, prizes, volume-based incentives, and non-monetary forms of compensation.

F. “Insurance producer” or “producer”, shall have the same meaning as found at §10-2-103(6), C.R.S., with the exception that for the purposes of this regulation, it does not include public adjusters as defined at § 10-2-103(6)(b), C.R.S.

G. “Policyholder” means, for the purposes of this regulation, the person who is choosing the coverage and agreeing to be financially responsible for premiums and other payments due under the insurance contract, and does not include all plan enrollees.

H. “Sale” means, for the purposes of this regulation, the exchange of a contract of insurance for money or its equivalent.

I. “Short-term limited duration health insurance” shall have the same meaning as found at § 10-16-102(60), C.R.S.

Section 5 Carriers Disclosing Compensation

A. All health insurance carriers must make the following disclosures to policyholders purchasing individual health benefit plans or short-term limited duration health insurance policies:

1. Disclose any direct or indirect compensation provided by the carrier to an insurance producer or other person enrolling individuals in coverage for services provided by the insurance producer associated with plan selection and enrollment.

2. Disclosures shall be:

   a. For new, initial enrollments, made prior to the individual finalizing plan selection and included on any documentation confirming the initial enrollment, including enrollment documentation required by applicable state or federal law or an initial enrollment package;

   b. For renewals of enrollment, included on any documents confirming enrollment and any renewal notice of coverage required by applicable state or federal law; and

   c. In the absence of any documentation required by applicable state or federal law to confirm initial enrollment or the requirement for a notice of renewal of coverage, provided with the invoice for the first premium payment for the initial coverage term and for each renewal period.

3. The disclosure is required to include the commission schedule used to determine the compensation owed to a producer as part of the appointment contract between the producer and the carrier offering individual health insurance coverage or short-term limited duration insurance, as well as the structure for compensation not captured on the commission schedule.

4. All disclosures must be made available in all of the 15 most common languages in the state and ensure accessibility for individuals with disabilities and limited English proficiency consistent with 45 C.F.R. § 155.205(c), including provision of appropriate auxiliary aids and services at no cost to the individual.

B. Delegation

Carriers may satisfy their obligations under this regulation by requiring insurance producers to make the insurance producer compensation disclosures outlined in this regulation on the carriers' behalf.

Section 6 Severability

If any provision of this regulation or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of this regulation shall not be affected.

Section 7 Incorporated Materials

45 C.F.R. § 155.205(c) shall mean 45 C.F.R. § 155.205(c) as published on the effective date of this regulation and does not include later amendments to or editions of 45 C.F.R. § 155.205(c). A copy of 45 C.F.R. § 155.205(c) may be examined during regular business house at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202. A certified copy of 45 C.F.R. § 155.205(c) may be requested from the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, CO 80202. A charge for certification or copies may apply. A copy may also be obtained online at www.ecfr.gov

"No Surprises Act", Pub. L. 116-260, shall mean Pub. L. 116-260 as published on the effective date of this regulation and does not include later amendments to or editions of Pub. L. 116-260. A copy of Pub. L. 116-260 may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202. A certified copy of Pub. L. 116-260 may be requested from the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, CO 80202. A charge for certification or copies may apply. A copy may also be obtained online at www.congress.gov.

Section 8 Enforcement

Noncompliance with this Regulation may result in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition of civil penalties, issuance of cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process.

Section 9 Effective Date

This new regulation shall be effective on November 30, 2022.

Section 10 History

New regulation effective November 30, 2022.

PHILIP J. WEISER
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Tracking number: 2022-00508

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Insurance

on 10/10/2022

3 CCR 702-4 Series 4-2

LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)

The above-referenced rules were submitted to this office on 10/11/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 27, 2022 11:12:14

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - State Electrical Board

CCR number

3 CCR 710-1

Rule title

3 CCR 710-1 STATE ELECTRICAL BOARD RULES AND REGULATIONS 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

State Electrical Board

STATE ELECTRICAL BOARD RULES AND REGULATIONS

3 CCR 710-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

...

1.14 PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-115-107(2)(a) and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

4. "Licensee" means as defined in section 12-20-102(10), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

6. "Registrant" means as defined in section 12-20-102(12), C.R.S.

B. The regulator shall not deny licensure or registration to an applicant or impose disciplinary action against an individual's license or registration based solely on a civil or criminal judgment against the applicant, registrant, or licensee regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure or registration to an applicant or impose disciplinary action against an individual's license or registration based solely on a professional disciplinary action against the applicant's, registrant's, or licensee's professional licensure or registration in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's, registrant's, or licensee's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

Editor's Notes

History

Entire rule eff. 08/01/2008.
Rules 3.7, 5.0-5.2, 9.0-10.0 eff. 08/01/2010.
Entire rule eff. 03/17/2011.
Rules 8.1, 9.7 m eff. 09/15/2011.
Rules 3.0-10.7 eff. 07/15/2012.
Entire rule eff. 07/01/2014.
Rules 2.2, 3.1, 4.4.1.2.B, 4.4.1.3.A eff. 01/30/2015.
Entire rule eff. 03/17/2017.
Rule 2.0 eff. 06/01/2017.
Rules 6.0, 11.0 eff. 07/15/2017.
Rules 7.2.5.9, 8.3.3, 11.2 eff. 03/17/2018. Rule 11.3.7 repealed eff. 03/17/2018.
Rule 8.3.3. eff. 11/14/2018.
Rule 1.2 eff. 07/15/2020.
Rule 1.3 E eff. 07/15/2021.
Rule 1.11 G.2 eff. 11/30/2021.
Entire rule eff. 07/15/2022.

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Office of the Attorney General

Tracking number: 2022-00491

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - State Electrical Board

on 09/28/2022

3 CCR 710-1

STATE ELECTRICAL BOARD RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 09/29/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 18, 2022 11:44:46

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Audiology and Hearing Aid Provider Licensure

CCR number

3 CCR 711-1

Rule title

3 CCR 711-1 HEARING AID PROVIDER RULES AND REGULATIONS 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

Office of Hearing Aid Provider Licensure

HEARING AID PROVIDER RULES AND REGULATIONS

3 CCR 711-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

…

1.11 Concerning Health Care Provider Disclosures to Consumers about the Potential Effects of Receiving Emergency or Nonemergency Services from an Out-of-Network Provider

This Rule is promulgated and adopted by the Director of the Division of Professions and Occupations ("Director"), pursuant to the rulemaking authority in sections 12-20-204, 12-30-112, and 12-230-301(3), C.R.S., in consultation with the Commissioner of Insurance and the State Board of Health.

The purpose of this Rule is to establish requirements for health care providers to provide disclosures to consumers about the potential effects of receiving emergency or non-emergency services from an out-of-network provider.

This Rule applies to health care providers as defined in section 10-16-102(56), C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Publicly available" means, for the purposes of this regulation, searchable on the health care provider's public website, displayed in a manner that is easily accessible, without barriers, and that ensures that the information is accessible to the general public, including that it is findable through public search engines. The health care provider's public website must be accessible free of charge, without having to establish a user account, password, or other credentials, accept any terms or conditions, and without having to submit any personal identifying information.

B. Disclosure requirements.

1. An out of network provider may balance bill a covered person for post-stabilization services in accordance with section 10-16-704, C.R.S., and covered nonemergency services in an in-network facility that are not ancillary services if the provider meets the requirements set forth in section 12-30-112(3.5), C.R.S. If a consumer has incurred a claim for emergency or nonemergency health care services from an out-of-network provider, the health care provider shall provide the disclosures contained in Appendix A. The health care provider shall provide the disclosure contained in Appendix A in compliance with section 12-30-112(3.5), C.R.S.

C. Noncompliance with this Rule may result in the imposition of any of discipline made available by section 12-230-401(1)(b), C.R.S.

…

1.13 Protections for Provision of Reproductive Health Care in Colorado

This Rule is promulgated pursuant to Executive Order D 2022 032, and sections 25-6-401 *et seq.*, 12-230-301(3), and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Assisting in the provision reproductive health care" means aiding, abetting or complicity in the provision of reproductive health care.

3. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

4. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

5. "Licensee" means as defined in section 12-20-102(10), C.R.S.

6. "Provision of reproductive health care," includes but is not limited to, transportation for reproductive health care, referrals for reproductive health care and related services, funding or assisting with payment of reproductive health care, prescribing, shipping or dispensing medications for reproductive health care in accordance with state and federal law, all options and mental health counseling and treatment related to reproductive health care. The "provision of reproductive health care" also includes all treatment contemplated in the definition of section 25-6-402(4), C.R.S.

7. "Regulator" means as defined in section 12-20-102(14), C.R.S.

8. "Reproductive health care" means as defined in section 25-6-402(4), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on the applicant or licensee's provision of or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice as defined in Colorado law and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee arising from the provision of, or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

D. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action or any other sanction against the applicant's or licensee's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant or licensee's provision of, or assistance in the provision of, reproductive health care and the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

E. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's registration, certificate or license based solely on the licensee's own personal effort to seek or obtain reproductive health care for themselves. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee arising from the individual's own personal receipt of reproductive health care in this state or any other state or U.S. territory.

1.14 Protecting Colorado's Workforce and Expanding Licensing Opportunities

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-230-301(3) and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

4. "Licensee" means as defined in section 12-20-102(10), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action against the applicant's or licensee's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or licensee's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

…

APPENDIX A

Your Rights and Protections Against Surprise Medical Bills

When you get emergency care or get treated by an out-of-network provider at an in-network hospital or ambulatory surgical center, you are protected from surprise billing or balance billing.

What is "balance billing" (sometimes called "surprise billing")?

When you see a doctor or other health care provider, you may owe certain out-of-pocket costs, like a copayment, coinsurance, or deductible. You may have additional costs or have to pay the entire bill if you see a provider or visit a health care facility that isn't in your health plan's network.

"Out-of-network" means providers and facilities that haven't signed a contract with your health plan to provide services. Out-of-network providers may be allowed to bill you for the difference between what your plan pays and the full amount charged for a service. This is called "balance billing." This amount is likely more than in-network costs for the same service and might not count toward your plan's deductible or annual out-of-pocket limit.

"Surprise billing" is an unexpected balance bill. This can happen when you can't control who is involved in your care—like when you have an emergency or when you schedule a visit at an in-network facility but are unexpectedly treated by an out-of-network provider. Surprise medical bills could cost thousands of dollars depending on the procedure or service.

You're protected from balance billing for:

Emergency services

If you have an emergency medical condition and get emergency services from an out-of-network provider or facility, the most they can bill you is your plan's in-network cost-sharing amount (such as copayments, coinsurance, and deductibles). You can't be balance billed for these emergency services. This includes services you may get after you're in stable condition, unless you give written consent and give up your protections not to be balanced billed for these post-stabilization services.

If you believe you've been wrongly billed by a healthcare provider, please contact the Colorado Office of Hearing Aid Provider Licensure at 303-894-7800 or dora_audiologyboard@state.co.us.

Visit the CMS No Surprises Act website (https://www.cms.gov/nosurprises/consumers) for more information about your rights under federal law.

Review section 12-30-112, C.R.S., for more information about your rights under Colorado state law.

Certain services at an in-network hospital or ambulatory surgical center

When you get services from an in-network hospital or ambulatory surgical center, certain providers there may be out-of-network. In these cases, the most those providers can bill you is your plan's in-network cost-sharing amount. This applies to emergency medicine, anesthesia, pathology, radiology, laboratory, neonatology, assistant surgeon, hospitalist, or intensivist services. These providers **can't** balance bill you and may **not** ask you to give up your protections not to be balance billed.

If you get other types of services at these in-network facilities, out-of-network providers can't balance bill you, unless you give written consent and give up your protections.

You're never required to give up your protections from balance billing. You also aren't required to get out-of-network care. You can choose a provider or facility in your plan's network.

When balance billing isn't allowed, you also have these protections:

- You're only responsible for paying your share of the cost (like the copayments, coinsurance, and deductible that you would pay if the provider or facility was in-network). Your health plan will pay any additional costs to out-of-network providers and facilities directly.
- Generally, your health plan must:
    - Cover emergency services without requiring you to get approval for services in advance (also known as "prior authorization").
    - Cover emergency services by out-of-network providers.

- Base what you owe the provider or facility (cost-sharing) on what it would pay an in-network provider or facility and show that amount in your explanation of benefits.

- Count any amount you pay for emergency services or out-of-network services toward your in-network deductible and out-of-pocket limit.

If you believe you've been wrongly billed by a healthcare provider, please contact the Colorado Office of Hearing Aid Provider Licensure at 303-894-7800 or dora_audiologyboard@state.co.us. The federal phone number for information and complaints is: 1-800-985-3059.

Visit www.cms.gov/nosurprises/consumers for more information about your rights under federal law.

Visit https://dpo.colorado.gov/HearingAid for more information about your rights under Colorado state law, pursuant to section 12-30-112, C.R.S.

Editor's Notes

History

Entire rule eff. 09/01/2010.

Entire rule emer. rule eff. 07/01/2013.

Entire rule eff. 10/15/2013.

Entire rule eff. 12/30/2013.

Rules 2 C-D, 10 eff. 07/30/2019.

Rule 1.11, Appendix A emer. rules eff. 01/01/2020; expired 04/29/2020.

Rule 1.11, Appendix A eff. 04/30/2020.

Rules 1.1 A.3, 1.4, 1.6 emer. rules eff. 10/21/2020.

Rules 1.1 A.3, 1.2, 1.4, 1.6, 1.12, Appendix B eff. 12/15/2020.

Rules 1.2 A.1, 1.12 E-F eff. 05/30/2021.

Rule 1.8 B eff. 11/14/2021.

Rule 1.4 eff. 06/30/2022.

Annotations

Rules 1.2 A.1, 1.12 E.4 (adopted 10/21/2020) were not extended by Senate Bill 21-152 and therefore expired 05/15/2021.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
Solicitor General

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DEPARTMENT OF LAW

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Office of the Attorney General

Tracking number: 2022-00466

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Audiology and Hearing Aid Provider Licensure

on 10/07/2022

3 CCR 711-1

HEARING AID PROVIDER RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/07/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 26, 2022 19:02:00

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Audiology and Hearing Aid Provider Licensure

CCR number

3 CCR 711-2

Rule title

3 CCR 711-2 AUDIOLOGY RULES AND REGULATIONS 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

Office of Audiology Licensure

AUDIOLOGY RULES AND REGULATIONS

3 CCR 711-2

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

…

1.12 Concerning Health Care Provider Disclosures to Consumers about the Potential Effects of Receiving Emergency or Nonemergency Services from an Out-of-Network Provider

This Rule is promulgated and adopted by the Director of the Division of Professions and Occupations ("Director"), pursuant to the rulemaking authority in sections 12-20-204, 12-30-112, and 12-210-109(4), C.R.S., in consultation with the Commissioner of Insurance and the State Board of Health.

The purpose of this Rule is to establish requirements for health care providers to provide disclosures to consumers about the potential effects of receiving emergency or non-emergency services from an out-of-network provider.

This Rule applies to health care providers as defined in section 10-16-102(56), C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Publicly available" means, for the purposes of this regulation, searchable on the health care provider's public website, displayed in a manner that is easily accessible, without barriers, and that ensures that the information is accessible to the general public, including that it is findable through public search engines. The health care provider's public website must be accessible free of charge, without having to establish a user account, password, or other credentials, accept any terms or conditions, and without having to submit any personal identifying information.

B. Disclosure requirements.

1. An out of network provider may balance bill a covered person for post-stabilization services in accordance with section 10-16-704, C.R.S., and covered nonemergency services in an in-network facility that are not ancillary services if the provider meets the requirements set forth in section 12-30-112(3.5), C.R.S. If a consumer has incurred a claim for emergency or nonemergency health care services from an out-of-network provider, the health care provider shall provide the disclosures contained in Appendix. The health care provider shall provide the disclosure contained in Appendix A in compliance with section 12-30-112(3.5), C.R.S. C.

C. Noncompliance with this Rule may result in the imposition of any of discipline made available by section 12-210-108(2)(d), C.R.S.

…

1.14 Protections for Provision of Reproductive Health Care in Colorado

This Rule is promulgated pursuant to Executive Order D 2022 032, and sections 25-6-401 *et seq.*, 12-210-109(4), and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Assisting in the provision reproductive health care" means aiding, abetting or complicity in the provision of reproductive health care.

3. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

4. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

5. "Licensee" means as defined in section 12-20-102(10), C.R.S.

6. "Provision of reproductive health care," includes but is not limited to, transportation for reproductive health care, referrals for reproductive health care and related services, funding or assisting with payment of reproductive health care, prescribing, shipping or dispensing medications for reproductive health care in accordance with state and federal law, all options and mental health counseling and treatment related to reproductive health care. The "provision of reproductive health care" also includes all treatment contemplated in the definition of section 25-6-402(4), C.R.S.

7. "Regulator" means as defined in section 12-20-102(14), C.R.S.

8. "Reproductive health care" means as defined in section 25-6-402(4), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on the applicant or licensee's provision of or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice as defined in Colorado law and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee arising from the provision of, or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

D. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action or any other sanction against the applicant's or licensee's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant or licensee's provision of, or assistance in the provision of, reproductive health care and the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

E. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's registration, certificate or license based solely on the licensee's own personal effort to seek or obtain reproductive health care for themselves. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or

criminal judgment against the applicant or licensee arising from the individual's own personal receipt of reproductive health care in this state or any other state or U.S. territory.

1.15 Protecting Colorado's Workforce and Expanding Licensing Opportunities

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-210-109(4) and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

4. "Licensee" means as defined in section 12-20-102(10), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action against the applicant's or licensee's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or licensee's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

…

APPENDIX A

Your Rights and Protections Against Surprise Medical Bills

When you get emergency care or get treated by an out-of-network provider at an in-network hospital or ambulatory surgical center, you are protected from surprise billing or balance billing.

What is "balance billing" (sometimes called "surprise billing")?

When you see a doctor or other health care provider, you may owe certain out-of-pocket costs, like a copayment, coinsurance, or deductible. You may have additional costs or have to pay the entire bill if you see a provider or visit a health care facility that isn't in your health plan's network.

"Out-of-network" means providers and facilities that haven't signed a contract with your health plan to provide services. Out-of-network providers may be allowed to bill you for the difference between what

your plan pays and the full amount charged for a service. This is called “balance billing.” This amount is likely more than in-network costs for the same service and might not count toward your plan’s deductible or annual out-of-pocket limit.

“Surprise billing” is an unexpected balance bill. This can happen when you can’t control who is involved in your care—like when you have an emergency or when you schedule a visit at an in-network facility but are unexpectedly treated by an out-of-network provider. Surprise medical bills could cost thousands of dollars depending on the procedure or service.

You’re protected from balance billing for:

Emergency services

If you have an emergency medical condition and get emergency services from an out-of-network provider or facility, the most they can bill you is your plan’s in-network cost-sharing amount (such as copayments, coinsurance, and deductibles). You can’t be balance billed for these emergency services. This includes services you may get after you’re in stable condition, unless you give written consent and give up your protections not to be balanced billed for these post-stabilization services.

If you believe you’ve been wrongly billed by a healthcare provider, please contact the Colorado Office of Audiology Licensure at 303-894-7800 or dora_audiologyboard@state.co.us.

Visit the CMS No Surprises Act website (https://www.cms.gov/nosurprises/consumers) for more information about your rights under federal law.

Review section 12-30-112, C.R.S., for more information about your rights under Colorado state law.
Certain services at an in-network hospital or ambulatory surgical center

When you get services from an in-network hospital or ambulatory surgical center, certain providers there may be out-of-network. In these cases, the most those providers can bill you is your plan’s in-network cost-sharing amount. This applies to emergency medicine, anesthesia, pathology, radiology, laboratory, neonatology, assistant surgeon, hospitalist, or intensivist services. These providers **can’t** balance bill you and may **not** ask you to give up your protections not to be balance billed.

If you get other types of services at these in-network facilities, out-of-network providers can’t balance bill you, unless you give written consent and give up your protections.

You’re never required to give up your protections from balance billing. You also aren’t required to get out-of-network care. You can choose a provider or facility in your plan’s network.

When balance billing isn’t allowed, you also have these protections:

- You’re only responsible for paying your share of the cost (like the copayments, coinsurance, and deductible that you would pay if the provider or facility was in-network). Your health plan will pay any additional costs to out-of-network providers and facilities directly.
- Generally, your health plan must:
    - Cover emergency services without requiring you to get approval for services in advance (also known as “prior authorization”).
    - Cover emergency services by out-of-network providers.
    - Base what you owe the provider or facility (cost-sharing) on what it would pay an in-network provider or facility and show that amount in your explanation of benefits.

- Count any amount you pay for emergency services or out-of-network services toward your in-network deductible and out-of-pocket limit.

If you believe you've been wrongly billed by a healthcare provider, please contact the Colorado Office of Audiology Licensure at 303-894-7800 or dora_audiologyboard@state.co.us. The federal phone number for information and complaints is: 1-800-985-3059.

Visit www.cms.gov/nosurprises/consumers for more information about your rights under federal law.

Visit https://dpo.colorado.gov/Audiology for more information about your rights under Colorado state law, pursuant to section 12-30-112, C.R.S.

...

Editor's Notes

History

Entire rule eff. 09/01/2010.

Entire rule emer. rule eff. 07/01/2013.

Entire rule eff. 10/15/2013.

Entire rule eff. 12/30/2013.

Rules 2, 11 eff. 07/30/2019.

Rule 1.12, Appendix A emer. rules eff. 01/01/2020; expired 04/29/2020.

Rule 1.12, Appendix A eff. 04/30/2020.

Rule 1.6 emer. rule eff. 10/21/2020.

Rules 1.2, 1.6, 1.13, Appendix B eff. 12/15/2020.

Rules 1.2 A.1, 1.13 D-F eff. 05/30/2021.

Rule 1.9 B eff. 11/14/2021.

Rule 1.3 eff. 06/30/2022.

Annotations

Rules 1.2 A.1, 1.13 C.4 (adopted 10/21/2020) were not extended by Senate Bill 21-152 and therefore expired 05/15/2021.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

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Solicitor General

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Office of the Attorney General

Tracking number: 2022-00468

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Audiology and Hearing Aid Provider Licensure

on 10/10/2022

3 CCR 711-2

AUDIOLOGY RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/11/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 26, 2022 19:03:28

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Office of Occupational Therapy Licensure

CCR number

3 CCR 715-1

Rule title

3 CCR 715-1 OCCUPATIONAL THERAPY RULES AND REGULATIONS 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

Office of Occupational Therapy Licensure

OCCUPATIONAL THERAPY RULES AND REGULATIONS

3 CCR 715-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

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1.20 CONCERNING HEALTH CARE PROVIDER DISCLOSURES TO CONSUMERS ABOUT THE POTENTIAL EFFECTS OF RECEIVING EMERGENCY OR NONEMERGENCY SERVICES FROM AN OUT-OF-NETWORK PROVIDER

This Rule is promulgated and adopted by the Director of the Division of Professions and Occupations ("Director"), pursuant to the rulemaking authority in sections 12-20-204, 12-30-112, and 12-270-116, C.R.S., in consultation with the Commissioner of Insurance and the State Board of Health.

The purpose of this Rule is to establish requirements for health care providers to provide disclosures to consumers about the potential effects of receiving emergency or non-emergency services from an out-of-network provider.

This Rule applies to health care providers as defined in section 10-16-102(56), C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Publicly available" means, for the purposes of this regulation, searchable on the health care provider's public website, displayed in a manner that is easily accessible, without barriers, and that ensures that the information is accessible to the general public, including that it is findable through public search engines. The health care provider's public website must be accessible free of charge, without having to establish a user account, password, or other credentials, accept any terms or conditions, and without having to submit any personal identifying information.

B. Disclosure requirements.

1. An out of network provider may balance bill a covered person for post-stabilization services in accordance with section 10-16-704, C.R.S., and covered nonemergency services in an in-network facility that are not ancillary services if the provider meets the requirements set forth in section 12-30-112(3.5), C.R.S. If a consumer has incurred a claim for emergency or nonemergency health care services from an out-of-network provider, the health care provider shall provide the disclosures contained in Appendix A. The health care provider shall provide the disclosure contained in Appendix A in compliance with section 12-30-112(3.5), C.R.S.

C. Noncompliance with this Rule may result in the imposition of any of discipline made available by section 12-270-114(2)(m), C.R.S.

…

1.22 PROVISION OF REPRODUCTIVE HEALTH CARE IN COLORADO

This Rule is promulgated pursuant to Executive Order D 2022 032, and sections 25-6-401 *et seq.*, 12-270-116, and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Assisting in the provision reproductive health care" means aiding, abetting or complicity in the provision of reproductive health care.

3. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

4. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

5. "Licensee" means as defined in section 12-20-102(10), C.R.S.

6. "Provision of reproductive health care," includes but is not limited to, transportation for reproductive health care, referrals for reproductive health care and related services, funding or assisting with payment of reproductive health care, prescribing, shipping or dispensing medications for reproductive health care in accordance with state and federal law, all options and mental health counseling and treatment related to reproductive health care. The "provision of reproductive health care" also includes all treatment contemplated in the definition of section 25-6-402(4), C.R.S.

7. "Regulator" means as defined in section 12-20-102(14), C.R.S.

8. "Reproductive health care" means as defined in section 25-6-402(4), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on the applicant or licensee's provision of or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice as defined in Colorado law and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee arising from the provision of, or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

D. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action or any other sanction against the applicant's or licensee's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant or licensee's provision of, or assistance in the provision of, reproductive health care and the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

E. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's registration, certificate or license based solely on the licensee's own personal effort to seek or obtain reproductive health care for themselves. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or

criminal judgment against the applicant or licensee arising from the individual's own personal receipt of reproductive health care in this state or any other state or U.S. territory.

1.23 PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-270-116 and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

4. "Licensee" means as defined in section 12-20-102(10), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action against the applicant's or licensee's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or licensee's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

…

APPENDIX A

Your Rights and Protections Against Surprise Medical Bills

When you get emergency care or get treated by an out-of-network provider at an in-network hospital or ambulatory surgical center, you are protected from surprise billing or balance billing.

What is "balance billing" (sometimes called "surprise billing")?

When you see a doctor or other health care provider, you may owe certain out-of-pocket costs, like a copayment, coinsurance, or deductible. You may have additional costs or have to pay the entire bill if you see a provider or visit a health care facility that isn't in your health plan's network.

"Out-of-network" means providers and facilities that haven't signed a contract with your health plan to provide services. Out-of-network providers may be allowed to bill you for the difference between what your plan pays and the full amount charged for a service. This is called "balance billing." This amount is likely more than in-network costs for the same service and might not count toward your plan's deductible or annual out-of-pocket limit.

"Surprise billing" is an unexpected balance bill. This can happen when you can't control who is involved in your care—like when you have an emergency or when you schedule a visit at an in-network facility but are unexpectedly treated by an out-of-network provider. Surprise medical bills could cost thousands of dollars depending on the procedure or service.

You're protected from balance billing for:

Emergency services

If you have an emergency medical condition and get emergency services from an out-of-network provider or facility, the most they can bill you is your plan's in-network cost-sharing amount (such as copayments, coinsurance, and deductibles). You can't be balance billed for these emergency services. This includes services you may get after you're in stable condition, unless you give written consent and give up your protections not to be balanced billed for these post-stabilization services.

If you believe you've been wrongly billed by a healthcare provider, please contact the Colorado Office of Occupational Therapy at 303-894-7800 or dora_occupationaltherapists@state.co.us.

Visit the CMS No Surprises Act website (https://www.cms.gov/nosurprises/consumers) for more information about your rights under federal law.

Review section 12-30-112, C.R.S., for more information about your rights under Colorado state law.
Certain services at an in-network hospital or ambulatory surgical center

When you get services from an in-network hospital or ambulatory surgical center, certain providers there may be out-of-network. In these cases, the most those providers can bill you is your plan's in-network cost-sharing amount. This applies to emergency medicine, anesthesia, pathology, radiology, laboratory, neonatology, assistant surgeon, hospitalist, or intensivist services. These providers **can't** balance bill you and may **not** ask you to give up your protections not to be balance billed.

If you get other types of services at these in-network facilities, out-of-network providers can't balance bill you, unless you give written consent and give up your protections.

You're never required to give up your protections from balance billing. You also aren't required to get out-of-network care. You can choose a provider or facility in your plan's network.

When balance billing isn't allowed, you also have these protections:

- You're only responsible for paying your share of the cost (like the copayments, coinsurance, and deductible that you would pay if the provider or facility was in-network). Your health plan will pay any additional costs to out-of-network providers and facilities directly.
- Generally, your health plan must:
    - Cover emergency services without requiring you to get approval for services in advance (also known as "prior authorization").
    - Cover emergency services by out-of-network providers.

- Base what you owe the provider or facility (cost-sharing) on what it would pay an in-network provider or facility and show that amount in your explanation of benefits.

- Count any amount you pay for emergency services or out-of-network services toward your in-network deductible and out-of-pocket limit.

If you believe you've been wrongly billed by a healthcare provider, please contact the Colorado Office of Occupational Therapy at 303-894-7800 or dora_occupationaltherapists@state.co.us. The federal phone number for information and complaints is: 1-800-985-3059.

Visit www.cms.gov/nosurprises/consumers for more information about your rights under federal law.

Visit https://dpo.colorado.gov/OccupationalTherapy for more information about your rights under Colorado state law, pursuant to section 12-30-112, C.R.S.

…

Editor's Notes

History

Entire rule eff. 01/01/2009.
Entire rule emer. rule eff. 04/09/2014.
Entire rule eff. 07/30/2014.
Rule 8 emer. rule eff. 01/30/2015.
Entire rule eff. 03/17/2015.
Rule 14 eff. 07/30/2019.
Rule 1.17, Appendix A emer. rules eff. 01/01/2020; expired 04/29/2020.
Rule 1.17, Appendix A eff. 04/30/2020.
Rule 1.18 emer. rule eff. 05/01/2020; expired 08/29/2020.
Rule 1.19 emer. rule eff. 05/11/2020; expired 09/08/2020.
Rule 1.18 emer. rule eff. 08/30/2020.
Rule 1.20 emer. rule eff. 08/31/2020.
Rules 1.18, 1.20 emer. rules eff. 12/28/2020; expired 04/27/2021.
Rule 1.21 emer. rule eff. 01/11/2021.
Rules 1.18, 1.19 emer. rules eff. 04/27/2021.
Rule 1.21 emer. rule eff. 05/11/2021.
Rules 1.18, 1.21 emer. rules eff. 07/12/2021.
Rules 1.1-1.21, Appendix B eff. 07/15/2021.
Rules 1.18, 1.21 emer. rules eff. 11/02/2021.
Rules 1.18, 1.21 emer. rules eff. 03/02/2022.
Rules 1.18, 1.21 emer. rules eff. 06/28/2022.

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Office of the Attorney General

Tracking number: 2022-00478

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Office of Occupational Therapy Licensure

on 10/10/2022

3 CCR 715-1

OCCUPATIONAL THERAPY RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/11/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 27, 2022 13:58:14

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - State Board of Pharmacy

CCR number

3 CCR 719-1

Rule title

3 CCR 719-1 STATE BOARD OF PHARMACY RULES AND REGULATIONS 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

State Board of Pharmacy

STATE BOARD OF PHARMACY RULES AND REGULATIONS

3 CCR 719-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

…

3.00.00 DISPENSING.

…

3.00.22 The prescribing or dispensing of an opiate antagonist, as described in Rule 3.00.21, by a pharmacist shall not constitute unprofessional conduct pursuant to section 12-280-126, C.R.S., if he or she prescribed or dispensed the opiate antagonist in good faith pursuant to an order or standing orders and protocols issued to or for individuals or entities described in section 12-30-110, C.R.S.

a. Each prescription drug outlet shall maintain, in a uniform and readily retrievable manner for at least two years from the date of latest transaction related to a pharmacist initiated order or standing order, the following record detailing the dispensing of an opioid antagonist pursuant to a pharmacist initiated order or standing order:

…

4.00.00 LICENSING.

…

4.00.30 Requirements for Pharmacist License by Exam or Score Transfer include the following:

…

e. Education, training, or service gained in military services or licensure, certification, registration, or enrolled in good standing through the federal government as outlined in section 12-20-202, C.R.S., to be accepted and applied towards receiving a license, must be substantially equivalent, as determined by the Board, to the qualifications otherwise applicable at the time of receipt of application. It is the applicant's responsibility to provide timely and complete evidence for review and consideration. Satisfactory evidence of such education, training, or service will be assessed on a case by case basis.

4.00.40 Requirements for License Transfer or Endorsement are as follows:

…

e. A person duly licensed, certified, registered, or enrolled through the federal government under the conditions set forth in section 12-20-202, C.R.S., to practice pharmacy or who possesses the education, training, or service gained in military services pursuant to section 12-20-202, C.R.S., is upon application to the Board, eligible for licensure.

f. An applicant for license transfer shall apply for license transfer using a license issued by examination in another state. Such license shall be active, current, and in good standing. If the applicant holds pharmacist licenses in multiple states, all licenses must be in good standing. For the purposes of these Rules, "good standing" means that the applicant is not currently subject to active disciplinary actions in any state.

…

5.00.00 OUTLETS.

…

5.00.19 Third-Party Logistics Provider. A third-party logistics provider shall submit the following to the Board with the application:

a. Proof, if available, that the facility is actively registered with the Federal Food and Drug Administration as third-party logistics provider;

…

7.00.00 PHARMACIST MANAGER RESPONSIBILITIES.

7.00.10 Reporting Violations. The pharmacist manager of a prescription drug outlet shall report to the Board, in writing, within the timelines set forth below:

a. Diversion, theft or significant unaccountable loss of prescription drugs or controlled substances from the pharmacy, hospital or health maintenance organization (as defined in section 10-16-102, C.R.S.) within one business day of a substantiated loss. When a Drug Enforcement Administration (DEA) Form 106 is submitted to the DEA in instances involving controlled substances, a copy of the completed DEA Form 106 along with a detailed written explanation shall be submitted to the Board within one business day of signing the form. When determining whether an unaccountable loss is significant, the pharmacist manager shall consider, among others factors, the following:

…

14.00.00 OTHER OUTLETS.

14.00.05 Eligibility for registration. The following facilities may register as other outlets provided all requirements are met:

…

l. Convalescent centers registered, certified, or licensed as such by the Colorado Department of Public Health and Environment;

m. Community Mental Health Clinic having the same meaning as set for in section 25-27.6-102(9), C.R.S.;

n. Behavioral Health Entity as defined in section 25-27.6-102(6), licensed pursuant to Article 27.6 of Title 25, C.R.S.; and

o. Approved Treatment Facility that is an approved private or public treatment facility, as described in section 27-81-102(2) and (3) that adheres to the standards set forth in section 27-81-106, C.R.S.

…

14.00.40 Application Procedure.

…

f. Change of Registration.

(1) Any other outlet located in a community health clinic, rural health clinic, college, or university which dispenses more than 25,000 dispensing units in a calendar year shall register with the Board as a prescription drug outlet. …

14.00.80 Consultant pharmacist.

…

e. …

…

…

16.00.00 LIMITED LICENSE.

16.00.10 General Criteria. The Board may issue a limited license to the following facilities ("outlets") to purchase, possess, store and administer drugs enumerated in this Rule 16.00.00 in a manner appropriate to the outlet as authorized by law.

a. …

1. an animal shelter which is duly registered with the Secretary of State and has been in existence and in business for at least five years in this state as a nonprofit corporation; or

…

b. For the purpose of administering vaccines to animals:

1. an animal shelter which is duly registered with the Secretary of State and has been in existence and in business for at least five years in this state as a nonprofit corporation; or

2. an animal control agency which is operated by a unit of government.

c. Where the employees, agents or contractors of Colorado Division of Wildlife locations are authorized by the agency to capture or immobilize wildlife for animal control, management or research purposes, those locations are considered "animal control agencies" for purposes of section 12-280-120(17), C.R.S., and this Rule 16.00.00.

d. All drugs purchased, possessed, stored and administered by the outlet shall be obtained from an individual or entity registered by the Board.

16.00.20 Application Procedure.

…

d. Reinstatement of Limited License.

…

(2) A copy of the applicant's current registration with the Drug Enforcement Administration (DEA), if applicable.

…

16.00.80 Records of use. Records of use of vaccines or the purpose of administering vaccinations, sodium pentobarbital, sodium pentobarbital in combination with other prescription drugs, or drugs used for the purposes of chemical capture or immobilization of animals or wildlife shall contain the following information:

…

16.02.00 Vaccination of animals, chemical capture and sedation of animals or wildlife for euthanasia or immobilization.

16.02.01. All limited license outlets are authorized to purchase, possess and administer vaccines for the purpose of vaccinating animals and to purchase, possess, and administer drugs commonly used for the chemical capture of animals or wildlife for control, management or research purposes or to sedate or immobilize pet animals prior to euthanasia in a manner appropriate to the outlet as authorized by law. The drugs acceptable for this use are:

…

16.02.03. Outlets must demonstrate that staff are trained and capable of using the drugs as intended. For the purposes of chemical immobilization or euthanasia, staff must demonstrate training as follows:

…

17.00.00 COLLABORATIVE PHARMACY PRACTICE.

…

17.00.70 Evidence-Based Healthcare Service Pursuant to a CPA Protocol (other than a statewide protocol) Agreement and Protocol with a Prescriber or Prescribers.

…

c. Written agreements shall contain the following information:

1. Participating pharmacist(s) or pharmacist group;

2. Participating prescriber(s) or prescriber group;

3. Protocols to be employed;

4. Functions and activities the pharmacist or pharmacists will perform;

5. Method, content and frequency of communication to the prescriber;

6. A provision that allows the prescriber to override any action taken by the pharmacist when the prescriber deems it to be necessary;

7. An effective date of the agreement, and signatures of both the participating prescriber or prescribers, pharmacist or pharmacists, or authorizing prescriber or chairperson of the authorizing group or committee; and

d. …

1. The nature and scope of evidence-based healthcare services appropriate for certain conditions or diagnoses. Protocols must include criteria and directions pharmacists are to follow when providing evidence-based healthcare services. The criteria and direction may be based upon the most recent scientific literature and guidelines. If the protocol includes conducting physical assessments or ordering and evaluating laboratory or other tests, the protocol shall provide precise instruction as to what assessments are needed to be conducted and what tests are to be ordered, and what action or process the pharmacist is to take or follow dependent upon the assessments and test results;

2. Specific instructions for responding to acute allergic or other adverse reactions, if applicable;

3. A plan of treatment guided by or based on current, objective, supportive scientific evidence as published in scientific literature that provides the generally accepted standard of care;

4. Specific criteria upon which a patient must not be provided care under the protocol and instead referred to the patient's primary care provider for services; and

5. An effective date of the protocol, and signatures of the authorized prescriber, prescribers, or authorizing individual on behalf of a group of prescribers..

e. Additionally to all items described above, the following applies to CDTM:

1. …

d. Initiate, modify, or discontinue drug therapy or therapies, when appropriate, in compliance with the protocol; and

e. Provision of other healthcare services as agreed upon in the protocol.

2. CDTM protocol means a written plan for course of medical treatment containing a written set of directions created by the prescriber, groups of prescribers, hospital medical committee, pharmacist, groups of pharmacists, or a pharmacy and therapeutics committee.

a. Protocols must describe the nature and scope of drug therapy management appropriate to conditions or diagnosis, and include a treatment protocol and/or direct the pharmacist to follow accepted medical standards such as peer-reviewed evidence-based guidelines or treatment algorithms.

…

17.00.80 Collaborative drug therapy management requirements for all practice settings.

a. Collaborative drug therapy management may only be conducted by a pharmacist or pharmacists pursuant to an initial diagnosis made by the prescriber or prescribers, and a written agreement, which delineates proper protocols to be used and the type of interaction that must occur between the pharmacist and prescriber.

…

c. Prior to initiation of drug therapy management in any setting, the pharmacist or institution must inform the patient that s/he may refuse to participate in drug therapy management by the pharmacist. Inpatient or health system settings may use the patient's signature on the institution's general consent to treat as the patient's indication to participate in drug therapy management by the pharmacist.

…

e. Pharmacists may perform by protocol all aspects of drug therapy management referenced in 17.00.10 (a)(1) provided the protocol complies with 17.00.70 and the pharmacist performing these functions is qualified as set forth in section 17.00.30 and working pursuant to a written agreement with an appropriate qualified prescriber.

…

17.01.00 Record-Keeping Requirements.

a. …

3. Documentation reflecting pharmacist educational training as specified in either the statewide protocol or protocol entered into with a prescriber or prescribers if required; and

…

25.00.00 SPECIALIZED PRESCRIPTION DRUG OUTLETS.

25.00.10 Definitions.

…

b. "Hospice inpatient unit" means a facility as defined in section 15.5-4-103(8), C.R.S., that is licensed pursuant to section 25-1.5-103, C.R.S.

c. "Long term care facility" or "LTCF" means a nursing facility as defined in section 25.5-4-103(14), C.R.S., that is licensed pursuant to section 25-1.5-103, C.R.S. An LTCF is a nursing home, skilled nursing facility or a nursing care facility that provides supportive, therapeutic, or compensating services with the availability of a licensed nurse for observation and treatment on a twenty-four hour basis.

d. "Managing prescription drug outlet" means the prescription drug outlet located within the State of Colorado which is responsible for ownership and operation of a specialized prescription drug outlet located at an LTCF or hospice inpatient unit within Colorado. The managing prescription drug outlet is responsible for the application for the specialized prescription drug outlet on behalf of the LTCF or hospice inpatient unit. The managing

prescription drug outlet shall own and operate the SPDO and maintain ownership of the drugs.

e. "Specialized prescription drug outlet" or "SPDO" means an outlet located at an LTCF or hospice inpatient unit which is owned and operated by a managing prescription drug outlet located within the State of Colorado. The managing prescription drug outlet engages in the compounding, dispensing, and delivery of drugs and devices, or the provision of pharmaceutical care, residents of the LTCF or hospice inpatient unit. The managing prescription drug outlet may use automated devices in the SPDO to provide drugs, as well as other Board-approved nontraditional methods, to provide pharmaceutical care to the residents of the LTCF or hospice inpatient unit.

f. "Stock drugs" mean non-patient specific prescription drugs or controlled substances that are distributed from a managing prescription drug outlet to a SPDO by means other than a patient-specific prescription order or LTCF or hospice inpatient unit chart order.

25.00.12 Requirements for Registration. Eligibility requirements for an SPDO include the following:

a. A current Board-issued registration of the managing prescription drug outlet that engages in the compounding, dispensing, and delivery of drugs, or provision of pharmaceutical care to residents of an LTCF or hospice inpatient unit;

…

25.00.18 Policy and Procedure Manual.

a. Each managing prescription drug outlet and corresponding SPDO shall maintain a policy and procedure manual which is approved by the Board or its designee prior to SPDO operation. This policy and procedure manual shall be reviewed, signed, and dated by both the pharmacist manager of the managing prescription drug outlet and the nursing home or hospice inpatient unit administrator or other accountable individual of the SPDO at least once annually. The pharmacist manager shall be responsible for assuring that the nursing home or hospice inpatient unit administrator or other accountable individual of the SPDO signs the policy and procedure manual.

b. If a change in the pharmacist manager, or nursing home or hospice inpatient unit administrator or other accountable individual at the SPDO occurs, the new pharmacist manager and/or nursing home or hospice inpatient unit administrator or other accountable individual shall review, sign, and date the policy and procedure manual within thirty days of assuming the respective positions. The pharmacist manager shall be responsible for assuring that the new nursing home administrator or other accountable individual of the SPDO signs the policy and procedure manual.

…

25.00.24 Closure.

a. Upon the closure of the SPDO it shall be the responsibility of the managing prescription drug outlet's pharmacist manager to remove all drug stocks from the LTCF or hospice inpatient unit within seventy-two hours after closure.

…

31.00.00 Telepharmacies.

31.00.05 Definitions.

a. “Area of need” means any health facility licensed or certified by the Department of Public Health and Environment pursuant to section 25-1.5-103(1), C.R.S., or any area where a demonstration of need is approved by the Board.

b. “Central pharmacy” means a registered prescription drug outlet located in Colorado which is responsible for overseeing the operation of no more than two (2) telepharmcies.

c. “Telepharmacy” has the same meaning as set forth in section 12-280-103(50), C.R.S.

31.00.10. Application Requirements.

31.00.11 Registration. The applicant for registration shall obtain the appropriate form as approved by the Board to register a telepharmacy. In the case of an application for a new telepharmacy, for a transfer of ownership of a telepharmacy, or for the relocation of a telepharmacy, the applicant shall submit such additional documentation as the Board may require.

31.00.15 Applications. The Board, or its agent, may require any applicant or pharmacist manager of a telepharmacy to meet with the Board, or its agent, before the Board takes action on any registration.

31.00.20 No two registered outlets may occupy the same physical space. If there are two (or more) registrants co-located within the same building or at the same address, each must have its own area, separated by floor to ceiling walls, and separate entrances.

31.00.30 Transfer of Ownership. Application to transfer registration of a telepharmacy shall be submitted to the Board as provided in section 12-280-118, C.R.S., within thirty (30) days of the transfer of ownership. A transfer of ownership shall be deemed to have occurred:

a. In the event the telepharmacy is owned by a corporation, upon sale or transfer of twenty percent or more of the shares of said corporation to a single individual or entity.

b. In the event the telepharmacy is owned by a partnership, upon sale or transfer of twenty percent or more of any ownership interest.

c. In the event the telepharmacy is owned by a limited liability company (LLC), upon sale or transfer of twenty percent or more of the membership interests.

d. Upon incorporation of an existing telepharmacy.

31.00.40 Relocation. In the event of a relocation of a telepharmacy shall submit an application provided by the board along with the prescribed fee no more than thirty (30) days prior to the effective date of relocation.

31.00.50 Reinstatement of a Telepharmacy Registration.

a. If a registration has expired, a telepharmacy seeking to reinstate such registration shall submit the following:

(1) The current reinstatement application with the required fee;

(2) If the owner of the telepharmacy is a corporation, submit either a copy of the articles of incorporation as they were filed with the Colorado Secretary of State or a Certificate of Good Standing issued by the Colorado Secretary of State;

(3) A letter stating whether the corporation is public or private as follows:

(A) If the corporation is a public corporation, submit a list of all stockholders owning five percent or more of the stock; or

(B) If the corporation is a private corporation, submit a list of all stockholders;

(4) An accurate drawn-to-scale floor plan of the telepharmcy's compounding / dispensing area detailing all counters, bays, sinks, refrigerators and, if applicable, sterile and non-sterile compounding hoods; and

(5) A completed, dated and signed minimum equipment self-inspection form as provided with the reinstatement application.

31.00.60 Closure.

a. Closure shall mean the permanent cessation of the practice of pharmacy in any telepharmcy.

b. Upon the closure of any telepharmacy, it shall be the responsibility of the last pharmacist manager of record to remove the orders, if applicable, to another telephamacy or prescription drug outlet where patrons and/or practitioners are afforded reasonable access to a pharmacist's interpretation of such orders. Such relocation of records shall be made within seventy-two hours after closure. The pharmacist manager shall submit a notice, on a form and manner approved by the Board, detailing the closure of the telepharmacy within seventy-two hours after closure. If the last pharmacist manager of record fails to relocate the records as required herein, the Board may direct the removal of the records to a suitable location. The last pharmacist manager of record shall make a reasonable effort to inform patrons of the telepharmacy of the location of the records.

c. The Board on request shall provide the owner of any telepharmacy an instruction sheet applicable to the transaction prior to closure, or conducting bankruptcy proceedings, or transferring or selling the prescription drug inventory.

31.01.00 Structural Requirements.

31.01.10 Within every telepharmacy there shall be one area designated as the principal compounding/dispensing area. The principal compounding/dispensing area shall comply with the following conditions:

a. The principal compounding/dispensing area shall not be less than 150 continuous square feet.

b. Any room included within or adjacent to the principal compounding / dispensing area that is separated from the principal compounding / dispensing area by a door must meet the following:

(1) The telepharmacy shall submit documentation required by the board to remodel the principal compounding / dispensing area prior to the utilizing the room or rooms for the purposes of compounding and dispensing or for the storage of prescription drugs and controlled substance stocks;

(2) The door must have a conspicuously displayed sign attached to it, and facing the principal compounding / dispensing area, that states “This room is part of the Board-approved designated principal compounding / dispensing area”;

(3) If a locked or otherwise secured door is used to separate parts of the compounding / dispensing area, it shall be unlocked immediately upon the request of the Board or of its inspectors and be available for inspection.

c. All compounding/dispensing areas shall be well-lighted and well-ventilated with clean and sanitary surroundings devoted primarily to compounding/dispensing or drug storage. These areas shall provide necessary protection for drugs, chemicals and devices from deterioration due to light, heat or evaporation and shall be arranged to protect all prescription drugs and devices from pilferage or other unauthorized removal. No areas shall be subject to any condition likely to lead to errors.

d. In every telepharmacy where compounding or dispensing is physically occurring, there shall be a minimum of twelve continuous square feet of free and clear counter space, and a minimum of six continuous square feet of free and clear counter space for each person engaged in compounding/dispensing. These counters and surfaces shall be kept free and clear at all times for the purpose of compounding/dispensing. Any computer workstation or other equipment for the preparation of prescription labels and/or storage and retrieval of records shall be in addition to the minimum free compounding/dispensing area.

(1) The free floor space behind all compounding/dispensing counters or work surfaces shall be not less than thirty inches in width;

(2) The free floor space between shelving rows shall be not less than twenty-four inches; and

(3) There shall be sufficient shelf, drawer and/or cabinet space for proper storage of prescription drugs and devices.

e. In the principal compounding/dispensing area there shall be a sink, equipped with running hot and cold water, which is attached to an approved drain, waste and vent system, or to a portable enclosed tank which is emptied as frequently as necessary.

f. The telepharmacy shall have all the technical equipment necessary for the appropriate compounding and dispensing it conducts and as required pursuant to section 12-280-103(50), C.R.S.

g. If refrigerated drugs are stored in the principal compounding/dispensing area, there shall be a refrigerator, dedicated to storing only drugs, meeting the compendia requirements and with an accurate thermometer in the refrigerator. The temperature of which shall be maintained between two and eight degrees Celsius (2 and 8 degrees C.) or thirty-six and forty-six degrees Fahrenheit (36 and 46 degrees F.) or in accordance with the corresponding drug manufacturer’s directions. The temperature shall be electronically monitored each calendar day. Records detailing instances in which temperatures fall outside the aforementioned range requirement, for any period of time, shall be maintained at the prescription drug outlet and shall be made readily available for inspection upon request by the Board or its representatives for a period of at least two years preceding the request. Such records shall include the duration of time the temperature fell outside the aforementioned range requirement, based on the best available data, and measures taken by the outlet as a result of the temperature falling outside the aforementioned range requirement.

h. If frozen drugs are stored in the principal compounding/dispensing area, there shall be a freezer, dedicated to storing only drugs, meeting the compendia requirements and with an accurate thermometer in the freezer. The temperature of which shall be maintained between twenty-five degrees below zero and ten degrees below zero Celsius (– 25 and – 10 degrees C.) or thirteen degrees below zero and fourteen degrees Fahrenheit (– 13 and 14 degrees F.) or in accordance with the corresponding drug manufacturer's directions. The temperature shall be electronically monitored each calendar day. Records detailing instances in which temperatures fall outside the aforementioned range requirement, for any period of time, shall be maintained at the prescription drug outlet and shall be made readily available for inspection upon request by the Board or its representatives for a period of at least two years preceding the request. Such records shall include the duration of time the temperature fell outside the aforementioned range requirement, based on the best available data, and measures taken by the outlet as a result of the temperature falling outside the aforementioned range requirement.

i. Every telepharmacy shall display in the principal compounding/dispensing area the report of the most recent inspection conducted by the Board or a photocopy of the most recent self-inspection performed by the pharmacist manager using the form provided by the Board, whichever is more recent, and have readily available documents sent or provided by the Board to clarify or assist in the legal operation of the telepharmacy.

31.02.00 Staffing and Training Requirements. Only a Colorado licensed pharmacist, Colorado-licensed pharmacy intern, or Colorado-certified pharmacy technician may engage in the practice of pharmacy. All personnel engaged in the practice of pharmacy shall be adequately trained to, as applicable to the practice setting, dispense and compound prescriptions and administer vaccines.

31.03.00 Pharmacist Manager or Licensed Pharmacist Delegate Visitation Requirements. The pharmacist manager or licensed pharmacist delegate shall visit the telepharmacy at least once monthly. Documentation of these visits shall be readily available and retrievable for inspection at the telepharmacy upon the request of the Board or its representatives for at least two years preceding the request.

31.04.00 Security in every telepharmacy, all compounding/dispensing areas shall comply with this regulation.

a. When any compounding/dispensing area of a prescription drug outlet is occupied by any employee, a pharmacist or Board-certified pharmacy technician must be physically present within the same building of the telepharmacy. This Rule shall not apply if the telepharmacy does not possess prescription drug or controlled substance stocks or patient information within the first 120 calendar days after the telepharmacy has been registered by the Board.

b. In the event a pharmacist or Board-certified pharmacy technician is within the building but absent from a compounding/dispensing area, it is the responsibility of the pharmacist or Board-certified pharmacy technician to ensure the proper safeguard of all drugs.

c. If a compounding/dispensing area is continually attended by a pharmacist or Board-certified pharmacy technician when other people are in the building, the compounding/dispensing area need not be enclosed. However, if other people are in the building when there is not a pharmacist or Board-certified pharmacy technician present, every compounding/dispensing area must be enclosed by a barrier as specified in paragraph e below unless the prescription drug outlet qualifies for the exemption provided under Rule 31.04.00(a).

d. If more than one telepharmacy is located within the same building, a pharmacist or Board-certified pharmacy technician shall not operate more than one telepharmacy at the same time. If a pharmacist or Board-certified pharmacy technician physically leaves one outlet for the purpose of entering into another outlet within the same building, any outlet not being physically attended to by a pharmacist or Board-certified pharmacy technician shall be enclosed by a barrier as specified in paragraph e below and a non-pharmacist or non-Board-certified pharmacy technician shall not remain inside the enclosed outlet during that time unless the telepharmacy qualifies for the exemption provided under Rule 5.01.50(a).

e. A telepharmacy constituting part of a large establishment may be closed while the balance of the establishment is open for business, provided every compounding/dispensing area is enclosed with a secure floor-to-ceiling physical barrier, which shall be a divider or secure total enclosure, in which any openings shall not be large enough to permit removal of items from the compounding/dispensing area. The barrier must be of weight and strength sufficient to prevent it from being readily lifted, removed, penetrated or bent.

f. All entrances to every compounding/dispensing area shall be secured from unauthorized entry when the pharmacist or Board-certified pharmacy technician leaves the building except as provided in Rule 5.01.50(a). No one other than a Board-certified pharmacy technician shall be permitted to enter any compounding/dispensing area containing drugs, devices or patient information except in extreme emergencies, which shall be defined as a threat to property, public disaster or other catastrophe whereby the public is better served by overlooking the security restrictions of drugs and devices. If any compounding/dispensing area containing drugs, devices or patient information is opened in the absence of a pharmacist or Board-certified pharmacy technician or left unsecured from unauthorized entry when the pharmacist or Board-certified pharmacy technician leaves the building, the pharmacist manager shall notify the Board in writing within ten days of the discovery of the occurrence. This written notice shall state:

(1) The name of the person authorizing the opening of the compounding/dispensing area if known, or the name of the pharmacist responsible for securing the compounding/dispensing area from unauthorized entry;

(2) The name of the person opening the compounding/dispensing area if known; and

(3) A description of the situation requiring opening of the compounding/dispensing area including the date and time of the opening.

31.05.00 Unless as otherwise specified in this Board Rule 31.00.00, telepharmacies shall, as applicable, operate and maintain such records as required by the Board for prescription drug outlets relating to, but not limited to, the receipt, storage, dispensing, administration, prepackaging, compounding and other disposition of prescription drugs and controlled substances.

31.06.00 The pharmacist manager shall be responsible for the operations of a telepharmacy in compliance with all applicable state and federal rules and laws pertaining to drugs. 32.00.00 PROTECTIONS FOR PROVISION OF REPRODUCTIVE HEALTH CARE IN COLORADO

A. Basis. The basis for this rule is to implement the requirements of Executive Order D 2022 032, issued by Governor Jared Polis, and sections 25-6-401, *et seq*., 12-20-204, and 12-280-107(1), C.R.S.

B. Purpose. This rule is adopted to effectuate Executive Order D 2022 032, directing state agencies to protect access to reproductive health care in Colorado.

C. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Assisting in the provision reproductive health care" means aiding, abetting or complicity in the provision of reproductive health care.

3. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

4. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, or a deferred judgment or sentence.

5. "Licensee" means as defined in section 12-20-102(10), C.R.S.

6. "Provision of reproductive health care," includes but is not limited to, transportation for reproductive health care, referrals for reproductive health care and related services, funding or assisting with payment of reproductive health care, prescribing, shipping or dispensing medications for reproductive health care in accordance with state and federal law, all options and mental health counseling and treatment related to reproductive healthcare. The "provision of reproductive health care" also includes all treatment contemplated in the definition of section 25-6-402(4), C.R.S.

7. "Regulator" means as defined in section 12-20-102(14), C.R.S.

8. "Reproductive health care" means as defined in section 25-6-402(4), C.R.S.

D. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on the applicant or licensee's provision of or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice as defined in Colorado law and did not otherwise violate Colorado law.

E. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee arising from the provision of, or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

F. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action or any other sanction against the applicant's or licensee's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant or licensee's provision of, or assistance in the provision of, reproductive health care and the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

G. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's registration, certificate or license based solely on the licensee's own personal effort to seek or obtain reproductive health care for themselves. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee arising from the individual's own personal receipt of reproductive health care in this state or any other state or U.S. territory.

33.00.00 PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES

A. Basis. The basis for this rule is to implement the requirements of Executive Order D 2022 034, issued by Governor Jared Polis, and sections 25-6-401, *et seq*., 12-20-204, and 12-280-107(1), C.R.S.

B. Purpose. This rule is adopted to effectuate Executive Order D 2022 034, directing the Board to promulgate and issue rules to ensure that no person shall be subject to disciplinary action against a professional license or disqualified from professional licensure for any civil or criminal judgment, discipline, or other sanction threatened or imposed under the laws of another state regarding consumption, possession, cultivation or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within the State of Colorado.

C. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, or a deferred judgment or sentence.

4. "Licensee" means as defined in section 12-20-102(10), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

D. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

E. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action against the applicant's or licensee's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or licensee's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

34.00.00 CONCERNING HEALTH CARE PROVIDER DISCLOSURES TO CONSUMERS ABOUT THE POTENTIAL EFFECTS OF RECEIVING EMERGENCY OR NONEMERGENCY SERVICES FROM AN OUT-OF-NETWORK PROVIDER

A. Basis: The basis for this rule is to implement the requirements of section 12-30-112, C.R.S., in consultation with the Commissioner of Insurance and the State Board of Health.

B. Purpose: The purpose of these rules and regulations is to establish the requirements for healthcare providers to provide disclosures to consumers about the potential effects of receiving emergency or non-emergency services from an out-of-network provider as required by section 12-30-112, C.R.S.

C. Definitions, for purposes of this Rule, are as follows:

1. "Publicly available" means, for the purposes of this regulation, searchable on the healthcare provider's public website, displayed in a manner that is easily accessible,

without barriers, and that ensures that the information is accessible to the general public, including that it is findable through public search engines. The health care provider's public website must be accessible free of charge, without having to establish a user account, password, or other credentials, accept any terms or conditions, and without having to submit any personal identifying information.

D. Disclosure requirements.

1. An out of network provider may balance bill a covered person for post-stabilization services in accordance with section 10-16-704, C.R.S., and covered nonemergency services in an in-network facility that are not ancillary services if the provider meets the requirements set forth in section 12-30-112(3.5), C.R.S. If a consumer has incurred a claim for emergency or nonemergency health care services from an out-of-network provider, the health care provider shall provide the disclosures contained in Appendix F in compliance with section 12-30-112(3.5), C.R.S.

2. The health care provider shall provide the disclosure contained in Appendix F as set forth in section 12-30-112(3.5), C.R.S.:

E. Noncompliance with this Rule may result in the imposition of any of discipline made available by section 12-280-126(1)(c), C.R.S. Appendix A

Colorado State Board of Pharmacy Approved Statewide Protocol for Prescribing Contraceptives

(Appendix A)

This collaborative pharmacy practice statewide protocol authorizes qualified Colorado-licensed pharmacists ("Pharmacists") to perform the pertinent physical assessments and prescribe contraceptives under the conditions of this protocol and according to and in compliance with all applicable state and federal laws and rules.

Definitions

…

(4) "Vaginal ring" means a plastic ring, inserted vaginally by the patient that releases a combination or hormones that is approved by the United States Food and Drug Administration to prevent pregnancy.

(5) "DPMA" means Depot Medroxyprogesterone Acetate, an injection, administered every three months by a pharmacist of patient that is approved by the United States Food and Drug Administration to prevent pregnancy.

Training Program

Only a Colorado-licensed pharmacist, who has completed an Accreditation Council for Pharmacy Education (ACPE) accredited educational training program related to the prescribing of contraceptives by a pharmacist may, if clinically appropriate, prescribe, dispense, or administer hormonal contraceptives to a patient. In addition, pharmacists shall comply with the most current United States Medical Eligibility Criteria (USMEC) for Contraceptive Use as adopted by the U.S. Centers for Disease Control and Prevention (CDC).

Age Requirements

A pharmacist may prescribe hormonal contraceptives to a person who is at least 18 years of age.

Further Conditions

(1) …

(c) May prescribe, if clinically appropriate, the hormonal contraceptive patch, self-administered oral hormonal contraceptive, DMPA, Vaginal Ring, or refer to a healthcare practitioner;

…

(2) If the contraceptive is dispensed or administered, it must be done as soon as practicable after the pharmacist issues the prescription and shall include any relevant educational materials.

(3) A pharmacist must not:

(a) Require a patient to schedule an appointment with the pharmacist for the prescribing or dispensing of a hormonal contraceptive;

…**Appendix C**

Colorado State Board of Pharmacy Statewide Protocol

Pre-Exposure and Post-Exposure Prophylaxis of HIV

…

Pharmacists may prescribe and dispense FDA approved medication(s) to eligible patients according to indications and contraindications recommended in current guidelines from the U.S. Centers for Disease Control and Prevention (CDC)[1, 3] and the United States Preventive Services Task Force (USPSTF)[2].

…

Pre-Exposure Prophylaxis (PrEP) Protocol

Under this protocol, Pharmacists may assess for HIV status and high-risk behaviors in which pre-exposure prophylaxis against HIV would be warranted.

The pharmacist may consider and offer the patient an oral antiretroviral agent listed in Table Ia, or other

FDA approved/CDC recommended medications or regimens can be used if they become available, according to the following criteria:

1. Evidence of HIV negative status as documented by an FDA- approved test, or rapid CLIA-waived point of care antigen/antibody fingerstick blood test, or by drawing blood (serum) and sending the specimen to a laboratory for an antigen/antibody test with results being received within 7 days prior to the initiation of PrEP. Neither oral swab testing nor patient report of negative status are acceptable for evidence.

2. Persons who meet eligibility requirements for PrEP per CDC guidelines in the following categories:

   a. Sexually-Active Adults
      - Without acute or established HIV infection
      - Anal or vaginal sex in the past 6 months

AND at least one of the following:

- HIV-positive sexual partner (especially if partner has an unknown or detectable viral load)
- Has tested positive for bacterial STI in the past 6 months
  • Gonorrhea, Chlamydia, and Syphilis for men who have sex with men (MSM) and transgender women (TGW) who have sex with men, including those who inject drugs
  • Gonorrhea and Syphilis for heterosexual women and men including persons who inject drugs

b. Persons Who Inject Drugs (PWID)

- Adult person
- Without acute or established HIV infection
- Any injection of drugs not prescribed by a clinician in past 6 months

AND any of the following:

- Any sharing of injection or drug preparation equipment in past 6 months
- Risk of sexual acquisition (see above)

c. Any patient who requests PrEP, even if no specific risk behaviors are elicited

Patients who should NOT be prescribed PrEP under this protocol and should be referred to primary care provider for further action:

- Patients with baseline HIV tests indicating existing HIV infection
- Recent flu-like symptoms in the past month as this may suggest acute HIV infection not yet detectable (fever, fatigue, myalgia, skin rash, headache, pharyngitis, cervical adenopathy, arthralgia, night sweats, diarrhea)
- Patients on medications contraindicated with PrEP therapy selected
- Patients with history of hypersensitivity reaction to PrEP therapy selected
-

TABLE 1a – MEDICATION OPTIONS

Other FDA approved / CDC recommended medications or regimens can be used if they become available.

Formulations, cautions and dose adjustments for antiretroviral medications shall minimally follow the CDC guidelines and package insert information for all regimens.

Medication	Age/Weight	Frequency	Duration of Therapy	Notes
FTC/TDF (F/TAF) emtricitabine 200 mg/tenofovir disoproxil fumarate 300mg (Truvada® or generic)	≥35 kg	Once daily	Prescription issued for 30 days with no refills if baseline labs not completed; or up to 90 days if baseline labs completed. Refill quantity only until next scheduled lab follow up.	May take with or without food. Not recommended for CRCL <60 ml/min.

FTC/TAF (F/TAF) emtricitabine 200mg/tenofovir alafenamide 25mg (Descovy®)	≥35 kg	Once daily	Prescription issued for 30 days with no refills if baseline labs not completed; or up to 90 days if baseline labs completed. Refill quantity only until next scheduled lab follow up.	May take with or without food. Not recommended for CRCL <30 ml/min. Should only be used for at-risk cis-gender men and transgender women. Pharmacist must review drug/drug interaction considerations as per package insert.
CAB Cabotegravir 600mg/3mL (Apretude®) extended-release injectable suspension for intramuscular (IM) use	>35kg	Month 1: 4-week optional oral lead in of daily cabotegravir 30mg (Vocabria®) tablet Month 2: 600mg (3mL) IM gluteal injection administered by healthcare professional on last day of oral therapy or within 3 days of last oral dose Month 3 (and every 2 months thereafter): 600mg (3ml) IM gluteal Injection administered by healthcare professional	Prescription issued for 1 injection at a time following the dosing and lab schedule	See package insert for instructions regarding planned or unplanned missed injections Drug resistant HIV-1 variants have been identified with use of Apretude® (Black Box Warning)

Labs:

- PrEP cannot be started without a negative HIV Ag/Ab test at baseline.

…

- PrEP refills will not be authorized past the initial 30 day supply for oral therapy if recommended baseline testing is not done by one of the above mechanisms.

- PrEP refills will not be authorized in absence of scheduled follow up for injectable therapy

TABLE 2a – ROUTINE REQUIRED MONITORING OF INJECTABLE TREATMENT

Test	Frequency	CDC recommendations	Notes

HIV (Ag/Ab & HIV 1 RNA assay	Baseline + Prior to each injection + when stopping CAB	**Required**	If positive, refer
Three site STI screening (syphilis, gonorrhea, chlamydia)	Baseline + Every 4 months (starting with 3rd injection) for MSM & TGW Every 6 months (starting with 5th injection) for heterosexually-active persons When stopping CAB (only for MSM, TGW)	Recommended	If positive – refer for care
Need to continue PrEP	Annually	Recommended if at continued risk	Discuss with patient

TABLE 2b-ROUTINE REQUIRED MONITORING OF ORAL TREATMENT

Test	Frequency	CDC Recommendations	Notes
HIV Ag/Ab	Baseline + Every 3 months	Required	If positive, refer
HIV-1 RNA assay and assess for signs/symptoms of acute HIV infection	Every 3 months + when stopping PrEP	Required	If positive, refer
Three site STI screening (syphilis, gonorrhea, chlamydia)	Baseline + Every 3 months + when stopping PrEP for MSM & TGW Every 6 months for heterosexually-active persons	Recommended	If positive, refer for care

Serum creatinine	Baseline + Every 6 mo. If age ≥50 or eCrCL <90 mL/min at PrEP initiation Every 12 mo. If continuing PrEP + When stopping PrEP	Recommended	If CrCL <60 mL/min, cannot use F/TDF If CrCL <30 mL/min, cannot use F/TAF If rapid decline in kidney function, consult nephrology
Weight, Lipid panel (if taking F/TAF)	Baseline, + Every 12 months	Recommended	
Hepatitis B screening	Baseline	Recommended	If positive – refer for care
Need to continue PrEP	Annually	Recommended if at continued risk	Discuss with patient

Counseling (at minimum):

…

- The importance and requirement of testing for HIV, renal function, hepatitis B, and sexually transmitted infections.
- For injectable cabotegavir: the long drug “tail” of gradually declining drug levels when discontinuing CAB injections and the risk of developing a drug resistant strain of HIV during this time. To help patients safely discontinue CAB PrEP injections pharmacists should:

  • Re-educate patients about the tail and the risks during declining CAB levels

  • Asses ongoing risk/indications

  • If PrEP is indicated prescribe oral F/TDF or F/TAF beginning with 8 weeks after last injection

  • Educate about nPEP

  • Conduct HIV-1 RNA tests at each quarterly follow up visit after discontinuation ofCAB injections and discuss the importance of keeping these follow up appointments

…

Referrals to primary care provider:

…

- If a patient tests positive for an STI, the pharmacist will refer/direct the patient to a primary care provider and provide a list of providers and clinics in that region for confirmatory testing and follow up care. A list of providers may be found at: https://cdphe.colorado.gov/living-with-hiv

…

Non-Occupational Post-Exposure Prophylaxis (nPEP) Protocol

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If the following criteria are met, antiretroviral agents in Table 3a are recommended:

…

- If exposure with a source in which the HIV status is not known, nPEP may be considered and antiretroviral agents in Table 3a may be prescribed. NPEP should strongly be considered after exposure in an individual who also meets the criteria for PrEP therapy (see Colorado Statewide Protocol for Pre-Exposure Prophylaxis of HIV).

…

TABLE 3a – MEDICATION OPTIONS

…

TABLE 4a – ROUTINE REQUIRED MONITORING OF TREATMENT

Labs:

- All efforts should be made to obtain a negative HIV test at baseline. However, the sooner PEP is initiated, the more effective it is. If the patience refuses to undergo HIV testing but is otherwise eligible for postexposure prophylaxis under this section, the pharmacist may furnish postexposure prophylaxis.

…

Documentation:

…

- The pharmacist will also follow all documentation rules in Rule 17.

Referrals:

- If a patient tests positive for HIV infection, the pharmacist will refer/direct the patient to a primary care provider and provide a list of providers and clinics in that region for confirmatory testing and follow up care. A list of providers may be found at: https://cdphe.colorado.gov/living-with-hiv

…

- If a patient tests positive for an STI, the pharmacist will refer/direct the patient to a primary care provider and provide a list of providers and clinics in that region for confirmatory testing and follow up care. A list of providers may be found at: https://cdphe.colorado.gov/living-with-hivIf a patient tests positive for Hepatitis B or C, the pharmacist will refer/direct the patient to a primary care provider and provide a list of providers and clinics in that region for confirmatory testing and follow up care. A list of providers may be found at: https://cdphe.colorado.gov/living-with-hiv

…

[1]CDC. Preexposure prophylaxis for the prevention of HIV infection in the United States, 2021 update Clinical Practice Guideline. Available at: https://stacks.cdc.gov/view/cdc/112360

[2]USPTF. Preexposure Prophylaxis for the Prevention of HIV Infection US Preventive Services Task Force Recommendation Statement. JAMA. 2019;321(22):2203-2213. doi:10.1001/jama.2019.6390

[3]CDC. Updated Guidelines for Antiretroviral Postexposure Prophylaxis After Sexual, Injection Drug Use or Other Nonoccupational Exposure to HIV – United States, 2016. Available at: https://stacks.cdc.gov/view/cdc/38856

…

Appendix E

Colorado State Board of Pharmacy Statewide Protocol

Statin Therapy

This collaborative pharmacy practice statewide protocol authorizes qualified, Colorado-licensed, pharmacists (“Pharmacists”) to provide pertinent assessment of patients with or at high-risk for cardiovascular (CV) events and prescribe HMG CoA reductase inhibitor therapy (henceforth known as “statin therapy”) for the purpose of reducing the risk for new or recurrent CV events according to, and in compliance with, all applicable state and federal laws and rules.

Pharmacists may prescribe and dispense FDA approved medication(s) to eligible patients according to indications and contraindications recommended in current guidelines from the American Heart Association and American College of Cardiology (AHA/ACC) 1 or subsequent updated published guidelines recognized as the national standard of practice. Request for updates to this protocol shall be considered through the Board of Pharmacy rulemaking process.

Prior to prescribing and dispensing statin therapy per this protocol, the pharmacist must:

1. Hold a current license to practice pharmacy in Colorado

2. Be engaged in the practice of pharmacy

3. Have earned a Doctor of Pharmacy degree or completed at least 5 years of experience as a licensed pharmacist

4. Carry adequate professional liability insurance as determined by the Board

5. Complete a training program accredited by the Accreditation Council for Pharmacy Education, or its successor entity, pursuant to the protocol (in compliance with Board Rule 17.00.50 b.2.)

6. Pharmacists must also follow all board rules for statewide protocols in section 17.00.00.

If services are provided in a pharmacy, the pharmacy shall ensure that appropriate space is available to provide counseling and ensure confidentiality.

Records:

A. Pursuant to Pharmacy Board Rule 17.00.50, a process shall be in place for the pharmacist to communicate with the patient’s primary care provider and document changes to the patient’s medical record. If the patient does not have a primary care provider or is unable to provide contact information for his or her primary care provider, the pharmacist shall provide the patient with a written record of the drugs or devices furnished, and laboratory test(s) ordered, and any test results.

B. Pharmacists shall comply with all aspects of Pharmacy Board Rules 17.01.00 and 17.02.00 with respect to the maintenance of proper records.

C. Statin Therapy Protocol

Under this protocol, pharmacists may assess patients with or at high-risk for a CV event who are not currently on but in whom statin therapy is identified as a Class I recommendation according to AHA/ACC guidelines[1].

Eligibility Criteria: The pharmacist may consider and prescribe the patient statin therapy listed in Table I according to the following criteria:

1. High-risk primary prevention

    a. 10-Year Atherosclerotic Cardiovascular Disease (ASCVD) Risk ≥20% using the American College of Cardiology risk calculator (found at http://tools.acc.org/ASCVD-Risk-Estimator-Plus/#!/calculate/estimate/) age 40-75; or

    b. LDL ≥190 mg/dL tested using a fasting lipid panel, age 20-75

2. Primary prevention patients with diabetes mellitus

    a. Type 2 diabetes mellitus (DM) age 40-75 as determined by patient report, medical records, or prescription history.

3. Secondary prevention

    a. Prior history of acute myocardial infarction, acute coronary syndrome, stable or unstable angina, coronary or arterial revascularization by coronary artery bypass graft (CABG) surgery and /or stenting, non-cardioembolic ischemic stroke, transient ischemic attack, aortic aneurysm, or peripheral artery disease all stemming from atherosclerotic origins, as confirmed by patient report, medical records, or prescription history.

Ineligibility Criteria: Patients who should NOT be prescribed statin therapy under this protocol and should be referred to primary care provider for further action:

1. Patients who have a history of serious statin-associated side effects defined as a serum creatine kinase elevation >3 times the upper limit of normal, documented rhabdomyolysis from statin therapy, or hepatic transaminase elevations 3 times the upper limit of normal during prior treatment with statin therapy.

2. Patients who have active liver disease defined by medical history or by hepatic transaminases greater than 3 times the upper limit of normal.

3. Women who are pregnant or are of childbearing age and not using highly effective forms of contraception.

4. Patients with end stage renal disease (ESRD) or who are undergoing hemodialysis or peritoneal dialysis.

5. Patients with severe hypertriglyceridemia (fasting triglycerides ≥ 1000 mg/dL).

TABLE 1 – MEDICATION OPTIONS

Other FDA approved and guideline recommended medications or regimens can be used if they become available.

Formulations cautions and dose adjustments for statin medications shall minimally follow the AHA/ACC guidelines and package insert information for all regimens.

Pharmacist must screen for potential statin drug/drug interactions with patient's other known medications. If interactions are identified, appropriate selection of a safe statin regimen and counseling should be performed to mitigate risk.

Patient Category	Medication and Dosage	Renal Adjustment	Frequency
High risk primary prevention*	**Atorvastatin 40-80 mg**	**No adjustment needed**	**Once daily**
or secondary prevention	**Rosuvastatin 20-40 mg**	**CrCl < 30 ml/min/1.73m2: 5-10 mg or consider atorvastatin 40-80mg**	**Once daily**
Primary prevention patients with DM and not "high Risk"	**Atorvastatin 10-20 mg**	**No adjustment needed**	**Once daily**
	Fluvastatin 40 mg	**No adjustment needed**	**Twice daily**
	Fluvastatin XL 80 mg	**No adjustment needed**	**Once daily**
	Lovastatin 4080 mg	**CrCl <30 ml/min: 20 mg max dose**	**Once daily in evening**
	Pitavastatin 14 mg	**GFR 15-59 ml/min/1.73m^2: 1-2 mg**	**Once daily**
	Pravastatin 4080 mg	**Severe impairment: 10 mg**	**Once daily in the evening**
	Rosuvastatin 5-10 mg	**No adjustment needed**	**Once daily**
	Simvastatin 20-40 mg	**Severe impairment: start at 5 mg (titrate as needed up to 20mg daily)**	**Once daily in the evening**

*** High risk primary prevention patients include: baseline LDL-C ≥190 mg/dL, diabetes age 4075 years with LDL-C < 190 mg/dL and multiple ASCVD risk factors, or age 40-75 with LDL-C**

70-189 mg/dL and 10-year ASCVD risk ≥20%.

TABLE 2 – ROUTINE REQUIRED MONITORING OF TREATMENT

Labs:

Test	Frequency	Guideline recommendations	Notes
Fasting Lipid Panel (FLP)	**Every 3-12 months**	**Get FLP at baseline and then 4-12 weeks after therapy initiation, then every 3-12 months as needed to assess adherence and improvement**	**Guidelines allow for non-fasting lipid panels for baseline LDL-C but recommend fasting lipid panels for follow-up monitoring.** **Point of care (POC) testing acceptable.** **Baseline labs from PCP can be accepted if within 3 months of statin initiation.**
ALT / LFTs	**Baseline required -Ordered by pharmacist or accepted documentation from PCP within 3 months of statin initiation**	**Routine monitoring not needed.**	**Patients presenting with signs or symptoms suspicious of liver disease should be referred for medical evaluation**
Renal function	**Baseline and yearly**	**Not in guidelines**	**Yearly monitoring is recommended to determine if dose adjustment is necessary (as for all medications).** **This will be ordered by pharmacists, or communicated to patient for ordering and follow up by primary care provider.**

Counseling (at minimum):

- The importance of medication adherence with relation to efficacy of statin therapy and reduction in CV event risk, and what to do if patient misses a dose.
- Importance of therapeutic lifestyle changes in reducing lipids and CV risk.
- Proper use of medication, storage, dosage, schedule, and potential common and serious side effects (and how to mitigate).
- Signs/symptoms of myalgia and liver dysfunction, educate that side effects are not common
- Potential food and medication interactions (primarily with lovastatin and simvastatin)

- The necessity of follow up care with a primary care provider for usual care and lipid testing at least yearly.

Documentation:

- The pharmacist will notify the patient's primary care provider of a record of all medications prescribed. If a patient does not have a primary care provider, the pharmacist will provide the patient with a list of providers and clinics for which they may seek ongoing care.

- The pharmacist will also follow all documentation rules in Rule 17.

Referrals to primary care provider:

- Prior history of statin use with noted severe intolerance. Pharmacist encouraged to work collaboratively with PCP on options.

- On therapy, if patient experiences moderate to severe statin associated muscle symptoms that do not resolve with stopping medication

- On therapy, if patient experiences symptoms consistent with muscle weakness or rhabdomyolysis (dark brown urine with severe muscle symptoms) – patient should stop statin and be referred.

- On therapy, if the patient develops symptoms suggestive of liver disease (severe abdominal pain, yellow-colored eyes or skin) – patient should stop statin and be referred.

- On therapy if patient becomes pregnant – patient should stop statin and be referred.

- Suboptimal response to maximum tolerated statin therapy – patient continues statin and referred for further workup.

[1] Grundy SM, Stone NJ, Bailey AL, Beam C, Birtcher KK, Blumenthal RS, Braun LT, de Ferranti S, Faiella-Tommasino J, Forman DE, Goldberg R, Heidenreich PA, Hlatky MA, Jones DW, Lloyd-Jones D, Lopez-Pajares N, Ndumele CE, Orringer CE, Peralta CA, Saseen JJ, Smith SC Jr, Sperling L, Virani SS, Yeboah J. 2018AHA/ACC/AACVPR/AAPA/ABC/ACPM/ADA/AGS/APhA/ASPC/NLA/PCNA Guideline on the Management of Blood Cholesterol: A Report of the American College of Cardiology/American Heart Association Task Force on Clinical Practice Guidelines. J Am Coll Cardiol. 2019 Jun 25;73(24):e285e350. doi: 10.1016/j.jacc.2018.11.003. Epub 2018 Nov 10. Erratum in: J Am Coll Cardiol. 2019 Jun25;73(24):3237-3241.

PMID: 30423393. 2018 AHA/ACC/AACVPR/AAPA/ABC/ACPM/ADA/AGS/APhA/ASPC/NLA/PCNA Guideline on the Management of Blood Cholesterol: A Report of the American College of Cardiology/American Heart Association Task Force on Clinical Practice Guidelines | Journal of the American College of Cardiology (jacc.org)

APPENDIX F

Your Rights and Protections Against Surprise Medical Bills

When you get emergency care or get treated by an out-of-network provider at an in-network hospital or ambulatory surgical center, you are protected from surprise billing or balance billing.

What is "balance billing" (sometimes called "surprise billing")?

When you see a doctor or other health care provider, you may owe certain out-of-pocket costs, like a copayment, coinsurance, or deductible. You may have additional costs or have to pay the entire bill if you see a provider or visit a health care facility that isn't in your health plan's network.

"Out-of-network" means providers and facilities that haven't signed a contract with your health plan to provide services. Out-of-network providers may be allowed to bill you for the difference between what your plan pays and the full amount charged for a service. This is called "balance billing." This amount is likely more than in-network costs for the same service and might not count toward your plan's deductible or annual out-of-pocket limit.

"Surprise billing" is an unexpected balance bill. This can happen when you can't control who is involved in your care—like when you have an emergency or when you schedule a visit at an in-network facility but are unexpectedly treated by an out-of-network provider. Surprise medical bills could cost thousands of dollars depending on the procedure or service.

You're protected from balance billing for:

Emergency services

If you have an emergency medical condition and get emergency services from an out-of-network provider or facility, the most they can bill you is your plan's in-network cost-sharing amount (such as copayments, coinsurance, and deductibles). You can't be balance billed for these emergency services. This includes services you may get after you're in stable condition, unless you give written consent and give up your protections not to be balanced billed for these post-stabilization services.

If you believe you've been wrongly billed by a healthcare provider, please contact the State Board of Pharmacy at 303-894-7800 or dora_pharmacyboard@state.co.us.

Visit the CMS No Surprises Act website (https://www.cms.gov/nosurprises/consumers) for more information about your rights under federal law.

Review section 12-30-112, C.R.S., for more information about your rights under Colorado state law.

Certain services at an in-network hospital or ambulatory surgical center

When you get services from an in-network hospital or ambulatory surgical center, certain providers there may be out-of-network. In these cases, the most those providers can bill you is your plan's in-network cost-sharing amount. This applies to emergency medicine, anesthesia, pathology, radiology, laboratory, neonatology, assistant surgeon, hospitalist, or intensivist services. These providers can't balance bill you and may not ask you to give up your protections not to be balance billed.

If you get other types of services at these in-network facilities, out-of-network providers can't balance bill you, unless you give written consent and give up your protections. You're never required to give up your protections from balance billing.

You also aren't required to get out-of-network care. You can choose a provider or facility in your plan's network.

When balance billing isn't allowed, you also have these protections:

- You're only responsible for paying your share of the cost (like the copayments, coinsurance, and deductible that you would pay if the provider or facility was in-network). Your health plan will pay any additional costs to out-of-network providers and facilities directly.

- Generally, your health plan must:

    O Cover emergency services without requiring you to get approval for services in advance (also known as "prior authorization").

    O Cover emergency services by out-of-network providers.

    O Base what you owe the provider or facility (cost-sharing) on what it would pay an in network provider or facility and show that amount in your explanation of benefits.

    O Count any amount you pay for emergency services or out-of-network services toward your in-network deductible and out-of-pocket limit.

If you believe you've been wrongly billed by a healthcare provider, please contact the State Board of Pharmacy at 303-894-7800 or dora_pharmacyboard@state.co.us. The federal phone number for information and complaints is: 1-800-985-3059.

Visit www.cms.gov/nosurprises/consumers for more information about your rights under federal law.

Visit https://dpo.colorado.gov/Pharmacy for more information about your rights under Colorado state law, pursuant to section 12-30-112, C.R.S.

Editor's Notes

History

Rules 2.01.10; 2.01.30; 3.00.50; 3.00.70, 6.00.20; 6.00.30; 6.00.40; 8.00.10; 11.04.20; 14.03.10 eff. 07/30/2007.

Rules 8.00.10; 11.04.10; 20.00.00 eff. 09/30/2007.

Rule 4.00.00 eff. 11/30/2007.

Rules 3.01.20, 10.00.00 eff. 03/01/2008.

Rules 5.01.31; 15.01.11; 15.01.12; 15.09.11; 15.09.14; 22.00.00 eff. 05/30/2008.

Rules 4.02.00 (c), 21.00.00, 23.00.00 eff. 06/30/2008.

Rules 1.00.00, 2.00.00, 3.00.00, 5.00.00, 7.00.00, 11.00.00, 12.00.00, 14.00.00 eff. 11/30/2008.

Rule 15.09.11 eff. 01/31/2009.

Rules 6.00.30, 11.06.00, 22.00.00 eff. 03/02/2009.

Rule 9.00.00 eff. 04/30/2009.

Rules 5.00.55, 5.01.31(a), 6.00.20(f), 14.00.40, 15.01.17, 15.01.18, 15.08.19(f), 15.09.11(d), 15. 09.15, 15.09.19, 15.09.20(g-h), 15.09.23, 15.09.24, 15.10.10, 16.00.20(d), 19.01.10(b), 19.01.30(a) eff. 12/30/2009.

Rules 4.00, 18.00 eff. 03/17/2010.

Rules 3.00.80 – 3.00.90; 5.00.55; 15.01.12; 19.00.00 – 19.01.50. Rule 22.00.00 repealed eff. 07/15/2010.

Rules 1.00.21, 5.01.31(e), 5.01.50 eff. 08/30/2010.

Rules 5.00.55, 21.11.10 (a), 21.21.70 (a) eff. 11/14/2010.

Rules 1.00.18, 2.01.50 – 2.01.53, 3.00.50 – 3.00.51, 5.00.50, 5.00.60, 5.01.31.a, 11.04.10, 15.01.11, 15.09.11.e eff. 06/14/2011.

Rules 3.01.24, 4.00.00, 11.04.20, 11.04.30, 21.00.00 - 21.11.20, 23.00.00 eff. 04/14/2012.

Rule 14.00.10 eff. 05/15/2012.

Entire rule eff. 01/01/2013. Rule 17.00.00 repealed eff. 01/01/2013.

Rules 3.00.21 – 3.00.22, 3.00.55, 3.00.90.e.(4), 3.01.20.c, 3.01.30, 3.01.32, 3.01.34, 4.00.10.f, 4.00.20, 5.01.31.a.(1)(C), 15.10.14.a, 23.00.90 eff. 09/14/2013.

Rules 2.01.10, 3.00.25, 3.00.91, 5.00.15, 6.00.30, 10.00.00, 11.03.00, 11.07.10, 14.00.05.k-l, 14.00.80.e.(2), 14.00.80.j, 16.00.00, 18.00.00, 20.00.00, 21.00.20, 21.10.80, 21.11.00.a.(12), 21.11.10.c, 21.20.20, 21.20.30.b(14), 21.21.40.c, 21.21.70.c, 21.22.00.b(1), 23.00.30, 23.00.50, 23.00.65, 23.00.70, eff. 10/15/2014.

Rules 3.00.22, 3.00.81.l-o, 3.00.82-3.00.84, 3.00.85.a(3), 3.00.86, 3.00.88.a(2), 3.00.88.b(10), 4.06.00, 6.00.10-6.00.20, 6.00.40.a, 6.00.50, 6.00.60.a, 6.00.60.b.10, 6.00.70.a, 6.00.90.b, 6.01.10.a, 19.01.40.c, 21.00.10, 21.00.20.b, 21.10.60.b, 21.10.80.b(4), 21.11.10.a(5), 21.11.10.c(9), 21.20.10.d, 21.20.20.b(2)(a), 21.20.25.b, 21.20.70.f, 21.20.90.b-c, 21.21.10.b, 21.21.70.a(6), 21.21.70.c(10), 23.00.40.y-z, 23.00.70.h-j eff. 09/14/2015.

Rules 3.00.21, 3.00.27, 19.01.10(1), 21.00.20, 21.11.20.d, 21.20.16, 21.20.20.b.(2), 21.20.60.b, 21.20.60.e, 21.21.90.d eff. 03/16/2016.

Rules 3.00.20, 3.00.22 e, 3.00.81 g, 3.00.84, 3.01.10 d, 4.00.10, 4.00.25, 4.05.00, 5.00.15 d, 5.01.31, 6.00.20 e, 7.00.10, 8.00.10, 14.00.80 i-k, 19.01.10 b.(2), 20.00.80 a.1, 21.00.20, 21.00.30, 21.20.20 b, 27.00.00, 28.00.00 eff. 11/14/2016. Rule 10.00.51 repealed eff. 11/14/2016.

Rule 17 eff. 03/17/2017. Rule 18 repealed eff. 03/17/2017.

Rules 3.01.10 d, 7.00.30 b.4, 21.00.20, 21.00.30, 23.00.10, 23.00.70 eff. 11/14/2017. Rules 1.00.15, 5.00.55 a.(6) repealed eff. 11/14/2017.

Rules 3.05.00, 5.01.31 m, 5.01.31 r, 5.01.40 a, 5.01.50 a-f, 11.03.05, 11.04.10, 11.06.10 j, 14.02.30 d, 20.00.90 c, 20.01.00 a.2.iv, 21.00.20 d.ii, 21.20.70 g, 25.00.12 d-e, 25.00.14 c-d, 25.00.16 e eff. 09/17/2018.

Rules 1.00.24, 2.01.50, 2.01.52, 2.01.53, 2.01.56, 2.01.80, 3.00.23, 3.00.30, 3.05.10-3.05.30, 3.05.80, 7.00.30 c, 11.03.00 a, 11.07.10 a, 14.00.05 m, 14.00.40 f.1, 14.00.80 e, 15.01.11 a.(8)(i), 15.01.11 a.(9), 15.09.14 a, 19.01.10 b.-c, 23.00.10, 23.00.70, 29.00.00 eff. 11/30/2019.

Rule 30.00.00 emer. rule eff. 05/01/2020; expired 08/28/2020.

Rules 17.00.10, 17.00.30 a.7, 17.00.50 b.2, 17.00.70, 17.00.80, 17.01.00, 17.02.00 a, 17.03.00 b, 17.04.00 eff. 05/15/2020. Rule 6.00.00 repealed eff. 05/15/2020.

Rule 30.00.00 eff. 08/30/2020. Rule 3.04.00 repealed eff. 08/30/2020.

Rules 2.01.20, 3.00.81 a, 3.01.22 b, 5.00.40, 5.00.50 a, 7.00.30 b, 10.00.60, 11.08.00, 11.08.50, 14.00.05 b, 14.00.40 b-c, 14.05.11, 15.05.20, 15.01.11 b-d, 15.01.14 a-b, 15.01.17, 17.00.50 c, 24.00.50, Appendix C eff. 11/14/2020.

Rule 19.00.00 emer rule eff. 11/19/2020.

Rule 1.00.25, Appendix D eff. 12/30/2020.

Rules 5.01.31 j-k, 17.00.10 d, 19.01.10, 19.01.20, 19.01.30 a, 19.01.40 a.(5)-(9), 19.01.50 a.(3) eff. 03/17/2021.

Rule 1.00.25 E-F eff. 05/15/2021.

Rules 1.00.18, 1.00.24, 2.01.10 d-f, 2.01.20, 3.00.21, 3.00.22, 3.03.10 a(2), 3.03.10 a(7), 3.03.10 b(2), 5.00.01, 5.00.10, 5.00.17, 5.00.19, 5.00.40, 5.00.50, 5.00.55 b, 5.00.60, 7.00.30, 9.00.10 e, 14.00.05, 14.00.80 e(1), 15.01.00 a, 15.02.10, 15.09.11, 15.09.12 c, 15.09.14 a, 15.10.10 l, 17.00.10, 21.00.10, 21.00.20, 21.11.10 c, 21.21.70 a, 23.00.10 n, 23.00.30, 23.00.40, 23.00.50, 23.00.90 a.2, 23.00.90 c, 29.00.50, Appendix C eff. 11/30/2021.

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Office of the Attorney General

Tracking number: 2022-00489

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - State Board of Pharmacy

on 09/29/2022

3 CCR 719-1

STATE BOARD OF PHARMACY RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 09/30/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 18, 2022 12:04:28

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Board of Psychologists Examiners

CCR number

3 CCR 721-1

Rule title

3 CCR 721-1 PSYCHOLOGIST EXAMINERS RULES AND REGULATIONS 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

State Board of Psychologists Examiners

PSYCHOLOGIST EXAMINERS RULES AND REGULATIONS

3 CCR 721-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

…

1.23 PROVISION OF REPRODUCTIVE HEALTH CARE IN COLORADO

This Rule is promulgated pursuant to Executive Order D 2022 032, and sections 25-6-401 *et seq.*, 12-245-204(4)(a), and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Assisting in the provision reproductive health care" means aiding, abetting or complicity in the provision of reproductive health care.

3. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

4. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

5. "Licensee" means as defined in section 12-20-102(10), C.R.S.

6. "Provision of reproductive health care," includes but is not limited to, transportation for reproductive health care, referrals for reproductive health care and related services, funding or assisting with payment of reproductive health care, prescribing, shipping or dispensing medications for reproductive health care in accordance with state and federal law, all options and mental health counseling and treatment related to reproductive health care. The "provision of reproductive health care" also includes all treatment contemplated in the definition of section 25-6-402(4), C.R.S.

7. "Regulator" means as defined in section 12-20-102(14), C.R.S.

8. "Reproductive health care" means as defined in section 25-6-402(4), C.R.S.

9. "Registrant" means as defined in section 12-20-102(12), C.R.S.

B. The regulator shall not deny licensure or registration to an applicant or impose disciplinary action against an individual's license or registration based solely on the applicant's, registrant's, or licensee's provision of or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice as defined in Colorado law and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure or registration to an applicant or impose disciplinary action against an individual's license or registration based solely on a civil or criminal judgment against the applicant, registrant, or licensee arising from the provision of, or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

D. The regulator shall not deny licensure or registration to an applicant or impose disciplinary action against an individual's license or registration based solely on a professional disciplinary action or any other sanction against the applicant's, registrant's, or licensee's professional licensure or registration in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's, registrant's, or licensee's provision of, or assistance in the provision of, reproductive health care and the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

E. The regulator shall not deny licensure or registration to an applicant or impose disciplinary action against an individual's registration or license based solely on the licensee's or registrant's own personal effort to seek or obtain reproductive health care for themselves. The regulator shall not deny licensure or registration to an applicant, registrant, or licensee, or impose disciplinary action against an individual's license or registration based solely on a civil or criminal judgment against the applicant, registrant, or licensee arising from the individual's own personal receipt of reproductive health care in this state or any other state or U.S. territory.

1.24 PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-245-204(4)(a) and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

4. "Licensee" means as defined in section 12-20-102(10), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

6. "Registrant" means as defined in section 12-20-102(12), C.R.S.

B. The regulator shall not deny licensure or registration to an applicant or impose disciplinary action against an individual's license or registration based solely on a civil or criminal judgment against the applicant, registrant, or licensee regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure or registration to an applicant or impose disciplinary action against an individual's license or registration based solely on a professional disciplinary action against the applicant's, registrant's, or licensee's professional licensure or registration in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on

the applicant's, registrant's, or licensee's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

1.25 CONCERNING HEALTH CARE PROVIDER DISCLOSURES TO CONSUMERS ABOUT THE POTENTIAL EFFECTS OF RECEIVING EMERGENCY OR NONEMERGENCY SERVICES FROM AN OUT-OF-NETWORK PROVIDER

This Rule is promulgated pursuant to sections 12-20-204, 12-30-112, and 12-245-204(4)(a), C.R.S., in consultation with the Commissioner of Insurance and the State Board of Health.

The purpose of this Rule is to establish requirements for health care providers to provide disclosures to consumers about the potential effects of receiving emergency or non-emergency services from an out-of-network provider.

This Rule applies to health care providers as defined in section 10-16-102(56), C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Publicly available" means, for the purposes of this regulation, searchable on the health care provider's public website, displayed in a manner that is easily accessible, without barriers, and that ensures that the information is accessible to the general public, including that it is findable through public search engines. The health care provider's public website must be accessible free of charge, without having to establish a user account, password, or other credentials, accept any terms or conditions, and without having to submit any personal identifying information.

B. Disclosure requirements.

1. An out of network provider may balance bill a covered person for post-stabilization services in accordance with section 10-16-704, C.R.S., and covered nonemergency services in an in-network facility that are not ancillary services if the provider meets the requirements set forth in section 12-30-112(3.5), C.R.S. If a consumer has incurred a claim for emergency or nonemergency health care services from an out-of-network provider, the health care provider shall provide the disclosures contained in Appendix B. The health care provider shall provide the disclosure contained in Appendix B in compliance with section 12-30-112(3.5), C.R.S. C.

C. Noncompliance with this Rule may result in the imposition of any of discipline made available by section 12-245-224(1)(b), C.R.S.

...

APPENDIX B

Your Rights and Protections Against Surprise Medical Bills

When you get emergency care or get treated by an out-of-network provider at an in-network hospital or ambulatory surgical center, you are protected from surprise billing or balance billing.

What is "balance billing" (sometimes called "surprise billing")?

When you see a doctor or other health care provider, you may owe certain out-of-pocket costs, like a copayment, coinsurance, or deductible. You may have additional costs or have to pay the entire bill if you see a provider or visit a health care facility that isn't in your health plan's network.

"Out-of-network" means providers and facilities that haven't signed a contract with your health plan to provide services. Out-of-network providers may be allowed to bill you for the difference between what your plan pays and the full amount charged for a service. This is called "balance billing." This amount is likely more than in-network costs for the same service and might not count toward your plan's deductible or annual out-of-pocket limit.

"Surprise billing" is an unexpected balance bill. This can happen when you can't control who is involved in your care—like when you have an emergency or when you schedule a visit at an in-network facility but are unexpectedly treated by an out-of-network provider. Surprise medical bills could cost thousands of dollars depending on the procedure or service.

You're protected from balance billing for:

Emergency services

If you have an emergency medical condition and get emergency services from an out-of-network provider or facility, the most they can bill you is your plan's in-network cost-sharing amount (such as copayments, coinsurance, and deductibles). You can't be balance billed for these emergency services. This includes services you may get after you're in stable condition, unless you give written consent and give up your protections not to be balanced billed for these post-stabilization services.

If you believe you've been wrongly billed by a healthcare provider, please contact the State Board of Psychologist Examiners at 303-894-7800 or dora_mentalhealthboard@state.co.us.

Visit the CMS No Surprises Act website (https://www.cms.gov/nosurprises/consumers) for more information about your rights under federal law.

Review section 12-30-112, C.R.S., for more information about your rights under Colorado state law.

Certain services at an in-network hospital or ambulatory surgical center

When you get services from an in-network hospital or ambulatory surgical center, certain providers there may be out-of-network. In these cases, the most those providers can bill you is your plan's in-network cost-sharing amount. This applies to emergency medicine, anesthesia, pathology, radiology, laboratory,

neonatology, assistant surgeon, hospitalist, or intensivist services. These providers **can't** balance bill you and may **not** ask you to give up your protections not to be balance billed.

If you get other types of services at these in-network facilities, out-of-network providers can't balance bill you, unless you give written consent and give up your protections.

You're never required to give up your protections from balance billing. You also aren't required to get out-of-network care. You can choose a provider or facility in your plan's network.

When balance billing isn't allowed, you also have these protections:

- You're only responsible for paying your share of the cost (like the copayments, coinsurance, and deductible that you would pay if the provider or facility was in-network). Your health plan will pay any additional costs to out-of-network providers and facilities directly.
- Generally, your health plan must:
    - Cover emergency services without requiring you to get approval for services in advance (also known as "prior authorization").
    - Cover emergency services by out-of-network providers.
    - Base what you owe the provider or facility (cost-sharing) on what it would pay an in-network provider or facility and show that amount in your explanation of benefits.
    - Count any amount you pay for emergency services or out-of-network services toward your in-network deductible and out-of-pocket limit.

If you believe you've been wrongly billed by a healthcare provider, please contact the State Board of Psychologist Examiners at 303-894-7800 or dora_mentalhealthboard@state.co.us. The federal phone number for information and complaints is: 1-800-985-3059.

Visit www.cms.gov/nosurprises/consumers for more information about your rights under federal law.

Visit https://dpo.colorado.gov/Psychology for more information about your rights under Colorado state law, pursuant to section 12-30-112, C.R.S.

Editor's Notes

History

Entire rule emer. rule eff. 01/01/2012.

Entire rule eff. 02/01/2012.

Rule 12 eff. 03/16/2016.

Rules 13, 20, 21 emer. rules eff. 04/07/2017.

Rules 13, 20, 21 eff. 07/30/2017.

Rules 1.6 A, 1.6 B.2, 1.7 B.4, 1.14 A.2-5.b, 1.16 A emer. rules eff. 10/02/2020.

Rules 1.6 A, 1.6 B.2, 1.7 B.4, 1.12, 1.14 A.2-5.b, 1.16 A, 1.18 E, 1.22, Appendix A eff. 11/30/2020.

Rules 1.6 A, 1.12 C-D, 1.22, Appendix A eff. 05/30/2021.

Rule 1.8 B eff. 11/14/2021.

Annotations

Rules 1.12 C, 1.12 D, 1.22 E.4 (adopted 10/02/2020) were not extended by Senate Bill 21-152 and therefore expired 05/15/2021.

PHILIP J. WEISER
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Office of the Attorney General

Tracking number: 2022-00530

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Board of Psychologists Examiners

on 10/07/2022

3 CCR 721-1

PSYCHOLOGIST EXAMINERS RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/07/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 26, 2022 19:13:45

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Office of Massage Therapy Licensure

CCR number

3 CCR 722-1

Rule title

3 CCR 722-1 MASSAGE THERAPY LICENSURE RULES & REGULATIONS 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

Office of Massage Therapy Licensure

MASSAGE THERAPY LICENSURE RULES AND REGULATIONS

3 CCR 722-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

…

1.13 Concerning Health Care Provider Disclosures to Consumers about the Potential Effects of Receiving Emergency or Nonemergency Services from an Out-of-Network Provider

This Rule is promulgated and adopted by the Director of the Division of Professions and Occupations ("Director"), pursuant to the rulemaking authority in sections 12-20-204, 12-30-112, and 12-235-118, C.R.S., in consultation with the Commissioner of Insurance and the State Board of Health.

The purpose of this Rule is to establish requirements for health care providers to provide disclosures to consumers about the potential effects of receiving emergency or non-emergency services from an out-of-network provider.

This Rule applies to health care providers as defined in section 10-16-102(56), C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Publicly available" means, for the purposes of this regulation, searchable on the health care provider's public website, displayed in a manner that is easily accessible, without barriers, and that ensures that the information is accessible to the general public, including that it is findable through public search engines. The health care provider's public website must be accessible free of charge, without having to establish a user account, password, or other credentials, accept any terms or conditions, and without having to submit any personal identifying information.

B. Disclosure requirements.

1. An out of network provider may balance bill a covered person for post-stabilization services in accordance with section 10-16-704, C.R.S., and covered nonemergency services in an in-network facility that are not ancillary services if the provider meets the requirements set forth in section 12-30-112(3.5), C.R.S. If a consumer has incurred a claim for emergency or nonemergency health care services from an out-of-network provider, the health care provider shall provide the disclosures contained in Appendix A. The health care provider shall provide the disclosure contained in Appendix A in compliance with section 12-30-112(3.5), C.R.S.

C. Noncompliance with this Rule may result in the imposition of any of discipline made available by section 12-235-111, C.R.S.

…

1.15 Protections for Provision of Reproductive Health Care in Colorado

This Rule is promulgated pursuant to Executive Order D 2022 032, and sections 25-6-401 *et seq.*, 12-235-118, and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Assisting in the provision reproductive health care" means aiding, abetting or complicity in the provision of reproductive health care.

3. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

4. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

5. "Licensee" means as defined in section 12-20-102(10), C.R.S.

6. "Provision of reproductive health care," includes but is not limited to, transportation for reproductive health care, referrals for reproductive health care and related services, funding or assisting with payment of reproductive health care, prescribing, shipping or dispensing medications for reproductive health care in accordance with state and federal law, all options and mental health counseling and treatment related to reproductive health care. The "provision of reproductive health care" also includes all treatment contemplated in the definition of section 25-6-402(4), C.R.S.

7. "Regulator" means as defined in section 12-20-102(14), C.R.S.

8. "Reproductive health care" means as defined in section 25-6-402(4), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on the applicant or licensee's provision of or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice as defined in Colorado law and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee arising from the provision of, or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

D. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action or any other sanction against the applicant's or licensee's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant or licensee's provision of, or assistance in the provision of, reproductive health care and the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

E. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's registration, certificate or license based solely on the licensee's own personal effort to seek or obtain reproductive health care for themselves. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee arising from the individual's own personal receipt of reproductive health care in this state or any other state or U.S. territory.

1.16 Protecting Colorado's Workforce and Expanding Licensing Opportunities

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-235-118 and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

4. "Licensee" means as defined in section 12-20-102(10), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action against the applicant's or licensee's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or licensee's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

…

APPENDIX A

Your Rights and Protections Against Surprise Medical Bills

When you get emergency care or get treated by an out-of-network provider at an in-network hospital or ambulatory surgical center, you are protected from surprise billing or balance billing.

What is "balance billing" (sometimes called "surprise billing")?

When you see a doctor or other health care provider, you may owe certain out-of-pocket costs, like a copayment, coinsurance, or deductible. You may have additional costs or have to pay the entire bill if you see a provider or visit a health care facility that isn't in your health plan's network.

"Out-of-network" means providers and facilities that haven't signed a contract with your health plan to provide services. Out-of-network providers may be allowed to bill you for the difference between what your plan pays and the full amount charged for a service. This is called "balance billing." This amount is

likely more than in-network costs for the same service and might not count toward your plan's deductible or annual out-of-pocket limit.

"Surprise billing" is an unexpected balance bill. This can happen when you can't control who is involved in your care—like when you have an emergency or when you schedule a visit at an in-network facility but are unexpectedly treated by an out-of-network provider. Surprise medical bills could cost thousands of dollars depending on the procedure or service.

You're protected from balance billing for:

Emergency services

If you have an emergency medical condition and get emergency services from an out-of-network provider or facility, the most they can bill you is your plan's in-network cost-sharing amount (such as copayments, coinsurance, and deductibles). You can't be balance billed for these emergency services. This includes services you may get after you're in stable condition, unless you give written consent and give up your protections not to be balanced billed for these post-stabilization services.

If you believe you've been wrongly billed by a healthcare provider, please contact the Colorado Office of Massage Therapy Licensure at 303-894-7800 or dora_massagetherapists@state.co.us.

Visit the CMS No Surprises Act website (https://www.cms.gov/nosurprises/consumers) for more information about your rights under federal law.

Review section 12-30-112, C.R.S., for more information about your rights under Colorado state law

Certain services at an in-network hospital or ambulatory surgical center

When you get services from an in-network hospital or ambulatory surgical center, certain providers there may be out-of-network. In these cases, the most those providers can bill you is your plan's in-network cost-sharing amount. This applies to emergency medicine, anesthesia, pathology, radiology, laboratory, neonatology, assistant surgeon, hospitalist, or intensivist services. These providers **can't** balance bill you and may **not** ask you to give up your protections not to be balance billed.

If you get other types of services at these in-network facilities, out-of-network providers can't balance bill you, unless you give written consent and give up your protections.

You're never required to give up your protections from balance billing. You also aren't required to get out-of-network care. You can choose a provider or facility in your plan's network.

When balance billing isn't allowed, you also have these protections:

- You're only responsible for paying your share of the cost (like the copayments, coinsurance, and deductible that you would pay if the provider or facility was in-network). Your health plan will pay any additional costs to out-of-network providers and facilities directly.
- Generally, your health plan must:
    - Cover emergency services without requiring you to get approval for services in advance (also known as "prior authorization").
    - Cover emergency services by out-of-network providers.
    - Base what you owe the provider or facility (cost-sharing) on what it would pay an in-network provider or facility and show that amount in your explanation of benefits.

- Count any amount you pay for emergency services or out-of-network services toward your in-network deductible and out-of-pocket limit.

If you believe you've been wrongly billed by a healthcare provider, please contact the Colorado Office of Massage Therapy Licensure at 303-894-7800 or dora_massagetherapists@state.co.us. The federal phone number for information and complaints is: 1-800-985-3059.

Visit www.cms.gov/nosurprises/consumers for more information about your rights under federal law.

Visit https://dpo.colorado.gov/MassageTherapy for more information about your rights under Colorado state law, pursuant to section 12-30-112, C.R.S.

Editor's Notes

History

Entire rule eff. 01/01/2009.

Rule 10 emer. rule eff. 04/01/2009; expired eff. 06/23/2009.

Entire rule eff. 07/01/2014.

Rules 4.A, 4.C.1, 5.C.1, 7, 9 eff. 01/30/2015.

Rules 1-3, 5, 6 eff. 01/30/2017.

Rules 4, 5 eff. 10/30/2017.

Rule 1.13, Appendix A emer. rules eff. 01/01/2020; expired 04/29/2020.

Rule 1.13, Appendix A eff. 04/30/2020.

Rules 1.4, 1.14, Appendix B eff. 12/15/2020.

Rules 1.4, 1.14 E-F eff. 05/30/2021.

Annotations

Rules 1.4, 1.14 E.4 (adopted 10/21/2020) were not extended by Senate Bill 21-152 and therefore expired 05/15/2021.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
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Office of the Attorney General

Tracking number: 2022-00470

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Office of Massage Therapy Licensure

on 10/07/2022

3 CCR 722-1

MASSAGE THERAPY LICENSURE RULES & REGULATIONS

The above-referenced rules were submitted to this office on 10/07/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 26, 2022 18:34:31

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Board of Architects, Engineers, and Land Surveyors

CCR number

4 CCR 730-1

Rule title

4 CCR 730-1 ARCHITECTS, PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS RULES AND REGULATIONS 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

State Board of Licensure for Architects, Professional Engineers, and Professional Land Surveyors

ARCHITECTS, PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS RULES AND REGULATIONS

4 CCR 730-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

…

1.9 PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-120-104(1)(a) and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

3. "Criminal judgment" means criminal conviction as defined in Rule 1.1.

4. "Licensee" means as defined in section 12-20-102(10), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the licensee regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action against the applicant's or licensee's professional license in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the licensee's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

Editor's Notes

History

Entire rule eff. 04/01/2008.

Rules 3.1.2, 4.9 eff. 12/31/2008.

Entire rule eff. 01/01/2010.

Entire rule eff. 01/01/2011.

Rules 4.8.2.2.1, 4.8.3 eff. 06/01/2011.

Rules 2.1, 1.2.2, 2.2, 3.1.9, 3.2.1.1, 4.1.1.3, 4.1.1.8, 4.3.3, 4.3.5, 4.7.2.2, 4.7.2.3, 4.9.1, 4.9.2, 4.9.3.1.2, 5.2.3, 6.2.3, 7.1.4 eff. 01/01/2012.

Rules 2.1-2.2, 3.1.10, 4.1.1.3, 4.1.1.6, 4.1.1.7-4.1.1.10, 4.3.4-4.3.5, 4.4.1, 4.5, 4.5.2-4.5.4, 4.6.1.10, 4.6.2.5, 4.6.7, 4.7.1.2, 4.7.1.4, 4.7.2.1, 4.8.2.1-4.8.2.2, 4.8.6, 4.9.1-4.9.1.2.1.1, 4.9.3.1.2.5, 4.9.3.1.2.15-4.9.3.1.2.16, 4.10.1, 4.11, 5.2.2, 6.5.1, 6.5.1.1, 6.5.4-6.5.4.2, 7.1.1, 7.1.5, 7.2 eff. 09/01/2015. Rules 4.4.1.1, 4.6.1.3, 4.6.2.3, 4.8.4, 4.10.2, 6.6.2(c), 7.1.7, 7.3 repealed eff. 09/01/2015.

Rule 4.9.1 eff 03/17/2017. Rules 4.9.1.1.1.1, 4.9.1.2.1.1 repealed eff 03/17/2017.

Rules 4.6.5, 4.8.1 emer. rules eff. 05/15/2019.

Rules 4.6.5, 4.8.1 emer. rules eff. 06/14/2019.

Rules 4.6.5, 4.8.1 eff. 09/14/2019.

Rules 1.2 A, 1.2 B.17.b, 1.3 A.3, 1.3 A.10.a, 1.3 C.3.a, 1.3 D.6, 1.3 E.2, 1.4 A, 1.4 F.1.d, 1.4 F.2.e, 1.4 G.2.a, 1.4 H.2.c, 1.4 I.1.a.(1), 1.4 I.1.b.(1), 1.4 I.3.a.(2)(d), 1.4 I.3.e, 1.4 I.3.(g), 1.4 I.3.(k), 1.4 I.3.(l)(iv), 1.4 I.3.(n)(ii), 1.4 I.3.(q)(iii), 1.4 K.1.d, 1.5 A, 1.6 A.2, 1.6 A.3, 1.6 A.7, 1.6 B, 1.6 D.3, 1.6 E.3, 1.6 L, 1.7 B eff. 08/14/2020.

Rules 1.7 A.2-3 eff. 08/30/2020.

Rules 1.4 A.1.g, 1.4 I.1.a.(1), 1.4 I.1.b, 1.4 I.2.a-b, 1.4 I.3.a.(2)(a)(c)(e)(g)(h)(i), 1.4 I.3.a.(2)(k)(ii)(vi), 1.4 I.3.a.(2)(l)(ix), 1.4 I.3.a.(2)(n), 1.4 I.3.a.(2)(r)(ii), 1.4 K.1 eff. 10/30/2021. Rules 1.4 I.3.a.(2)(j)(v), 1.4 I.3.a.(2)(l)(iv) repealed eff. 10/30/2021.

PHILIP J. WEISER
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Office of the Attorney General

Tracking number: 2022-00534

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Board of Architects, Engineers, and Land Surveyors

on 10/14/2022

4 CCR 730-1

ARCHITECTS, PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/14/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 31, 2022 11:32:38

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Office of Barber and Cosmetology Licensure

CCR number

4 CCR 731-1

Rule title

4 CCR 731-1 BARBER AND COSMETOLOGY LICENSURE RULES AND REGULATIONS 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

Office of Barber and Cosmetology Licensure

BARBER AND COSMETOLOGY LICENSURE RULES AND REGULATIONS

4 CCR 731-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

...

1.12 PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-105-106(1)(a) and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

4. "Licensee" means as defined in section 12-20-102(10), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action against the applicant's or licensee's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or licensee's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

Editor's Notes

History

Entire rule eff. 02/14/2018.

Rule 4.2 emer. rule eff. 01/24/2019; expired 05/24/2019.

Rule 4.2 eff. 06/14/2019.

Rule 1.4 eff. 12/15/2020.

Rules 1.4 A, 1.4 B.2-3 eff. 05/30/2021. Rule 1.4 C repealed eff. 05/30/2021.

Annotations

Rules 1.4 A, 1.4 B.2, 1.4 C (adopted 10/21/2020) were not extended by Senate Bill 21-152 and therefore expired 05/15/2021.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
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Office of the Attorney General

Tracking number: 2022-00486

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Office of Barber and Cosmetology Licensure

on 10/10/2022

4 CCR 731-1

BARBER AND COSMETOLOGY LICENSURE RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/11/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 31, 2022 11:26:15

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Office of Outfitters Registration

CCR number

4 CCR 733-1

Rule title

4 CCR 733-1 OUTFITTERS REGISTRATION RULES AND REGULATIONS 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

Office of Outfitters Registration

OUTFITTERS REGISTRATION RULES AND REGULATIONS

4 CCR 733-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

…

1.12 PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-145-107(1)(a) and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

4. "Registrant" means as defined in section 12-20-102(12), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny registration to an applicant or impose disciplinary action against an individual's registration based solely on a civil or criminal judgment against the applicant or registrant regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny registration to an applicant or impose disciplinary action against an individual's registration based solely on a professional disciplinary action against the applicant's or registrant's professional registration in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or registrant's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

Editor's Notes

History

Entire rule eff. 10/01/2011.

Entire rule eff. 01/31/2017.

Rule 1.2 D.2 eff. 07/30/2020.
Entire rule eff. 12/15/2020.
Rule 1.5 A.1.b eff. 11/14/2021.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
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Office of the Attorney General

Tracking number: 2022-00476

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Office of Outfitters Registration

on 10/10/2022

4 CCR 733-1

OUTFITTERS REGISTRATION RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/11/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 31, 2022 11:23:47

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Office of Athletic Trainer Licensure

CCR number

4 CCR 735-1

Rule title

4 CCR 735-1 ATHLETIC TRAINER LICENSURE RULES 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

Office of Athletic Trainer Licensure

ATHLETIC TRAINER LICENSURE RULES AND REGULATIONS

4 CCR 735-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

…

1.11 Concerning Health Care Provider Disclosures to Consumers about the Potential Effects of Receiving Emergency or Nonemergency Services from an Out-of-Network Provider

This Rule is promulgated and adopted by the Director of the Division of Professions and Occupations ("Director"), pursuant to the rulemaking authority in sections 12-20-204, 12-30-112, and 12-205-116, C.R.S., in consultation with the Commissioner of Insurance and the State Board of Health.

The purpose of this Rule is to establish requirements for health care providers to provide disclosures to consumers about the potential effects of receiving emergency or non-emergency services from an out-of-network provider.

This Rule applies to health care providers as defined in section 10-16-102(56), C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Publicly available" means, for the purposes of this regulation, searchable on the health care provider's public website, displayed in a manner that is easily accessible, without barriers, and that ensures that the information is accessible to the general public, including that it is findable through public search engines. The health care provider's public website must be accessible free of charge, without having to establish a user account, password, or other credentials, accept any terms or conditions, and without having to submit any personal identifying information.

B. Disclosure requirements.

1. An out of network provider may balance bill a covered person for post-stabilization services in accordance with section 10-16-704, C.R.S., and covered nonemergency services in an in-network facility that are not ancillary services if the provider meets the requirements set forth in section 12-30-112(3.5), C.R.S. If a consumer has incurred a claim for emergency or nonemergency health care services from an out-of-network provider, the health care provider shall provide the disclosures contained in Appendix A. The health care provider shall provide the disclosure contained in Appendix A as set forth in section 12-30-112(3.5), C.R.S. C.
   Noncompliance with this Rule may result in the imposition of any of discipline made available by section 12-205-111, C.R.S.

…

1.14 Protections for Provisions of Reproductive Health Care in Colorado

This Rule is promulgated pursuant to Executive Order D 2022 032, and sections 25-6-401 *et seq.*, 12-205-116, and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Assisting in the provision reproductive health care" means aiding, abetting or complicity in the provision of reproductive health care.

3. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

4. "Criminal judgment" means criminal conviction as defined in Rule 1.7(A).

5. "Licensee" means as defined in section 12-20-102(10), C.R.S.

6. "Provision of reproductive health care," includes but is not limited to, transportation for reproductive health care, referrals for reproductive health care and related services, funding or assisting with payment of reproductive health care, prescribing, shipping or dispensing medications for reproductive health care in accordance with state and federal law, all options and mental health counseling and treatment related to reproductive health care. The "provision of reproductive health care" also includes all treatment contemplated in the definition of section 25-6-402(4), C.R.S.

7. "Regulator" means as defined in section 12-20-102(14), C.R.S.

8. "Reproductive health care" means as defined in section 25-6-402(4), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on the applicant or licensee's provision of or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice as defined in Colorado law and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee arising from the provision of, or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

D. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action or any other sanction against the applicant's or licensee's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant or licensee's provision of, or assistance in the provision of, reproductive health care and the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

E. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's registration, certificate or license based solely on the licensee's own personal effort to seek or obtain reproductive health care for themselves. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee arising from the individual's own personal receipt of reproductive health care in this state or any other state or U.S. territory.

1.15 Protecting Colorado's Workforce and Expanding Licensing Opportunities

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-205-116 and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means criminal conviction as defined in Rule 1.7(A).

4. "Licensee" means as defined in section 12-20-102(10), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action against the applicant's or licensee's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or licensee's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

…

APPENDIX A

Your Rights and Protections Against Surprise Medical Bills

When you get emergency care or get treated by an out-of-network provider at an in-network hospital or ambulatory surgical center, you are protected from surprise billing or balance billing.

What is "balance billing" (sometimes called "surprise billing")?

When you see a doctor or other health care provider, you may owe certain out-of-pocket costs, like a copayment, coinsurance, or deductible. You may have additional costs or have to pay the entire bill if you see a provider or visit a health care facility that isn't in your health plan's network.

"Out-of-network" means providers and facilities that haven't signed a contract with your health plan to provide services. Out-of-network providers may be allowed to bill you for the difference between what your plan pays and the full amount charged for a service. This is called "balance billing." This amount is likely more than in-network costs for the same service and might not count toward your plan's deductible or annual out-of-pocket limit.

"Surprise billing" is an unexpected balance bill. This can happen when you can't control who is involved in your care—like when you have an emergency or when you schedule a visit at an in-network facility but

are unexpectedly treated by an out-of-network provider. Surprise medical bills could cost thousands of dollars depending on the procedure or service.

You're protected from balance billing for:

Emergency services

If you have an emergency medical condition and get emergency services from an out-of-network provider or facility, the most they can bill you is your plan's in-network cost-sharing amount (such as copayments, coinsurance, and deductibles). You can't be balance billed for these emergency services. This includes services you may get after you're in stable condition, unless you give written consent and give up your protections not to be balanced billed for these post-stabilization services.

If you believe you've been wrongly billed by a healthcare provider, please contact the Office of Athletic Trainer Licensure at 303-894-7800 or dora_athletictrainers@state.co.us.

Visit the CMS No Surprises Act website (www.cms.gov/nosurprises/consumers) for more information about your rights under federal law. Review section 12-30-112, C.R.S., for more information about your rights under Colorado state law.

Certain services at an in-network hospital or ambulatory surgical center

When you get services from an in-network hospital or ambulatory surgical center, certain providers there may be out-of-network. In these cases, the most those providers can bill you is your plan's in-network cost-sharing amount. This applies to emergency medicine, anesthesia, pathology, radiology, laboratory, neonatology, assistant surgeon, hospitalist, or intensivist services. These providers **can't** balance bill you and may **not** ask you to give up your protections not to be balance billed.

If you get other types of services at these in-network facilities, out-of-network providers can't balance bill you, unless you give written consent and give up your protections.

You're never required to give up your protections from balance billing. You also aren't required to get out-of-network care. You can choose a provider or facility in your plan's network.

When balance billing isn't allowed, you also have these protections:

- You're only responsible for paying your share of the cost (like the copayments, coinsurance, and deductible that you would pay if the provider or facility was in-network). Your health plan will pay any additional costs to out-of-network providers and facilities directly.
- Generally, your health plan must:
    - Cover emergency services without requiring you to get approval for services in advance (also known as "prior authorization").
    - Cover emergency services by out-of-network providers.
    - Base what you owe the provider or facility (cost-sharing) on what it would pay an in-network provider or facility and show that amount in your explanation of benefits.
    - Count any amount you pay for emergency services or out-of-network services toward your in-network deductible and out-of-pocket limit.

If you believe you've been wrongly billed by a healthcare provider, please contact the Office of Athletic Trainer Licensure at 303-894-7800 or dora_athletictrainers@state.co.us. Visit the CMS No

Surprises Act website (https://www.cms.gov/nosurprises/consumers) for more information about your rights under federal law. The federal phone number for information and complaints is: 1-800-985-3059.

Visit the CMS No Surprises Act website (https://www.cms.gov/nosurprises/consumers) for more information about your rights under federal law.

Visit the Office of Athletic Trainer Licensure website (https://dpo.colorado.gov/AthleticTrainer) for more information about your rights under Colorado state law, pursuant to section 12-30-112, C.R.S.

Editor's Notes

History

Entire emer. rule eff. 09/17/2009.

Entire rule eff. 11/30/2009.

Rule 8 repealed eff. 10/30/2011.

Rule 10 eff. 01/30/2017.

Entire rule eff. 10/30/2019.

Rule 1.11, Appendix A emer. rules eff. 01/01/2020; expired 04/29/2020.

Rule 1.11, Appendix A eff. 04/30/2020.

Rule 1.12 eff. 07/30/2020.

Rules 1.3, 1.13, Appendix B eff. 12/15/2020.

Rules 1.13 E-F eff. 05/30/2021.

Annotations

Rule 1.13 E.4 (adopted 10/21/2020) was not extended by Senate Bill 21-152 and therefore expired 05/15/2021.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
Solicitor General

STATE OF COLORADO
DEPARTMENT OF LAW

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Office of the Attorney General

Tracking number: 2022-00457

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Office of Athletic Trainer Licensure

on 10/07/2022

4 CCR 735-1

ATHLETIC TRAINER LICENSURE RULES

The above-referenced rules were submitted to this office on 10/07/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 26, 2022 18:45:35

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Office of Acupuncture Licensure

CCR number

4 CCR 738-1

Rule title

4 CCR 738-1 ACUPUNCTURE LICENSURE RULES AND REGULATIONS 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

Office of Acupuncture Licensure

ACUPUNCTURE LICENSURE RULES AND REGULATIONS

4 CCR 738-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

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1.2 Licensure by Endorsement

The purpose of this Rule is to establish the experience or credentials deemed substantially equivalent for an acupuncturist license by endorsement pursuant to section 12-20-202(3), C.R.S.

A. For an applicant to establish "substantially equivalent experience or credentials" under section 12-20-202(3), C.R.S., the applicant must demonstrate:

1. Graduation from a diploma program in acupuncture and Oriental medicine accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) or a successor organization; and successful completion of the NCCAOM examination, the California Licensing Examination; or a substantially equivalent examination as determined by the Director;

2. Graduation from a non-accredited diploma program in acupuncture and Oriental medicine that is substantially equivalent to a program accredited by the ACAOM as determined by the Director and a certification by NCCAOM or a successor organization; or

3. Having held for at least one year a current and valid acupuncturist license in a jurisdiction with a scope of practice that is substantially similar to the scope of practice for acupuncturists as defined under Article 200, of Title 12, C.R.S.

B. Verification of licensure in another state, through the federal government, or in a military occupational specialty, as defined in section 24-4-201, C.R.S., shall be provided in a manner prescribed by the Director.

…

1.10 Injection Therapy

…

D. Acupuncturists employing injection therapy shall use only those substances and techniques for which they have received training. Required Educational Coursework shall include:

…

6. Acupuncture point injection therapy;

…

9. For the use of injectable substances prepared from sterile herbs, completion of training in Chinese herbology and injection of Chinese herbal injectables is required.

   To demonstrate satisfying the training requirements in Chinese herbology and injection of Chinese herbal injectables the Director will accept NCCAOM, or a successor organization's, certification in Chinese herbology and/or certification in Oriental Medicine.

…

E. Permissible Substances

…

3. The following drugs are authorized in the modes of administration that are specified except as limited or restricted by federal or state law:

   a. …

      (15) Sterile Herbs;

…

1.11 Concerning Health Care Provider Disclosures to Consumers about the Potential Effects of Receiving Emergency or Nonemergency Services from an Out-of-Network Provider

This Rule is promulgated and adopted by the Director of the Division of Professions and Occupations ("Director"), pursuant to the rulemaking authority in sections 12-20-204, 12-30-112, and 12-200-114(1)(a), C.R.S., in consultation with the Commissioner of Insurance and the State Board of Health.

The purpose of this Rule is to establish requirements for health care providers to provide disclosures to consumers about the potential effects of receiving emergency or non-emergency services from an out-of-network provider.

This Rule applies to health care providers as defined in section 10-16-102(56), C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Publicly available" means, for the purposes of this regulation, searchable on the health care provider's public website, displayed in a manner that is easily accessible, without barriers, and that ensures that the information is accessible to the general public, including that it is findable through public search engines. The health care provider's public website must be accessible free of charge, without having to establish a user account, password, or other credentials, accept any terms or conditions, and without having to submit any personal identifying information.

B. Disclosure requirements.

1. An out of network provider may balance bill a covered person for post-stabilization services in accordance with section 10-16-704, C.R.S., and covered nonemergency services in an in-network facility that are not ancillary services if the provider meets the requirements set forth in section 12-30-112(3.5), C.R.S. If a consumer has incurred a claim for emergency or nonemergency health care services from an out-of-network provider, the health care provider shall provide the disclosures contained in Appendix. The health care provider shall provide the disclosure contained in Appendix A in compliance with section 12-30-112(3.5), C.R.S. C.

C. Noncompliance with this Rule may result in the imposition of any of discipline made available by sections 12-200-109(1)(i) and 12-200-110, C.R.S.

…

1.13 Regarding the Delegation and Supervision of Acupuncture Services to Unlicensed Persons pursuant to section 12-200-114(1)(k), C.R.S.

This Rule is promulgated pursuant to sections 12-20-204, 12-200-114(1)(a) and (k), C.R.S. This Rule applies to the delegation of services constituting the practice of acupuncture to a person who is not licensed to practice acupuncture is not qualified for licensure as an acupuncturist, and is not otherwise exempt pursuant to section 12-200-108(1) and (2), C.R.S.

A. Acupuncture Services that may be Delegated. Delegated acupuncture services should be limited to routine, technical services that do not require the special skills of a licensed acupuncturist. Services that may be delegated include but are not limited to:

1. Taking and monitoring vital signs;

2. Needle removal;

3. Moxa monitoring; and

4. Acupressure.

B. Acupuncture Services that may not be Delegated. A licensed acupuncturist should not delegate an acupuncture service requiring the exercise of clinical judgement by the delegatee. Services that may not be delegated include but are not limited to:

1. Diagnosis;

2. Point location;

3. Needle insertion; and

4. Electrical stimulation.

C. Persons Who May Serve as Delagatee. The delegating acupuncturist must evaluate and determine that the delegate has the necessary education, training, or experience to perform each delegated acupuncture service. As part of his or her evaluation, the delegating acupuncturist shall:

1. Personally assess and review copies of diplomas, certificates, or professional degrees from bona fide training program(s) appropriate to the specific services delegated;

2. Perform over-the-shoulder, direct observation of the delegatee’s performance of any acupuncture service prior to authorizing the delegate to perform the acupuncture service outside of the delegating acupuncturist’s physical presence; and

3. Provide ongoing inspection, evaluation, advice, and control; and

4. Monitor the quality of the services provided by the delagatee.

D. Persons Who May Not Serve as Delagatee. An acupuncturist shall not delegate services to any person who is otherwise qualified to be licensed as an acupuncturist but who is not licensed, including, but not limited to:

1. Any person with an inactive, expired, revoked, restricted, limited, suspended, or surrendered license to practice acupuncture;

2. Any person who meets all qualifications for acupuncture licensure but who is not licensed in Colorado; or

3. Any person whose application for licensure in Colorado has been denied.

E. Exceptions.

1. This Rule does not apply to persons performing acts that do not constitute the practice of acupuncture as defined by section 12-200-103(1), C.R.S.

2. This Rule does not apply to persons who are licensed, registered, or certified by Colorado and who are acting within their scope of practice.

3. This Rule does not apply to any person who is otherwise exempt pursuant to section 12-200-108(3), C.R.S.

F. Supervision. A delegating acupuncturist must be on the premises and readily available

1.14 Protections for Provision of Reproductive Health Care in Colorado

This Rule is promulgated pursuant to Executive Order D 2022 032, and sections 25-6-401 *et seq.*, 12-200-114(1)(a), and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. “Applicant” means as defined in section 12-20-102(2), C.R.S.

2. “Assisting in the provision reproductive health care” means aiding, abetting or complicity in the provision of reproductive health care.

3. “Civil judgment” means a final court decision and order resulting from a civil lawsuit.

4. “Criminal judgment” means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

5. “Licensee” means as defined in section 12-20-102(10), C.R.S.

6. “Provision of reproductive health care,” includes but is not limited to, transportation for reproductive health care, referrals for reproductive health care and related services, funding or assisting with payment of reproductive health care, prescribing, shipping or dispensing medications for reproductive health care in accordance with state and federal law, all options and mental health counseling and treatment related to reproductive health care. The “provision of reproductive health care” also includes all treatment contemplated in the definition of section 25-6-402(4), C.R.S.

7. “Regulator” means as defined in section 12-20-102(14), C.R.S.

8. “Reproductive health care” means as defined in section 25-6-402(4), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on the applicant or licensee's provision of or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice as defined in Colorado law and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee arising from the provision of, or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

D. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action or any other sanction against the applicant's or licensee's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant or licensee's provision of, or assistance in the provision of, reproductive health care and the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

E. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's registration, certificate or license based solely on the licensee's own personal effort to seek or obtain reproductive health care for themselves. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee arising from the individual's own personal receipt of reproductive health care in this state or any other state or U.S. territory.

1.15 Protecting Colorado's Workforce and Expanding Licensing Opportunities

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-200-114(1)(a) and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

4. "Licensee" means as defined in section 12-20-102(10), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action against the applicant's or licensee's professional licensure in this, or any other state or U.S. territory so long as the

professional disciplinary action is based solely on the applicant's or licensee's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

APPENDIX A

Your Rights and Protections Against Surprise Medical Bills

When you get emergency care or get treated by an out-of-network provider at an in-network hospital or ambulatory surgical center, you are protected from surprise billing or balance billing.

What is "balance billing" (sometimes called "surprise billing")?

When you see a doctor or other health care provider, you may owe certain out-of-pocket costs, like a copayment, coinsurance, or deductible. You may have additional costs or have to pay the entire bill if you see a provider or visit a health care facility that isn't in your health plan's network.

"Out-of-network" means providers and facilities that haven't signed a contract with your health plan to provide services. Out-of-network providers may be allowed to bill you for the difference between what your plan pays and the full amount charged for a service. This is called "balance billing." This amount is likely more than in-network costs for the same service and might not count toward your plan's deductible or annual out-of-pocket limit.

"Surprise billing" is an unexpected balance bill. This can happen when you can't control who is involved in your care—like when you have an emergency or when you schedule a visit at an in-network facility but are unexpectedly treated by an out-of-network provider. Surprise medical bills could cost thousands of dollars depending on the procedure or service.

You're protected from balance billing for:

Emergency services

If you have an emergency medical condition and get emergency services from an out-of-network provider or facility, the most they can bill you is your plan's in-network cost-sharing amount (such as copayments, coinsurance, and deductibles). You can't be balance billed for these emergency services. This includes services you may get after you're in stable condition, unless you give written consent and give up your protections not to be balanced billed for these post-stabilization services.

If you believe you've been wrongly billed by a healthcare provider, please contact the Colorado Office of Acupuncture Licensure at 303-894-2988 or dora_acupunctureboard@state.co.us.

Visit the CMS No Surprises Act website (https://www.cms.gov/nosurprises/consumers) for more information about your rights under federal law.

Visit section 12-30-112, C.R.S., for more information about your rights under Colorado state law.

Certain services at an in-network hospital or ambulatory surgical center

When you get services from an in-network hospital or ambulatory surgical center, certain providers there may be out-of-network. In these cases, the most those providers can bill you is your plan's in-network cost-sharing amount. This applies to emergency medicine, anesthesia, pathology, radiology, laboratory, neonatology, assistant surgeon, hospitalist, or intensivist services. These providers **can't** balance bill you and may **not** ask you to give up your protections not to be balance billed.

If you get other types of services at these in-network facilities, out-of-network providers can't balance bill you, unless you give written consent and give up your protections.

You're never required to give up your protections from balance billing. You also aren't required to get out-of-network care. You can choose a provider or facility in your plan's network.

When balance billing isn't allowed, you also have these protections:

- You're only responsible for paying your share of the cost (like the copayments, coinsurance, and deductible that you would pay if the provider or facility was in-network). Your health plan will pay any additional costs to out-of-network providers and facilities directly.
- Generally, your health plan must:
    - Cover emergency services without requiring you to get approval for services in advance (also known as "prior authorization").
    - Cover emergency services by out-of-network providers.
    - Base what you owe the provider or facility (cost-sharing) on what it would pay an in-network provider or facility and show that amount in your explanation of benefits.
    - Count any amount you pay for emergency services or out-of-network services toward your in-network deductible and out-of-pocket limit.

If you believe you've been wrongly billed by a healthcare provider, please contact the Colorado Office of Acupuncture Licensure at 303-894-2988 or dora_acupunctureboard@state.co.us. The federal phone number for information and complaints is: 1-800-985-3059.

Visit www.cms.gov/nosurprises/consumers for more information about your rights under federal law.

Visit https://dpo.colorado.gov/Acupuncture for more information about your rights under Colorado state law, pursuant to section 12-30-112, C.R.S.

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Editor's Notes

4 CCR 738-2 through 4 CCR 738-6 were recodified as 4 CCR 738-1 Rules 2 through 6 effective 10/01/2009.

History

Entire rule eff. 10/01/2009.

Entire rule eff. 01/01/2011.

Rule 1 eff. 11/14/2012.

Entire rule eff. 05/30/2016.

Rule 1.11, Appendix A emer. rules eff. 01/01/2020; expired 04/29/2020.

Rule 1.11, Appendix A eff. 04/30/2020.

Rules 1.1, 1.2, 1.12, Appendix B eff. 12/15/2020.

Rules 1.12 E-F eff. 05/30/2021.

Annotations

Rule 1.12 E.4 (adopted 10/21/2020) was not extended by Senate Bill 21-152 and therefore expired 05/15/2021.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
Solicitor General

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Office of the Attorney General

Tracking number: 2022-00461

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Office of Acupuncture Licensure

on 10/07/2022

4 CCR 738-1

ACUPUNCTURE LICENSURE RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/07/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 27, 2022 17:50:49

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Office of Direct-Entry Midwifery Registration

CCR number

4 CCR 739-1

Rule title

4 CCR 739-1 MIDWIVES REGISTRATION RULES AND REGULATIONS 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

Office of Direct-Entry Midwifery Registration

MIDWIVES REGISTRATION RULES AND REGULATIONS

4 CCR 739-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

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1.23 CONCERNING HEALTH CARE PROVIDER DISCLOSURES TO CONSUMERS ABOUT THE POTENTIAL EFFECTS OF RECEIVING EMERGENCY OR NONEMERGENCY SERVICES FROM AN OUT-OF-NETWORK PROVIDER

This Rule is promulgated and adopted by the Director of the Division of Professions and Occupations ("Director"), pursuant to the rulemaking authority in sections 12-20-204, 12-30-112, and 12-225-108(1)(a), C.R.S., in consultation with the Commissioner of Insurance and the State Board of Health.

The purpose of this Rule is to establish requirements for health care providers to provide disclosures to consumers about the potential effects of receiving emergency or non-emergency services from an out-of-network provider.

This Rule applies to health care providers as defined in section 10-16-102(56), C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Publicly available" means, for the purposes of this regulation, searchable on the health care provider's public website, displayed in a manner that is easily accessible, without barriers, and that ensures that the information is accessible to the general public, including that it is findable through public search engines. The health care provider's public website must be accessible free of charge, without having to establish a user account, password, or other credentials, accept any terms or conditions, and without having to submit any personal identifying information.

B. Disclosure requirements.

1. An out of network provider may balance bill a covered person for post-stabilization services in accordance with section 10-16-704, C.R.S., and covered nonemergency services in an in-network facility that are not ancillary services if the provider meets the requirements set forth in section 12-30-112(3.5), C.R.S. If a consumer has incurred a claim for emergency or nonemergency health care services from an out-of-network provider, the health care provider shall provide the disclosures contained in Appendix A. The health care provider shall provide the disclosure contained in Appendix A in compliance with section 12-30-112(3.5), C.R.S.

C. Noncompliance with this Rule may result in the imposition of any of discipline made available by section 12-225-109, C.R.S.

…

1.26 PROTECTIONS FOR PROVISION OF REPRODUCTIVE HEALTH CARE IN COLORADO

This Rule is promulgated pursuant to Executive Order D 2022 032, and sections 25-6-401 *et seq.*, 12-225-108(1)(a), and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Assisting in the provision reproductive health care" means aiding, abetting or complicity in the provision of reproductive health care.

3. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

4. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

5. "Provision of reproductive health care," includes but is not limited to, transportation for reproductive health care, referrals for reproductive health care and related services, funding or assisting with payment of reproductive health care, prescribing, shipping or dispensing medications for reproductive health care in accordance with state and federal law, all options and mental health counseling and treatment related to reproductive health care. The "provision of reproductive health care" also includes all treatment contemplated in the definition of section 25-6-402(4), C.R.S.

6. "Registrant" means as defined in section 12-20-102(12), C.R.S.

7. "Regulator" means as defined in section 12-20-102(14), C.R.S.

8. "Reproductive health care" means as defined in section 25-6-402(4), C.R.S.

B. The regulator shall not deny registration to an applicant or impose disciplinary action against an individual's registration based solely on the applicant or registrant's provision of or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice as defined in Colorado law and did not otherwise violate Colorado law.

C. The regulator shall not deny registration to an applicant or impose disciplinary action against an individual's registration based solely on a civil or criminal judgment against the applicant or registrant arising from the provision of, or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

D. The regulator shall not deny registration to an applicant or impose disciplinary action against an individual's registration based solely on a professional disciplinary action or any other sanction against the applicant's or registrant's professional registration in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or registrant's provision of, or assistance in the provision of, reproductive health care and the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

E. The regulator shall not deny registration to an applicant or impose disciplinary action against an individual's registration based solely on the registrant's own personal effort to seek or obtain reproductive health care for themselves. The regulator shall not deny registration to an applicant or impose disciplinary action against an individual's registration based solely on a civil or criminal judgment against the applicant or registrant arising from the individual's own personal receipt of reproductive health care in this state or any other state or U.S. territory.

1.27 PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-225-108(1)(a) and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

4. "Registrant" means as defined in section 12-20-102(12), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny registration to an applicant or impose disciplinary action against an individual's registration based solely on a civil or criminal judgment against the applicant or registrant regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny registration to an applicant or impose disciplinary action against an individual's registration based solely on a professional disciplinary action against the applicant's or registrant's professional registration in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or registrant's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

…

APPENDIX A

Your Rights and Protections Against Surprise Medical Bills

When you get emergency care or get treated by an out-of-network provider at an in-network hospital or ambulatory surgical center, you are protected from surprise billing or balance billing.

What is "balance billing" (sometimes called "surprise billing")?

When you see a doctor or other health care provider, you may owe certain out-of-pocket costs, like a copayment, coinsurance, or deductible. You may have additional costs or have to pay the entire bill if you see a provider or visit a health care facility that isn't in your health plan's network.

"Out-of-network" means providers and facilities that haven't signed a contract with your health plan to provide services. Out-of-network providers may be allowed to bill you for the difference between what your plan pays and the full amount charged for a service. This is called "balance billing." This amount is

likely more than in-network costs for the same service and might not count toward your plan's deductible or annual out-of-pocket limit.

"Surprise billing" is an unexpected balance bill. This can happen when you can't control who is involved in your care—like when you have an emergency or when you schedule a visit at an in-network facility but are unexpectedly treated by an out-of-network provider. Surprise medical bills could cost thousands of dollars depending on the procedure or service.

You're protected from balance billing for:

Emergency services

If you have an emergency medical condition and get emergency services from an out-of-network provider or facility, the most they can bill you is your plan's in-network cost-sharing amount (such as copayments, coinsurance, and deductibles). You can't be balance billed for these emergency services. This includes services you may get after you're in stable condition, unless you give written consent and give up your protections not to be balanced billed for these post-stabilization services.

If you believe you've been wrongly billed by a healthcare provider, please contact the Colorado Office of Direct-Entry Midwifery Registration at 303-894-2988 or dora_midwivesboard@state.co.us.

Visit the CMS No Surprises Act website (https://www.cms.gov/nosurprises/consumers) for more information about your rights under federal law.

Review section 12-30-112, C.R.S., for more information about your rights under Colorado state law.
Certain services at an in-network hospital or ambulatory surgical center

When you get services from an in-network hospital or ambulatory surgical center, certain providers there may be out-of-network. In these cases, the most those providers can bill you is your plan's in-network cost-sharing amount. This applies to emergency medicine, anesthesia, pathology, radiology, laboratory, neonatology, assistant surgeon, hospitalist, or intensivist services. These providers **can't** balance bill you and may **not** ask you to give up your protections not to be balance billed.

If you get other types of services at these in-network facilities, out-of-network providers can't balance bill you, unless you give written consent and give up your protections.

You're never required to give up your protections from balance billing. You also aren't required to get out-of-network care. You can choose a provider or facility in your plan's network.

When balance billing isn't allowed, you also have these protections:

- You're only responsible for paying your share of the cost (like the copayments, coinsurance, and deductible that you would pay if the provider or facility was in-network). Your health plan will pay any additional costs to out-of-network providers and facilities directly.
- Generally, your health plan must:
    - Cover emergency services without requiring you to get approval for services in advance (also known as "prior authorization").
    - Cover emergency services by out-of-network providers.
    - Base what you owe the provider or facility (cost-sharing) on what it would pay an in-network provider or facility and show that amount in your explanation of benefits.

- Count any amount you pay for emergency services or out-of-network services toward your in-network deductible and out-of-pocket limit.

If you believe you've been wrongly billed by a healthcare provider, please contact the Colorado Office of Direct-Entry Midwifery Registration at 303-894-2988 or dora_midwivesboard@state.co.us. The federal phone number for information and complaints is: 1-800-985-3059.

Visit www.cms.gov/nosurprises/consumers for more information about your rights under federal law.

Visit https://dpo.colorado.gov/Midwives for more information about your rights under Colorado state law, pursuant to section 12-30-112, C.R.S.

…

Editor's Notes

History

Rule 1 repealed eff. 07/01/2007.

Rules 2, 4, 10, 12 eff. 07/01/2007.

Entire rule eff. 12/01/2009.

Rule 15 repealed eff. 12/15/2010.

Entire rule eff. 12/30/2011.

Rules 1, 2, 4-9, 11, 17, 18, 20-22 eff. 08/01/2017.

Rule 8 C-G eff. 01/30/2018.

Rule 1.23, Appendix A emer. rules eff. 01/01/2020; expired 04/29/2020.

Rule 1.23, Appendix A eff. 04/30/2020.

Rule 1.24, Appendix B eff. 12/15/2020.

Rules 1.24 E-F eff. 05/30/2021.

Rules 1.17 A-B, 1.17 C.6, 1.25 eff. 11/14/2021.

Annotations

Rules 5 B.7. and 21(adopted 05/16/2017) were not extended by House Bill 18-1253 and therefore expired 05/15/2018.

Rule 1.24 E.4 (adopted 10/21/2020) was not extended by Senate Bill 21-152 and therefore expired 05/15/2021.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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Office of the Attorney General

Tracking number: 2022-00463

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Office of Direct-Entry Midwifery Registration

on 10/07/2022

4 CCR 739-1

MIDWIVES REGISTRATION RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/07/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 24, 2022 15:04:30

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Colorado Office of Combative Sports

CCR number

4 CCR 740-1

Rule title

4 CCR 740-1 COMBATIVE SPORTS RULES AND REGULATIONS 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

Colorado Office of Combative Sports and Colorado Combative Sports Commission

COMBATIVE SPORTS RULES AND REGULATIONS

4 CCR 740-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

…

1.3 APPLICABILITY

These Rules apply to all combative sports events where purses or prizes may or may not be given. These Rules do not apply to events that are exclusively amateur in nature.

The standards and regulations incorporated by reference may be examined at the Colorado Office of Combative Sports and Colorado Combative Sports Commission, 1560 Broadway, Suite 1350, Denver, Colorado 80202, during normal business hours, Monday through Friday, except when such days are state holidays. Certified copies of the incorporated standards shall be provided at cost upon request. The Director or the Director's designee will provide information regarding how the incorporated standards and regulations may be examined at any state public depository library. The standards and regulations are also available from the agency, organization or association originally issuing the code, standard, guideline or rules as follows: Association of Boxing Commissions and Combative Sports (https://www.abcboxing.com/wp-content/uploads/2022/08/unified-rules-mma-july-2022.pdf (effective July 26, 2022)) and the Association of Boxing Commissions and Combative Sports (https://www.abcboxing.com/unified-rules-kickboxing (effective July 26, 2017)). This rule does not include any later amendments or editions of the code, standard, guideline, or rules.

…

1.6 REQUIREMENTS

…

F. ADVANCED NOTIFICATION, RANDOM, OR FOR-CAUSE TESTING OF PARTICIPANTS

…

6. **Prohibited drugs, substances and methods:** The Commission hereby adopts the edition, effective January 1, 2021, of the Prohibited List – International Standard published by the World Anti-Doping Agency. This Prohibited List is adopted to provide notice of this code to all participants. This Rule does not include later amendments to or editions of the Prohibited List of the World Anti-Doping Agency.

   Notwithstanding this rule, cannabinoids are not a prohibited substance.

   A copy of the Prohibited List published by the World Anti-Doping Agency is available for public inspection during regular business hours at the Commission office at the Division of Professions and Occupations, Department of Regulatory Agencies, 1560 Broadway, Suite 1350, Denver, Colorado,80202, and at any state publications depository and distribution center. For further information regarding how this material can be obtained or

examined, contact the Director for the Commission at 1560 Broadway, Suite 1350, Denver, Colorado, 80202, 303-894-7800. The Prohibited List may be obtained, free of charge, at the Internet address www.wada-ama.org. Address: Stock Exchange Tower, 800 Place Victoria (Suite 1700), PO Box 120, Montreal, Quebec H47 1B7, Canada.

…

1.8 REQUIREMENTS FOR BOXING PARTICIPANTS

…

B. NUMBER AND DURATION OF ROUNDS

A bout will have a maximum of ten rounds with the exception of a championship bout, as determined by the Director, which may not exceed twelve rounds. Three minutes will constitute a round, with a rest period of one minute between rounds, which may be extended at the discretion of the Director. The timekeeper shall give warning to the seconds by suitable signal ten seconds before the beginning or the ending of each round.

Notwithstanding this rule and with prior Director approval, three-minute rounds shall constitute a round for all female bouts.

…

1.10 REQUIREMENTS FOR PROFESSIONAL MIXED MARTIAL ARTS (MMA) AND MARTIAL ARTS (MA) PARTICIPANTS

This Rule is promulgated pursuant to section 12-110-107, C.R.S.

A. RULES AND PROCEDURES

The Commission adopts by reference the Association of Boxing Commissions and Combative Sports Unified Rules of Mixed Martial Arts (https://www.abcboxing.com/wp-content/uploads/2022/08/unified-rules-mma-july-2022.pdf (effective July 26, 2022)).

The standards and regulations incorporated by reference may be examined at the Colorado Office of Combative Sports and Colorado Combative Sports Commission, 1560 Broadway, Suite 1350, Denver, Colorado 80202, during normal business hours, Monday through Friday, except when such days are state holidays. Certified copies of the incorporated standards shall be provided at cost upon request. The Director or the Director's designee will provide information regarding how the incorporated standards and regulations may be examined at any state public depository library. The standards and regulations are also available from the agency, organization or association originally issuing the code, standard, guideline or rules as follows: Association of Boxing Commissions and Combative Sports (https://www.abcboxing.com/wp-content/uploads/2020/11/unified-rules-mma-2019-new.pdf (effective July 1, 2020)) and the Association of Boxing Commissions and Combative Sports (https://www.abcboxing.com/unified-rules-kickboxing (effective July 26, 2017)). This rule does not include any later amendments or editions of the code, standard, guideline, or rules.

…

1.11 REQUIREMENTS FOR SECONDS

This Rule is promulgated pursuant to sections 12-20-105, 12-110-107, 12-110-109, and 12-110-111, C.R.S.

A. LICENSE FOR SECONDS

A license is required in order to serve as a second in a professional combative sports contest. All seconds shall submit an application for a license to assist a fighter and must be licensed at least 48 hours prior to the scheduled start of an event. Incomplete or incorrect application forms will not be accepted and will be returned to the applicant to be corrected.

…

1.12 REQUIREMENTS FOR PROMOTERS

…

D. PROMOTION PERMIT AND EVENT REQUIREMENTS

…

4. Minimum Requirements of Rounds

…

b. The promoter is expected to feature a main event bout. The number of rounds that qualify as a main event bout is at least five rounds for boxing and at least three rounds for kickboxing, Muay Thai, and MMA.

...

E. COMPLIANCE BOND

1. Promoters shall submit proof of a surety bond to the Director in an amount equal to both the amount of purses and official fees as determined by the Director before a scheduled event.

a. All bonds must be current and list the office of Combative Sports as the obligee.

b. Bonds must be verified and approved by the Director.

c. Failure to comply may result in the cancellation of the event and disciplinary action.

…

1.13 GUIDELINES FOR CONTRACT, FINANCIAL ARRANGEMENTS AND REPORTING FRAUD

This Rule is promulgated pursuant to section 12-110-107, C.R.S.

A. CONTRACT BETWEEN THE PROMOTERS AND THE PARTICIPANT – WRITING REQUIRED

…

11. Purse amount (Includes show and win money and ticket amount given), including a statement identifying the form of purse payment.

…

15. Any deducted fees must be listed (this does not include Commission permit or license fees).

…

1.14 PERSONNEL, FACILITY AND EQUIPMENT REQUIREMENTS

…

C. RING AND CAGE REQUIREMENTS

…

6. Gloves

All gloves shall be furnished by the promoter and shall be new or in-tact and in good clean condition without lumps or imperfections. All participants in the main event, championship bouts and bouts of six rounds or more shall use new gloves. The specific glove size for each event shall be as follows:

a. In boxing, Muay Thai, or kickboxing bouts, the following requirements apply:

(1) Participants weighing 147 pounds or less shall use at least eight-ounce gloves.

(2) Participants weighing over 147 pounds shall use at least ten-ounce gloves.

(3) When two participants differ in weight classes, participants shall use at least ten-ounce gloves.

(4) The Director may approve or require glove size increases.

(5) Participants in each bout shall wear the same brand gloves. The Director may approve gloves of different -brands.

…

1.16 REQUIREMENTS FOR ELIMINATION BOUTS

…

D. ROUNDS AND TIME LENGTH

1. With Director approval, elimination boxing, kickboxing, and Muay Thai bouts may consist of three, three-minute rounds with a one-minute rest period between rounds.

2. Elimination MMA bouts shall consist of three, three-minute rounds with a one-minute rest period between each round.

…

G. WEIGHT CLASSES

1. …

d. Mixed Martial Arts: The Commission adopts by reference the Association of Boxing Commissions and Combative Sports Unified Rules of Mixed Martial Arts regarding weight categories (https://www.abcboxing.com/wp-content/uploads/2022/08/unified-rules-mma-july-2022.pdf (effective July 26, 2022)).

The standards and regulations incorporated by reference may be examined at the Colorado Office of Combative Sports and Colorado Combative Sports Commission, 1560 Broadway, Suite 1350, Denver, Colorado 80202, during normal business hours, Monday through Friday, except when such days are state holidays. Certified copies of the incorporated standards shall be provided at cost upon request. The Director or the Director's designee will provide information regarding how the incorporated standards and regulations may be examined at any state public depository library. The standards and regulations are also available from the agency, organization or association originally issuing the code, standard, guideline or rules as follows: Association of Boxing Commissions and Combative Sports (https://www.abcboxing.com/wp-content/uploads/2022/08/unified-rules-mma-july-2022.pdf (effective July 26, 2022)) and the Association of Boxing Commissions and Combative Sports (https://www.abcboxing.com/unified-rules-kickboxing (effective July 26, 2017)). This Rule does not include any later amendments or editions of the code, standard, guideline, or rules.

H. ELIMINATION RULES FOR BOXING, KICKBOXING, MUAY THAI AND MIXED MARTIAL ARTS

…

4. Unless specifically modified elsewhere under these rules, the Commission adopts by reference the Association of Boxing Commissions and Combative Sports Unified Rules of Mixed Martial Arts (https://www.abcboxing.com/wp-content/uploads/2022/08/unified-rules-mma-july-2022.pdf (effective July 26, 2022)).

The standards and regulations incorporated by reference may be examined at the Colorado Office of Combative Sports and Colorado Combative Sports Commission, 1560 Broadway, Suite 1350, Denver, Colorado 80202, during normal business hours, Monday through Friday, except when such days are state holidays. Certified copies of the incorporated standards shall be provided at cost upon request. The Director or the Director's designee will provide information regarding how the incorporated standards and regulations may be examined at any state public depository library. The standards and regulations are also available from the agency, organization or association originally issuing the code, standard, guideline or rules as follows: Association of Boxing Commissions and Combative Sports (https://www.abcboxing.com/wp-content/uploads/2022/08/unified-rules-mma-july-2022.pdf (effective July 26, 2022)) and the Association of Boxing Commissions and Combative Sports (https://www.abcboxing.com/unified-rules-kickboxing (effective July 26, 2017)). This Rule does not include any later amendments or editions of the code, standard, guideline, or rules.

…

1.17 REQUIREMENTS FOR OFFICIALS

This Rule is promulgated pursuant to sections 12-20-105, 12-20-202(4), 12-110-107, 12-110-109, and 12-110-111, C.R.S.

…

U. NUMBER OF JUDGES

All bouts will be evaluated and scored by a minimum of three judges.

V. JUDGE POSITION

The judges shall sit alone at ring or cage side and will reach their own decision without conferring in any manner with any other official or person.

…

1.18 PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-110-107 and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

4. "Licensee" means as defined in section 12-20-102(10), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action against the applicant's or licensee's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or licensee's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

Editor's Notes

History

Rule 1.018 emer. rule eff. 09/24/2010; expired eff. 01/22/2011.

Entire rule eff. 09/01/2011.

Rules 1.1, 1.5, 2.6, 2.8, 2.9, 2.11, 3.2, 3.6, 5.11, 7.6, 12.4, 13.2, 13.3, 14.1 eff. 07/01/2016.

Entire rule eff. 07/01/2018.

Rules 1.1, 1.2, 1.7, 1.8, 2.5, 2.9-2.20, 3.3, 3.4, 5.1, Chapters 6-7, rules 8.6-8.13, 11.3 D.ix, 13.2, 13.3, 13.7-13.9, 14.1, 14.15-14.17 emer. rules eff. 06/18/2019.

Rules 1.1, 1.2, 1.7, 1.8, 2.1, 2.5, 2.9-2.20, 3.3, 3.4, 5.1, 5.4, 6.1-6.5, 7.1, 7.2, 8.6-8.13, 10.1, 11.3, 12.2-12.4, 13.1-13.9, 14.1, 14.2 D, 14.15-14.17 eff. 12/30/2019.

Entire rule eff. 05/30/2021.

Rule 1.4 K.2 eff. 11/30/2021.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

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Office of the Attorney General

Tracking number: 2022-00531

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Colorado Office of Combative Sports

on 10/12/2022

4 CCR 740-1

COMBATIVE SPORTS RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/12/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 31, 2022 11:30:44

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Office of Respiratory Therapy Licensure

CCR number

4 CCR 741-1

Rule title

4 CCR 741-1 RESPIRATORY THERAPY RULES AND REGULATIONS 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

Office of Respiratory Therapy Licensure

RESPIRATORY THERAPY RULES AND REGULATIONS

4 CCR 741-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

…

1.10 Concerning Health Care Provider Disclosures to Consumers about the Potential Effects of Receiving Emergency or Nonemergency Services from an Out-of-Network Provider

This Rule is promulgated and adopted by the Director of the Division of Professions and Occupations ("Director"), pursuant to the rulemaking authority in sections 12-20-204, 12-30-112, and 12-300-115, C.R.S., in consultation with the Commissioner of Insurance and the State Board of Health.

The purpose of this Rule is to establish requirements for health care providers to provide disclosures to consumers about the potential effects of receiving emergency or non-emergency services from an out-of-network provider.

This Rule applies to health care providers as defined in section 10-16-102(56), C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Publicly available" means, for the purposes of this regulation, searchable on the health care provider's public website, displayed in a manner that is easily accessible, without barriers, and that ensures that the information is accessible to the general public, including that it is findable through public search engines. The health care provider's public website must be accessible free of charge, without having to establish a user account, password, or other credentials, accept any terms or conditions, and without having to submit any personal identifying information.

B. Disclosure requirements.

1. An out of network provider may balance bill a covered person for post-stabilization services in accordance with section 10-16-704, C.R.S., and covered nonemergency services in an in-network facility that are not ancillary services if the provider meets the requirements set forth in section 12-30-112(3.5), C.R.S. If a consumer has incurred a claim for emergency or nonemergency health care services from an out-of-network provider, the health care provider shall provide the disclosures contained in Appendix A. The health care provider shall provide the disclosure contained in Appendix A in compliance with section 12-30-112(3.5), C.R.S.

C. Noncompliance with this Rule may result in the imposition of any of discipline made available by section 12-300-109(2)(g), C.R.S.

…

1.12 Provision of Reproductive Health Care in Colorado

This Rule is promulgated pursuant to Executive Order D 2022 032, and sections 25-6-401 *et seq.*, 12-300-115, and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Assisting in the provision reproductive health care" means aiding, abetting or complicity in the provision of reproductive health care.

3. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

4. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

5. "Licensee" means as defined in section 12-20-102(10), C.R.S.

6. "Provision of reproductive health care," includes but is not limited to, transportation for reproductive health care, referrals for reproductive health care and related services, funding or assisting with payment of reproductive health care, prescribing, shipping or dispensing medications for reproductive health care in accordance with state and federal law, all options and mental health counseling and treatment related to reproductive health care. The "provision of reproductive health care" also includes all treatment contemplated in the definition of section 25-6-402(4), C.R.S.

7. "Regulator" means as defined in section 12-20-102(14), C.R.S.

8. "Reproductive health care" means as defined in section 25-6-402(4), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on the applicant or licensee's provision of or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice as defined in Colorado law and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee arising from the provision of, or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

D. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action or any other sanction against the applicant's or licensee's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant or licensee's provision of, or assistance in the provision of, reproductive health care and the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

E. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's registration, certificate or license based solely on the licensee's own personal effort to seek or obtain reproductive health care for themselves. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee arising from the individual's own personal receipt of reproductive health care in this state or any other state or U.S. territory.

1.13 Protecting Colorado's Workforce and Expanding Licensing Opportunities

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-300-115 and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

4. "Licensee" means as defined in section 12-20-102(10), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action against the applicant's or licensee's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or licensee's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

…

APPENDIX A

Your Rights and Protections Against Surprise Medical Bills

When you get emergency care or get treated by an out-of-network provider at an in-network hospital or ambulatory surgical center, you are protected from surprise billing or balance billing.

What is "balance billing" (sometimes called "surprise billing")?

When you see a doctor or other health care provider, you may owe certain out-of-pocket costs, like a copayment, coinsurance, or deductible. You may have additional costs or have to pay the entire bill if you see a provider or visit a health care facility that isn't in your health plan's network.

"Out-of-network" means providers and facilities that haven't signed a contract with your health plan to provide services. Out-of-network providers may be allowed to bill you for the difference between what your plan pays and the full amount charged for a service. This is called "balance billing." This amount is likely more than in-network costs for the same service and might not count toward your plan's deductible or annual out-of-pocket limit.

"Surprise billing" is an unexpected balance bill. This can happen when you can't control who is involved in your care—like when you have an emergency or when you schedule a visit at an in-network facility but are unexpectedly treated by an out-of-network provider. Surprise medical bills could cost thousands of dollars depending on the procedure or service.

You're protected from balance billing for:

Emergency services

If you have an emergency medical condition and get emergency services from an out-of-network provider or facility, the most they can bill you is your plan's in-network cost-sharing amount (such as copayments, coinsurance, and deductibles). You can't be balance billed for these emergency services. This includes services you may get after you're in stable condition, unless you give written consent and give up your protections not to be balanced billed for these post-stabilization services.

If you believe you've been wrongly billed by a healthcare provider, please contact the Colorado Office of Respiratory Therapy Licensure at 303-894-7800 or dora_respiratoryboard@state.co.us.

Visit the CMS No Surprises Act website (https://www.cms.gov/nosurprises/consumers) for more information about your rights under federal law.

Review section 12-30-112, C.R.S., for more information about your rights under Colorado state law.

Certain services at an in-network hospital or ambulatory surgical center

When you get services from an in-network hospital or ambulatory surgical center, certain providers there may be out-of-network. In these cases, the most those providers can bill you is your plan's in-network cost-sharing amount. This applies to emergency medicine, anesthesia, pathology, radiology, laboratory, neonatology, assistant surgeon, hospitalist, or intensivist services. These providers **can't** balance bill you and may **not** ask you to give up your protections not to be balance billed.

If you get other types of services at these in-network facilities, out-of-network providers can't balance bill you, unless you give written consent and give up your protections.

You're never required to give up your protections from balance billing. You also aren't required to get out-of-network care. You can choose a provider or facility in your plan's network.

When balance billing isn't allowed, you also have these protections:

- You're only responsible for paying your share of the cost (like the copayments, coinsurance, and deductible that you would pay if the provider or facility was in-network). Your health plan will pay any additional costs to out-of-network providers and facilities directly.
- Generally, your health plan must:
    - Cover emergency services without requiring you to get approval for services in advance (also known as "prior authorization").
    - Cover emergency services by out-of-network providers.
    - Base what you owe the provider or facility (cost-sharing) on what it would pay an in-network provider or facility and show that amount in your explanation of benefits.
    - Count any amount you pay for emergency services or out-of-network services toward your in-network deductible and out-of-pocket limit.

If you believe you've been wrongly billed by a healthcare provider, please contact the Colorado Office of Respiratory Therapy Licensure at 303-894-7800 or dora_respiratoryboard@state.co.us. The federal phone number for information and complaints is: 1-800-985-3059.

Visit www.cms.gov/nosurprises/consumers for more information about your rights under federal law.

Visit https://dpo.colorado.gov/RespiratoryTherapy for more information about your rights under Colorado state law, pursuant to section 12-30-112, C.R.S.

…

Editor's Notes

History

Entire rule eff. 05/01/2010.
Basis, Rules 2.A., 5.A.1., 6, 7, eff. 01/30/2017.
Rule 1.8, Appendix A emer. rules eff. 01/01/2020; expired 04/29/2020.
Rule 1.8, Appendix A eff. 04/30/2020.
Rule 1.9 emer. rule eff. 05/01/2020; expired 08/29/2020.
Rule 1.10 emer. rule eff. 05/11/2020; expired 09/08/2020.
Rule 1.9 emer. rule eff. 08/30/2020.
Rule 1.10 emer. rule eff. 09/09/2020.
Rules 1.1-1.11, Appendices A, B eff. 12/15/2020.
Rules 1.9, 1.10 emer. rules eff. 12/28/2020.
Rule 1.11 emer. rule eff. 01/11/2021.
Rules 1.9, 1.10 emer. rules eff. 04/27/2021.
Rule 1.11 emer. rule eff. 05/11/2021.
Rules 1.11 E-F eff. 05/30/2021.
Rules 1.9, 1.10 emer. rules eff. 07/12/2021.
Rules 1.9, 1.10 emer. rules eff. 11/02/2021.
Rule 1.7 B eff. 11/14/2021.
Rules 1.9, 1.10 emer. rules eff. 03/02/2022.
Rules 1.9, 1.10 emer. rules eff. 06/28/2022.

Annotations

Rule 1.11 E.4 (adopted 10/21/2020) was not extended by Senate Bill 21-152 and therefore expired 05/15/2021.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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Office of the Attorney General

Tracking number: 2022-00480

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Office of Respiratory Therapy Licensure

on 10/10/2022

4 CCR 741-1

RESPIRATORY THERAPY RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/11/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 27, 2022 12:15:02

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Office of Funeral Home and Crematory Registration

CCR number

4 CCR 742-1

Rule title

4 CCR 742-1 FUNERAL HOME AND CREMATORY REGISTRATION'S RULES AND REGULATIONS 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

Office of Funeral Home and Crematory Registration

FUNERAL HOME AND CREMATORY REGISTRATION RULES

4 CCR 742-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

…

1.10 PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-135-401 and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

4. "Registrant" means as defined in section 12-20-102(12), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny registration to an applicant or impose disciplinary action against an individual's registration based solely on a civil or criminal judgment against the applicant or registrant regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny registration to an applicant or impose disciplinary action against an individual's registration based solely on a professional disciplinary action against the applicant's or registrant's professional registration in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or registrant's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

…

Editor's Notes

History

Entire rule eff. 01/01/2010.

Rules 5, 8 eff. 12/30/2016.

Entire rule eff. 07/15/2021.

Rules 1.9 D.2, 1.9 E.2, 1.9 E.3.b emer. rules eff. 09/08/2021.

Rules 1.9 D.2, 1.9 E.2, 1.9 E.3.b eff. 10/30/2021.

Rule 1.7 eff. 08/14/2022.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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Office of the Attorney General

Tracking number: 2022-00488

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Office of Funeral Home and Crematory Registration

on 10/10/2022

4 CCR 742-1

FUNERAL HOME AND CREMATORY REGISTRATION'S RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/11/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 31, 2022 11:28:49

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Office of Surgical Assistant and Surgical Technologist Registration

CCR number

4 CCR 745-1

Rule title

4 CCR 745-1 SURGICAL ASSISTANT AND SURGICAL TECHNOLOGIST RULES AND REGULATIONS 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

Office of Surgical Assistant and Surgical Technologist Registration

SURGICAL ASSISTANT AND SURGICAL TECHNOLOGIST RULES AND REGULATIONS

4 CCR 745-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

…

1.9 CONCERNING HEALTH CARE PROVIDER DISCLOSURES TO CONSUMERS ABOUT THE POTENTIAL EFFECTS OF RECEIVING EMERGENCY OR NONEMERGENCY SERVICES FROM AN OUT-OF-NETWORK PROVIDER

This Rule is promulgated pursuant to sections 12-20-204, 12-30-112, and 12-310-103(4), C.R.S., in consultation with the Commissioner of Insurance and the State Board of Health.

The purpose of this Rule is to establish requirements for health care providers to provide disclosures to consumers about the potential effects of receiving emergency or non-emergency services from an out-of-network provider.

This Rule applies to health care providers as defined in section 10-16-102(56), C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Publicly available" means, for the purposes of this regulation, searchable on the health care provider's public website, displayed in a manner that is easily accessible, without barriers, and that ensures that the information is accessible to the general public, including that it is findable through public search engines. The health care provider's public website must be accessible free of charge, without having to establish a user account, password, or other credentials, accept any terms or conditions, and without having to submit any personal identifying information.

B. Disclosure requirements.

1. An out of network provider may balance bill a covered person for post-stabilization services in accordance with section 10-16-704, C.R.S., and covered nonemergency services in an in-network facility that are not ancillary services if the provider meets the requirements set forth in section 12-30-112(3.5), C.R.S. If a consumer has incurred a claim for emergency or nonemergency health care services from an out-of-network provider, the health care provider shall provide the disclosures contained in Appendix A. The health care provider shall provide the disclosure contained in Appendix A in compliance with section 12-30-112(3.5), C.R.S.

C. Noncompliance with this Rule may result in the imposition of any of discipline made available by section 12-310-106(2)(e), C.R.S.

…

1.11 PROTECTIONS FOR PROVISION OF REPRODUCTIVE HEALTH CARE IN COLORADO

This Rule is promulgated pursuant to Executive Order D 2022 032, and sections 25-6-401 *et seq.*, 12-310-103(4), and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Assisting in the provision reproductive health care" means aiding, abetting or complicity in the provision of reproductive health care.

3. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

4. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

5. "Provision of reproductive health care," includes but is not limited to, transportation for reproductive health care, referrals for reproductive health care and related services, funding or assisting with payment of reproductive health care, prescribing, shipping or dispensing medications for reproductive health care in accordance with state and federal law, all options and mental health counseling and treatment related to reproductive health care. The "provision of reproductive health care" also includes all treatment contemplated in the definition of section 25-6-402(4), C.R.S.

6. "Registrant" means as defined in section 12-20-102(12), C.R.S.

7. "Regulator" means as defined in section 12-20-102(14), C.R.S.

8. "Reproductive health care" means as defined in section 25-6-402(4), C.R.S.

B. The regulator shall not deny registration to an applicant or impose disciplinary action against an individual's registration based solely on the applicant or registrant's provision of or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice as defined in Colorado law and did not otherwise violate Colorado law.

C. The regulator shall not deny registration to an applicant or impose disciplinary action against an individual's registration based solely on a civil or criminal judgment against the applicant or registrant arising from the provision of, or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

D. The regulator shall not deny registration to an applicant or impose disciplinary action against an individual's registration based solely on a professional disciplinary action or any other sanction against the applicant's or registrant's professional registration in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or registrant's provision of, or assistance in the provision of, reproductive health care and the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

E. The regulator shall not deny registration to an applicant or impose disciplinary action against an individual's registration based solely on the registrant's own personal effort to seek or obtain reproductive health care for themselves. The regulator shall not deny registration to an applicant or impose disciplinary action against an individual's registration based solely on a civil or criminal judgment against the applicant or registrant arising from the individual's own personal receipt of reproductive health care in this state or any other state or U.S. territory.

1.12 PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-310-103(4) and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

4. "Registrant" means as defined in section 12-20-102(12), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny registration to an applicant or impose disciplinary action against an individual's registration based solely on a civil or criminal judgment against the applicant or registrant regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny registration to an applicant or impose disciplinary action against an individual's registration based solely on a professional disciplinary action against the applicant's or registrant's professional registration in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or registrant's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

…

APPENDIX A

Your Rights and Protections Against Surprise Medical Bills

When you get emergency care or get treated by an out-of-network provider at an in-network hospital or ambulatory surgical center, you are protected from surprise billing or balance billing.

What is "balance billing" (sometimes called "surprise billing")?

When you see a doctor or other health care provider, you may owe certain out-of-pocket costs, like a copayment, coinsurance, or deductible. You may have additional costs or have to pay the entire bill if you see a provider or visit a health care facility that isn't in your health plan's network.

"Out-of-network" means providers and facilities that haven't signed a contract with your health plan to provide services. Out-of-network providers may be allowed to bill you for the difference between what your plan pays and the full amount charged for a service. This is called "balance billing." This amount is

likely more than in-network costs for the same service and might not count toward your plan's deductible or annual out-of-pocket limit.

"Surprise billing" is an unexpected balance bill. This can happen when you can't control who is involved in your care—like when you have an emergency or when you schedule a visit at an in-network facility but are unexpectedly treated by an out-of-network provider. Surprise medical bills could cost thousands of dollars depending on the procedure or service.

You're protected from balance billing for:

Emergency services

If you have an emergency medical condition and get emergency services from an out-of-network provider or facility, the most they can bill you is your plan's in-network cost-sharing amount (such as copayments, coinsurance, and deductibles). You can't be balance billed for these emergency services. This includes services you may get after you're in stable condition, unless you give written consent and give up your protections not to be balanced billed for these post-stabilization services.

If you believe you've been wrongly billed by a healthcare provider, please contact the Colorado Office of Surgical Assistant and Surgical Technologist Registration at 303-894-7800 or dora_surgassist_surgtech@state.co.us.

Visit the CMS No Surprises Act website (https://www.cms.gov/nosurprises/consumers) for more information about your rights under federal law.

Review section 12-30-112, C.R.S., for more information about your rights under Colorado state law.
Certain services at an in-network hospital or ambulatory surgical center

When you get services from an in-network hospital or ambulatory surgical center, certain providers there may be out-of-network. In these cases, the most those providers can bill you is your plan's in-network cost-sharing amount. This applies to emergency medicine, anesthesia, pathology, radiology, laboratory, neonatology, assistant surgeon, hospitalist, or intensivist services. These providers **can't** balance bill you and may **not** ask you to give up your protections not to be balance billed.

If you get other types of services at these in-network facilities, out-of-network providers can't balance bill you, unless you give written consent and give up your protections.

You're never required to give up your protections from balance billing. You also aren't required to get out-of-network care. You can choose a provider or facility in your plan's network.

When balance billing isn't allowed, you also have these protections:

- You're only responsible for paying your share of the cost (like the copayments, coinsurance, and deductible that you would pay if the provider or facility was in-network). Your health plan will pay any additional costs to out-of-network providers and facilities directly.
- Generally, your health plan must:
    - Cover emergency services without requiring you to get approval for services in advance (also known as "prior authorization").
    - Cover emergency services by out-of-network providers.
    - Base what you owe the provider or facility (cost-sharing) on what it would pay an in-network provider or facility and show that amount in your explanation of benefits.

- Count any amount you pay for emergency services or out-of-network services toward your in-network deductible and out-of-pocket limit.

If you believe you've been wrongly billed by a healthcare provider, please contact the Colorado Office of Surgical Assistant and Surgical Technologist Registration at 303-894-7800 or dora_surgassist_surgtech@state.co.us. The federal phone number for information and complaints is: 1-800-985-3059.

Visit www.cms.gov/nosurprises/consumers for more information about your rights under federal law.

Visit https://dpo.colorado.gov/SurgAssistTech for more information about your rights under Colorado state law, pursuant to section 12-30-112, C.R.S.

…

Editor's Notes

History

Entire rule emer. rule eff. 02/18/2011.
Entire rule eff. 04/14/2011.
Rules 3, 4, 5 eff. 03/30/2012.
Rule 5 repealed eff. 11/30/2012.
Rule 1.6, Appendix A emer. rules eff. 01/01/2020; expired 04/29/2020.
Rule 1.6, Appendix A eff. 04/30/2020.
Rule 1.7 emer. rule eff. 05/11/2020; expired 09/08/2020.
Rule 1.7 emer. rule eff. 09/09/2020.
Rules 1.8, Appendix B eff. 12/15/2020.
Rule 1.7 emer. rule eff. 12/28/2020.
Rule 1.9 emer. rule eff. 01/11/2021.
Rule 1.7 emer. rule eff. 04/27/2021.
Rule 1.9 emer. rule eff. 05/11/2021.
Rules 1.8 E-F eff. 05/30/2021.
Rules 1.7, 1.9 emer. rules eff. 07/12/2021.
Rules 1.1-1.10 eff. 10/15/2021.
Rules 1.7, 1.9 emer. rules eff. 11/02/2021.
Rules 1.7, 1.9 emer. rules eff. 03/02/2022.
Rules 1.7, 1.9 emer. rules eff. 06/28/2022.

Annotations

Rule 1.8 E.4 (adopted 10/21/2020) was not extended by Senate Bill 21-152 and therefore expired 05/15/2021.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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Office of the Attorney General

Tracking number: 2022-00484

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Office of Surgical Assistant and Surgical Technologist Registration

on 10/10/2022

4 CCR 745-1

SURGICAL ASSISTANT AND SURGICAL TECHNOLOGIST RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/11/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 27, 2022 11:54:51

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Office of Speech-Language Pathology Certification

CCR number

4 CCR 748-1

Rule title

4 CCR 748-1 SPEECH-LANGUAGE PATHOLOGIST RULES AND REGULATIONS 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

Office of Speech-Language Pathology Certification

SPEECH-LANGUAGE PATHOLOGIST RULES AND REGULATIONS

4 CCR 748-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

…

1.19 PROVISIONAL SPEECH LANGUAGE PATHOLOGY CERTIFICATION

The purpose of this Rule is to establish the qualifications and procedures for applicants seeking a provisional license to practice as a Speech Language Pathologist pursuant to section 12-305-108, C.R.S.

A. An applicant for provisional certification must have:

1. Successfully completed a master's or higher degree in communication sciences and disorders granted by an accredited institution of higher education recognized by the United States department of education. An applicant is presumed to have met the requirements of this paragraph if the applicant has successfully completed a master's or higher degree in a speech-language pathology program that is accredited by the council on academic accreditation of the American Speech-Language-Hearing Association or its successor association; and,

2. Passed either:

a. The national examination approved by the American Speech-Language-Hearing Association or its successor association; or,

b. An examination that, in the Director's determination, is substantially equivalent to the examination approved by the American Speech-Language-Hearing Association or its successor association.

(1) An applicant seeking certification under subparagraph (a)(2)(b) of this Rule bears the burden of proving to the Director that the examination is substantially equivalent to the examination approved by the American Speech-Language-Hearing Association or its successor association

B. An applicant for provisional certification must:

1. Submit a completed application for provisional certification in a manner prescribed by the Director;

2. Submit with the application all fees established by the Director pursuant to sections 24-34-101 *et seq.*, C.R.S.;

3. Attest that the applicant will, prior to providing speech-language pathology services to patients, maintain the professional liability insurance coverage required under Rule 1.6;

4. Attest that the applicant has developed a written plan for the completion of a speech-language pathology clinical fellowship.

5. Attest that the information in the application is true and correct to the best of the applicant's knowledge and belief; and

6. Submit additional information as may be required by the Director.

C. A provisional speech–language pathology certificate may be issued one time unless the certificate holder applies at least sixty days prior to the expiration of the provisional certification for a twelve month hardship extension of a provisional certification. The Director will consider the following criteria:

1. The negative effects on access to care in the community served by the provisional certificant or the employer of the provisional certificant;

2. Financial hardship; or

3. Health hardships (Own or family member); or

4. Lack of available supervisor or work; or

5. Rural area hardship; or

6. Educational Institute hardship; or

7. Other good cause as determined by the Director.

D. A provisional speech-language pathologist certificate expires no later than twenty-four months from the date of issuance unless a one time twelve month extension is granted pursuant to section (C) of this Rule.

E. A provisional speech-language pathologist shall maintain and be covered by professional liability insurance in accordance with Rule 1.6, and submit proof of coverage to the Director upon request.

F. A provisional speech language pathologist shall submit a plan for the completion of a speech-language pathology clinical fellowship upon the Director’s request.

1.25 Concerning Health Care Provider Disclosures to Consumers about the Potential Effects of Receiving Emergency or Nonemergency Services from an Out-of-Network Provider

This Rule is promulgated and adopted by the Director of the Division of Professions and Occupations (“Director”), pursuant to the rulemaking authority in sections 12-20-204, 12-30-112, and 12-305-115, C.R.S., in consultation with the Commissioner of Insurance and the State Board of Health.

The purpose of this Rule is to establish requirements for health care providers to provide disclosures to consumers about the potential effects of receiving emergency or non-emergency services from an out-of-network provider.

This Rule applies to health care providers as defined in section 10-16-102(56), C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Publicly available" means, for the purposes of this regulation, searchable on the health care provider's public website, displayed in a manner that is easily accessible, without barriers, and that ensures that the information is accessible to the general public, including that it is findable through public search engines. The health care provider's public website must be accessible free of charge, without having to establish a user account, password, or other credentials, accept any terms or conditions, and without having to submit any personal identifying information.

B. Disclosure requirements.

1. An out of network provider may balance bill a covered person for post-stabilization services in accordance with section 10-16-704, C.R.S., and covered nonemergency services in an in-network facility that are not ancillary services if the provider meets the requirements set forth in section 12-30-112(3.5), C.R.S. If a consumer has incurred a claim for emergency or nonemergency health care services from an out-of-network provider, the health care provider shall provide the disclosures contained in Appendix C in compliance with section 12-30-112(3.5), C.R.S.

2. The health care provider shall provide the disclosure contained in Appendix C as set forth in section 12-30-112(3.5), C.R.S.

C. Noncompliance with this Rule may result in the imposition of any of discipline made available by section 12-305-112(1)(e), C.R.S.

1.26 Protections for Provision of Reproductive Health Care in Colorado

This Rule is promulgated pursuant to Executive Order D 2022 032, and sections 25-6-401 *et seq.*,12-305-115, and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Assisting in the provision reproductive health care" means aiding, abetting or complicity in the provision of reproductive health care.

3. "Certificate holder" or "certificant" means as defined in section 12-20-102(3), C.R.S.

4. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

5. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

6. "Provision of reproductive health care," includes but is not limited to, transportation for reproductive health care, referrals for reproductive health care and related services, funding or assisting with payment of reproductive health care, prescribing, shipping or dispensing medications for reproductive health care in accordance with state and federal law, all options and mental health counseling and treatment related to reproductive health care. The "provision of reproductive health care" also includes all treatment contemplated in the definition of section 25-6-402(4), C.R.S.

7. "Regulator" means as defined in section 12-20-102(14), C.R.S.

8. "Reproductive health care" means as defined in section 25-6-402(4), C.R.S.

B. The regulator shall not deny certification to an applicant or impose disciplinary action against an individual's certificate based solely on the applicant or certificate holder's provision of or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice as defined in Colorado law and did not otherwise violate Colorado law.

C. The regulator shall not deny certification to an applicant or impose disciplinary action against an individual's certificate based solely on a civil or criminal judgment against the applicant or certificate holder arising from the provision of, or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

D. The regulator shall not deny certification to an applicant or impose disciplinary action against an individual's certificate based solely on a professional disciplinary action or any other sanction against the applicant's or certificate holder's professional certification in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or certificate holder's provision of, or assistance in the provision of, reproductive health care and the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

E. The regulator shall not deny certification to an applicant or impose disciplinary action against an individual's certificate based solely on the applicant or certificate holder's own personal effort to seek or obtain reproductive health care for themselves. The regulator shall not deny certification to an applicant or impose disciplinary action against an individual's certificate based solely on a civil or criminal judgment against the applicant or certificate holder arising from the individual's own personal receipt of reproductive health care in this state or any other state or U.S. territory.

1.27 Protecting Colorado's Workforce and Expanding Licensing Opportunities

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-305-115, and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Certificate holder" or "certificant" means as defined in section 12-20-102(3), C.R.S.

3. "Civil judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

4. "Criminal judgment" means criminal conviction as defined in Rule 1.1.

5. "Licensee" means as defined in section 12-20-102(10), C.R.S.

6. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny certification to an applicant or impose disciplinary action against an individual's certificate based solely on a civil or criminal judgment against the applicant or certificate holder regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny certification to an applicant or impose disciplinary action against an individual's certificate based solely on a professional disciplinary action against the applicant's or certificate holder's professional certification in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or certificate holder's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

APPENDIX A

Your Rights and Protections Against Surprise Medical Bills

When you get emergency care or get treated by an out-of-network provider at an in-network hospital or ambulatory surgical center, you are protected from surprise billing or balance billing.

What is "balance billing" (sometimes called "surprise billing")?

When you see a doctor or other health care provider, you may owe certain out-of-pocket costs, like a copayment, coinsurance, or deductible. You may have additional costs or have to pay the entire bill if you see a provider or visit a health care facility that isn't in your health plan's network.

"Out-of-network" means providers and facilities that haven't signed a contract with your health plan to provide services. Out-of-network providers may be allowed to bill you for the difference between what your plan pays and the full amount charged for a service. This is called "balance billing." This amount is likely more than in-network costs for the same service and might not count toward your plan's deductible or annual out-of-pocket limit.

"Surprise billing" is an unexpected balance bill. This can happen when you can't control who is involved in your care—like when you have an emergency or when you schedule a visit at an in-network facility but are unexpectedly treated by an out-of-network provider. Surprise medical bills could cost thousands of dollars depending on the procedure or service.

You're protected from balance billing for:

Emergency services

If you have an emergency medical condition and get emergency services from an out-of-network provider or facility, the most they can bill you is your plan's in-network cost-sharing amount (such as copayments, coinsurance, and deductibles). You can't be balance billed for these emergency services. This includes services you may get after you're in stable condition, unless you give written consent and give up your protections not to be balanced billed for these post-stabilization services.

If you believe you've been wrongly billed by a healthcare provider, please contact the Colorado Office of Speech-Language Pathology Certification at 303-894-7800 or dora_speechlanguagepathology@state.co.us.

Visit the CMS No Surprises Act website (https://www.cms.gov/nosurprises/consumers) for more information about your rights under federal law.

Review section 12-30-112, C.R.S., for more information about your rights under Colorado state law.
Certain services at an in-network hospital or ambulatory surgical center

When you get services from an in-network hospital or ambulatory surgical center, certain providers there may be out-of-network. In these cases, the most those providers can bill you is your plan's in-network cost-sharing amount. This applies to emergency medicine, anesthesia, pathology, radiology, laboratory, neonatology, assistant surgeon, hospitalist, or intensivist services. These providers **can't** balance bill you and may **not** ask you to give up your protections not to be balance billed.

If you get other types of services at these in-network facilities, out-of-network providers can't balance bill you, unless you give written consent and give up your protections.

You're never required to give up your protections from balance billing. You also aren't required to get out-of-network care. You can choose a provider or facility in your plan's network.

When balance billing isn't allowed, you also have these protections:

- You're only responsible for paying your share of the cost (like the copayments, coinsurance, and deductible that you would pay if the provider or facility was in-network). Your health plan will pay any additional costs to out-of-network providers and facilities directly.
- Generally, your health plan must:
    - Cover emergency services without requiring you to get approval for services in advance (also known as "prior authorization").
    - Cover emergency services by out-of-network providers.
    - Base what you owe the provider or facility (cost-sharing) on what it would pay an in-network provider or facility and show that amount in your explanation of benefits.
    - Count any amount you pay for emergency services or out-of-network services toward your in-network deductible and out-of-pocket limit.

If you believe you've been wrongly billed by a healthcare provider, please contact the Colorado Office of Speech-Language Pathology Certification at 303-894-7800 or dora_speechlanguagepathology@state.co.us. The federal phone number for information and complaints is: 1-800-985-3059.

Visit www.cms.gov/nosurprises/consumers for more information about your rights under federal law.

Visit https://dpo.colorado.gov/SLP for more information about your rights under Colorado state law, pursuant to section 12-30-112, C.R.S.

…

Editor's Notes

History

Entire rule eff. 05/15/2013.

Basis, Purpose, and Statutory Authority, Rules 7-9 eff. 11/30/2014.

Basis, Purpose, and Statutory Authority, Rules 6, 18 eff. 08/30/2015.

Rule 1.19, Appendix A emer. rules eff. 01/01/2020; expired 04/29/2020.

Rule 1.19, Appendix A eff. 04/30/2020.

Rule 1.20 emer. rule eff. 05/01/2020; expired 08/29/2020.

Rule 1.21 emer. rule eff. 05/11/2020; expired 09/08/2020.
Rule 1.20 emer. rule eff. 08/30/2020.
Rule 1.21 emer. rule eff. 09/09/2020.
Entire rule eff. 12/15/2020.
Rules 1.20, 1.21 emer. rules eff. 12/28/2020.
Rule 1.24 emer. rule eff. 01/11/2021.
Rules 1.20, 1.21 emer. rules eff. 04/27/2021.
Rule 1.24 emer. rule eff. 05/11/2021.
Rules 1.23 E-F eff. 05/30/2021.
Rules 1.20, 1.24 emer. rules eff. 07/12/2021.
Rules 1.20, 1.24 emer. rules eff. 11/02/2021.
Rules 1.20, 1.24 emer. rules eff. 03/02/2022.
Rules 1.20, 1.24 emer. rules eff. 06/28/2022.

Annotations

Rule 1.23 E.4 (adopted 10/21/2020) was not extended by Senate Bill 21-152 and therefore expired 05/15/2021.

PHILIP J. WEISER
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Office of the Attorney General

Tracking number: 2022-00482

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Office of Speech-Language Pathology Certification

on 10/10/2022

4 CCR 748-1

SPEECH-LANGUAGE PATHOLOGIST RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/11/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 27, 2022 11:31:47

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Office of Naturopathic Doctor Registration

CCR number

4 CCR 749-1

Rule title

4 CCR 749-1 NATUROPATHIC DOCTORS RULES AND REGULATIONS 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

Office of Naturopathic Doctor Registration

NATUROPATHIC DOCTORS RULES AND REGULATIONS

4 CCR 749-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

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1.17 Concerning Health Care Provider Disclosures to Consumers about the Potential Effects of Receiving Emergency or Nonemergency Services from an Out-of-Network Provider

This Rule is promulgated and adopted by the Director of the Division of Professions and Occupations ("Director"), pursuant to the rulemaking authority in sections 12-20-204, 12-30-112, and 12-250-105(1)(a), C.R.S., in consultation with the Commissioner of Insurance and the State Board of Health.

The purpose of this Rule is to establish requirements for health care providers to provide disclosures to consumers about the potential effects of receiving emergency or non-emergency services from an out-of-network provider.

This Rule applies to health care providers as defined in section 10-16-102(56), C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Publicly available" means, for the purposes of this regulation, searchable on the health care provider's public website, displayed in a manner that is easily accessible, without barriers, and that ensures that the information is accessible to the general public, including that it is findable through public search engines. The health care provider's public website must be accessible free of charge, without having to establish a user account, password, or other credentials, accept any terms or conditions, and without having to submit any personal identifying information.

B. Disclosure requirements.

1. An out of network provider may balance bill a covered person for post-stabilization services in accordance with section 10-16-704, C.R.S., and covered nonemergency services in an in-network facility that are not ancillary services if the provider meets the requirements set forth in section 12-30-112(3.5), C.R.S. If a consumer has incurred a claim for emergency or nonemergency health care services from an out-of-network provider, the health care provider shall provide the disclosures contained in Appendix C in compliance with section 12-30-112(3.5), C.R.S.

2. The health care provider shall provide the disclosure contained in Appendix C as set forth in section 12-30-112(3.5), C.R.S. :

C. Noncompliance with this Rule may result in the imposition of any of discipline made available by section 12-250-113(1)(a), C.R.S.

…

1.20 Protections for Provision of Reproductive Health Care in Colorado

This Rule is promulgated pursuant to Executive Order D 2022 032, and sections 25-6-401 *et seq.*,12-250-105(1)(a), and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Assisting in the provision reproductive health care" means aiding, abetting or complicity in the provision of reproductive health care.

2. "Certificate holder" or "certificant" means as defined in section 12-20-102(3), C.R.S.

3. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

4. "Criminal judgment" means criminal conviction as defined in Rule 1.1.

5. "Licensee" means as defined in section 12-20-102(10), C.R.S.

6. "Provision of reproductive health care," includes but is not limited to, transportation for reproductive health care, referrals for reproductive health care and related services, funding or assisting with payment of reproductive health care, prescribing, shipping or dispensing medications for reproductive health care in accordance with state and federal law, all options and mental health counseling and treatment related to reproductive health care. The "provision of reproductive health care" also includes all treatment contemplated in the definition of section 25-6-402(4), C.R.S.

7. "Registrant" means as defined in section 12-20-102(12), C.R.S.

8. "Regulator" means as defined in section 12-20-102(14), C.R.S.

9. "Reproductive health care" means as defined in section 25-6-402(4), C.R.S.

B. The regulator shall not deny registration, certification, or licensure to an applicant or impose disciplinary action against an individual's registration, certificate or license based solely on the applicant or registrant's provision of or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice as defined in Colorado law and did not otherwise violate Colorado law.

C. The regulator shall not deny registration, certification, or licensure to an applicant or impose disciplinary action against an individual's registration, certificate or license based solely on a civil or criminal judgment against the applicant or registrant arising from the provision of, or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

D. The regulator shall not deny registration, certification, or licensure to an applicant or impose disciplinary action against an individual's registration, certificate or license based solely on a professional disciplinary action or any other sanction against the applicant's or registrant's professional registration, certification or licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or registrant's provision of, or assistance in the provision of, reproductive health care and the care provided was

consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

E. The regulator shall not deny registration, certification, or licensure to an applicant or impose disciplinary action against an individual's registration, certificate or license based solely on the applicant/licensee/registrant's own personal effort to seek or obtain reproductive health care for themselves. The regulator shall not deny registration, certification, or licensure to an applicant or impose disciplinary action against an individual's registration, certificate, or license based solely on a civil or criminal judgment against the applicant or registrant arising from the individual's own personal receipt of reproductive health care in this state or any other state or U.S. territory.

1.21 Protecting Colorado's Workforce and Expanding Licensing Opportunities

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-250-105(1)(a), and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Certificate holder" or "certificant" means as defined in section 12-20-102(3), C.R.S.

3. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

4. "Criminal judgment" means criminal conviction as defined in Rule 1.1.

5. "Licensee" means as defined in section 12-20-102(10), C.R.S.

7. "Registrant" means as defined in section 12-20-102(12), C.R.S.

8. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny registration, certification, or licensure to an applicant or impose disciplinary action against an individual's registration, certificate or license based solely on a civil or criminal judgment against the applicant or registrant regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny registration, certification, or licensure to an applicant or impose disciplinary action against an individual's registration, certificate or license based solely on a professional disciplinary action against the applicant's or registrant's professional registration, certification or licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or registrant's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

…

APPENDIX C

Your Rights and Protections Against Surprise Medical Bills

When you get emergency care or get treated by an out-of-network provider at an in-network hospital or ambulatory surgical center, you are protected from surprise billing or balance billing.

What is "balance billing" (sometimes called "surprise billing")?

When you see a doctor or other health care provider, you may owe certain out-of-pocket costs, like a copayment, coinsurance, or deductible. You may have additional costs or have to pay the entire bill if you see a provider or visit a health care facility that isn't in your health plan's network.

"Out-of-network" means providers and facilities that haven't signed a contract with your health plan to provide services. Out-of-network providers may be allowed to bill you for the difference between what your plan pays and the full amount charged for a service. This is called "balance billing." This amount is likely more than in-network costs for the same service and might not count toward your plan's deductible or annual out-of-pocket limit.

"Surprise billing" is an unexpected balance bill. This can happen when you can't control who is involved in your care—like when you have an emergency or when you schedule a visit at an in-network facility but are unexpectedly treated by an out-of-network provider. Surprise medical bills could cost thousands of dollars depending on the procedure or service.

You're protected from balance billing for:

Emergency services

If you have an emergency medical condition and get emergency services from an out-of-network provider or facility, the most they can bill you is your plan's in-network cost-sharing amount (such as copayments, coinsurance, and deductibles). You can't be balance billed for these emergency services. This includes services you may get after you're in stable condition, unless you give written consent and give up your protections not to be balanced billed for these post-stabilization services.

If you believe you've been wrongly billed by a healthcare provider, please contact the Colorado Office of Naturopathic Doctor Registration at 303-894-2988 or dora_naturopathic_doctor@state.co.us.

Visit the CMS No Surprises Act website (https://www.cms.gov/nosurprises/consumers) for more information about your rights under federal law.

Review section 12-30-112, C.R.S., for more information about your rights under Colorado state law.

Certain services at an in-network hospital or ambulatory surgical center

When you get services from an in-network hospital or ambulatory surgical center, certain providers there may be out-of-network. In these cases, the most those providers can bill you is your plan's in-network cost-sharing amount. This applies to emergency medicine, anesthesia, pathology, radiology, laboratory, neonatology, assistant surgeon, hospitalist, or intensivist services. These providers **can't** balance bill you and may **not** ask you to give up your protections not to be balance billed.

If you get other types of services at these in-network facilities, out-of-network providers can't balance bill you, unless you give written consent and give up your protections.

You're never required to give up your protections from balance billing. You also aren't required to get out-of-network care. You can choose a provider or facility in your plan's network.

When balance billing isn't allowed, you also have these protections:

- You're only responsible for paying your share of the cost (like the copayments, coinsurance, and deductible that you would pay if the provider or facility was in-network). Your health plan will pay any additional costs to out-of-network providers and facilities directly.
- Generally, your health plan must:
    - Cover emergency services without requiring you to get approval for services in advance (also known as "prior authorization").
    - Cover emergency services by out-of-network providers.
    - Base what you owe the provider or facility (cost-sharing) on what it would pay an in-network provider or facility and show that amount in your explanation of benefits.
    - Count any amount you pay for emergency services or out-of-network services toward your in-network deductible and out-of-pocket limit.

If you believe you've been wrongly billed by a healthcare provider, please contact the Colorado Office of Naturopathic Doctor Registration at 303-894-2988 or dora_naturopathic_doctor@state.co.us. The federal phone number for information and complaints is: 1-800-985-3059.

Visit www.cms.gov/nosurprises/consumers for more information about your rights under federal law.

Visit https://dpo.colorado.gov/Naturopathy for more information about your rights under Colorado state law, pursuant to section 12-30-112, C.R.S.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
Solicitor General

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Office of the Attorney General

Tracking number: 2022-00472

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Office of Naturopathic Doctor Registration

on 10/07/2022

4 CCR 749-1

NATUROPATHIC DOCTORS RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/07/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 26, 2022 18:12:52

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Office of Radon Professionals

CCR number

4 CCR 754-1

Rule title

4 CCR 754-1 RADON PROFESSIONALS RULES AND REGULATIONS 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF REGULATORY AGENCIES

Office of Radon Professionals

RADON PROFESSIONALS RULES AND REGULATIONS

4 CCR 754-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

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1.14 Protecting Colorado's Workforce and Expanding Licensing Opportunities

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-165-105(1)(a)(I) and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

4. "Licensee" means as defined in section 12-20-102(10), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action against the applicant's or licensee's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or licensee's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

…

Editor's Notes

History

New rule emer. rule eff. 07/01/2022.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
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Office of the Attorney General

Tracking number: 2022-00474

Opinion of the Attorney General rendered in connection with the rules adopted by the

Office of Radon Professionals

on 10/07/2022

4 CCR 754-1

RADON PROFESSIONALS RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/07/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 26, 2022 18:23:25

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

Water Quality Control Commission (1002 Series)

CCR number

5 CCR 1002-38

Rule title

5 CCR 1002-38 REGULATION NO. 38 - CLASSIFICATIONS AND NUMERIC STANDARDS SOUTH PLATTE RIVER BASIN LARAMIE RIVER BASIN REPUBLICAN RIVER BASIN SMOKY HILL RIVER BASIN 1 - eff 11/30/2022

Effective date

11/30/2022

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

WATER QUALITY CONTROL COMMISSION

5 CCR 1002-38

REGULATION NO. 38
CLASSIFICATIONS AND NUMERIC STANDARDS
FOR
SOUTH PLATTE RIVER BASIN, LARAMIE RIVER BASIN
REPUBLICAN RIVER BASIN, SMOKY HILL RIVER BASIN

APPENDIX 38-1
Stream Classifications and Water Quality Standards Tables

Effective 11/30/2022

Abbreviations and Acronyms

Aq	=	Aquatic
°C	=	degrees Celsius
CL	=	cold lake temperature tier
CLL	=	cold large lake temperature tier
CS-I	=	cold stream temperature tier one
CS-II	=	cold stream temperature tier two
D.O.	=	dissolved oxygen
DM	=	daily maximum temperature
DUWS	=	direct use water supply
E. coli	=	*Escherichia coli*
EQ	=	existing quality
mg/L	=	milligrams per liter
mg/m^2	=	milligrams per square meter
mL	=	milliliter
MWAT	=	maximum weekly average temperature
OW	=	outstanding waters
SSE	=	site-specific equation
T	=	total recoverable
t	=	total
tr	=	trout
TVS	=	table value standard
µg/L	=	micrograms per liter
UP	=	use-protected
WS	=	water supply
WS-I	=	warm stream temperature tier one
WS-II	=	warm stream temperature tier two
WS-III	=	warm stream temperature tier three
WL	=	warm lake temperature tier

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS
Upper South Platte River Basin

15. Mainstem of the South Platte River from the Burlington Ditch diversion in Denver, Colorado, to a point immediately below the confluence with Big Dry Creek.

COSPUS15	Classifications
Designation	Agriculture
	Aq Life Warm 1
Reviewable	Recreation E
	Water Supply

Qualifiers:

Other:

Temporary Modification(s):

Arsenic(chronic) = hybrid

Expiration Date of 12/31/2024

Discharger Specific Variance(s):

Selenium(acute) = TVS: no limit

Selenium(chronic) = TVS: 24 µg/L

Expiration Date of 12/31/2023

*Ammonia(acute) = See section 38.6(4) for site-specific standards.
*Ammonia(chronic) = See section 38.6(4) for site-specific standards.
*Copper(acute) = Copper BLM-based FMB
Cu FMB(ac)=26.4 ug/l
Downstream of the Metro Hite WWTF outfall.
*Copper(chronic) = Copper BLM-based FMB
Cu FMB(ch)= 18.0 ug/l
Downstream of the Metro Hite WWTF outfall.
*Uranium(acute) = See 38.5(3) for details.

*Uranium(chronic) = See 38.5(3) for details.

*D.O. (mg/L)(acute) = See section 38.6(4) for site-specific standards.
*D.O. (mg/L)(chronic) = See section 38.6(4) for site-specific standards.
*pH(acute) = 6.0 - 9.0 from 64th Ave. downstream 2 miles

*Variance: Selenium = see 38.6(6) for details.

Physical and Biological

Temperature °C	WS-I	WS-I

	acute	chronic
D.O. (mg/L)	varies*	varies*
pH	6.0-9.0*	---
pH	6.5 - 9.0	---
chlorophyll a (mg/m^2)	---	---
E. coli (per 100 mL)	---	126

Inorganic (mg/L)

	acute	chronic
Ammonia	TVS*	TVS*
Boron	---	0.75
Chloride	---	250
Chlorine	0.019	0.011
Cyanide	0.005	---
Nitrate	10	---
Nitrite	1.0	---
Phosphorus	---	---
Sulfate	---	WS
Sulfide	---	0.002

Metals (ug/L)

	chronic
Arsenic	340
Arsenic(T)	---
Cadmium	TVS
Cadmium(T)	5.0
Chromium III	---
Chromium III(T)	50
Chromium VI	TVS
Copper	---
Copper	TVS*
Iron	---
Iron(T)	---
Lead	TVS
Lead(T)	50
Manganese	TVS
Mercury(T)	---
Molybdenum(T)	---
Nickel	TVS
Nickel(T)	---
Selenium	TVS
Silver	TVS
Uranium	varies*
Zinc	TVS

0.02	
TVS	

TVS	

TVS	

TVS*	
WS	
1000	
TVS	

TVS/400	
0.01	
150	
TVS	
100	
TVS	
TVS	
varies*	
TVS	

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for further details on applied standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS
Clear Creek Basin

15. Mainstem of Clear Creek from Youngfield Street in Wheat Ridge, Colorado, to the confluence with the South Platte River.

COSPCL15	Classifications
Designation	Agriculture
	Aq Life Warm 1
	Recreation E
Reviewable	Water Supply

Qualifiers:

Other:

Temporary Modification(s):

Arsenic(chronic) = hybrid
Expiration Date of 12/31/2024

*Uranium(acute) = See 38.5(3) for details.
*Uranium(chronic) = See 38.5(3) for details.

Physical and Biological

Temperature °C	WS-II	WS-II
	acute	**chronic**
D.O. (mg/L)	---	5.0
pH	6.5 - 9.0	---
chlorophyll a (mg/m^2)	---	---
E. coli (per 100 mL)	---	126

Inorganic (mg/L)

	acute	**chronic**
Ammonia	TVS	TVS
Boron	---	0.75
Chloride	---	250
Chlorine	0.019	0.011
Cyanide	0.005	---
Nitrate	10	---
Nitrite	---	0.5
Phosphorus	---	---
Sulfate	---	WS
Sulfide	---	0.002

Metals (ug/L)

	acute	**chronic**
Arsenic	340	---
Arsenic(T)	---	0.02
Cadmium	TVS	TVS
Cadmium(T)	5.0	---
Chromium III	---	TVS
Chromium III(T)	50	---
Chromium VI	TVS	TVS
Copper	TVS	TVS
Iron	---	WS
Iron(T)	---	1000
Lead	TVS	TVS
Lead(T)	50	---
Manganese	TVS	TVS/WS
Mercury(T)	---	0.01
Molybdenum(T)	---	150
Nickel	TVS	TVS
Nickel(T)	---	100
Selenium	TVS	TVS
Silver	TVS	TVS
Uranium	varies*	varies*
Zinc	TVS	TVS

16a. Mainstem of Lena Gulch including all tributaries and wetlands from its source to the inlet of Maple Grove Reservoir.

COSPCL16A	Classifications
Designation	Agriculture
	Aq Life Warm 2
	Recreation E
UP	Water Supply

Qualifiers:

Other:

*Uranium(acute) = See 38.5(3) for details.
*Uranium(chronic) = See 38.5(3) for details.

Physical and Biological

Temperature °C	WS-II	WS-II
	acute	**chronic**
D.O. (mg/L)	---	5.0
pH	6.5 - 9.0	---
chlorophyll a (mg/m^2)	---	150
E. coli (per 100 mL)	---	126

Inorganic (mg/L)

	acute	**chronic**
Ammonia	TVS	TVS
Boron	---	0.75
Chloride	---	250
Chlorine	0.019	0.011
Cyanide	0.005	---
Nitrate	10	---
Nitrite	---	0.05
Phosphorus	---	0.17
Sulfate	---	WS
Sulfide	---	0.002

Metals (ug/L)

	acute	**chronic**
Arsenic	340	---
Arsenic(T)	---	0.02-10 [A]
Cadmium	TVS	TVS
Cadmium(T)	5.0	---
Chromium III	---	TVS
Chromium III(T)	50	---
Chromium VI	TVS	TVS
Copper	TVS	TVS
Iron	---	WS
Iron(T)	---	1000
Lead	TVS	TVS
Lead(T)	50	---
Manganese	TVS	TVS/WS
Mercury(T)	---	0.01
Molybdenum(T)	---	150
Nickel	TVS	TVS
Nickel(T)	---	100
Selenium	TVS	TVS
Silver	TVS	TVS
Uranium	varies*	varies*
Zinc	TVS	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for further details on applied standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS
Middle South Platte River Basin

1a. Mainstem of the South Platte River from a point immediately below the confluence with Big Dry Creek to the confluence with St. Vrain Creek.

COSPMS01A

Classifications
Agriculture
Aq Life Warm 1
Recreation E
Water Supply

Designation

Reviewable

Qualifiers:

Other:

Temporary Modification(s):

Arsenic(chronic) = hybrid

Expiration Date of 12/31/2024

*Ammonia(acute) = See section 38.6(4) for site-specific standards.
*Ammonia(chronic) = See section 38.6(4) for site-specific standards.
*Copper(acute) = Copper BLM-based FMB Cu FMB(ac)=26.4 ug/l
*Copper(chronic) = Copper BLM-based FMB Cu FMB(ch)=18.0 ug/l
*Uranium(acute) = See 38.5(3) for details.
*Uranium(chronic) = See 38.5(3) for details.
*D.O. (mg/L)(acute) = See section 38.6(4) for site-specific standards.
*D.O. (mg/L)(chronic) = See section 38.6(4) for site-specific standards.

Physical and Biological

Temperature °C	WS-I	WS-I

	acute	chronic
D.O. (mg/L)	varies*	varies*
pH	6.5 - 9.0	---
chlorophyll a (mg/m^2)	---	---
E. coli (per 100 mL)	---	126

Inorganic (mg/L)

	acute	chronic
Ammonia	TVS*	TVS*
Boron	---	0.75
Chloride	---	250
Chlorine	0.019	0.011
Cyanide	0.005	---
Nitrate	10	---
Nitrite	---	0.5
Phosphorus	---	---
Sulfate	---	WS
Sulfide	---	0.002

Metals (ug/L)

	acute	chronic
Arsenic	340	---
Arsenic(T)	---	0.02
Cadmium	TVS	TVS
Cadmium(T)	5.0	---
Chromium III	---	TVS
Chromium III(T)	50	---
Chromium VI	TVS	TVS
Copper	---	18.0*
Copper	26.4*	---
Iron	---	WS
Iron(T)	---	1000
Lead	TVS	TVS
Lead(T)	50	---
Manganese	TVS	TVS/WS
Mercury(T)	---	0.01
Molybdenum(T)	---	150
Nickel	TVS	TVS
Nickel(T)	---	100
Selenium	TVS	TVS
Silver	TVS	TVS
Uranium	varies*	varies*
Zinc	TVS	TVS

1b. Mainstem of the South Platte River from a point immediately below the confluence with St. Vrain Creek to the Weld/Morgan County Line.

COSPMS01B

Classifications
Agriculture
Aq Life Warm 1
Recreation E
Water Supply

Designation

Reviewable

Qualifiers:

Other:

Temporary Modification(s):

Arsenic(chronic) = hybrid

Expiration Date of 12/31/2024

*Uranium(acute) = See 38.5(3) for details.
*Uranium(chronic) = See 38.5(3) for details.

Physical and Biological

Temperature °C	WS-I	WS-I

	acute	chronic
D.O. (mg/L)	---	5.0
pH	6.5 - 9.0	---
chlorophyll a (mg/m^2)	---	---
E. coli (per 100 mL)	---	126

Inorganic (mg/L)

	acute	chronic
Ammonia	TVS	TVS
Boron	---	0.75
Chloride	---	250
Chlorine	0.019	0.011
Cyanide	0.005	---
Nitrate	10	---
Nitrite	---	0.5
Phosphorus	---	---
Sulfate	---	WS
Sulfide	---	0.002

Metals (ug/L)

	acute	chronic
Arsenic	340	---
Arsenic(T)	---	0.02
Cadmium	TVS	TVS
Cadmium(T)	5.0	---
Chromium III	---	TVS
Chromium III(T)	50	---
Chromium VI	TVS	TVS
Copper	TVS	TVS
Iron	---	WS
Iron(T)	---	1000
Lead	TVS	TVS
Lead(T)	50	---
Manganese	TVS	TVS/WS
Mercury(T)	---	0.01
Molybdenum(T)	---	150
Nickel	TVS	TVS
Nickel(T)	---	100
Selenium	TVS	TVS
Silver	TVS	TVS
Uranium	varies*	varies*
Zinc	TVS	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for further details on applied standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS
Middle South Platte River Basin

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for further details on applied standards.

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

WATER QUALITY CONTROL COMMISSION

5 CCR 1002-38

REGULATION NO. 38
CLASSIFICATIONS AND NUMERIC STANDARDS
FOR
SOUTH PLATTE RIVER BASIN, LARAMIE RIVER BASIN
REPUBLICAN RIVER BASIN, SMOKY HILL RIVER BASIN

APPENDIX 38-1
Stream Classifications and Water Quality Standards Tables

Effective 11/30/2022

Abbreviations and Acronyms

Aq	=	Aquatic
°C	=	degrees Celsius
CL	=	cold lake temperature tier
CLL	=	cold large lake temperature tier
CS-I	=	cold stream temperature tier one
CS-II	=	cold stream temperature tier two
D.O.	=	dissolved oxygen
DM	=	daily maximum temperature
DUWS	=	direct use water supply
E. coli	=	*Escherichia coli*
EQ	=	existing quality
mg/L	=	milligrams per liter
mg/m^2	=	milligrams per square meter
mL	=	milliliter
MWAT	=	maximum weekly average temperature
OW	=	outstanding waters
SSE	=	site-specific equation
T	=	total recoverable
t	=	total
tr	=	trout
TVS	=	table value standard
µg/L	=	micrograms per liter
UP	=	use-protected
WS	=	water supply
WS-I	=	warm stream temperature tier one
WS-II	=	warm stream temperature tier two
WS-III	=	warm stream temperature tier three
WL	=	warm lake temperature tier

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS
Upper South Platte River Basin

15. Mainstem of the South Platte River from the Burlington Ditch diversion in Denver, Colorado, to a point immediately below the confluence with Big Dry Creek.

COSPUS15	Classifications
Designation	Agriculture
Reviewable	Aq Life Warm 1
	Recreation E
	Water Supply

Qualifiers:

Other:

Temporary Modification(s):

Arsenic(chronic) = hybrid

Expiration Date of 12/31/2024

Discharger Specific Variance(s):

Selenium(acute) = TVS: no limit

Selenium(chronic) = TVS: 24 µg/L

Expiration Date of 12/31/2023

*Ammonia(acute) = See section 38.6(4) for site-specific standards.
*Ammonia(chronic) = See section 38.6(4) for site-specific standards.
*Copper(acute) = Copper BLM-based FMB Cu FMB(ac)=26.4 ug/l Downstream of the Metro Hite WWTF outfall.
*Copper(chronic) = Copper BLM-based FMB Cu FMB(ch)= 18.0 ug/l Downstream of the Metro Hite WWTF outfall.
*Uranium(acute) = See 38.5(3) for details.
*Uranium(chronic) = See 38.5(3) for details.
*D.O. (mg/L)(acute) = See section 38.6(4) for site-specific standards.
*D.O. (mg/L)(chronic) = See section 38.6(4) for site-specific standards.
*pH(acute) = 6.0 - 9.0 from 64th Ave. downstream 2 miles
*Variance: Selenium = see 38.6(6) for details.

Physical and Biological

	DM	MWAT
Temperature °C	WS-I	WS-I
	acute	**chronic**
D.O. (mg/L)	varies*	varies*
pH	6.0-9.0*	---
pH	6.5 - 9.0	---
chlorophyll a (mg/m^2)	---	---
E. coli (per 100 mL)	---	126

Inorganic (mg/L)

	acute	chronic
Ammonia	TVS*	TVS*
Boron	---	0.75
Chloride	---	250
Chlorine	0.019	0.011
Cyanide	0.005	---
Nitrate	10	---
Nitrite	1.0	---
Phosphorus	---	---
Sulfate	---	WS
Sulfide	---	0.002

Metals (ug/L)

	acute	chronic
Arsenic	340	---
Arsenic(T)	---	0.02
Cadmium	TVS	TVS
Cadmium(T)	5.0	---
Chromium III	---	TVS
Chromium III(T)	50	---
Chromium VI	TVS	TVS
Copper	---	TVS*
Copper	TVS*	---
Iron	---	WS
Iron(T)	---	1000
Lead	TVS	TVS
Lead(T)	50	---
Manganese	TVS	TVS/400
Mercury(T)	---	0.01
Molybdenum(T)	---	150
Nickel	TVS	TVS
Nickel(T)	---	100
Selenium	TVS	TVS
Silver	TVS	TVS
Uranium	varies*	varies*
Zinc	TVS	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for further details on applied standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS
Clear Creek Basin

15. Mainstem of Clear Creek from Youngfield Street in Wheat Ridge, Colorado, to the confluence with the South Platte River.

COSPCL15	Classifications
Designation	Agriculture
Reviewable	Aq Life Warm 1
	Recreation E
	Water Supply

Qualifiers:

Other:

Temporary Modification(s):
Arsenic(chronic) = hybrid
Expiration Date of 12/31/2024

*Uranium(acute) = See 38.5(3) for details.
*Uranium(chronic) = See 38.5(3) for details.

Physical and Biological

	DM	MWAT
Temperature °C	WS-II	WS-II
	acute	**chronic**
D.O. (mg/L)	---	5.0
pH	6.5 - 9.0	---
chlorophyll a (mg/m^2)	---	---
E. coli (per 100 mL)	---	126

Inorganic (mg/L)

	acute	chronic
Ammonia	TVS	TVS
Boron	---	0.75
Chloride	---	250
Chlorine	0.019	0.011
Cyanide	0.005	---
Nitrate	10	---
Nitrite	---	0.5
Phosphorus	---	---
Sulfate	---	WS
Sulfide	---	0.002

Metals (ug/L)

	acute	chronic
Arsenic	340	---
Arsenic(T)	---	0.02
Cadmium	TVS	TVS
Cadmium(T)	5.0	---
Chromium III	---	TVS
Chromium III(T)	50	---
Chromium VI	TVS	TVS
Copper	TVS	TVS
Iron	---	WS
Iron(T)	---	1000
Lead	TVS	TVS
Lead(T)	50	---
Manganese	TVS	TVS/WS
Mercury(T)	---	0.01
Molybdenum(T)	---	150
Nickel	TVS	TVS
Nickel(T)	---	100
Selenium	TVS	TVS
Silver	TVS	TVS
Uranium	varies*	varies*
Zinc	TVS	TVS

16a. Mainstem of Lena Gulch including all tributaries and wetlands from its source to the inlet of Maple Grove Reservoir.

COSPCL16A	Classifications
Designation	Agriculture
UP	Aq Life Warm 2
	Recreation E
	Water Supply

Qualifiers:

Other:

*Uranium(acute) = See 38.5(3) for details.
*Uranium(chronic) = See 38.5(3) for details.

Physical and Biological

	DM	MWAT
Temperature °C	WS-II	WS-II
	acute	**chronic**
D.O. (mg/L)	---	5.0
pH	6.5 - 9.0	---
chlorophyll a (mg/m^2)	---	150
E. coli (per 100 mL)	---	126

Inorganic (mg/L)

	acute	chronic
Ammonia	TVS	TVS
Boron	---	0.75
Chloride	---	250
Chlorine	0.019	0.011
Cyanide	0.005	---
Nitrate	10	---
Nitrite	---	0.05
Phosphorus	---	0.17
Sulfate	---	WS
Sulfide	---	0.002

Metals (ug/L)

	acute	chronic
Arsenic	340	---
Arsenic(T)	---	0.02-10 [A]
Cadmium	TVS	TVS
Cadmium(T)	5.0	---
Chromium III	---	TVS
Chromium III(T)	50	---
Chromium VI	TVS	TVS
Copper	TVS	TVS
Iron	---	WS
Iron(T)	---	1000
Lead	TVS	TVS
Lead(T)	50	---
Manganese	TVS	TVS/WS
Mercury(T)	---	0.01
Molybdenum(T)	---	150
Nickel	TVS	TVS
Nickel(T)	---	100
Selenium	TVS	TVS
Silver	TVS	TVS
Uranium	varies*	varies*
Zinc	TVS	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for further details on applied standards.

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS
Middle South Platte River Basin

1a. Mainstem of the South Platte River from a point immediately below the confluence with Big Dry Creek to the confluence with St. Vrain Creek.

COSPMS01A	Classifications
Designation	Agriculture
Reviewable	Aq Life Warm 1
	Recreation E
	Water Supply

Qualifiers:

Other:

Temporary Modification(s):

Arsenic(chronic) = hybrid

Expiration Date of 12/31/2024

*Ammonia(acute) = See section 38.6(4) for site-specific standards.
*Ammonia(chronic) = See section 38.6(4) for site-specific standards.
*Copper(acute) = Copper BLM-based FMB Cu FMB(ac)=26.4 ug/l
*Copper(chronic) = Copper BLM-based FMB Cu FMB(ch)=18.0 ug/l
*Uranium(acute) = See 38.5(3) for details.
*Uranium(chronic) = See 38.5(3) for details.
*D.O. (mg/L)(acute) = See section 38.6(4) for site-specific standards.
*D.O. (mg/L)(chronic) = See section 38.6(4) for site-specific standards.

Physical and Biological

	DM	MWAT
Temperature °C	WS-I	WS-I
	acute	**chronic**
D.O. (mg/L)	varies*	varies*
pH	6.5 - 9.0	---
chlorophyll a (mg/m^2)	---	---
E. coli (per 100 mL)	---	126

Inorganic (mg/L)

	acute	chronic
Ammonia	TVS*	TVS*
Boron	---	0.75
Chloride	---	250
Chlorine	0.019	0.011
Cyanide	0.005	---
Nitrate	10	---
Nitrite	---	0.5
Phosphorus	---	---
Sulfate	---	WS
Sulfide	---	0.002

Metals (ug/L)

	acute	chronic
Arsenic	340	---
Arsenic(T)	---	0.02
Cadmium	TVS	TVS
Cadmium(T)	5.0	---
Chromium III	---	TVS
Chromium III(T)	50	---
Chromium VI	TVS	TVS
Copper	---	18.0*
Copper	26.4*	---
Iron	---	WS
Iron(T)	---	1000
Lead	TVS	TVS
Lead(T)	50	---
Manganese	TVS	TVS/WS
Mercury(T)	---	0.01
Molybdenum(T)	---	150
Nickel	TVS	TVS
Nickel(T)	---	100
Selenium	TVS	TVS
Silver	TVS	TVS
Uranium	varies*	varies*
Zinc	TVS	TVS

1b. Mainstem of the South Platte River from a point immediately below the confluence with St. Vrain Creek to the Weld/Morgan County Line.

COSPMS01B	Classifications
Designation	Agriculture
Reviewable	Aq Life Warm 1
	Recreation E
	Water Supply

Qualifiers:

Other:

Temporary Modification(s):

Arsenic(chronic) = hybrid

Expiration Date of 12/31/2024

*Uranium(acute) = See 38.5(3) for details.
*Uranium(chronic) = See 38.5(3) for details.

Physical and Biological

	DM	MWAT
Temperature °C	WS-I	WS-I
	acute	**chronic**
D.O. (mg/L)	---	5.0
pH	6.5 - 9.0	---
chlorophyll a (mg/m^2)	---	---
E. coli (per 100 mL)	---	126

Inorganic (mg/L)

	acute	chronic
Ammonia	TVS	TVS
Boron	---	0.75
Chloride	---	250
Chlorine	0.019	0.011
Cyanide	0.005	---
Nitrate	10	---
Nitrite	---	0.5
Phosphorus	---	---
Sulfate	---	WS
Sulfide	---	0.002

Metals (ug/L)

	acute	chronic
Arsenic	340	---
Arsenic(T)	---	0.02
Cadmium	TVS	TVS
Cadmium(T)	5.0	---
Chromium III	---	TVS
Chromium III(T)	50	---
Chromium VI	TVS	TVS
Copper	TVS	TVS
Iron	---	WS
Iron(T)	---	1000
Lead	TVS	TVS
Lead(T)	50	---
Manganese	TVS	TVS/WS
Mercury(T)	---	0.01
Molybdenum(T)	---	150
Nickel	TVS	TVS
Nickel(T)	---	100
Selenium	TVS	TVS
Silver	TVS	TVS
Uranium	varies*	varies*
Zinc	TVS	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for further details on applied standards.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
Solicitor General

STATE OF COLORADO
DEPARTMENT OF LAW

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Office of the Attorney General

Tracking number: 2022-00101

Opinion of the Attorney General rendered in connection with the rules adopted by the

Water Quality Control Commission (1002 Series)

on 10/11/2022

5 CCR 1002-38

REGULATION NO. 38 - CLASSIFICATIONS AND NUMERIC STANDARDS SOUTH PLATTE RIVER BASIN LARAMIE RIVER BASIN REPUBLICAN RIVER BASIN SMOKY HILL RIVER BASIN

The above-referenced rules were submitted to this office on 10/31/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 31, 2022 12:42:16

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

Water Quality Control Commission (1002 Series)

CCR number

5 CCR 1002-101

Rule title

5 CCR 1002-101 REGULATION NO. 101 - WATER QUALITY CIVIL PENALTY INFLATION ADJUSTMENT REGULATION 1 - eff 01/01/2023

Effective date

01/01/2023

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 101 - WATER QUALITY CIVIL PENALTY INFLATION ADJUSTMENT REGULATION

5 CCR 1002-101

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

101.1 AUTHORITY

These regulations are promulgated pursuant to the Colorado Water Quality Control Act, sections 25-8-101 through 25-8-803, C.R.S. In particular, they are promulgated under sections 25-8-202 and 25-8-608(1), C.R.S.

101.2 PURPOSE

The purpose of these regulations is to annually adjust the amount of the maximum civil penalty applied to violations of the Colorado Water Quality Control Act, based on the percentage change in the United States Department of Labor's Bureau of Labor Statistics Consumer Price Index for Denver-Aurora-Lakewood for All Items and All Urban Consumer, or its successor index.

101.3 REGULATIONS

A. Beginning on January 1, 2023, the maximum civil penalty identified in 25-8-608(1), C.R.S., for a person who violates the Water Quality Control Act, a permit issued under the Act, a control regulation promulgated pursuant to the Act, or a final cease-and-desist order or clean-up order shall be not more than $XX,XXX per day per violation.

101.4 DEFINITIONS

The following definitions are applicable within the intent of these regulations:

A. "Colorado Water Quality Control Act" or "Act" means the Colorado Water Quality Control Act as from time to time amended, section 25-8-101, C.R.S., 1973, et seq.

B. "Commission" means the water quality control commission created by section 25-8-201, C.R.S.

C. "Division" means the Colorado Department of Public Health and Environment, Water Quality Control Division.

D. "Person" means an individual, corporation, partnership, association, state or political subdivision thereof, federal agency, state agency, municipality, commission, or interstate body.

101.5 – 101.9 RESERVED

101.11 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY, AND PURPOSE, ADOPTED OCTOBER 10, 2022: EFFECTIVE JANUARY 1, 2023

The provisions of Colorado Revised Statute Sections 25-8-608(1) provides the specific statutory authority for the Water Quality Civil Penalty Inflation Adjustment Regulation adopted by the Commission. The Commission has also adopted, in compliance with Colorado Revised Statute Section 24-4-103(4) C.R.S., the following Statement of Basis and Purpose.

BASIS AND PURPOSE

Section 25-8-608(1), C.R.S., directs that "the commission shall, by rule, annually adjust the amount of the maximum civil penalty based on the percentage change in the United States Department of Labor's Bureau of Labor Statistics Consumer Price Index for Denver-Aurora-Lakewood for All Items and All Urban Consumers, or its successor index." This revision to the regulation implements this statutory direction and provides for the new annually adjusted maximum civil penalty identified in 25-8-608(1) C.R.S., effective January 1, 2023.

The commission applied the first adjustment to the maximum civil penalty on January 1, 2022, which was based on the change between the July 2020 Consumer Price Index and the July 2021 Consumer Price Index and resulted in the maximum penalty amount of $56,759 per day per violation.

The new maximum penalty is calculated by adjusting the previous maximum penalty by the percent change in the Consumer Price Index from July 2021 to July 2022. The July 2021 Consumer Price Index is 285.267. The July 2022 Consumer Price Index is XXX.XXX. This represents a XX.XXX% change.

The adjusted maximum penalty is therefore equal to the previous maximum penalty $56,759 multiplied by (1 + (XXX.XXX) - 285.267) / 285.267).

PARTIES TO THE RULEMAKING HEARING
October 10, 2022
HEARING CHAIR:

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 101 - WATER QUALITY CIVIL PENALTY INFLATION ADJUSTMENT REGULATION

5 CCR 1002-101

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

101.1 AUTHORITY

These regulations are promulgated pursuant to the Colorado Water Quality Control Act, sections 25-8-101 through 25-8-803, C.R.S. In particular, they are promulgated under sections 25-8-202 and 25-8-608(1), C.R.S.

101.2 PURPOSE

The purpose of this regulation is to annually adjust the amount of the maximum civil penalty applied to violations of the Colorado Water Quality Control Act, based on the percentage change in the United States Department of Labor's Bureau of Labor Statistics Consumer Price Index for Denver-Aurora-Lakewood for All Items and All Urban Consumer, or its successor index.

101.3 REGULATIONS

A. Beginning on January 1, 2023, the maximum civil penalty identified in 25-8-608(1), C.R.S., for a person who violates the Water Quality Control Act, a permit issued under the Act, a control regulation promulgated pursuant to the Act, or a final cease-and-desist order or clean-up order shall be not more than $61,427 per day per violation.

101.4 DEFINITIONS

The following definitions are applicable within the intent of these regulations:

A. "Colorado Water Quality Control Act" or "Act" means the Colorado Water Quality Control Act as from time to time amended, section 25-8-101, C.R.S., 1973, et seq.

B. "Commission" means the water quality control commission created by section 25-8-201, C.R.S.

C. "Division" means the Colorado Department of Public Health and Environment, Water Quality Control Division.

D. "Person" means an individual, corporation, partnership, association, state or political subdivision thereof, federal agency, state agency, municipality, commission, or interstate body.

101.5 – 101.9 RESERVED

101.11 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY, AND PURPOSE, ADOPTED OCTOBER 11, 2022: EFFECTIVE JANUARY 1, 2023

The provisions of Colorado Revised Statute Sections 25-8-608(1) provides the specific statutory authority for the Water Quality Civil Penalty Inflation Adjustment Regulation adopted by the Commission. The Commission has also adopted, in compliance with Colorado Revised Statute Section 24-4-103(4) C.R.S., the following Statement of Basis and Purpose.

BASIS AND PURPOSE

Section 25-8-608(1), C.R.S., directs that “the commission shall, by rule, annually adjust the amount of the maximum civil penalty based on the percentage change in the United States Department of Labor's Bureau of Labor Statistics Consumer Price Index for Denver-Aurora-Lakewood for All Items and All Urban Consumers, or its successor index.” This revision to the regulation implements this statutory direction and provides for the new annually adjusted maximum civil penalty identified in 25-8-608(1) C.R.S., effective January 1, 2023.

The commission applied the first adjustment to the maximum civil penalty on January 1, 2022, which was based on the change between the July 2020 Consumer Price Index and the July 2021 Consumer Price Index and resulted in the maximum penalty amount of $56,759 per day per violation.

The new maximum penalty is calculated by adjusting the previous maximum penalty by the percent change in the Consumer Price Index from July 2021 to July 2022. The July 2021 Consumer Price Index is 285.267. The July 2022 Consumer Price Index is 308.728. This represents a 8.2% change.

The adjusted maximum penalty is therefore equal to the previous maximum penalty $56,759 multiplied by (1 + (308.728 - 285.267) / 285.267). This results in a 2022 adjusted maximum penalty of $61,427.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
Solicitor General

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Office of the Attorney General

Tracking number: 2022-00314

Opinion of the Attorney General rendered in connection with the rules adopted by the

Water Quality Control Commission (1002 Series)

on 10/11/2022

5 CCR 1002-101

REGULATION NO. 101 - WATER QUALITY CIVIL PENALTY INFLATION ADJUSTMENT REGULATION

The above-referenced rules were submitted to this office on 10/31/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 31, 2022 12:43:47

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Labor and Employment

Agency

Division of Vocational Rehabilitation

CCR number

7 CCR 1105-1

Rule title

7 CCR 1105-1 DIVISION OF VOCATIONAL REHABILITATION 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Vocational Rehabilitation

REHABILITATION SERVICES (STAFF MANUAL VOLUME 9)

7 CCR 1105-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

9.100 VOCATIONAL REHABILITATION PROGRAM

9.101 LEGAL AND OPERATIONAL BASIS [Rev. eff. 3/17/17]

The Department of Labor and Employment is the sole designated State agency that administers the vocational rehabilitation services program in Colorado, and the Division of Vocational Rehabilitation (DVR) is the sole designated State unit primarily concerned with the vocational rehabilitation of individuals with disabilities. Individuals with disabilities who receive services from DVR are referred to in general as "recipients" of services and include:

A. Students with disabilities who are potentially eligible for vocational rehabilitation (VR) services for the purposes of Pre-Employment Transition Services

B. Individuals who have applied to DVR

C. Individuals who have been determined to be eligible for DVR services

9.101.1 Blind and Low Vision Services (BLVS) [Rev. eff. 3/1/20]

A. DVR shall establish and maintain a specialized unit, BLVS, focused on providing services to individuals who are blind or have low vision. The BLVS unit shall have a dedicated manager reporting directly to the DVR Director, with oversite for personal adjustment training services, vocational rehabilitation services, the Business Enterprise Program (BEP), the Older Individuals Who are Blind (OIB) program, and other programs serving individuals who are blind or have low vision as appropriate.

B. In addition to other performance metrics for which DVR is accountable, BLVS shall demonstrate success through timely eligibility determinations, timely plan development, employment, and earnings. For purposes of evaluating performance, Program Year 2018 (July 1, 2018 – June 30, 2019) will establish a baseline of performance and ongoing performance evaluation will consider the impact of overall economic conditions.

C. BLVS shall conduct a minimum of biannual stakeholder meetings to ensure ongoing input from the community. Invited representatives shall include, but not be limited to:

1. National Federation of the Blind of Colorado;

2. American Council of the Blind of Colorado;

3. Colorado Optometric Association;

4. Colorado Center for the Blind;

5. Colorado School for the Deaf and Blind;

6. Anchor Center for Blind Children;

7. A Shared Vision;

8. BEP Operators;

9. Older Individuals Who are Blind Program Grantees;

10. BLVS Clients; and

11. The community at large.

9.102 PERSONNEL STANDARDS [Rev. eff. 3/17/17]

A. Federal law requires state vocational rehabilitation agencies to establish qualified personnel standards and education and experience requirements for rehabilitation personnel, including rehabilitation counselors. DVR has established minimum qualifications through the Department of Personnel and Administration that are consistent with the minimum educational requirements established by the Commission on Rehabilitation Counselor Certification. Other positions within the rehabilitation counselor series such as orientation and mobility (O&M) specialists and vision rehabilitation therapists are also required to meet the minimum educational standards of appropriate national level certifying bodies. DVR shall ensure counselors providing services to individuals who are blind or have low vision have the necessary training and experience to support successful competitive integrated employment outcomes for this population.

B. DVR shall take reasonable steps to ensure the safety of recipients of services and safeguard individuals from abuse or exploitation while participating in the VR program. As demonstrated by other state programs serving children, youth, and adults with disabilities, such steps shall include the requirement of criminal background checks for personnel engaged in direct care and services to, or accessing the confidential information of, this population.

9.103 PROTECTION, USE, AND RELEASE OF PERSONAL INFORMATION [Eff. 4/1/13]

9.103.1 Confidential Information [Rev. eff. 3/17/17]

All potentially eligible students and applicants (or their authorized representatives) shall be informed about DVR's need to collect personal information and the principal purposes for which DVR will use that information. Any information secured by or made available to DVR and/or its employees or representatives concerning referrals or recipients of the vocational rehabilitation program is considered confidential. Use of such information, current or stored, is limited to purposes directly connected to the administration of the Vocational Rehabilitation Program as identified in Sections 9.103.2 and 9.103.3 and is not to be otherwise disclosed, directly or indirectly. Individuals shall be notified of the confidential nature of their case records and the conditions for release of such information at the time of application or program involvement for a potentially eligible student with a disability.

9.103.2 Release to Recipients [Rev. eff. 3/17/17]

Information acquired or maintained by the Division of Vocational Rehabilitation (DVR) will be available upon written request, for inspecting and copying by a recipient or, as appropriate, the individual's representative, in accordance with the Colorado Open Records Act (Section 24 72-201, et. seq., C.R.S.), unless release of such information is prohibited by state or federal statutes, case law, or rules and regulations.

Medical, psychological, or other information which the counselor determines may be harmful to the individual shall not be released directly to the individual, rather such information shall be provided through a third party chosen by the individual. Any employee of DVR shall not disclose the information listed below to the recipient and/or his or her authorized representative:

A. Social Security Administration (SSA) information except when requested by the Client Assistance Program on behalf of the recipient;

B. Information from the U.S. Department of Veterans Affairs;

C. Medical or psychological information when the service provider states in writing that disclosure to the individual is prohibited. Applicants and eligible individuals requesting such information shall be referred to the originating source of the information.

9.103.3 Release to Other Programs or Authorities [Rev. eff. 3/17/17]

A. Confidential information may be released to other agencies or organizations when necessary for their program purposes only after DVR receives informed written consent from the recipient of DVR services or, if appropriate, the individual's representative, and under assurances that the agency or organization shall manage the information in a manner to safeguard its confidentiality in accordance with the confidentiality regulations governing vocational rehabilitation programs.

B. Information may be released to other programs or authorities without a recipient's written authorization when:

1. The information is directly connected with the administration of the Vocational Rehabilitation Program used only by persons officially connected with an audit or evaluation, and the final report contains no identifying information;

2. Sharing of the information, including pertinent medical and other data received from SSA, is necessary to establish an individual's eligibility for rehabilitation services and/or for the provision of such services under an Individualized Plan for Employment (IPE);

3. The information is required by federal law;

4. The information is necessary to respond to an investigation in connection with law enforcement, fraud, or abuse, unless expressly prohibited by Federal or State laws or regulations, and in response to a judicial order;

5. The information is necessary in order to protect the individual or others when the individual poses a threat to their own safety or to the safety of others;

6. The information is requested by the Social Security Administration (SSA); or,

7. The Director of the Division of Vocational Rehabilitation approves release to an organization or individual engaged in research.

9.104 RIGHTS TO REVIEW AND APPEAL

9.104.1 Review of DVR Determinations [Rev. eff. 3/17/17]

A. A recipient who is dissatisfied with any determination made by the Division of Vocational Rehabilitation (DVR) that affects the provision of vocational rehabilitation services may request a review of that decision through an informal or formal process. The individual may also utilize the mediation process to resolve disputes. If appropriate, any request for review or mediation may be made through the individual's authorized representative.

B. A recipient shall be notified, in writing, of their appeal rights, established procedures for review of determinations, and the availability of the Client Assistance Program each time the following occur:

1. At the time of program involvement for a potentially eligible student with a disability;

2. At the time of application for services;

3. At the time of placement into an Order of Selection (OOS) priority for services category;

4. At the time of Individualized Plan for Employment (IPE) development and any time the IPE is amended;

5. Any time that DVR makes a decision to reduce, suspend or terminate planned services;

6. At the time a case is closed for reasons of ineligibility; and,

7. At the time a case is closed from a deferred services wait list.

C. A recipient shall be responsible for their personal costs (including, but not limited to, legal representation and copying fees) associated with the individual's review, appeal or mediation unless otherwise ordered.

D. An applicant's or eligible individual's appeal shall not result in suspension, reduction or termination of vocational rehabilitation services pending resolution of their appeal unless:

1. A recipient or, if appropriate, the individual's representative requests a suspension, reduction or termination of services; or,

2. There is evidence that fraud has occurred or that the vocational rehabilitation services were obtained through misrepresentation, collusion or criminal conduct.

9.104.2 Mediation of Disputes [Eff. 3/17/17]

A. An applicant or eligible individual may seek mediation by a qualified and impartial mediator as a means to resolve a dispute with the Division of Vocational Rehabilitation (DVR). The goal of mediation is to achieve consensus between the individual and DVR. The individual may bring an authorized representative to assist them during the mediation process.

1. The request for mediation shall be submitted, in writing, to the DVR administrative office at any time during the review process and no later than the 60th day from the date the formal hearing is requested. The request shall identify the decision or action that is being disputed, why it is being disputed and what solution is requested. A qualified and impartial mediator arranged through the state shall be provided at no cost to the individual.

2. If the recipient requests mediation, DVR shall participate unless:

   a. It is not possible to resolve the dispute without placing the Department in clear violation of state or federal law, rules, policy or the approved State Plan;

   b. A mediated outcome is not possible based on documented evidence from previous experience with the individual concerning the issue under dispute;

   c. The individual has committed acts of violence, has threatened acts of violence or has engaged in other forms of harassment against Department staff or any other individuals involved in the provision of vocational rehabilitation services; or,

   d. The individual has failed to fulfill their responsibilities under a previous mediation agreement with DVR concerning the issue under dispute.

B. DVR may seek mediation by a qualified and impartial mediator as a means to resolve a dispute with a recipient before the individual requests an informal review or a formal appeal if the individual agrees to participate.

C. Mediation shall commence within twenty-one (21) days of the request for mediation and shall not delay conduct of the formal appeal unless both parties agree additional time is necessary.

   Mediation is limited to a maximum of six (6) hours of mediation session(s) unless both parties and the mediator agree that additional hours may provide a resolution. Mediation shall be completed within one (1) calendar month of the initial request unless both parties and the impartial mediator agree that additional time is necessary.

D. If mediation is successful, the consensus reached by both parties shall be documented in writing by the mediator and provided to both parties within seven (7) calendar days. Each party shall sign the agreement, which indicates agreement with its terms and a commitment to fulfill each party's respective responsibilities. If agreement on all issues is reached, the parties shall withdraw any pending informal review or formal appeal request. DVR shall not agree to any provision that it believes is contrary to state and federal law, rules, and policy or the approved State Plan.

E. If mediation is not successful, the individual may initiate, or proceed with, an informal review or a formal appeal of the issue under dispute.

F. Failure of the individual to honor their commitment under the terms of the mediation agreement shall void the mediation agreement.

9.104.3 Informal Review [Rev. eff. 3/17/17]

The recipient may request an informal review to resolve the issue(s) under dispute without mediation or conduct of a formal appeal. The informal resolution process will result in a decision by DVR regarding the issue under dispute. An individual shall not be required to go through an informal review prior to or instead of a formal appeal. An informal review shall be conducted within thirty (30) calendar days of the initial request unless both parties agree that additional time is necessary. Informal review shall not delay a formal appeal if one has been requested. If the informal review does not resolve the issue(s), and the formal appeal process has not been requested, the individual may request a formal appeal.

A. Informal review begins with a request for the applicable DVR Supervisor to review a decision concerning the provision of vocational rehabilitation services.

B. If the applicant or eligible individual is not satisfied with the decision made by the Supervisor, the applicant or eligible individual may take the next step and submit a written request for review to the Deputy of Field Services (or designee) to review the decision.

9.104.4 Formal Appeal Process [Rev. eff. 3/17/17]

An applicant or eligible individual may initiate a formal appeal regarding a determination to resolve the issue(s) under dispute without mediation or conduct of an informal review.

A. A written request for a formal appeal must be submitted to the Colorado Department of Personnel and Administration, Office of Administrative Courts (OAC), within ninety (90) calendar days of the subject determination made by the DVR counselor or other DVR staff that affects a provision of pre-employment transition services or vocational rehabilitation services.

B. The written request must be a statement detailing the basis of appeal, including a description of the determination made by DVR staff that the individual is appealing. The statement should include a description of what the individual wants from the appeal.

C. A recipient and DVR may voluntarily participate in mediation through the OAC. Mediation may not be used to deny or delay an individual's right to pursue resolution of the dispute through the formal appeal process unless both parties agree that additional time is necessary for mediation.

9.104.5 Formal Appeal before the Office of Administrative Courts [Rev. eff. 3/17/17]

A. When the Office of Administrative Courts (OAC) receives a request for a formal appeal, the OAC shall notify DVR and the Attorney General's Office, Labor and Employment Unit, that the request has been docketed and send a copy of the formal appeal request to DVR and the Attorney General's Office.

B. A representative from the Attorney General's office, on behalf of DVR, shall serve a notice to set an informal pre-hearing conference within ten (10) calendar days of receipt of the formal appeal request from the OAC. The purpose of the informal pre-hearing conference shall be to:

1. Identify the issues for appeal.

2. Set a date for DVR to provide a written statement summarizing the background and history of services for the appeal.

3. Set a date for a response from the appellant to respond to the summary and identify specific issues for the appeal. The appellant should identify specific remedies being sought, if known.

4. Set the date for hearing within sixty (60) days, unless both parties agree that more time is needed and agree to extend beyond the sixty days.

5. Set dates for an exchange of witness and exhibit list, as well as exchanging exhibits or other evidence.

C. The Administrative Law Judge shall conduct the hearing within sixty (60) calendar days of an individual's request for formal appeal unless both parties agree additional time is necessary.

D. The Administrative Law Judge shall conduct the hearing on formal appeal in accordance with the Administrative Procedure Act, Section 24-4-105, C.R.S. The rights of the parties include:

1. Each party shall have the right to present his or her case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct cross-examination.

2. Subject to these rights and requirements, where a hearing will be expedited and the interest of the parties will not be subsequently prejudiced thereby, the Administrative Law Judge may receive all or part of the evidence in written form or by oral stipulations.

3. Hearings will be conducted at a site convenient to the appellant. A telephonic hearing may be conducted as an alternative to a face-to-face hearing if requested by either party. If either party requests a face-to-face hearing, the written request for a face-to-face hearing must be filed with the OAC and the other party at least ten (10) calendar days before the scheduled hearing.

E. At the conclusion of the hearing, unless the Administrative Law Judge allows additional time to submit documentation, the Administrative Law Judge shall take the matter under advisement. After considering all the relevant evidence presented by the parties, the Administrative Law Judge shall render an initial decision.

F. The initial decision shall uphold, modify or reverse DVR's determination affecting the provision of pre-employment transition services or vocational rehabilitation services to a recipient or the decision regarding eligibility for services.

G. The initial decision shall be rendered within thirty (30) calendar days of the completion of the hearing.

H. When an appellant fails to appear at a duly scheduled hearing, having been given proper notice, without having given timely advance notice to the Administrative Law Judge of acceptable good cause for inability to appear at the hearing at the time, date and place specified in the notice of hearing, then the appeal shall be considered abandoned and the Administrative Law Judge shall enter an initial decision dismissing appeal.

9.104.6 Further Appeal [Eff. 3/17/17]

A. The initial decision rendered by the Administrative Law Judge shall become the final decision of the agency in absence of an exception filed by either party within thirty days after service of the initial decision, unless extended by the agency.

B. If a timely exception to the initial decision is filed by the appellant, the agency shall issue a final decision and advise the individual of his/her right to seek judicial review in the State District Court, City and County of Denver.

C. Any recipient who wishes to challenge the final agency decision may also bring a civil action for review of such decision (i.e. judicial review per CRS 24-4-105). The final agency decision shall be implemented pending the results of the review under a civil action. The civil action may be brought in any State court or in a district court of the United States, regardless of the amount in controversy. All records relating to the hearing shall be provided to the court in which the civil action shall be heard. Additional evidence may be provided upon request of the individual or the Director of DVR. The decision of the court and any relief granted as a result of the civil action shall be deemed final and binding.

9.104.7 Grievance of Discrimination on the Basis of Disability [Eff. 3/02/19]

An individual who believes they have experienced discrimination in violation of the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, as amended, or the Colorado Anti-Discrimination Act (CADA) is entitled to due process and may file a grievance.

A. Informal Resolution: An individual who believes they have experienced discrimination on the basis of disability may seek informal resolution by contacting the Deputy for Field Services, or their designee, as soon as possible to explain the concern and propose a solution. Informal review shall be conducted in a timely manner that shall not delay a formal grievance. If the informal review does not resolve the issue(s), and the formal grievance has not already been filed, the individual may seek resolution through the formal grievance procedures.

B. Formal Grievance Procedures: An individual, or the individual's authorized representative, may initiate a formal grievance in lieu of seeking an informal resolution or if the informal resolution process did not satisfactorily resolve the concern.

1. Formal Written Complaint: A written complaint shall be considered when submitted to the ADA and Section 504 Coordinator of the Colorado Department of Labor and Employment within thirty (30) calendar days of the alleged offense or incident. The complaint shall include the name, address, and telephone number of the person filing the complaint; a description of the incident or alleged offense with as much information as possible; the date and location of the incident or alleged offense; and a proposed agency response that would resolve the issue(s) to the satisfaction of the complainant.

   Within thirty (30) calendar days of receipt of the complaint, the ADA and Section 504 Coordinator shall conduct an investigation of the circumstances involved. At the conclusion of the investigation, the ADA and Section 504 Coordinator shall respond in writing or, as appropriate, in a format accessible to the complainant, explaining the position of the Department.

2. Additional Action: If the response of the written complaint by the ADA and Section 504 Coordinator does not satisfactorily resolve the concern, the complainant, or the complainant's authorized representative, may contact the Colorado Civil Rights Division (CCRD) or the United States Department of Education's Office of Civil Rights (OCR) within sixty (60) days of the Department's decision. An individual does not need to seek resolution through DVR's information resolution or written complaint processes prior to filing a discrimination complaint with CCRD or OCR. A complaint directly to CCRD must be filed within sixty (60) days of the alleged incident of discrimination. A complaint directly to OCR must be filed within 180 days of the alleged incident of discrimination.

9.105 APPLICATION AND ELIGIBILITY [Eff. 3/17/17]

9.105.1 Application [Eff. 3/17/17]

A. An applicant is an individual who has applied for DVR services. Authorized representatives shall be involved in pertinent issues in the same manner as the applicant or client. DVR shall provide assistance and/or accommodations throughout the application process.

Application criteria for vocational rehabilitation services:

1. An individual or, as appropriate, the individual's authorized representative, signs and dates DVR's application for services; and

2. The individual is available to complete the assessment process; and

3. Information necessary to initiate the eligibility determination process is provided.

9.105.2 Eligibility [Rev. eff. 3/17/17]

A. DVR will work with each applicant to obtain existing records and documents, and when necessary, conduct additional assessments needed to determine eligibility. The length of time between application and eligibility shall not exceed sixty (60) calendar days unless a period of trial work experience is required or exceptional and unforeseen circumstances beyond the agency's control preclude determining eligibility within sixty calendar days and the counselor and applicant agree to a specific extension of time.

Eligibility criteria for vocational rehabilitation services requires that:

1. The individual has a physical or mental impairment documented by qualified personnel. For purposes of this eligibility criteria, DVR considers "qualified personnel" to be individuals or practitioners that are licensed and regulated by the Colorado Department of Regulatory Agencies to determine the existence of an impairment for their specific area of medical or psychological practice, or who otherwise meet established state or national licensing and certification requirements for that area of practice. In addition, the Social Security Administration and education officials responsible for the public education of students with disabilities are considered by DVR to be qualified personnel for this eligibility criterion;

2. The impairment constitutes or results in a substantial impediment to employment that is consistent with the individual's abilities and capabilities;

3. The individual requires vocational rehabilitation services to prepare for, secure, retain, advance in, or regain employment consistent with their unique strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice; and,

4. The Division of Vocational Rehabilitation (DVR) presumes that an applicant who meets all other eligibility criteria can benefit in terms of an employment outcome from the provision of vocational rehabilitation services. If DVR questions whether the individual's disability is too severe for them to benefit from services in terms of an employment outcome, clear and convincing evidence shall be obtained through the provision of trial work experiences.

B. Presumptive Eligibility

An applicant who is determined to be eligible for Supplemental Security Income (SSI) and/or Social Security Disability Insurance (SSDI) benefits (based on their own disability, including blindness) is presumed to meet the eligibility requirements. Verification of eligibility for SSI/SSDI benefits is sufficient to establish that DVR eligibility criteria are met unless the presumption of benefit in terms of an employment outcome is questionable due to the severity of the disability(ies), which may require trial work experiences.

9.106 SEVERITY OF DISABILITY [Rev. eff. 3/17/17]

The assessment for determining eligibility and identifying vocational rehabilitation needs shall establish an individual's priority for services, based upon whether the individual's disability is most significant, significant, or an individual with a disability.

A. An individual with a most significant disability is defined as an eligible individual (including presumptively eligible) who has a severe physical or mental impairment that seriously limits three or more functional capacities (communication, interpersonal skills, mobility, motor skills, self-care, self-direction, work skills, or work tolerance) in terms of an employment outcome; and, whose vocational rehabilitation can be expected to require the provision of two or more vocational rehabilitation services for at least five months.

B. An individual with a significant disability is defined as an eligible individual who has been verified to be presumptively eligible or who has a severe physical or mental impairment that seriously limits one or two functional capacity areas (communication, interpersonal skills, mobility, motor skills, self-care, self-direction, work skills, or work tolerance) in terms of an employment outcome; and, whose vocational rehabilitation can be expected to require the provision of two or more vocational rehabilitation services for at least five months.

C. An individual with a disability is defined as an eligible individual who does not meet the criteria for most significant or significant.

9.107 PROVISION OF VOCATIONAL REHABILITATION SERVICES [Rev. eff. 3/17/17]

A. Pre-employment transition services must be made available statewide to all students with disabilities, regardless of whether the student has applied or been determined eligible for vocational rehabilitation services.

1. Pre-employment transition services are:

a. Job exploration counseling;

b. Work-based learning experiences that are provided in an integrated environment in the community to the maximum extent possible;

c. Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs and institutions of higher education;

d. Workplace readiness training to develop social skills and independent living; and

e. Instruction in self-advocacy, which may include peer mentoring.

B. All other vocational rehabilitation services shall be provided to:

1. Applicants to determine eligibility and severity of disability.

2. Eligible individuals to determine a vocational goal and identify the nature and scope of the services necessary to reach that vocational goal.

3. Under an Individualized Plan for Employment (IPE) to assist an individual in preparing for, securing, retaining, advancing in, or regaining an employment outcome.

Services shall be necessary, appropriate, and purchased at least possible cost. A service is considered necessary only if it is essential to assess an individual's eligibility and severity of disability, to establish the individual's vocational rehabilitation needs, to overcome or circumvent an identified vocational impediment(s), and to attain the individual's chosen employment outcome. A service is considered appropriate if it is of sufficient quality to fully meet the individual's particular needs and circumstances. Least possible cost is considered only after the determination of necessary and appropriate. All services shall be provided in the most integrated settings possible.

9.107.1 Engagement and Contact [Rev. eff. 3/17/17]

An effective vocational rehabilitation program requires the active participation of each eligible individual. A DVR staff member shall contact every eligible individual at least once every two months and document this in the client record.

9.108 UTILIZATION OF REHABILITATION FUNDS

9.108.1 Expenditure of Rehabilitation Funds [Rev. eff. 9/30/2019]

A. Payment for Services

Necessary and appropriate services provided to applicants and eligible individuals shall be procured at the least possible cost to the Division of Vocational Rehabilitation (DVR). All services and goods shall be authorized prior to, or at the initiation of, the delivery of the service or good unless the service record documents that prior written authorization is not possible. All goods shall be procured in compliance with state purchasing procedures.

B. Estimation of Costs

All completed Individualized Plans for Employment (IPE) shall contain estimates of anticipated agency costs and contributions for goods and services listed.

C. Regardless of the vocation chosen, DVR excludes supporting a business that does not comply with all relevant state, federal, and local laws and regulations.

D. Fee Schedule

Services must be authorized and payments approved in accordance with current agency fee schedules. Fees exceeding the established maximum may be authorized and paid only when the specific service is not available at the established rate or when the service available at the established rate is not adequate to meet the individual's rehabilitation needs.

E. Provider Standards

Vocational goods and services are purchased only from providers who meet minimum standards and possess sufficient knowledge of disability and disability-related barriers to effectively meet the needs of recipients of DVR services. Minimum standards are identified in DVR’s fee schedule.

1. DVR shall take reasonable steps to ensure the safety of recipients of services and safeguard individuals from abuse or exploitation while participating in the VR program and interacting with providers of services purchased by DVR. DVR shall establish and maintain policies and procedures specifying the manner in which criminal background checks will be utilized prior to registering providers or approving contracts which will require direct contact with recipients of services or access to confidential information.

2. Additional training and certification requirements apply to Supported Employment service providers.

    a. Supported Employment service providers shall possess either a nationally recognized Supported Employment certification (Certification) approved by the Department of Health Care Policy and Financing (HCPF) and DVR or complete a nationally recognized training certificate (Training Certificate) approved by HCPF and DVR. Approved Certifications and Training Certificates shall align with the following core competencies:

i. Core values and principles of Supported Employment. These include the priority of employment for all working-age persons with disabilities, and the belief that all people are capable of full participation in employment and community life. These values and principles are essential to successfully providing Supported Employment services.

ii. Person-centered process. The process identifies the strengths, preferences, needs (clinical and support), and desired outcomes of the individual and individually identified goals and preferences related to relationships, community participation, employment, income and savings, healthcare and wellness, and education. The Person-centered approach includes working with a team where the individual chooses the people involved on the team and receives necessary information and support to ensure he or she is able to direct the process to the maximum extent possible; effective communication; and appropriate assessment.

iii. Individualized career assessment and planning. This process is used to determine the individual's strengths, needs, and interests to support career exploration and leads to effective career planning, including the consideration of necessary accommodations and benefits planning.

iv. Individualized job development. Identifying and creating individualized competitive integrated employment opportunities for individuals with significant disabilities, which meet the needs of both the employer and the individual. This competency includes negotiation of necessary disability accommodations.

v. Individualized job coaching. Providing necessary workplace supports to individuals with significant disabilities to ensure success in competitive integrated employment and resulting in a reduction in the need for paid workplace supports over time.

b. Supported Employment service providers employed by a provider agency or registered as a vendor with DVR on or before July 1, 2019, shall obtain Certification or a Training Certificate no later than July 1, 2024.

c. Supported Employment service providers hired by a provider agency or registered as a vendor with DVR after July 1, 2024, shall obtain Certification or a Training Certificate within two years of employment.

i. Beginning July 1, 2024, Supported Employment service providers who are not fully qualified shall receive supervision from a Supported Employment service provider who is fully qualified (Supervisor) until he or she becomes fully qualified.

ii. Supervision shall include, at a minimum, one-on-one meetings (in person or virtually) between the Supported Employment service provider and the Supervisor at least twice each month, and onsite job shadowing at least twice each year (12 month period of time).

d. Supported Employment service providers obtaining Certification and/or Training Certificate shall be eligible to receive reimbursement for the training and/or Certification costs, as applicable. Reimbursement is limited to $300 per Certification and $1,200 per Training Certificate. Reimbursement amounts are inclusive of all associated costs, such as registration fees, travel, and wages.

i. Supported Employment service providers seeking reimbursement for Training Certificate and/or Certification costs shall obtain pre-approval and request reimbursement from HCPF in accordance with 10 CCR 25.5-10 §8.500.14.H.

F. Payment for Transportation

Transportation is provided to an individual if necessary to participate in DVR services. Public transportation is encouraged unless the individual's impairment-related limitations prevent use of public transportation. If the individual chooses to use their own vehicle when public transportation is available and accessible, reimbursement for mileage may be provided up to the cost of public transportation.

To receive reimbursement, the individual or the individual's driver shall have a valid driver's license, possess an active insurance policy to drive the automobile, and use an automobile that is appropriately licensed and registered. Appropriate documentation shall be provided to DVR to support the reimbursement is related to services necessary for eligibility determination or in connection with the provision of services.

G. State Property

Goods purchased for use by an eligible individual in a training program, trade, or business remain the property of the State of Colorado until successful closure from DVR occurs. DVR may choose to recover purchased equipment per established policy and/or procedure.

9.108.2 Applicant or Eligible Individual Financial Participation [Rev. eff. 3/17/17]

Payment for most services or goods for individuals other than SSI/SSDI recipients is based upon the economic need of the individual and the finances of the family unit. DVR shall conduct a determination of the individual's economic need prior to the preparation and approval of an Individualized Plan for Employment or a Business Exploration Agreement whenever the plan contains a vocational rehabilitation service that is not specifically exempted from financial participation. An individual who receives Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) is exempt from the determination of economic need and from participating financially in their rehabilitation plan.

A. Re-determinations of the individual's economic need shall be conducted within forty-five (45) days of a change to the individual's financial circumstances.

B. All economic need determinations shall be documented and require an individual's proof of financial status. Documentation accepted as proof of financial status shall be defined in writing by DVR. The applicant or eligible individual shall provide proof of financial status unless the service record documents that there is no proof of financial status available and/or it cannot be obtained. If proof of financial status cannot be obtained, the statement of the applicant or eligible individual and/or member of his/her family shall establish data used to complete economic need determinations.

C. The family unit consists of the applicant or eligible individual, the spouse of the individual, and any other persons whom the individual claims as a dependent for income tax purposes. When the individual is dependent upon their parents, the parents and persons for whom the parents are financially responsible shall be considered part of the family unit. An individual who is living with his/her parents is considered a dependent unless the parents have not claimed the individual as a dependent for income tax purposes for the tax year previous to the financial need determination and do not intend to claim the individual as a dependent in current and future years.

Exceptions to the family unit may occur if the service record documents a clear indication that the individual is not receiving financial support from the family unit. When this occurs, he/she may be considered his/her own family unit regardless of dependent status for income tax purposes.

D. The financial need analysis shall determine economic need and consider income and net resources as well as the allowable monthly deductions of the entire family unit. Standardized allowances for normal living costs are determined by the size of the family unit.

E. Financial participation of the individual or completion of a financial need analysis is not required for the following vocational rehabilitation services:

1. Diagnostic and related assessment services that are required to determine eligibility and vocational rehabilitation needs, including transportation necessary to obtain the assessment.

2. Vocational rehabilitation counseling and guidance;

3. Referral services;

4. Professional fees to providers of vocational adjustment and personal adjustment training, independent living skills training, job coaching, on-the-job training, job seeking skills training, training in the use of rehabilitation technology, and business consultation services provided through a Business Exploration Agreement;

5. Interpreter services and note-taking services for individuals who are deaf;

6. Reader services and note-taking services for individuals who are blind;

7. Personal assistance services;

8. Auxiliary aids needed for an individual with a disability to participate in the vocational rehabilitation program;

9. Job-related services;

10. Occupational goods & services;

11. Self-Employment goods & services;

12. Any service or good furnished to an individual for whom the DVR counselor has evidence of current eligibility for SSI and/or SSDI benefits for disability or blindness; and

13. Pre-employment transition services.

9.109 CASE CLOSURE [Rev. eff. 3/17/17]

The DVR counselor may close a case record for an applicant or eligible individual when it is determined vocational rehabilitation services are no longer necessary or appropriate for the individual to achieve an employment outcome. The case record of an individual who receives services that lead to an employment outcome shall be closed when the individual achieves the criteria for successful closure. If it is determined that an applicant is ineligible for services or the individual receiving services is no longer eligible for services, the case record shall be closed.

9.110 REGULATORY CITATION [Eff. 3/17/17]

9.100 is developed in accordance with 34 CFR 361 (August 2016). No amendments or later editions are incorporated. Copies are available for purchase at the Government Bookstore, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294. A copy is available for inspection during regular business hours at the Colorado Department of Labor and Employment, Division of Vocational Rehabilitation, Office of the Director, 633 17th Street, Suite 1501, Denver, Colorado 80205; or any state publications depository library.

9.200 INDEPENDENT LIVING (IL) SERVICES

9.201 GENERAL PROVISIONS

The purpose of the program authorized by Title 8. Article 85.INDEPENDENT LIVING SERVICES, Colorado Revised Statutes, is to promote a philosophy of independent living (IL), including consumer control, peer support, self-help, self-determination, equal access, individual and system advocacy, and transitions to maximize the leadership, empowerment, independence, and productivity of individuals with significant disabilities, and to promote and maximize the integration and full inclusion of individuals with significant disabilities into the mainstream of American society.

9.202 DEFINITIONS

“CIL” means a Center for Independent Living.

“Code of Federal Regulations” means Code of Federal Regulations, Title 2 – Grants and Agreements, Subtitle A – Office of Management and Budget Guidance for Grants and Agreements, Chapter II – Office of Management and Budget Guidance, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (http://www.ecfr.gov/cgi-bin/text idx? tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl)

“Consumer Service Record (CSR)” means a complete record which includes eligibility determination, intake information, a signed Independent Living Plan (ILP) or waiver, specific goals, a description of services, Client Assistance Program (CAP) information, a confidentiality agreement, a grievance policy, and a record of whether goals were achieved.

“Director” means the Director of the Division of Vocational Rehabilitation.

“DVR” means the Division of Vocational Rehabilitation.

“Federal Act” means Title VII of the Federal Rehabilitation Act of 1973, as amended and codified in 29 U.S.C. 71 1(c) and Section 796. This rule does not contain any later editions of those parts. Copies of these regulations are available from: Colorado Department of Labor and Employment, Division of Vocational Rehabilitation, Office of Independent Living, 633 17th Street, 15th Floor, Denver, CO 80202 or at any State Publication Depository Library.

“Network” means the Network of Certified Colorado Centers for Independent Living.

“OIL” means the Office of Independent Living Services

“Provider association” means the Association of Colorado Centers for Independent Living (ACCIL).

“Service area” means the community, county, or groups of counties a CIL serves.

“SILC” means Statewide Independent Living Council.

“SILS” means State Independent Living Services Program, in accordance with 34 CFR 365.1. No later editions are incorporated. Copies of these federal regulations are available from the Colorado Department

of Labor and Employment, Division of Vocational Rehabilitation, Office of Independent Living, 633 17th Street, 15th Floor, Denver, CO 80202 or at any State Publication Depository Library.

"State" means the State of Colorado.

"Verification team" means a team designated by the Director, which consists of DVR/OIL Staff and a representative of the CILs network.

9.203 SERVICES PROVIDED

A. Independent living services includes the independent living core services which consist of information and referral services, IL skills training, peer counseling, (including cross-disability peer counseling), individual and systems advocacy; and transition services; and

B. Other services, such as:

1. Counseling services, including psychological, psychotherapeutic, and related services;

2. Services related to securing housing or shelter, including services related to community group living, that are supportive of the purposes of the federal Act, and adaptive housing services, including appropriate accommodations to and modifications of any space used to serve, or to be occupied by, individuals with significant disabilities;

3. Rehabilitation technology;

4. Mobility training;

5. Services and training for individuals with cognitive and sensory disabilities, including life skills training and interpreter and reader services;

6. Personal assistance services, including attendant care and the training of personnel providing these services;

7. Surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

8. Consumer information programs on rehabilitation and IL services available under the Federal Act, especially for minorities and other individual with significant disabilities who have traditionally been unserved or underserved by programs under the Federal Act;

9. Education and training necessary for living in a community and participation in community activities;

10. Supported living;

11. Transportation, including referral and assistance for transportation;

12. Physical rehabilitation;

13. Therapeutic treatment;

14. Provision of needed prostheses and other appliances and devices;

15. Individual and group social and recreational services;

16. Training to develop skills specifically designed for youths who are individuals with significant disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

17. Services for children;

18. Services under other federal, state, or local programs designed to provide resources, training, counseling, or other assistance of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with significant disabilities:

19. Appropriate preventive services to decrease the need of individuals with significant disabilities assisted under the Federal Act for similar services in the future;

20. Community awareness programs to enhance the understanding and integration into society of individuals with significant disabilities; and,

21. Any other services that may be necessary to improve the ability of an individual with a significant disability to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment and that are not inconsistent with any other provisions of the Federal Act.

9.203.1 DISCONTINUATION OF SERVICES [Eff. 4/1/13]

Section 51 of 34 CFR 364 under the authority of 29 U.S.C. 796-796f-5 which do not include amendments to or editions of said regulations later than August 15, 1994, provides requirements for determinations of eligibility or ineligibility, in accordance with all parts, incorporated herein by reference. Copies of these regulations are available from: Colorado Department of Labor and Employment, Division of Vocational Rehabilitation, Office of Independent Living, 633 17th Street, 15th Floor, Denver, CO 80202 or at any State Publication Depository Library.

A CIL shall discontinue Independent Living (IL) services to an individual if the individual is no longer eligible to receive IL services. An individual is no longer eligible to receive IL services when the delivery of IL services will no longer improve the individual's ability to function, ability to continue functioning, or move toward functioning independently in the community. If the CIL intends to discontinue services to an individual receiving IL services under an IL plan or an individual receiving services after they have waived their right to a plan, the CIL shall follow the requirements that apply to determinations of ineligibility and review of ineligibility determinations.

9.203.2 APPEAL PROCEDURES [Eff. 4/1/13]

Section 58 of 34 CFR 364 requires each CIL to establish consumer appeal procedures; Section 30 of CFR 364 requires each center to provide notice of the Client Assistance Project in accordance with all parts, under the authority of 29 U.S.C. 796-796f-5 which do not include amendments to or editions of said regulations later than August 15, 1994 of those parts and incorporated herein by reference. Copies of these regulations are available from: Colorado Department of Labor and Employment, Division of Vocational Rehabilitation, Office of Independent Living, 633 17th Street, 15th Floor, Denver, CO 80202 or at any State Publication Depository Library

A. Each CIL must establish policies and procedures that an individual may use to obtain review of decisions made by the CIL concerning the individual's request for IL services or the provision of IL services to the individuals; and,

B. Use formats that are accessible to inform each individual who seeks or is receiving IL services from the center about the procedures required by paragraph A of this section;

C. Establish policies and procedures that require that the individual is notified of the Client Assistance Program (CAP);

D. Establish a policy that the center shall continue services to the consumer while the decision is being reviewed, unless continuation of services is deemed harmful to the consumer or otherwise.

9.203.3 APPLICATION, CERTIFICATION AND RE-CERTIFICATION OF CENTERS [Eff. 4/1/13]

A. Application Process

An organization that intends to become a Center for Independent Living must apply to the Director of the Division of Vocational Rehabilitation to become certified as a CIL and eligible for funding under the SILS program.

B. For an organization that DVR previously certified to operate as a certified CIL or was decertified, the organization must provide to DVR/OIL evidence that it is currently operating in accordance with all parts, incorporated herein by reference, of Title VII, Section 725 of the Federal Act, as defined in 34 CFR 366.60 under the authority of 20 U.S.C. 796f-4 and 34 CFR 366.63 under the authority of 29 U.S.C. 711(c), 796d-1(b), and 796f-4, which do not include amendments to or editions of said regulations later than August 1, 1995 of those parts and incorporated herein by reference. Copies of these regulations are available from: Colorado Department of Labor and Employment, Division of Vocational Rehabilitation, Office of Independent Living, 633 17th Street, 15th Floor, Denver, CO 80202 or at any State Publication Depository Library.

C. Requirements of Certification and Re-Certification

The organization must comply with the standards and assurances for independent living in accordance with all parts, incorporated herein by reference, of Title VII, Section 725 of the Federal Act, the center evaluation standards in accordance with all parts, incorporated herein by reference of 34 CFR 366.60, under the authority of 20 U.S.C. 796f-4 and 34 CFR 366.63 under the authority of 29 U.S.C. 711(c), 796d-1(b), and 796f-4, which do not include amendments to or editions of said regulations later than August 1, 1995 of those parts. Copies of these regulations are available from: Colorado Department of Labor and Employment, Division of Vocational Rehabilitation, Office of Independent Living, 633 17th Street, 15th Floor, Denver, CO 80202 or at

any State Publication Depository Library. Prior to certifying an organization as a center, DVR/OIL may conduct on-site verification procedures based on the evaluation standards previously cited and may include verifying the accuracy of the information in the organization's annual report. If DVR/OIL determines that the organization qualifies to operate as a center, DVR/OIL shall provide written certification for up to thirty-six months from the date of the on-site verification.

9.203.4 CERTIFICATION OF CENTERS AND VERIFICATION OF INFORMATION [Eff. 4/1/13]

A. DVR/OIL shall verify the accuracy of the information in the CIL's annual performance report through information obtained by a Verification Team during an onsite review in locations that a CIL operates. A Verification Team will evaluate a CIL at least once every thirty-six months to determine certification status.

B. The Verification Team will notify the CIL at least ten working days prior to the verification team's onsite evaluation. DVR/OIL reserves the right to monitor all or part of the evaluation standards. Included in the notification to CILs will be a list of evaluation standards.

C. Minimal compliance means that the CIL provides at least one type of evidence for each evaluation standard. The DVR Verification Team obtains evidence to verify the accuracy of the information in the annual performance report and establish minimal compliance, as outlined in 34 CFR 366.60 under the authority of 20 U.S.C. 796f-4 which does not include amendments to or editions of said regulations later than August 15, 1994, and incorporated herein by reference, and with DVR contracts and procedures. Copies of these regulations are available from: Colorado Department of Labor and Employment, Division of Vocational Rehabilitation, Office of Independent Living, 633 17th Street, 15th Floor, Denver, CO 80202 or at any State Publication Depository Library.

D. The CIL must comply with the evaluation standards defined in 34 CFR 366.60 to 366.63 under the authority of and all parts, incorporated herein by reference incorporated herein by reference of 34 CFR 366.60, under the authority of 20 U.S.C. 796f-4 and 34 CFR 366.63 under the authority of 29 U.S.C. 711(c), 796d-1(b), and 796f-4 which do not include amendments to or editions of said regulations later than August 1, 1995 of those parts. Copies of these federal regulations are available from the Colorado Department of Labor and Employment, Division of Vocational Rehabilitation, Office of Independent Living, 633 17th Street, 15th Floor, Denver, CO 80202 or at any State Publication Depository Library.

Prior to certifying an organization as a CIL DVR/OIL may verify the accuracy of the information in the organization's annual performance report following the on-site verification process outlined in this section and a DVR/OIL procedural. If DVR/OIL determines that the organization qualifies to operate as a CIL, DVR/OIL shall provide a written certification. DVR/OIL may certify an organization for up to thirty-six months from the date of the on-site verification.

E. DVR/OIL may conduct additional on site evaluation visits, without prior notification, if the Verification Team needs additional documentation or information in regards to compliance indicators.

9.204 (NONE) [Rev. eff. 4/1/13]

9.205 ASSURANCE TO RECEIVE FUNDING UNDER THE SILS PROGRAM [Rev. eff. 4/1/13]

A. To be eligible for funding under the SILS program, an eligible agency shall comply with all parts, incorporated herein by reference, of Title VII, Section 725, 34 CFR 366.60, under the authority of 20 U.S.C. 796f-4 and 34 CFR 366.63 under the authority of 29 U.S.C. 711(C), 796D-1(B), and 796F-4, which do not include amendments to or later editions of regulations later than August 1, 1995 of those parts. Copies of these regulations are available from: Colorado Department of

Labor and Employment, Division of Vocational Rehabilitation, Office of Independent Living, 633 17th Street, 15th Floor, Denver, CO 80202 or at any State Publication Depository Library.

B. A CIL must obtain an annual independent fiscal audit conducted by a certified public accountant and provide documentation that demonstrates the CILs' board of directors' review of the CILs monthly financial statements.

C. A CIL must comply with all state and federal contract requirements in terms of proper financial reporting, accountability, transparency and documentation; and agree to the terms and conditions of such contract. Funds allocated under the SILS program must only be used to provide Independent Living services or to pay associated costs, as described in the contract exhibits.

9.206 PAYMENT TO CILS [Rev. eff. 4/1/13]

A. A CIL may invoice DVR/OIL according to specific requirements in a contract or procedures set forth by DVR/OIL. To receive payment, a CIL must have all supporting documentation for services and allowable costs and be able to provide documentation of such record if requested.

B. A CIL must adhere to contract requirements in order to receive payment for services provided.

9.207 ALLOCATION OF FUNDS FOR SILS [Rev. eff. 4/1/13]

9.207.1 STATE ALLOCATION [Rev. eff. 4/1/13]

The State shall allocate funds to CILs that participate in the SILS program. Funds to be allocated include funds appropriated in both Federal and State appropriations. The allocation represents the maximum amount of funds that a CIL may be reimbursed under the SILS program. DVR/OIL shall set forth specific procedures that allocate funds to all eligible CILs.

The allocation of funding to CILs is subject to periodic review by the Independent Living Allocations Committee. A review of allocations will:

A. Align with the State Plan for Independent Living (SPIL); or,

B. Occur if there is a change in the number of CILs eligible to receive funding.

C. DVR/OIL reserves the right to evaluate and/or change the allocation of funding if special, unforeseen, circumstances occur.

9.207.2 INDEPENDENT LIVING ALLOCATIONS COMMITTEE [Rev. eff. 4/1/13]

A. The SILC, CIL Network, and DVR shall participate in an Independent Living Allocation Committee. The Chairperson of the SILC shall make the appointment of two members who are advocates for individuals with disabilities and are not affiliated with CILs. The CILs Network shall appoint two individuals. The Director of DVR will appoint two individuals. The total number of allocation committee members shall equal six, two from each group.

B. The Independent Living Allocations Committee will work to establish criteria for allocating funds from the State General Fund for Independent Living and Federal Part B funds.

C. All funding formulas submitted by the allocation committee shall be in compliance with State fiscal rules and regulations, current Federal and State laws and regulations, including annotations and footnotes in appropriations, and the State Plan for Independent Living.

D. DVR/OIL will ensure that the Independent Living Allocations Committee participates in any change of funding allocation that is in DVR/OIL procedures. The final decision of how to allocate funds is the responsibility of DVR/OIL.

9.207.3 STATE ALLOCATION FOR DELIVERY OF INDEPENDENT LIVING SERVICES

A. The Block Distribution of state moneys to independent living centers.

(A) A base amount of not less than six hundred thousand dollars; and

(B) Other factors agreed to by the independent living centers, which may include a per capita adjustment, a per county adjustment, or other adjustments.

B. Certified Centers for Independent Living will be allocated General Funds in addition to their base amount of General Funds with a weighted formula that divides County disability population, plus County population, and Land Area by population to determine for each County. The resulting figure is the amount which each CIL will receive.

Specific calculations of the formula are:

A. 1st assign each Colorado County a score of: 40% x (County 16-64 Disability Population/State 1664 Disability Population)

B. 2nd add the weighted score of: 20% x (County 65+ Population/State 65+ Population)

C. 3rd add the weighted score of: 40% x (County Quantile Average of Land Area/Population)

D. 4th multiply this score of each County by the available funds;

E. 5th divide it by 100.

F. 6th sum up all the County scores from within each CIL's catchment area.

CILS whose catchment areas share a County shall report to the Department, how they will allocate County scores between them. If these CILS do not reach an agreement, the Department shall determine and document the allocation of County scores between the CILS.

9.208 RECORDS [Rev. eff. 4/1/13]

In addition to complying with applicable EDGAR record keeping requirements, centers that receive financial assistance from the SILS program will maintain records that fully disclose and document:

A. The amount and disposition by the center of that funding;

B. The total cost of the IL services;

C. The amount of that portion of the cost of the IL services supplied by other sources; and,

D. Compliance with regulations pertaining to the SILS program; and,

1. Records that the Director, Division of Vocational Rehabilitation or the Secretary of the Federal Department of Health and Human Services determines to be appropriate to facilitate an effective audit.

2. Access to Records

For the purpose of conducting audits, examinations, compliance reviews and verification of information in the annual performance report, centers that receive funding from the SILS program will provide access to the Director, the Secretary of the federal Department of Education, and the Comptroller General, or any of their duly authorized representatives, to these records; and,

a. Any other books, documents, papers, and records of the recipients that are pertinent to the financial assistance received to provide IL services; and,

b. All consumer service records for individuals served with funds received from the SILS program, including names, addresses, and records of evaluation included in those consumer service records.

9.209 EVALUATION OF CENTERS: ENFORCEMENT PROCEEDINGS [Rev. eff. 7/1/12]

With regards to enforcement proceedings, DVR/OIL**S** shall comply with all federal rules and regulations, incorporated herein by reference, including 45 CFR 1329.7 September 1, 2017. This rule does not contain any later editions of those parts. Copies of these regulations are available from: Colorado Department of Labor and Employment, Division of Vocational Rehabilitation, Office of Independent Living SERVICES, 633 17th Street, 15th Floor, Denver, CO 80202 or at any State Publications Depository Library.

9.209.1 Modification of Enforcement Proceedings [Rev. eff. 7/1/12]

If the funds received by the CIL under the SILS program include federal funds administered by the Colorado Department of Labor and Employment in accordance with, and incorporated herein by reference, Section 723 Title VII of the Federal Act, as defined in Section 9.202, the enforcement procedures required by 45 CFR 1329.7 under the authority of 29 U.S.C. Section 711(c) and 796F-2 (g) and (i), as defined in Section 9.202, will be included in enforcement proceedings with respect to the Section 723 federal funds only, as defined in Section 9.202 (Federal Act) September 1, 2017. This rule does not contain any later editions of those parts. Copies of these regulations are available from: Colorado Department of Labor and Employment, Division of Vocational Rehabilitation, Office of Independent Living Services, 633 17th Street, 15th Floor, Denver, CO 80202 or at any State Publication Depository Library.

9.209.2 TERMINATION OF FUNDS [Rev. eff. 4/1/13]

A CIL's funds may be terminated for:

A. Failure to meet the requirements of 45 CFR 1329.7 September 1, 2017. This rule does not contain any later editions of those parts. Copies of these regulations are available from: Colorado Department of Labor and Employment, Division of Vocational Rehabilitation, Office of Independent Living Services, 633 17th Street, 15th Floor, Denver, CO 80202 or at any State Publication Depository Library.

B. Failure to meet contract requirements within the statement of work and its exhibits including, but not limited to, general and special provisions.

C. A decision to terminate funding will also terminate the organization's certification as a center. Refer to Section 9.203.3 for clarification on re-certification.

9.400 BUSINESS ENTERPRISE PROGRAM [Rev. eff. 7/1/08]

AUTHORITY:

20 U.S.C. § 107 et seq.

34 CFR Part 395 et seq.

8-84-201, C.R.S. et seq.

9 CCR 2503-1 § 3.850.72 - 3.850.73

6 CCR 1010-2 § 2-201

The purpose of the Colorado Business Enterprise Program is to provide blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting.

Colorado may implement a mission and vision statement, which may evolve with the era.

Colorado shall approach any gaps in information in 8-84-201, C.R.S. et seq. by applying the interpretation and intent (in federal buildings) of 20 U.S.C. § 107 et seq. and 34 CFR Part 395 et seq. to State, private, and other property.

The Colorado Business Enterprise Program carries out the Colorado State Licensing Agency responsibilities, under the Division of Vocational Rehabilitation, as applied for in accordance with 34 CFR Part 395.2.

9.400.1 Definitions [Rev. eff. 7/1/08]

The Colorado Business Enterprise Program recognizes the terms as defined in 34 CFR Part 395.1. Additional terms are defined as follows:

“Active Participation” means an ongoing process of negotiations and collaboration between the State Licensing Agency and the Committee of Licensed Blind Operators to participate in major administrative decisions and policy and Program development decisions affecting the overall administration of the Program.

“Bad Debt” means a Debt that is 30 days or more past due and does not have an associated, accepted, repayment plan.

“Blind Operator” means all Program Participants, including Licensed Blind Operators, Certified Blind Operators, and Trainees.

“Blind Operator Agreement” means a contract or other legal document executed between a Blind Operator and the State Licensing Agency, delineating the arrangement accepted by both parties, identifying all rights and obligations specific to the operation of a Business Enterprise Location as subcontracted to any awarded Blind Operator.

“Business Enterprise Location” is considered to be one-in-the-same as “Vending facility” as defined in 34 CFR Part 395.1 and includes vending machines as defined in this §, and other business as described in C.R.S. 8-84-201, including like Business Enterprise Locations being managed by Certified Blind Operators prior to licensure.

“Colorado Elected Committee” means the State Committee of Blind Vendors per 34 CFR Part 395.14 and/or Committee of Blind Vendors per 20 U.S.C § 107 b-1.

“Debt” means an obligation or liability to pay an amount of money due.

"Individual Business Enterprise Location" means the entire identity and complete parameters that are established by the State Licensing Agency for a single Business Enterprise Location, which may be established and reestablished at the State Licensing Agency's discretion when it is in the best interest of The Business Enterprise Program.

"Licensed Blind Operator" means a "vendor" as defined in 34 CFR Part 395.1(aa), regardless of status of award of an active Business Enterprise Location.

"State Licensing Agency" means the Business Enterprise Program, housed within the Division of Vocational Rehabilitation Services, which administers the Randolph-Sheppard Vending Facility Program and issues licenses to blind persons in accordance with 34 CFR Part 395.2.

"Unassigned vending machine income" is considered to be one-in-the-same as "Vending machine income" as defined in 34 CFR Part 395.1 and is income that accrues to the State Licensing Agency from commissions that vending or other companies pay on proceeds where there is no on-site Blind Operator. This applies to vending machines, commission income (CRS 8-84-205) and other businesses operated on Federal, State, or other property.

"Vending machine" is considered to be one-in-the-same as "Vending machine" as defined in 34 CFR Part 395.1 and includes all types of automated vending equipment which dispenses goods or services, automated teller machines or similar, or such equipment which provides recreational or other services.

"Vending machine income" is considered to be one-in-the-same as "Vending machine income" as defined in 34 CFR Part 395.1, except that it applies to income that accrues to a Blind Operator, or the State Licensing Agency.

"Vendor Debt" means a Debt found to be legitimately owed by the Blind Operator to an industry vendor (i.e. food or beverage manufacturer or distributor, or other vendor to the Blind Operator).

9.401 ELIGIBILITY [Rev. eff. 7/1/08]

Pursuant to 20 U.S.C. § 107a.(b) and 34 CFR Part 395.7, in selecting persons to be Blind Operators of the Business Enterprise Program, preference shall be given to persons who are in need of employment and who have been determined to be:

A. Blind as defined by 20 U.S.C. § 107e and 8-84-202(1), C.R.S.;

B. Citizens of the United States;

C. Able to successfully pass all State and Federal background investigations;

D. Free from infectious diseases as defined by the Department of Public Health and Environment for food handling (6 CCR 1010-2, § 2-201);

E. Free from any felony conviction or pattern of misdemeanor convictions;

F. Successful in the completion of Business Enterprise Program Training Program;

G. Reasonably possess the physical and mental aptitude to successfully manage a Business Enterprise Location as deemed by the State Licensing Agency and further defined in policy;

H. Eighteen (18) years of age or older; and,

I. In possession of a high school diploma or GED.

J. The State Licensing Agency may develop policy prescribing methods which verify that eligibility standards are met through the entire period that a participant is granted licensure, to include initial and subsequent eligibility verification.

9.402 LICENSURE AND LEVELS OF BLIND OPERATORS [Rev. eff. 7/1/08]

This Part is administered in accordance with 20 U.S.C. § 107b and 34 CFR Part 395.7.

A. The State Licensing Agency shall provide for the issuance of licenses for an indefinite period. Licenses are subject to Probation, Suspension, or Termination.

B. Upon satisfactory completion of training and subsequently operating an awarded Business Enterprise Location for ninety (90) calendar days, an evaluation will be conducted by the State Licensing Agency to determine whether the applicant is qualified for the award of a license, or if the applicant must continue training, or if it is the recommendation that the applicant seek another occupation.

C. The award of a license by the State Licensing Agency is contingent upon stabilized operation of a Business Enterprise Location for a minimum of ninety (90) calendar days and is determined to be successful jointly by the State Licensing Agency and Division of Vocational Rehabilitation delegates.

Description of status differentiation among Blind Operators.

A. “Trainee” means a blind person who has been accepted into the Business Enterprise Program and is participating in the formal Business Enterprise Program training course, including any preliminary training offered through the Division of Vocational Rehabilitation, but are not yet certified. Trainees are:

1. Clients of the Division of Vocational Rehabilitation and are subject to all rights and obligations as such.

2. Not eligible for any benefits afforded to Licensed Blind Operators, financial, legal, or otherwise.

B. “Certified Blind Operator” means a Trainee who has successfully completed the formal Business Enterprise Program training course and has been certified to manage a Business Enterprise Location, prior to licensure. Certified Blind Operators are:

1. Clients of the Division of Vocational Rehabilitation and are subject to all rights and obligations as such.

2. Not eligible for any benefits afforded to Licensed Blind Operators, financial, legal, or otherwise.

3. Eligible to bid on available Business Enterprise Locations and apply for associated beginning operating cash loan.

C. “Licensed Blind Operator” means a blind person who has been awarded a license by the State Licensing Agency. Licensed Blind Operators whose licenses are not in a probationary, suspended, or terminated status are:

1. Protected by all rights and benefits afforded to Blind Operators in accordance with the Federal Randolph-Sheppard Act, 20 U.S.C. § 107 et seq., and implementing regulations, 34 CFR 395 et. seq.

2. Eligible:

    a. To apply for beginning operating cash loan associated with an awarded Business Enterprise Location

    b. To bid on available Business Enterprise Location

    c. To run for Colorado Elected Committee membership

    d. To apply for fair minimum return

    e. For grievance and appeal rights in accordance with § 9.413

    f. For any health, medical, or retirement benefits as adopted by the body

    g. For quarterly unassigned vending machine income disbursement

    h. To be a voting member of the body of Blind Operators

D. "Blind Operator" means any participant of The Business Enterprise Program at any stage identified above.

E. "Probationary License Status" means a License that is associated with a SMART action plan, or other corrective action plan, and the associated Licensed Blind Operator activities are being closely monitored for progression. This temporary status is assigned when a Licensed Blind Operator must work with their assigned Business Consultant to fulfill prescribed requirements, or face additional consequences. Licensed Blind Operators who are in a Probationary License Status:

1. Are protected by all rights and benefits afforded to Blind Operators in accordance with the Federal Randolph-Sheppard Act, 20 U.S.C. § 107 et seq., and implementing regulations, 34 CFR 395 et. seq.

2. Retain the same rights and eligibility as a Licensed Blind Operator as described in § 9.402 – 3, with the exception that they

3. Are not eligible to bid on an available Business Enterprise Location or run for Colorado Elected Committee membership if the reason they are on probation is because of bad Debt owed to the Business Enterprise Program

F. "Suspended License Status" means a Licensed that is associate with a Blind Operator who must return to training and fulfill additional requirements in order to return to a Licensed Blind Operator or Probationary License Status. Licensed Blind Operators who are in a Suspended License Status:

1. Are protected by all rights and benefits afforded to Blind Operators in accordance with the Federal Randolph-Sheppard Act, 20 U.S.C. § 107 et seq., and implementing regulations, 34 CFR 395 et. seq.

2. Do not have any of the same rights and eligibility as a Licensed Blind Operator as described in § 9.402 – 3, with the exception that they

3. Do retain grievance and appeal rights in accordance with § 9.413

G. "Terminated License Status" means a Blind Operator who has had their license completely revoked, cancelled, or otherwise separated. Licensed Blind Operators who are in a Terminated License Status:

1. Are protected by all rights and benefits afforded to Blind Operators in accordance with the Federal Randolph-Sheppard Act, 20 U.S.C. § 107 et seq., and implementing regulations, 34 CFR 395 et. seq. for a full 30 calendar days after termination, if no appeal is in progress.

2. Do not have any of the same rights and eligibility as a Licensed Blind Operator as described in § 9.402 – 3, with the exception that they

3. Do retain grievance and appeal rights in accordance with § 9.413

4. May not receive quarterly unassigned vending machine income disbursement

5. May not bid on available Business Enterprise Locations

6. May not serve on the Colorado Elected Committee

7. May utilize grievance and appeals processes

The State Licensing Agency shall be free to develop other levels of distinction or classes of licensing. Issuance and conditions of licenses.

9.402.1 Property Right [Rev. eff. 7/1/08]

A license shall not create any property right for the licensee to whom it is issued and shall be deemed only to inform the public and other interested parties that the licensee has successfully earned licensure as described herein.

9.402.2 Enforcement, Removal, and Termination of a License [Rev. eff. 7/1/08]

The enforced removal of any Blind Operator from a Business Enterprise Location may occur prior to licensure or be in conjunction with the Suspension or Termination of a license and will be managed in accordance with written policies of the program.

Individuals committing illegal acts may also be subject to civil or criminal penalties.

A license issued to a Blind Operator for the operation of a Business Enterprise Location may be placed on probation, suspension, or terminated when:

A. If the Licensed Blind Operator does not abide by any part of these Rules or provisions covered by Blind Operator Agreement, including all obligations and Debt.

B. The Blind Operator Agreement has not been fully executed or is no longer in effect.

C. The State Licensing Agency finds that the Business Enterprise Location is not being managed in accordance with the laws, rules and regulations, the terms and conditions governing the Blind Operator Agreement, contract or applicable permit terms for the particular Business Enterprise Location, or other written agreement with the Blind Operator.

D. Program Eligibility, as delineated in section 9.401, is no longer met, including if there is proof of improvement of vision so that the Blind Operator no longer meets the definition of blindness, for which the State Licensing Agency may require proof periodically and by vendors selected

according to Colorado, department, and division procurement rules and source selection methods.

E. There is an extended illness with medically documented diagnosis of prolonged incapacity of the Licensed Blind Operator to manage the Business Enterprise Location in a manner consistent with the needs of the Business Enterprise Location or other available Business Enterprise Locations in the Business Enterprise Program. The Blind Operator may return to The Business Enterprise Program if they provides documentation that their physician deems improved physical condition that they may "return to work" and the State Licensing Agency is in agreement.

F. The Licensed Blind Operator withdraws from The Business Enterprise Program by notice to The Business Enterprise Program.

G. A Licensed Blind Operator elects not to accept any Business Enterprise Location and fail to request for an available Business Enterprise Location to be put out for bid, and then successfully bid on it. They will be considered to have a Terminated License after ninety (90) calendar days and all program re-entry rules and practices shall apply.

H. Falsification of records by the Blind Operator, as validated by the State Licensing Agency or other State entity, will result in the Termination or Suspension of a License without placing the Blind Operator on probation.

Program Re-entry

When any former Licensed Blind Operator requests to return to The Business Enterprise Program, they must:

A. Meet all eligibility requirements in § 9.401

B. Be free of bad Debt to the Business Enterprise Program

C. Be free of bad Debt to industry vendors which may impact their success in managing a Business Enterprise Location

D. Be subject to existing application and review process for new applicants

E. Be required to fulfill training as prescribed by the State Licensing Agency, in order to become re-certified and licensed

9.403 COLORADO ELECTED COMMITTEE: ELECTION AND PURPOSE OF A COMMITTEE OF LICENSED BLIND OPERATORS

This entire Part is managed in accordance with 20 U.S.C. § 107b-1 and 34 CFR Part 395.14.

The Colorado Elected Committee is not regulated by the Governor's Office of Boards and Commissions or equivalent and is provided in accordance with 20 U.S.C. § 107b-1 through the State Licensing Agency, with Active Participation by the Colorado Elected Committee.

The Colorado Elected Committee bylaws are developed by the entire body of Blind Operators, with oversight and acceptance by the State Licensing Agency.

9.403.1 Elections [Rev. eff. 7/1/08]

The State Licensing Agency shall provide for an election among the Licensed Blind Operators to establish a committee that, to the extent possible, will be representative of:

A. All Business Enterprise Location types

B. All areas of the State

Members shall be elected to serve a two-year term.

Participation by any Blind Operator in any election shall not be conditioned upon the payment of dues or any other fees in accordance with 34 CFR Part 395.14(a). Dues or fees do not mean Debt or bad Debt.

9.403.2 Purpose of the Colorado Elected **Committee [Rev. eff. 7/1/08]**

The Colorado Elected Committee shall perform the following functions:

A. The Colorado Elected Committee is responsible for Active Participation with the State Licensing Agency and perform functions in accordance with 20 U.S.C. §107b-1(3) and 34 CFR Part 395.7(c), 395.9, 395.14 et. seq., and 395.36(a), as defined in these rules, §9.400.1 related to:

1. *Major* administrative decisions, to include:

a. Setting out the method for determining budget line items for expenditure of set-aside (these rules, § 9.411.2).

2. Policy, to include those in accordance with these rules, §9.404 which govern the Blind Operators':

a. Duties

b. Supervision

c. Transfer and promotion

d. Financial participation

3. Program development decisions *which affect the overall administration* of the State's Business Enterprise program, to include:

a. Development and administration of a State system for the transfer and promotion of Blind Operators

b. Development of training and retraining programs for Blind Operators

B. Receive and transmit to the State Licensing Agency grievances at the request of Licensed Blind Operators and serve as advocates for such Licensed Blind Operators in connection with such grievances;

C. Sponsor, with the assistance of the State Licensing Agency, meetings and instructional conferences for Blind Operators within the State.

9.404 RESPONSIBILITIES [Rev. eff. 7/1/08]

STATE LICENSING AGENCY

The State Licensing Agency must act as prescribed in 20 U.S.C. § 107 et seq. and 34 CFR Part 395 et seq. and responsibilities are further delineated as follows and in policy.

The State Licensing Agency shall have the ultimate responsibility for the Business Enterprise Program. When the State Licensing Agency does not adopt written recommendations of the Colorado Elected Committee, it shall notify the Colorado Elected Committee. The State Licensing Agency will maintain operational procedures to secure the day to day function of the State Licensing Agency.

The following are responsibilities of the State Licensing Agency: The State Licensing Agency shall:

A. Cooperate with the Federal Secretary of Education in applying the requirements of the Randolph-Sheppard Act in a uniform manner (20 U.S.C. § 107 et seq.)

B. Take effective action to carry out full responsibility for the supervision and collaborative management of each Business Enterprise Location in the program in accordance with its established rules and regulations, this part, and the terms and conditions governing the contracts, agreements, permits and Blind Operator Agreements. This includes the removal of a Blind Operator from their awarded Business Enterprise Location, Probation, Suspension, or Termination of Licenses in accordance with § 9.402.2.

C. Take diligent action to enforce Blind Operator responsibilities, performance, and overall mission compliance to include systematic analysis of financial and other performance through evaluations and/or audits.

D. Submit promptly to the Secretary of Education for approval a description of any changes in

1. The legal authority of the State Licensing Agency,

2. Its rules and regulations,

3. Blind Operator Agreements,

4. Schedules for the setting aside of funds,

5. Contractual arrangements for the furnishing of services by a nominee,

6. Arrangements for carrying general liability and product liability insurance, and

7. Any other matters which form a part of the application (34 CFR Parts 395.2 and 395.3);

E. Survey sites in order to identify whether they are satisfactory for a Business Enterprise Location in accordance with 20 U.S.C. § 107a(d) and provide a waiver to the agency which has a non-satisfactory site, limiting the term and defining the conditions of the waiver.

F. Provide and train on documents provided upon request to any Blind Operator at any time.

G. Submit to an arbitration panel those grievances of any Licensed Blind Operator unresolved after a full evidentiary hearing in accordance with 20 U.S.C. §§ 107b(6) and 107d-1(a), upon written receipt of such request by the Licensed Blind Operator or their representative.

H. For each Business Enterprise Location and for the entire Business Enterprise Program, adopt accounting procedures and maintain financial and other records in a manner necessary to provide detail as is sufficient to

1. Enable evaluation of performance and

2. Comply with Secretary of Education requirements

I. Provide financial reporting relevant to Business Enterprise Program on at least a quarterly and annual basis, pursuant to 20 U.S.C. § 1071b-1.1.

J. Protect and manage all State Assets assigned to the Business Enterprise Program including purchase, transition, and tracking.

K. Only use set-aside funds for appropriate purposes, as identified in 20 U.S.C. § 1071b-3 and 34 CFR Part 395.8(c), and manage set-aside in accordance with these rules §9.405.

L. Notify Blind Operators of the set-aside schedule in accordance with these rule § 9.405.2.

M. Ensure any training services related to any Blind Operator, which have been incorporated into the standardized or individualized training curriculum, are provided to Blind Operators as vocational rehabilitation services under the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended. This is not limited to, but includes personal and vocational adjustment, books, tools, and other training materials.

N. Ensure the opportunity for Active Participation in accordance with these rules §9.403.

O. Attempt to resolve day to day problems with Permit on-site official informally with awarded Blind Operator of the Individual Business Enterprise Location (34 CFR Part 395.36(a)).

P. Be solely authorized to initiate repair calls.

Q. Further establish in writing and maintain policies which have been developed with the Active Participation in accordance with § 9.403.2 of these rules.

R. Establish additional procedures as necessary to assure that rules and policies have been explained to each Blind Operator.

S. Determine procedures through an internal document.

The following are responsibilities of the Blind Operator. The Blind Operator Shall:

A. Not assume duties exclusive to the State Licensing Agency as listed in these Rules, § 9.404.

B. Conduct all business in a just and truthful manner.

C. Be responsive to communications received through modern means in order to responsibly manage business. For example, electronic mail, delivered mail, phone recordings, and other methods reasonably accessible to the blind.

D. Notify Business Enterprise Program of

1. Any litigations in which they is a party defendant in a case that involves any services provided as a result of participation in the Business Enterprise Program.

2. Complaints of alleged violations or legal issues that could jeopardize a Business Enterprise Location permit or agreement with property management, or jeopardize Business Enterprise Program's priority under the Randolph-Sheppard Act.

3. Facility and personal emergency and contact information, especially for legal correspondence

4. Preferred electronic and hard-copy reading format.

E. Submit a request for a full evidentiary hearing in accordance with these rules, § 9.413, or after such hearing, file a complaint with the Secretary in order to initiate an arbitration panel *if so desired*, in accordance with 20 U.S.C. § 107d-1(a);

BLIND OPERATORS WHO ARE ASSIGNED/AWARDED BUSINESS ENTERPRISE LOCATION/S SHALL:

A. Abide by all rules and regulations and program policies governing the operation of the Business Enterprise Location.

B. Impress upon their employees the importance of these Rules and the Blind Operator Agreement and shall be responsible for the actions of their employees concerning relative to the Business Enterprise Program.

C. Actively engage in the management of the Business Enterprise Location.

D. Be available for all necessary visits to the facility and cannot assign, delegate, or subcontract the totality of the Blind Operator duties to subcontractors or any other third party.

E. Appear and manage, or arrange for the management of, the Business Enterprise Location, or request an exception in writing, and receive, prior approval by the State Licensing Agency and approved by the State Licensing Agency.

F. Provide excellent service to the facility and its customers, maintain a professional appearance, and act in a professional manner while managing a Business Enterprise Program facility, or engaging in related activities.

G. Perform within any contract, permit, or agreement, as authorized or required by the Business Enterprise Location's property management, franchise agreement, management services agreement, state interagency agreement, or other. The Blind Operator will actively initiate full understanding of such terms and conditions and will communicate any developments which may have a negative impact on professional relationships, the Business Enterprise Location, the reputation of Business Enterprise Program, or the reputation of the Body of Blind Operators.

H. Not engage in any conduct that is detrimental to Business Enterprise Program's interest in the Business Enterprise Location, its statutory priority, its permits or agreements, or its equipment or other inventory.

I. Be responsible and financially liable for the accurate and proper reporting of all

1. Sales transacted through the Business Enterprise Location

2. Business Enterprise Program assets entrusted to the Blind Operator

J. Ensure compliance with all laws applicable in the operation of the associated business at all times.

K. Not engage in or permit harassment, violent behavior, threat of violent behavior, intimidation, or other disruptive behavior directed towards another Blind Operator, Business Enterprise Program staff member, subordinate, client, customer, or property. Possession of weapons is prohibited in or on any state or federal facility, including in vehicles.

L. Self-report any felony or misdemeanor arrest or charge.

M. Comply with the provisions of CRS 8-17.5-101 et seq. and shall not knowingly employ or contract with an illegal alien to perform work or enter into a contract with a subcontractor that knowingly employs or contracts with an illegal alien.

N. Acquire and maintain all appropriate records and business licenses applicable to the Business Enterprise Location.

O. Allow Business Enterprise Program, the State, the federal government, access to perform semi-annual evaluations, audits and/or inspections of records at any time, to assure compliance with the State or federal government's rules and regulations or to evaluate the Blind Operator's performance.

P. Comply with all reasonable requests made in the course of an investigation by the Colorado Department of Labor and Employment

Q. Furnish and give access to all documents and reports for business operations at the Business Enterprise Location, which are required by State or Federal governments.

R. Implement, or assist in the implementation of, the necessary systems, methods and controls for tracking, monitoring, and reporting of vending machine sales.

S. Acquire merchandise, utensils, and consumables as determined by Business Enterprise Program to be sufficient to satisfactorily maintain the facility (beyond initial inventory), in accordance with the Business Enterprise Program Inventory Policy and Process and with CRS § 24-30 202.4 regarding State Collections.

T. Not neglect, abuse, or relocate State owned equipment and manage it according to manufacturer recommendations.

U. Be responsible for the payment of required business licenses, business insurances, communications products, and consumable inventory (beyond initial inventory), and business needs not otherwise provided for.

V. Submit, in accordance with the prescribed schedule and method per these rules §§ 9.405.2 and 9.406

1. The standardized monthly financial turn-in Report ("Turn-in") to the Business Enterprise Program.

2. The set-aside payment to the Business Enterprise Program per these rules.

3. Timely payments to repay the services established by Business Enterprise Program on behalf of the Blind Operator.

4. Items which must be returned upon the transition out of the Business Enterprise Location according to the Blind Operator Agreement.

W. Pay all Debts associated with participation in the Business Enterprise Program (including to vendors of the facility/business operation), timely.

X. Give a minimum 30 day notice to the Business Enterprise Program of intention to vacate or discontinue managing the awarded/assigned Business Enterprise Location on a daily business.

Y. Understand that if they vacate, discontinue managing, or are the subject of an enforced removal, they may be held responsible for costs incurred as a result of the transition.

Z. Vacate facilities in an acceptable condition, conducive to an immediate transition between Blind Operators with no closure time required solely due to the physical condition of the Business Enterprise Location.

9.405 SET-ASIDE FUND [Rev. eff. 7/1/08]

A set-aside fund shall be established and managed, pursuant to 20 U.S.C. § 107b(3) and 34 CFR Part 395.3(a)(11)(iv) and 395.9(a).

A. Pursuant to 34 CFR Part 395.9(b), set-aside funds may expended only for the purposes of:

1. Maintenance and replacement of equipment;

2. Purchase of new equipment;

3. Management services;

4. Assuring a fair minimum of return to Licensed Blind Operators; or,

5. Retirement or pension plans, health insurance, and other specified benefits after a vote of the entire body

B. The State Licensing Agency shall:

1. Utilize the Colorado, department, and division procurement rules and source selection methods in order to prevent a greater charge for any purpose than is reasonably required for that purpose.

2. Maintain adequate records to support the reasonableness of the charges for each of the purposes listed in this §, including any reserves necessary to assure that such purposes can be achieved on a consistent basis.

9.405.1 Set-Aside Assessment [Rev. eff. 7/1/08]

A. The set-aside assessment (or administrative fee) is a charge levied against the net proceeds of each Business Enterprise Location, which represents a certain percentage of the net proceeds realized as a result of the facility's operation.

B. The Blind Operator is responsible for the payment of this assessment to the State Licensing Agency each month.

C. Net proceeds are determined from net sales, less merchandise cost and other allowable business expenses, plus commissions, vending machine income remitted to the Licensed Blind Operator, and rebates and bonuses paid to the Licensed Blind Operator.

D. The amount of set-aside assessment may not be deducted as an expense in computing net proceeds.

E. The set-aside (percentage of net proceeds) to be paid to the State Licensing Agency by each Blind Operator is predicated upon a schedule negotiated between the State Licensing Agency and the Colorado Elected Committee, and determined to be sufficient for the operation of the State Licensing Agency. The set-aside schedule must

1. Allow for the retention of reasonable reserves by the State Licensing Agency.

2. Not exceed a maximum of thirteen percent (13%) per Business Enterprise Location

3. Be approved by the U.S. Rehabilitation Services Administration prior to implementation

9.405.2 Schedule [Rev. eff. 7/1/08]

In accordance with current accounting schedule, Blind Operators shall remit payments plus business expenses determined reasonable at the discretion of the State Licensing Agency, as reasonably notified.

9.406 FINANCIAL REPORTING [Rev. eff. 7/1/08]

A. Each Blind Operator who is awarded a Business Enterprise Location must file with the agency a monthly financial report of their business operation.

B. The report (turn-in) and the payment of set-aside assessments currently due the State Licensing Agency shall be determined according to written policy.

C. If the State Licensing Agency's technology permits, the Blind Operator may be afforded the opportunity to file their reports and pay fees on-line according to the deadline in written policy.

D. Each Blind Operator must maintain and provide itemization and documentation according to the Blind Operator Agreement.

E. Only the assigned Blind Operator for a Business Enterprise Location, or Blind Operator designee, may have an economic interest in that Business Enterprise Location. No employee of the State Licensing Agency, it's contractors or subcontractors, or other Blind Operator shall have any personal or economic interest whatsoever in the Business Enterprise Location. Notwithstanding the foregoing, economic interest may be held by an authorized third party, as signified by a separate written agreement with the State Licensing Agency.

F. Each Blind Operator shall be permitted access to all financial data of the State Licensing Agency relevant to the operation of the Business Enterprise Program, including reasonable alternative formats and media acceptable to the Blind Operator and in compliance with current HIPAA and Division of Vocational Rehabilitation rules (34 CFR Part 395.12).

9.407 UNASSIGNED VENDING MACHINE INCOME [Rev. eff. 7/1/08]

Unassigned vending machine income shall be accrued and disbursed in accordance with 20 U.S.C. § 107d-3. Colorado applies references to “federal” in the Code to State and other Business Enterprise Locations as well.

A. Unassigned vending machine income shall be disbursed to each Licensed Blind Operator in accordance with policy, which shall observe:

1. The disbursement of unassigned vending machine income to each individual Licensed Blind Operators shall be in an amount not to exceed the average net income of the total number of Blind Operators within Colorado or average net income of the total number of Blind Operators in the United States. Excess unassigned vending machine income, per this § shall be retained by the State Licensing Agency.

2. The State Licensing Agency shall disburse unassigned vending machine income to Blind Operator within the State on at least a quarterly basis.

3. Any unassigned vending machine income not necessary for such purposes shall be used by the State Licensing Agency in accordance with 34 CFR Part 395.9(b) and these Rules §9.405.

4. Any assessment charged to Blind Operators by a State Licensing Agency shall be reduced pro rata in an amount equal to the total of such remaining unassigned vending machine income.

5. Distributions are based on unassigned vending machine income, accounted for and managed collectively from every type of Business Enterprise Location and collectively from federal, State, and other property types.

B. Individual Blind Operators shall only receive disbursement after it has been determined by the State Licensing Agency that the Blind Operator is in good standing and free of bad Debt to the Business Enterprise Program.

C. All unassigned vending machine income disbursement

1. Shall be calculated so that the final total disbursed has been offset by any set-aside due on the gross commission income of each Blind Operator.

2. May be applied to existing Debt of a Blind Operator.

3. Shall be applied to existing bad Debt of any Blind Operator.

9.409 BLIND OPERATOR AGREEMENTS, RESPONSIBILITIES, AND BUSINESS ENTERPRISE LOCATION [Rev. eff. 7/1/08]

9.409.1 Blind Operator Agreement [Rev. eff. 7/1/08]

A. Each Blind Operator and the State shall enter into an agreement concerning operation of any Business Enterprise Location.

B. The agreement shall not be effective until signed by the Blind Operator and the delegated authority on behalf of the State of Colorado.

C. The execution of such agreement must occur for each Blind Operator in each Business Enterprise Location, prior to any Blind Operator performance or transition into such Business Enterprise Location.

D. The State Licensing Agency may develop further policy governing agreements for true emergency transitions, as approved by the Colorado Department of Labor and Employment, Procurement and Contracts Services Division.

E. Unless otherwise specified within governing Laws, Regulations, or these Rules, the State of Colorado views all Blind Operators as contractors for the purpose of carrying out any executed contract or agreement, including for the enforcement of rights and obligations.

F. The Blind Operator Agreement will:

1. Identify each party’s full legal name, business address, and legal notification address.

2. Identify the transition in/start date.

3. Identify the Individual Business Enterprise Location;

4. Define the nature, scope and, responsibilities of the Blind Operator concerning the operation of the Individual Business Enterprise Location;

5. Describe management services offered by the State Licensing Agency and direct to resources which further define;

6. Identify allowable business expenses in accordance with § 9.405.1.

7. Identify items which must be returned upon the transition out of the Business Enterprise Location.

G. Execution of the Blind Operator Agreement

The Blind Operator Agreement must be signed prior to the Blind Operator's acceptance of an Individual Business Enterprise Location. A Blind Operator's failure to execute the Blind Operator's agreement, within the allotted time period designated by the State Licensing Agency, shall result in the Blind Operator surrendering their opportunity to manage the Individual Business Enterprise Location for which the agreement was prepared. A new agreement must be signed each time the Blind Operator accepts the opportunity to manage any Individual Business Enterprise Location, whether permanent or temporary.

Signature of the Blind Operator Agreement signifies their receipt of all information necessary to fully understand their responsibilities at the respective Business Enterprise Location, in compliance with 34 CFR Part 395.3(a)(11)(vi).

The Blind Operator Agreement will expire annually or periodically in accordance with the written policies of the program. The Blind Operator Agreement may be renegotiated prior to expiration.

9.409.2 Business Enterprise Location Transfer and Promotion [Rev. eff. 7/1/08]

This rule is written in accordance with §9.403.2 of these rules.

The transfer or promotion of a Blind Operator to a new Business Enterprise Location will be through a Transfer and Promotion process, policy, or procedure, which will include provisions for:

A. Definitions specific to transfer and promotion, if applicable.

B. Temporary Business Enterprise Location management and prescribed minimum or maximum period of time.

C. Length of time a Blind Operator may maintain their former Business Enterprise Location upon award of a new permanent Business Enterprise Location.

A Blind Operator shall be transferred to a Business Enterprise Location, or from their assigned Business Enterprise Location only when the transfer will directly benefit the Blind Operator or will be in the best interest of the Business Enterprise Program, giving preference to the Blind Operator having demonstrated the most ability in management of a Business Enterprise Location.

For the purposes of this Section, the following may each be considered to be Individual Business Enterprise Location.

A. A vending route

B. Premises as defined by legal agreement - wherein the agreement premises encompass an entire campus, base, installation, or other pairing/clustering of physical sites, the State Licensing

Agency may change the established parameters of the Individual Business Enterprise Location to reflect the entire premises as defined in the Federal or State contract.

No limitation shall be imposed on vending machine income, combined to create a Business Enterprise Location, when such facility is maintained, serviced, or managed by a Blind Operator.

An Individual Business Enterprise Location shall only be assigned to one Blind Operator, unless the State Licensing Agency approves an exception through written documentation.

9.410 BLIND OPERATOR INDEBTEDNESS [Rev. eff. 7/1/08]

Blind operators participating in the Business Enterprise Program must pay any and all Debt on time. A present or past Blind Operator's indebtedness to the Business Enterprise Program that becomes past due shall include any and all collection charges, attorney fees, court costs and all expenditures directly or indirectly incurred due to that Debt.

It is solely the responsibility of the Blind Operator to pay their Debt. If it becomes necessary for the Business Enterprise Program to become an intermediary to satisfy vendor Debt:

A. The State Licensing Agency will put the Blind Operator license on probation, suspension, or termination.

B. The State will pay the Debt.

C. The State will invoice the Blind Operator for the full amount of Debts paid to the Vendors.

D. An administrative fee will be added to the invoice and the Debt will become the Blind Operator's Debt to the State, which will be managed as bad Debt in accordance with this § 9.410 and § 9.407.

These actions in this § 9.410 may also be initiated if any Blind Operator:

A. Acts independently of the State in order to assume responsibilities of the State, including but not limited to authorizations or requests which are the duty of a State Licensing Agency staff member as identified in these rules section 9.404.

B. Vacates the Business Enterprise Location in an unsatisfactory manner, per these rules section 9.404.

State agencies refer all Debt to State Collections, once the payment becomes 30 days past due and no payment arrangement is agreed upon, in accordance with CRS § 24-30 202.4.The State Licensing Agency may refer any bad Debt amount to collections in accordance with Colorado Department of Personnel and Administration, Office of the Executive Director, Accounts Receivable Collections Administrative Rule 1.37.

Impact of Bad Debt Owed to the Business Enterprise Program

If a Blind Operator is referred to collections for Bad Debt:

A. The State Licensing Agency has the right to remove the Blind Operator from any assigned/awarded Business Enterprise Location(s).

B. Monies due to Blind Operator shall be offset against existing bad Debt, without the prior approval of the Blind Operator. This includes quarterly unassigned vending machine income disbursements in accordance with § 9.407.

C. The Blind Operator is not eligible to bid on an available Business Enterprise Location.

D. The Blind Operator is not eligible to run for Colorado Elected Committee membership. If they are already on the Colorado Elected Committee, it will be managed by policy or on a case by case basis if none exists.

9.411 EQUIPMENT AND INITIAL MERCHANDISE INVENTORY [Rev. eff. 7/1/08]

9.411.1 Furnishing Equipment and Initial Merchandise Inventory [Rev. eff. 7/1/08]

All furnishing of equipment and initial merchandise inventory will be managed in accordance with 20 U.S.C. § 107b-2, 34 CFR Parts 395.3 and 395.6, and subject to availability of funds. Policies, procedures, and processes may be written to further identify methods for the management of State equipment and consumable inventory establishment and transfer.

A. The State Licensing Agency will furnish an adequate initial stock of merchandise for resale, and other related inventory items for the successful initial operation of the Business Enterprise Location for newly established Business Enterprise Locations and for incoming Blind Operators in established Business Enterprise Locations previously managed by another Blind Operator or program operated stands.

B. The State Licensing Agency shall purchase or cause to be furnished suitable equipment, utensils, and supplies for initial operation; and shall provide for the maintenance and repair of equipment and replacement of worn out or obsolete equipment for each Individual Business Enterprise Location as required to assure its continued successful operation.

C. The Blind Operator shall be responsible for routine day to day care of the equipment and items considered disposable by the State Licensing Agency.

D. The State Licensing Agency may require the Blind Operator to conduct a physical inventory of all merchandise and supplies; schedule to be determined by the State Licensing Agency.

9.411.2 Right, Title to, and Interest in Business Enterprise Location Equipment and Merchandise Inventory [Rev. eff. 7/1/08]

The right, title to, and interest and equity in all Business Enterprise Location equipment shall be held by the Business Enterprise Program of the State of Colorado with the exception of Blind Operator ownership per 34 CFR Part 395.6.

In order to satisfy these rules § 9.403.2(a)1(a), Each fiscal year, in anticipation of receiving spending authority, the State Licensing Agency shall seek Active Participation from the Colorado Elected Committee in order to designate a representative subcommittee to collaborate with the State Licensing Agency in order to establish the amount of equipment expenditures.

All resulting decisions are contingent upon receipt of actual funding and spending authority and are subject to applicable procurement rules and regulations.

9.412 TRAINING PROGRAM [Rev. eff. 7/1/08]

This Part is written pursuant to 20 U.S.C. § 107d-4, 34 CFR Part 395.11, and these rules §§ 9.403.2(3)(b) and 9.404, to achieve maximum vocational potential through the Division of Vocational Rehabilitation.

A training program shall be afforded to Trainees to certify them to manage a Business Enterprise Location in accordance with accepted business practices. After any necessary personal and vocational adjustment training, Trainees must complete established training programs within a twelve (12) month period, unless special circumstances are approved by the State Licensing Agency. Upon completion of the training program, the State Licensing Agency may assign the Trainee any Business Enterprise Location deemed to be suitable to the abilities of the Trainee, or the Trainee may participate in the transfer and promotion process, with the potential to compete and be awarded a Business Enterprise Location. The State Licensing Agency may develop policy to encourage, promote, or make mandatory continuing education and/or upward mobility.

Training and curriculum shall include the following to Blind Operators with the capacity to operate a vending facility, as needed.

A. Personal and vocational adjustment

B. Training:

1. All aspects of a Business Enterprise Location

2. On the job

3. Upward mobility

4. Post-employment

C. Training materials

D. Follow-along services

Prior to becoming Certified, each Trainee shall be provided a hard or electronic copy of or link to:

A. 20 U.S.C. § 107 et seq.

B. 34 CFR Part 395 et seq.

C. 8-84-201, C.R.S. et seq.

D. These rules

E. The standardized Blind Operator Agreement

A description of the arrangements for providing services and training on each of these documents shall be provided through classroom training and associated documentation, which shall include a signed acknowledgement.

9.413 RIGHTS OF APPEAL AND FORMAL APPEAL PROCESS [Rev. eff. 7/1/08]

Trainees and Certified Blind Operators may seek council of a Colorado Elected Committee member for a grievance in accordance with these Rules, § 9.403.2(b) and shall refer to the DVR Policy Manual for any mediation, informal appeal, or formal appeal of a State Licensing Agency decision.

Licensed Blind Operators whose license is in any status, who wish to pursue a grievance or appeal, shall act in accordance with the following.

9.413.1 Right of Appeal [Rev. eff. 7/1/08]

A. A Licensed Blind Operator who is dissatisfied with any determination made by the Business Enterprise Program staff and/or Division of Vocational Rehabilitation agency representative, which concerns the provision of Business Enterprise Program services, may request a:

1. Grievance in accordance with these Rules, § 9.403.2(b) and/or;

2. An informal review in accordance with this § 9.413 et seq. and/or;

3. A formal appeal in accordance with this § 9.413 et seq.

B. A Licensed Blind Operator is responsible for costs associated with their appeal.

C. NOTIFICATION OF RIGHTS TO REVIEW AND REQUEST MEDIATION

All Blind Operators through the Business Enterprise Program training, shall be notified of Licensed Blind Operator appeal rights.

D. PROVISION OF BUSINESS ENTERPRISE PROGRAM SERVICE(S) DURING REVIEWS AND MEDIATION

When a review request is made, all Business Enterprise Program services being provided under a current plan shall continue as specified until the review and/or appeal is completed, unless an Licensed Blind Operator or, as appropriate, the individual's representative requests a suspension, reduction, or termination of services, or if there is a risk to public safety or stability of The Business Enterprise Program. If the disputed service(s) and/or good(s) was obtained through proven misrepresentation, fraud, collusion, or criminal conduct by the individual or the individual's representative, the good or service shall be terminated immediately.

E. ADDITIONAL SERVICES DURING APPEALS

When an informal review or formal appeal request concerns an issue which may impact determination of ineligibility for Business Enterprise Program services and/or Transfer and Promotion, new or additional service(s) or good(s) shall not be provided.

F. DOCUMENTATION OF REVIEWS AND MEDIATION

The Blind Operator record shall contain documentation concerning actions and decisions relating to requests by Blind Operators for an informal review or formal appeal of Business Enterprise Program staff determinations.

G. INFORMAL REVIEW

The Licensed Blind Operator may request an informal review by the Program Manager in order to resolve the issue(s) under dispute with or without the conduct of a formal appeal. Informal review begins with a request for the Program Manager to review a decision concerning the provision of Business Enterprise Program services. If the individual is not satisfied with the decision made by the Program Manager, the individual may then submit a written request for review to the Blind and Low Vision Services Manager to review the decision. Informal review shall be conducted in a timely manner that shall not delay a formal appeal and within thirty (30) days of the initial request unless both parties agree that additional time is necessary. If the informal review does not resolve the issue(s), and the formal appeal process has not been requested, the individual may request a formal appeal.

When a formal appeal has been requested and the informal review does not resolve the dispute within the time established through mutual agreement, the formal appeal shall be conducted

within the time frames outlined for the formal appeal process. An individual is not required to go through an informal review prior to or instead of a formal appeal.

H. FORMAL APPEAL: FULL EVIDENTIARY HEARING

1. This is written pursuant to 20 U.S.C. § 107d-1 and 34 CFR Part 395.13.

2. An individual, or, as appropriate, his or her authorized representative, may initiate a formal appeal regarding Business Enterprise Program staff determinations by requesting an impartial due process hearing with an administrative law judge (ALJ).

3. The request shall be submitted, in writing, to the Colorado Department of Personnel and Administration, Office of Administrative Courts within ninety (90) calendar days of the decision that affects provision of a Business Enterprise Program service. The written request shall be a statement identifying the basis of the appeal, including a description of the determination made by the Business Enterprise Program staff that the individual is appealing. The statement should include a description of what the individual wants from the appeal.

4. Hearing Timelines

   A hearing shall be held within sixty (60) calendar days of the informal pre-hearing conference, unless both parties agree additional time is necessary for good cause. There may be situations when a time extension is necessary to allow either party or the administrative law judge sufficient time to prepare for the hearing following an informal review. Even at those times, all parties must agree to the extension.

5. Additional Evidence and Witnesses

   The individual, or, as appropriate, his or her authorized representative may present additional evidence, information, and witnesses to support the individual's position during the hearing.

6. Findings and Decision

   The administrative law judge shall render a decision and provide a written report of the findings and the grounds for this decision to the individual, or, as appropriate, his or her authorized representative, and the Business Enterprise Program within thirty (30) calendar days of completion of the hearing.

7. Federal Arbitration

   The State Licensing Agency or the Licensed Blind Operator who wishes to challenge the final decision made by the administrative law judge may submit a request for review of such decision to the Secretary of Education pursuant to and 20 U.S.C. § 107d-2 and 34 CFR Part 395.13. The final decision of the administrative law judge shall be implemented pending the results of the review of the Secretary of Education.

9.414 CONFIDENTIALITY [Rev. eff. 7/1/08]

The Business Enterprise Program shares business and logistical information as it is operationally required. As an eligibility program, it is considered common knowledge and is openly shared that participants are legally blind, along with meeting all other eligibility requirements.

The Business Enterprise Program shall develop further policy or process for the effective and consistent management of information.

Editor's Notes

History

Entire rule recodified from 12 CCR 2513-1 eff. 03/17/2017.

Rules 9.207.3, 9.209, 9.209.1, 9.209.2 A eff. 03/30/2018.

Rule 9.100 eff. 03/02/2019.

Rule 9.108.1 E.2 eff. 09/30/2019.

Rules 9.101.1, 9.102 A eff. 03/01/2020.

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Tracking number: 2022-00444

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Vocational Rehabilitation

on 09/26/2022

7 CCR 1105-1

DIVISION OF VOCATIONAL REHABILITATION

The above-referenced rules were submitted to this office on 09/27/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 13, 2022 12:09:12

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Local Affairs

Agency

Division of Housing

CCR number

8 CCR 1302-15

Rule title

8 CCR 1302-15 MOBILE HOME PARK ACT DISPUTE RESOLUTION & ENFORCEMENT PROGRAM 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF LOCAL AFFAIRS

Division of Housing

8 CCR 1302-15

Mobile Home Park Oversight Program

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

AUTHORITY

Pursuant to section 38-12-1104(2)(j), C.R.S.

SCOPE AND PURPOSE

To implement and clarify the Mobile Home Park Act, Title 38, Article 12, Part 2 of the Colorado Revised Statutes (C.R.S.), and the Mobile Home Park Act Dispute Resolution and Enforcement Program, Title 38, Article 12, Part 11, C.R.S., pursuant to statutory authority and changes made through House Bill 19-1309 Creating the Mobile Home Park Act Dispute Resolution and Enforcement Program (effective May 23, 2019), HB20-1196 Mobile Home Park Act Updates (effective June 30, 2020), HB20-1201 Mobile Home Park Residents Opportunity to Purchase (effective June 30, 2020), HB21-1121 Residential Tenancy Procedures (effective June 25, 2021), and HB22-1287 Concerning Protections for Mobile Home Park Residents (effective October 1, 2022).

RULE 1. DEFINITIONS

In addition to the definitions provided in sections 38-12-201.5 and 38-12-1103, C.R.S., the following definitions apply to enforcement of the Act (Part 2 of Article 12 of Title 38) and the Program (Part 11 of Article 12 of Title 38):

1.1 "Consecutive occupancy" for purposes of section 38-12-204(3), C.R.S., means the consecutive period of time that:

A. The tenant(s) have a rental agreement with the management or landlord for occupancy of the mobile home space;

B. The management or landlord is receiving rent payments for the mobile home space from the tenant(s) or a third party; or

C. The tenant(s) is residing in the mobile home or mobile home space after establishing lawful tenancy by signing a rental agreement pursuant or paying rent pursuant to Rule 1.1(A) or (B) of these rules.

1.2 "Home owner" as defined in section 38-12-201.5(2), C.R.S., includes residents who have an active rent-to-own, lease-to-own, purchase option, or similar agreement to buy a mobile home that is located in a mobile home park.

1.3 "Mobile home" as defined in section 38-12-201.5(5), C.R.S., includes a factory-built residential structure (modular home) if it is situated in a mobile home park and has all of the characteristics of a "mobile home" described in section 38-12-201.5(5)(a), C.R.S. (including being built on a

permanent chassis); any pre-1976 mobile home; and any manufactured home constructed to the federal standards on or after June 15, 1976.

1.4 “Mobile home park” as defined in section 38-12-201.5(6), C.R.S. –

A. Includes a park that is owned by a government entity, federally recognized tax-exempt charitable organization registered with the Colorado Secretary of State, or a Community Land Trust, if it has all of the characteristics of a “mobile home park” described in section 38-12-201.5(6), C.R.S. (including being operated for the pecuniary benefit of the owner of the parcel of land or the owner’s agents, lessees, or assignees).

B. Does not include a park that rents lots to camper coaches, camper trailers, fifth wheel trailers, motor homes, recreational park trailers, recreational vehicles, travel trailers, or truck campers, unless it also rents space to five (5) or more occupied “mobile homes” as defined in section 38-12-201.5(5), C.R.S., and Rule 1.3 of these rules.

1.5 For purposes of section 38-12-201.5(6.5), C.R.S., separate business entities that collectively own five (5) or more mobile or manufactured homes on the same parcel shall be treated as having the “same owner” if the business entities have one or more of the same legal or beneficial owners.

1.6 “New mobile home park or manufactured housing community development” as used in section 38-12-215(1)-(2), C.R.S., and “new park” as used in section 38-12-1106(9), C.R.S., do not include:

A. The addition of a “mobile home space(s),” as defined in section 38-12-201.5(7), C.R.S., to an existing mobile home park, as defined in section 38-12-201.5(6), C.R.S., and Rule 1.4 of these rules;

B. The sale, transfer, or conveyance of an existing mobile home park to a new owner(s); nor

C. The merger of two or more existing mobile home parks.

1.7 “Occupied mobile homes” as used in sections 38-12-201.5(6) and 38-12-217(4)(c), C.R.S., and Rules 1.4(B), and 2.2(I) of these rules means mobile homes for which the management or landlord:

A. Has a rental agreement with a tenant for the home or lot; or

B. Is receiving rent payments for the home or lot from a tenant or a third party.

1.8 “Rent” as defined in section 38-12-201.5(9), C.R.S., does not include attorney fees.

1.9 “Sufficient evidence” as used in section 38-12-212.5(4), C.R.S., and Rule 3.4 of these rules means a preponderance of the evidence.

1.10 “Vacant mobile homes” as used in Rule 2.2(J) of these rules means mobile homes for which the management or landlord:

A. Does not have a rental agreement with a tenant for the home or lot; and

B. Is not receiving rent payments for the home or lot from a tenant or a third party.

RULE 2. REGISTRATION REQUIREMENTS

2.1 Initial Registration – for new mobile home parks must occur within three (3) months of the availability of five (5) or more mobile home lots for rent within a new park.

2.1.1 The “management” or “landlord,” as defined in section 38-12-201.5(3), C.R.S., who is designated as the primary contact for the mobile home park must file a registration form including full payment on behalf of the park with the Division.

2.2 Required Information – as part of the registration process, a mobile home park must provide the following information in addition to the information required under section 38-12-1106(7), C.R.S.:

A. The physical address, phone number, and website address (if any) of the mobile home park (park);

B. The phone number and email address (if any) of the legal owner of the park;

C. If the legal owner of the park is a domestic or foreign limited liability company (LLC), the first and last name of an agent for the LLC and the agent’s phone number and email address (if any);

D. The first and last name, mailing address, phone number, and email address (if any) of the manager of the park;

E. If the park is managed by a business entity, the business entity’s name, the first and last name of an agent for the business entity, and the agent’s mailing address, phone number, and email address (if any);

F. Identify which individual or business – the park owner or management – is designated as the primary contact for the mobile home park;

G. The physical address of each mobile home;

H. Identify which homes a tenant home owner independently owns, and which homes the mobile home park landlord owns;

I. The total number of occupied mobile homes;

J. The total number of vacant mobile homes;

K. If the park is managed by a business entity, the name of any entity that exercises financial or management control of the business entity that manages the park;

L. If an entity exercises financial or management control of the domestic or foreign limited liability company (LLC) that owns the park, the first and last name of an agent for the entity, and the agent’s mailing address, phone number, and email address (if any);

M. If an entity exercises financial or management control of the business entity that manages the park, the first and last name of an agent for the entity, and the agent’s mailing address, phone number, and email address (if any);

N. If the park does business under any other name(s), the “Doing Business As (DBA)” name(s) and the Secretary of State Identification Number(s) for that DBA(s) (if any); and

O. The signature of a landlord, as defined in section 38-12-201.5(3), C.R.S., filing for registration or registration renewal for the mobile home park pursuant to section 38-12-1106(4), C.R.S.

2.3 Complete, Accurate, and Truthful Information Required – initial registration and registration renewal forms filed pursuant to section 38-12-1106(4), C.R.S., and Rules 2.1, 2.2, and 2.5 of these rules must be complete, accurate, and truthful and include all attachments and supplementation information. Pursuant to section 38-12-1106(7), C.R.S., the Division may not accept incomplete forms.

2.4 Registration Delinquency Fee – landlords who do not submit complete, accurate, and truthful information on their initial registration or registration renewal forms may be subject to a registration delinquency fee pursuant to section 38-12-1106(9), C.R.S., and Rule 4.2 of these rules.

2.5 Expiration Date – will be one year from the first day of the following month after registration approval by Division staff, i.e. February 1, 2021 if approved in January of 2020, and must be renewed by that date if still operating as a mobile home park.

2.6 If any of the provided information required by sections 38-12-1106(7)(a), (a.5)(I)-(III), or (b), C.R.S., or Rules 2.2(A)-(F) of these rules changes between the time of initial registration and renewal, or between registration renewals, the management or landlord is required to notify the Division within thirty (30) calendar days of the change to ensure timely delivery of Program communications.

2.7 Fee – Pursuant to section 38-12-1106(8), C.R.S., for the 2021 calendar year and each calendar year thereafter, an annual registration fee of $24.00 must be paid by the mobile home park for each mobile home independently owned by a tenant home owner on rented land within the park, unless and until such registration fee is adjusted by the Division through a public rulemaking process.

2.7.1 Pursuant to section 38-12-1106(8), C.R.S., the management or landlord may charge a home owner not more than half of the registration fee annually. If the management or landlord attempts to recoup up to 50 percent of this fee from the home owner, the management or landlord must:

A. Notify the home owner in writing at least 60 calendar days before the management or landlord expects the home owner to pay the additional fee, or a longer time period if required by the home owner's lease; and

B. Do so in a clear and consistent manner within one (1) year of paying the registration fee to the Division.

RULE 3. DISPUTE RESOLUTION AND ENFORCEMENT

General Rules

3.1 The following deadlines are in calendar days:

A. Respond to a subpoena within fourteen (14) days pursuant to section 38-12-1105(3)(a), C.R.S.

B. Comply with the requirements of a Notice of Violation within seven (7) days of it becoming a Final Agency Order pursuant to section 38-12-1105(5), C.R.S.

C. A landlord must notify the Division within thirty (30) days of a change in the ownership of the mobile home park pursuant to section 38-12-1106(5), C.R.S.

Filing a Complaint

3.2 A home owner acting in the capacity of a "complainant" as defined in section 38-12-1103(2), C.R.S., may file a complaint on behalf of their tenant if they are leasing their mobile home and the renter has experienced and communicated an alleged violation of the Act or Program to the home owner, provided that the home owner has made it clear in the complaint that it is being filed in a representative capacity.

3.3 When filing a complaint with the Division under section 38-12-1105(1), C.R.S., aggrieved parties are not required to allege what specific statutory section(s) of the Act or Program have been violated. The Division will apply the appropriate reference(s) to statute or rule upon review of the information provided in the complaint form and any additional information provided to the Division in connection with the complaint.

Complaint Investigation

3.4 Before imposing a penalty under section 38-12-1105(13), C.R.S., and Rule 4.4 of these rules, the Division will give the management or landlord an opportunity to rebut a presumption of retaliation with sufficient evidence of a nonretaliatory purpose pursuant to section 38-12-212.5(4), C.R.S.

3.4.1 The Division will consider as sufficient evidence of a nonretaliatory purpose, when provided by the management or landlord in response to a retaliation complaint, evidence including, but not limited to:

A. In response to an allegation of retaliatory action pursuant to section 38-12-201.5(12)(k), C.R.S., evidence that:

i. The management or landlord reported, to an appropriate government agency, home owner conduct on park premises that materially harmed or threatened real or personal property or the health, safety, or welfare of one or more individuals or animals, including pet animals; or

ii. The information reported to a government agency was, to the management or landlord's knowledge, truthful and relevant to an ongoing investigation by that federal, state, or local government agency.

3.5 Pursuant to section 38-12-214(3)(a), C.R.S., when a home owner files a complaint with the Division within sixty (60) days after receiving a written notice of the management's intent to add or amend any written rule or regulation, alleging that a new or amended park rule or regulation will increase a cost to the home owner in an amount that equals or exceeds ten percent of the home owner's monthly rent obligation:

3.5.1 The Division will notify the management of the complaint and the specific rule(s), regulation(s), or amendment(s) being challenged in the complaint.

3.5.2 The management shall not engage in any action to enforce the challenged rule(s), regulation(s), or amendment(s) that is the subject of the complaint against any resident in the park, unless and until the parties to the complaint reach an agreement or the dispute resolution process concludes as described in section 38-12-214(3)(a), C.R.S.

3.5.3 Once the management receives notice from the Division of a complaint described in Rule 3.5 of these rules, the management shall notify all residents in the park that is the subject

of the complaint in writing within fourteen (14) calendar days that the management will not enforce the challenged rule(s), regulation(s), or amendment(s) until further notice.

3.5.4 Unless otherwise prohibited by law, the management may enforce the other new or amended rules or regulations against residents that are not the subject of any complaint(s) described in Rule 3.5 of these rules, after the sixty (60) day written notice period expires.

3.6 A landlord acting in the capacity of a "complainant," as defined in section 38-12-1103(2), C.R.S., may file a complaint with the Division alleging that a home owner does not have and will not sign a written rental agreement in violation of section 38-12-213(2), C.R.S.

3.6.1 When investigating a complaint alleging that a home owner has not signed a written rental agreement in violation of section 38-12-213(2), C.R.S., the Division will consider factors including, but not limited to:

A. Whether the current or previous management provided a written rental agreement to the home owner prior to the rental or occupancy of a mobile home space or lot pursuant to section 38-12-213(1), C.R.S. (effective July 1, 1981);

B. Whether the written rental agreement the current management provided the home owner would make material changes to the terms and conditions of the home owner's existing tenancy as described in subsections 38-12-213(1)(a)-(f), C.R.S. In evaluating what the terms and conditions of an existing tenancy are, the Division may consider the following including, but not limited to:

i. Other written agreements between the management and the home owner;

ii. Verbal agreements between the management and the home owner; and

iii. Past charges to and payments made by the home owner as described in subsections 38-12-213(1)(a) and (f), C.R.S.; and

C. Whether changes to the terms and conditions of the home owner's existing tenancy as described in subsections 38-12-213(1)(a)-(f), C.R.S., are necessary for the rental agreement to comply with current state law and local law.

Written Determination and Notice of Violation or Nonviolation

3.7 A landlord found to be in violation of the Act, Program, or these rules cannot pass on the costs of any remedial action(s), including penalties, fines, or fees, required by the Division or an Administrative Law Judge in a Final Agency Order to any home owner.

3.8 A landlord shall not pass on the costs of any attorney fees, witness fees, or other legal fees incurred by a landlord in responding to a complaint filed pursuant to section 38-12-1105(1), C.R.S., or an investigation by the Division of an alleged violation of the Act, Program, or these rules to any home owner, notwithstanding any language to the contrary in a rental agreement.

RULE 4. PENALTIES

4.1 The Division will apply the following criteria when assessing a registration delinquency fee pursuant to section 38-12-1106(9), C.R.S., and Rule 4.2 of these rules, a penalty for failure to appropriately post, maintain, or provide copies of the required Home Owner Notice pursuant to section 38-12-1104(2)(d), C.R.S., and Rule 4.3 of these rules, a penalty for taking any "retaliatory

action(s)" against a home owner pursuant to section 38-12-1105(13), C.R.S., and Rule 4.4 of these rules, or a penalty for failing to timely respond to a subpoena pursuant to section 38-12-1105(3)(c), C.R.S., and Rule 4.6 of these rules:

A. The severity of the violation;

B. The type of violation;

C. The duration of the violation;

D. Whether the person or entity committed repeated violations;

E. Whether the person or entity submitted complete, accurate, and truthful information to the Division; and

F. Any other mitigating or aggravating circumstances, including the impact on others, cooperation with the investigation process, and the sufficiency of the penalty to deter future violations.

4.2 The Division will scale any registration delinquency fees assessed under section 38-12-1106(9), C.R.S., as follows:

A. First offense, may be fined up to $3,000.

B. Second offense, may be fined up to $4,000.

C. Third or subsequent offense, may be fined up to $5,000.

4.3 The Division will scale any penalties assessed under section 38-12-1104(2)(d), C.R.S., for failing to appropriately post, maintain, or provide copies of the required Home Owner Notice described in section 38-12-1104(2)(a), C.R.S., in the time frame, manner, and locations provided in section 38-12-1104(2)(c), C.R.S., and Rule 5 of these rules, as follows:

A. First offense, may be fined up to $3,000.

B. Second offense, may be fined up to $4,000.

C. Third or subsequent offense, may be fined up to $5,000.

4.4 The Division will scale any penalties assessed under section 38-12-1105(13), C.R.S., for taking any "retaliatory action(s)" against a home owner, as defined in section 38-12-201.5(12), C.R.S., and further clarified in section 38-12-212.5, C.R.S., and Rule 3.4 of these rules, as follows:

A. First offense, may be fined up to $5,000.

B. Second offense, may be fined up to $7,500.

C. Third or subsequent offense, may be fined up to $10,000.

4.5 The Division will scale any penalties assessed under section 38-12-1105(5), C.R.S., for failing to comply with the requirements of a Notice of Violation as follows:

A. First offense, may be fined up to $3,000, per violation per day.

B. Second offense, may be fined up to $4,000, per violation per day.

C. Third or subsequent offense, may be fined up to $5,000, per violation per day.

4.6 The Division will scale any penalties assessed under section 38-12-1105(3)(c), C.R.S., for failing to timely respond to a subpoena as follows:

A. First offense, may be fined up to $3,000, per violation per day.

B. Second offense, may be fined up to $4,000, per violation per day.

C. Third or subsequent offense, may be fined up to $5,000, per violation per day.

4.7 If the current or former management or landlord violates section 38-12-223, C.R.S., or Rule 10.1 of these rules, related to preservation of and access to tenancy and park sale records, the Division may assess penalties of:

A. First offense, up of to $100 per violation.

B. Second offense, up to $250 per violation.

C. Third offense, up to $500 per violation.

RULE 5. REQUIREMENTS FOR THE NOTICE OF HOME OWNER AND RESIDENT RIGHTS

5.1 Pursuant to section 38-12-1104(2)(c), C.R.S., the management or landlord must post and maintain the Notice of Home Owner and Resident Rights (Notice) described in section 38-12-1104(2)(a), C.R.S., in a clearly visible and accessible location in every common area of the mobile home park, including every common resident mailbox location; every rent payment dropbox or other rent payment location; and every community hall, recreation hall, and clubhouse. The management or landlord must post this Notice in a form authorized by the Division within seven (7) calendar days of receiving the Notice from the Division.

5.1.1 If there is no common resident mailbox location, rent payment location, community hall, recreation hall, or clubhouse in the mobile home park, the management or landlord must post and maintain the Notice, in a clearly visible and accessible location, at every location of another type of physical common area in the park. The types of common areas where the management or landlord may post and maintain the Notice include, but are not limited to:

A. Outside every management office;

B. At every park entrance; or

C. On the front of every dumpster provided for use by residents.

5.1.2 If there are no physical common areas in the park the same as or similar to those described in Rule 5.1 and 5.1.1 of these rules, the management or landlord may post and maintain the Notice in a clearly visible and accessible location on the mobile home park's online rent payment portal or other website intended for use by residents.

5.1.3 In addition to complying with Rules 5.1, 5.1.1, and 5.1.2 of these rules, the management or landlord must provide the Notice in an accessible format for any home owner or resident with disabilities (e.g. Braille or audio recording) upon request. These formats are available to the management or landlord from the Division by request.

5.2 In addition to complying with Rules 5.1 and 5.3 of these rules, the management or landlord must provide a copy of the required Notice to each home owner and resident within seven (7) calendar days of receiving the Notice from the Division and on an annual basis, by posting it on the door of every mobile home or mailing it to each home owner and resident at either the address provided in the rental agreement or the most recent mailing address of the home owner or resident on file with the management or landlord.

5.2.1 As an alternative to Rule 5.2, the management or landlord may email a copy of the Notice to a home owner(s) or resident(s), only if the home owner or resident has an email address on file with the management or landlord, and the management or landlord regularly uses that email address for other communications with the home owner or resident, like rent payment or maintenance notices.

5.3 In addition to complying with Rules 5.1 and 5.2 of these rules, the management or landlord must also provide a copy of the required Notice with each new lease executed with a home owner or resident, and to each home owner and resident after a change in park ownership.

RULE 6. MANAGEMENT, LANDLORD, AND HOME OWNER RESPONSIBILITIES

Landlord Maintenance of the Premises

6.1 Trees – Notwithstanding the landlord's responsibility to maintain trees on the premises under section 38-12-212.3(2)(b)(IV), C.R.S., a home owner may enter a voluntary, written agreement with their landlord to take on the responsibility for simple trimming that does not affect the safety of park residents or their property of trees located on the lot they are renting from the park, so long as the home owner was not required to assume this responsibility as a condition of tenancy in the mobile home park in violation of section 38-12-212.3(3), C.R.S.

6.2 Fences – Fences located on the "premises" as defined in section 38-12-201.5(8), C.R.S., are presumed to be the responsibility of the landlord pursuant to section 38-12-212.3(2)(b), C.R.S., unless:

A. The home owner built the fence;

B. The current home owner bought the fence from the previous home owner; or

C. The home owner agreed in their rental agreement to take on the responsibility for maintaining and repairing the fence and paying the cost thereof in their rental agreement, so long as the home owner was not required to assume this responsibility as a condition of tenancy in the mobile home park in violation of section 38-12-212.3(3), C.R.S.

6.3 Incorporated Codes – Pursuant to section 38-12-212.3(2)(b)(I), C.R.S., the following health and safety laws applicable to mobile home parks are incorporated by reference:

A. 6 CCR 1010-12, *Mobile Home Parks*, effective January 1, 1975.

6.3.1 Interested parties may inspect the referenced incorporated materials by contacting the Division at 1313 Sherman Street, Denver, CO 80203.

6.3.2 These regulations do not include later amendments to or editions of the incorporated material.

Compliance with Park Rules and Regulations

6.4 Mobile Home Sales and Transfers – If the management provides a written list pursuant to section 38-12-214(2.5)(b), C.R.S., the written list shall include:

A. Any and all items the management knows, or reasonably should have known, would require correction at the time of sale or transfer of the mobile home;

B. A detailed description of each item; and

C. A citation to the specific park rule or regulation that applies to each item on the list. Any park rule or regulation cited must be reasonable and enforceable under section 38-12-214(1)-(4), C.R.S.

Charges to Home Owners

6.5 Limitations on Charges for Noncompliance – The following rules apply when the management intends to enter a mobile home space to ensure compliance with applicable codes, statutes, ordinances, and administrative rules; the rental agreement; or the rules and regulations of the park pursuant to section 38-12-222(2), C.R.S.

6.5.1 Before entering the mobile home space, the management shall first provide the home owner with a reasonable time to cure the alleged noncompliance and an estimate of the cost if the landlord cures the noncompliance instead (when an estimate is reasonably available and a charge would be permitted by the rental agreement).

6.5.2 If the home owner fails to cure or contest the noncompliance (ex. by communicating with the management or filing a complaint with the Program) within a reasonable amount of time, the management shall make a reasonable effort to notify the home owner of the management's intention to enter the mobile home space and cure the noncompliance at least forty-eight (48) hours before entry.

6.5.3 All of the following conditions must be met for the management to charge a home owner for the cost of ensuring compliance with applicable codes, statutes, ordinances, and administrative rules; the rental agreement; or the rules and regulations of the park:

A. The potential for a charge must be adequately disclosed in writing in the rental agreement pursuant to section 38-12-213(1)(f), C.R.S.;

B. The amount of the charge or the charge itself cannot be a prohibited "entry fee," as defined in section 38-12-201.5(1), C.R.S., and prohibited by section 38-12-209(1), C.R.S.; and

C. If the charge is for the cost of ensuring compliance with a rule or regulation of the park, the rule or regulation must be reasonable and enforceable under section 38-12-214(1)-(4), C.R.S.

6.6 Limitations on Pet Deposits – Pursuant to sections 38-12-102(6) and 38-12-103(1), C.R.S.:

6.6.1 The management or landlord cannot charge or collect a nonrefundable pet deposit from a home owner or prospective home owner.

6.6.2 The management or landlord may only charge or collect a refundable pet deposit from a home owner or prospective home owner, if the total combined amount of the security deposit and refundable pet deposit is no greater than one month's rent.

6.7 Pet Rent Definition – Pursuant to sections 38-12-201.5(1) and 38-12-209(1), C.R.S., any recurring charges to home owners with pets must either be part of the "rent," as defined in section 38-12-201.5(9), C.R.S., or fall under an exception to the prohibition on "entry fee[s]" under section 38-12-201.5(1)(c) or (e), C.R.S.

6.7.1 If the management or landlord charges or collects pet rent as part of a home owner's rent, instead of as an exception to the prohibition on entry fees:

A. The amount or application of pet rent must not be discriminatory nor retaliatory in nature; and

B. All statutes and rules applicable to rent, including, but not limited to sections 38-12-213(1)(a) (on rental agreements), 38-12-204(2) (on notice of rent increases), and 38-12-204(3) (limiting the frequency of rent increases), C.R.S., apply to pet rent as part of the tenant's total rent.

<u>Landlord Notices to Residents</u>

6.8 Lot Entry Notices –

6.8.1 Pursuant to section 38-12-222(3), C.R.S., the management will have delivered advance notice of lot entry "in a manner that is reasonably likely to be seen or heard by the resident in a timely manner" if the management provides notices to a resident by one of the methods below:

A. Text message, if the resident has a telephone number that can receive text messages;

B. Electronic mail, if the resident has provided the landlord with an email address;

C. A documented telephone call, if the management speaks to the resident or leaves a voicemail message for the resident;

D. A documented verbal conversation with resident; or

E. Posting a written notice on the main entrance to the resident's mobile home. Pursuant to section 38-12-222(3), C.R.S., the management does not need to provide the resident notice before posting a notice under this Rule 6.8.1(E) on the main entrance to the mobile home.

6.8.2 If a resident invites the management onto the resident's mobile home space on a certain date and approximate time, the management may enter that resident's space at the date and approximate time they were invited onto the space by the resident, without providing notice pursuant to section 38-12-222(3), C.R.S.

6.8.3 For purposes of meter reading for monthly water, sewer, or utility billing, notice will be sufficient under section 38-12-222(3), C.R.S., if it is provided to residents once every twelve (12) months, at least forty-eight (48) hours before meter reading takes place, and includes a date range and time range for meter reading, provided that:

A. The date range does not exceed five (5) calendar days; and

B. The time range does not exceed eight (8) hours on any calendar day.

6.8.4 If the management needs to enter a residents lot to complete a specific maintenance or repair project pursuant to sections 38-12-212.3(1)-(2), C.R.S., or Rules 6.1-6.3 of these rules, that will take more than one day to complete, notice will be sufficient under section 38-12-222(3), C.R.S., if the notice:

A. Is provided to the resident at least forty-eight (48) hours before the maintenance or repair project starts;

B. Includes a description of each stage of work that the management will be entering the resident's lot to perform; and

C. Includes a specific date range and time range for each stage of work.

6.8.5 The management is not required to provide more than one notice of lot entry to a resident for a specific maintenance or repair project pursuant to sections 38-12-212.3(1)-(2), C.R.S., or Rules 6.1-6.3 of these rules, as long as notice has been provided pursuant to section 38-12-222(3), C.R.S., and Rule 6.8.4 of these rules, and the maintenance or repair project is completed within the date range and time range described in the notice pursuant to Rule 6.8.4(C) of these rules. If the management needs to enter the resident's lot at a date or time that was not included in a notice pursuant to section 38-12-222(3), C.R.S., or Rule 6.8.4 of these rules, the management must provide a new notice to the resident pursuant section 38-12-222(3), C.R.S.

6.9 Water Service Disruption Notices – Pursuant to section sections 38-12-212.3 (1)(a)(III)(C) and (1)(c), C.R.S., the management must provide a water service disruption notice to each resident by at least one of the following methods:

A. Text message, if the resident has a telephone number that can receive text messages;

B. Electronic mail, if the resident has provided the landlord with an email address;

C. A documented telephone call, if the management speaks to the resident or leaves a voicemail message for the resident;

D. A documented verbal conversation with resident; or

E. Posting a written notice on the main entrance to the resident's mobile home. Pursuant to section 38-12-222(3), C.R.S., the management does not need to provide the resident notice before posting a notice under this Rule 6.9 on the main entrance to the mobile home.

<u>Home Owner Meetings</u>

6.10 Pursuant to section 38-12-206(2), C.R.S., a "fee" shall not include a fully refundable deposit made by a resident prior to the use of a common building or space in the park. This deposit shall be returned upon completion of the use of a common building or space in the park within thirty (30) calendar days. The deposit shall be returned with an accounting of deductions, if any. Pursuant to section 38-12-206(2), C.R.S., deductions shall be limited to the reasonable costs of cleaning or repairing actual damages beyond normal wear and tear that were caused by the resident or their guest(s).

6.11 The management, landlord, agent, employee, or authorized representative who attends a home owner or resident meeting requested pursuant to section 38-12-206(3), C.R.S., must be someone who has the authority to make decisions on behalf of the park owner. If the home owner or resident asked to meet with the landlord on a specific topic(s), the landlord shall make a

reasonable effort to have someone attend the meeting who has decision-making authority on such topic(s).

RULE 7. WATER USAGE, BILLING, AND LEAKS

7.1 The requirements in section 38-12-212.4(1), C.R.S., apply to all types of water usage, including sewer and storm water usage.

7.2 The management or landlord may change the method of utility billing by providing sixty (60) calendar days written notice to the home owners, provided that the new method of billing is reasonable, equitable, and consistent; does not violate any of the provisions in section 38-12-212.4, C.R.S.; and is not in violation of the home owner's rental agreement established pursuant to section 38-12-213, C.R.S.

7.3 Only in cases where the management purchases water from a provider and charges home owners for water usage in the park, but the management does not get the master meter charge(s) from the provider until after the management calculates each home owner's monthly water bill, the management may provide the following information to each home owner to meet the billing disclosure requirements under section 38-12-212.4(2), C.R.S.:

A. The amount owed by the home owner for the current month;

B. The total amount owed by all the residents in the mobile home park for the current month; and

C. The total amount paid by the management to the provider for the previous month.

7.4 In the event that any water usage, billing, or payment information required under section 38-12-212.4(2), C.R.S., and Rule 7.3 of these rules is not available to the management due solely to circumstances beyond the management's control, the management shall take reasonable steps to comply with section 38-12-212.4(2), C.R.S., and Rule 7.3 of these rules, and to provide accurate disclosures to home owner as soon as reasonably possible and in a manner that meets the intent of section 38-12-212.4, C.R.S.

RULE 8. PARK SALES AND HOME OWNER OPPORTUNITY TO PURCHASE

8.1 Listing – For purposes of section 38-12-217(1)(a)(II)(G), C.R.S., the landlord lists the park for sale when the owner of the mobile home park or their agent, employee, broker, or representative authorized to act on the owner's behalf offers the property for sale.

8.2 Conversations with Home Owners Allowed – For purposes of section 38-12-217(1)(d), C.R.S., a landlord may answer questions and communicate with home owners about the landlord's intent to sell the mobile home park or the opportunity to purchase during the initial ninety (90) days after giving notice, provided that the landlord does not take any actions that are prohibited by section 38-12-217(1)(d), C.R.S.

8.3 Contents of Park Sale Notice – Pursuant to section 38-12-217(3), C.R.S., the "price, terms, and conditions" to sell the park include, but are not limited to:

A. Any money or compensation the seller or seller's agent has paid or intends to pay to the potential buyer or buyer's agent, including due diligence costs or brokerage fees;

B. Whether or not the seller has signed a conditional contract for the sale of the park with a potential buyer, or intends to do so within the next ninety (90) calendar days;

C. Whether or not the proposed sale includes more than one mobile home park or piece of real estate (for example, is part of a portfolio or bundled sale); and

D. For sales that include more than one mobile home park or piece of real estate, like portfolio or bundled sales:

i. The name and property description of any and all other mobile home parks or real estate included in the proposed sale;

ii. The total price, terms, and conditions of an acceptable offer to sell all of the properties located in the state of Colorado; and

iii. The price, terms, and conditions of an acceptable offer to sell each of the mobile home parks located in the state of Colorado that are included in the proposed sale.

8.4 Pursuant to sections 38-12-217(9)(b)(I)(B) and (9)(b)(II), C.R.S, a material change to the price, terms, or conditions shall mean any increase or decrease to the financial terms of the proposed sale that exceeds ten (10) percent of the financial terms included in the most recent notice required under section 38-12-217(1)(a), C.R.S.

8.5 Evidence of Majority Approval – When providing reasonable evidence of majority home owner approval pursuant to section 38-12-217(4)(c), C.R.S., a group or association of home owners or their assignees may submit a written statement to the landlord that the group, association, or their assignees has written evidence that at least fifty-one percent (51%) of the owners of occupied homes have approved the group, association, or their assignee's offer to purchase. To be considered reasonable evidence, this written statement must be signed by an attorney, government official, or another mutually acceptable third party, who attests to the truthfulness of the group, association, or their assignees' claim.

8.6 Calculating Home Owner Majorities – For purposes of calculating the percentages described in sections 38-12-217(1)(c), (4)(c), and (8)(b)(I), C.R.S., percentages are based on the total number of individual home owners in the mobile home park, without consideration for the total number of resident-owned homes or any homes owned by the landlord.

8.7 Affidavit of Compliance – Pursuant to section 38-12-217(11), C.R.S., the landlord:

A. Shall not file the affidavit of compliance before the home owners' opportunity to purchase terminates or expires pursuant to sections 38-12-217(1)(c) or (6)(a), C.R.S.; and

B. Shall file the affidavit of compliance on a Division-approved form within thirty (30) calendar days after the sale or transfer of the park is final.

8.8 Exemption Form – If a park sale or transfer qualifies for an exemption from the notice and opportunity to purchase requirements pursuant to sections 38-12-217(12) and (13), C.R.S., the landlord shall provide evidence of compliance by filing a Division-approved exemption form within thirty (30) calendar days after the closing date of the exempt sale or transfer with:

A. The municipality or, if the park is in an unincorporated area, the county, within which the park is located; and

B. The Division of Housing in the Department of Local Affairs.

8.9 Enforcement – The Division may impose a fine on the seller of a mobile home park pursuant section 38-12-217(15)(b)(I), C.R.S., or file a civil action for injunctive or other relief pursuant to section 38-12-217(15)(b)(II), C.R.S., where an action accrued or a complaint was filed prior to October 1, 2022.

8.10 Tolling and Assignment – A group or association of home owners or their assignees may exercise their rights under the following subsections of section 38-12-217, C.R.S., regardless of when the landlord provided notice of the landlord's intent to sell the mobile home park pursuant to section 38-12-217(1)(a), C.R.S. If a triggering event occurred requiring notice under section 38-12-217(1)(a)(II), C.R.S., but the landlord failed to provide notice as required by section 38-12-217(2)(a), C.R.S., a group or association of home owners or their assignees may also exercise their rights under the following subsections:

A. Tolling of the time periods described in subsections 38-12-217(4)(a) and (6)(b), C.R.S., pursuant to section 38-12-217(7)(b)(I), C.R.S.; and

B. Assignment of their rights to a public entity pursuant to section 38-12-217(8)(b)-(f), C.R.S.

RULE 9. PARK CHANGES IN USE AND HOME OWNER REMEDIES

9.1 Requests for Relocation Costs – Pursuant to section 38-12-203.5(2)(a), C.R.S., a home owner(s) must submit their written demand to the landlord for the landlord to provide relocation costs to the home owner(s) at least thirty (30) days before the date of the change in use set forth in the notice required by section 38-12-203(1)(d)(II), C.R.S.

9.2 Requests for Fixed Sale Price – Pursuant to section 38-12-203.5(2)(b), C.R.S., a home owner(s) may, at the home owner's or home owners' choosing, submit a written demand to the landlord for the landlord to make a binding offer to purchase their mobile home for the amount specified in sections 38-12-203.5(2)(b)(I) and (4), C.R.S., without going through the appraisal process set forth in section 38-12-203.5(2)(b)(II), C.R.S. To exercise this option, the home owner(s) must:

A. Clearly state in their written demand to the landlord pursuant to section 38-12-203.5(2), C.R.S., that the home owner(s) is choosing to receive the amount specified in sections 38-12-203.5(2)(b)(I) and (4), C.R.S., without going through the appraisal process; and

B. Submit their written demand to the landlord at least thirty (30) days before the date of the change in use set forth in the notice required by section 38-12-203(1)(d)(II), C.R.S.

9.3 Requests for Appraisal – Pursuant to section 38-12-203.5(2)(b), C.R.S., a home owner(s) must submit their written demand to the landlord for the landlord to submit a binding offer to purchase their mobile home at least one hundred and fifty (150) days before the date of the change in use set forth in the notice required by section 38-12-203(1)(d)(II), C.R.S.

9.3.1 The one hundred and fifty (150) day deadline in this Rule 9.3 does not apply if the home owner(s) chooses not to go through the appraisal process, pursuant to Rule 9.2 of these rules.

9.4 Contents of Notice – Pursuant to section 38-12-203(1)(d)(II), C.R.S., the written notice of the landlord's intent to change the use of the land and evict the home owner(s) and must advise the home owner(s) of the deadlines described in Rules 9.1-9.3 of these rules to demand each remedy under in section 38-12-203.5(2), C.R.S.

RULE 10. TENANCY AND PARK SALE RECORDS

10.1 Pursuant to section 38-12-223(1) and (5), C.R.S., the following rules apply when a resident requests copies of their tenancy records from the landlord:

10.1.1 At mobile home parks where there is an on-site management office, the management must allow residents to view any or all of their own tenancy records by appointment during normal business hours.

10.1.2 Upon the request of a resident, the management must provide one copy of the resident's tenancy records as described in section 38-12-223(1), C.R.S., at no charge once every twelve (12) months.

A. The management may not charge a fee for delivering, mailing, or e-mailing the documents requested under this Rule 10.1.2.

B. The management must provide the resident all of the available records requested pursuant to this Rule 10.1.2 within ten (10) business days after the resident submits the request to the management.

10.1.3 If a resident requests more than one copy of their tenancy records, or requests a single copy of their tenancy records more than once in any twelve-month period, the management may charge the resident a reasonable fee to cover the actual costs of compiling, printing, redacting, and sharing the records.

A. Before charging a resident under this Rule 10.1.3, the management will provide an invoice to the resident, and obtain the resident's written consent to move forward with the charge.

B. The management must provide the resident all of the available records requested pursuant to this Rule 10.1.3 within ten (10) business days after the resident pays the amount invoiced under Rule 10.1.3(A) of these rules.

10.1.4 A resident may request copies of documents that are part of their tenancy records in person, in writing, by telephone, by text message, or by electronic mail.

10.1.5 In lieu of paper copies, a resident may request that the management send the responsive documents to the resident by electronic mail.

10.1.6 Upon the request of a resident, the management must provide the resident with detailed documentation of the resident's monthly charges and payments over the last twelve (12) months of tenancy. The management must provide the first copy requested in a twelve (12) monthly period to the resident at no charge pursuant to Rule 10.1.2 of these rules. The management may charge the resident for the second or subsequent copy in a twelve (12) month period pursuant to Rule 10.1.3 of these rules.

RULE 11. PETITIONS FOR DECLARATORY ORDERS CONCERNING THE MOBILE HOME PARK ACT AND DISPUTE RESOLUTION AND ENFORCEMENT PROGRAM

11.1 Pursuant to section 24-4-105(11), C.R.S., any person may petition the Department of Local Affairs, Division of Housing for a declaratory order to terminate controversies or remove uncertainties as to the applicability to the petitioner of any provision of the Act (Title 38, Article 12, Part 2, C.R.S.), Program (Title 38, Article 12, Part 11, C.R.S.), or rules (8 CCR 1302-15).

11.1.1 The parties to any petition for a declaratory order pursuant to this regulation shall be the petitioner and the Division.

11.2 Each petition for a declaratory order shall set forth the following:

A. The first and last name, mailing address, phone number, and email address (if any) of the petitioner;

B. Whether the petitioner is the management or landlord of a mobile home park pursuant to section 38-12-201.5(3), C.R.S., and if yes, the registration number for the mobile home park issued by the Division pursuant to section 38-12-1106(10), C.R.S.;

C. Whether the petitioner is a resident of a mobile home park pursuant to section 38-12-201.5(11), C.R.S., and if yes, whether the petitioner is also a home owner pursuant to section 38-12-201.5(2), C.R.S.;

D. The statute or rule to which the petition relates;

E. A concise statement of all of the facts necessary to show the nature of the controversy or the uncertainty as to the applicability to the petitioner of the statute or rule to which the petition relates;

F. A concise statement of the legal authorities, if any, and such other reasons upon which petitioner relies; and

G. A concise statement of the declaratory order sought by the petitioner.

11.3 A petition for a declaratory order shall be served on the Division by emailing and mailing such petition to the Mobile Home Park Oversight Program (MHPOP). Each petition for a declaratory order shall contain a certification that the service requirements of this paragraph have been met.

11.4 The Division Director or their designee will determine, in their sole discretion without prior notice to the petitioner, whether to entertain any petition. If the Division Director or designee decides not to entertain a petition, the Division will notify the petitioner in writing of its decision and the reasons for that decision. Any of the following grounds may be sufficient reason to refuse to entertain a petition, including, but not limited to:

A. A ruling on the petition will not terminate the controversy nor remove uncertainties concerning the applicability to petitioner of the statute or rule in question;

B. The petition involves a subject, question, or issue which is involved in a written complaint previously filed with MHPOP, an on-going investigation being conducted by MHPOP, or a pending hearing before the Office of Administrative Courts;

C. The petition seeks a ruling on a moot or hypothetical question, having no applicability to the petitioner; or

D. Petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Colorado Rule of Civil Procedure 57, which will terminate the controversy or remove any uncertainty concerning applicability of the statute or rule.

11.5 If the Division Director or designee determines that they will entertain the petition for declaratory order, the Division shall promptly so notify all parties involved, and the following procedures shall apply:

11.5.1 The Division Director or designee may issue a declaratory order on the basis of the facts and legal authority presented in the petition, or request the petitioner submit additional evidence and legal argument in writing.

11.5.2 In ruling on a petition for declaratory order, the Division may take administrative notice of general, technical, or scientific facts within the Division's knowledge.

11.5.3 The Division Director or designee may dispose of the petition without conducting an evidentiary or other hearing. If the Division does so, any ruling will apply only to the extent of the facts presented in the petition and any amendment to the petition.

11.5.4 The Division may consolidate for determination petitions raising similar issues of fact or law.

11.5.5 Every declaratory order shall be decided and issued in writing, specifying the basis in fact and law for the order.

11.5.5 A declaratory order shall constitute agency action subject to judicial review pursuant to section 24-4-106, C.R.S.

11.6 Record Retention and Reliability – Files of all requests and declaratory orders will be maintained and relied upon by the Division for a period of five (5) years, unless the declaratory order is superseded by a statutory or regulatory change, or amended or reversed by a court of law. Except with respect to any material required by law to be kept confidential, such files shall be available for public inspection.

PHILIP J. WEISER
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Chief Deputy Attorney General

ERIC R. OLSON
Solicitor General

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Office of the Attorney General

Tracking number: 2022-00526

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Housing

on 10/11/2022

8 CCR 1302-15

MOBILE HOME PARK ACT DISPUTE RESOLUTION & ENFORCEMENT PROGRAM

The above-referenced rules were submitted to this office on 10/11/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 31, 2022 12:01:37

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Public Safety

Agency

Division of Homeland Security and Emergency Management

CCR number

8 CCR 1507-45

Rule title

8 CCR 1507-45 SCHOOL SECURITY DISBURSEMENT PROGRAM 1 - eff 11/30/2022

Effective date

11/30/2022

COLORADO

Department of Public Safety

Division of Homeland Security and Emergency Management

School Security Disbursement Program

8 CCR 1507-45

STATEMENT OF BASIS, STATUTORY AUTHORITY, AND PURPOSE

Pursuant to House Bill 2022-1120, the General Assembly amended section 24-33.5-1810 , C.R.S., related to the School Security Disbursement Program. Section 24-33.5-1810(7), C.R.S. mandates that the Executive Director of the Department of Public Safety shall promulgate rules to establish the time frames for submitting disbursement applications and awarding disbursements and to specify any additional information that must be included in disbursement applications as described in subsection (4)(f) of section 24-33.5-1810. Upon delegation from the Executive Director, the DHSEM Director led the rulemaking hearing that took place on Oct. 5, 2022.

The General Assembly declared that the department distribute the money credited to the school security disbursement program account for the disbursement program as quickly as practicable based on the receipt of qualifying applications. The absence of implementing rules to carry out the purpose of the statute would be contrary to this declaration. For these reasons, it is imperatively necessary that the proposed rules be adopted.

Stan Hilkey
Executive Director, Colorado Department of Public Safety

10/11/2022
Date of Adoption

Colorado Department of Public Safety

Division of Homeland Security and Emergency Management 8 CCR 1507-45

School Security Disbursement Program

1. Authority

This regulation is adopted pursuant to the authority in section 24-33.5-1810 (7), C.R.S. and is intended to be consistent with the requirements of the State Administrative Procedures Act, section 24-4-101 et seq. (the "APA").

2. Scope and Purpose

This regulation shall govern the implementation of the School Security Disbursement Program, which includes the time frames for applying for this program, the form of the program application, and the time frames for distributing program funds.

3. Applicability

The provisions of these rules shall be applicable to all eligible applicants and recipients of program funds as provided by law.

4. Definitions

"Disbursement Program" means the School Security Disbursement Program to disburse funds to local education providers for the purpose set forth in 24-33.5-1810(3), C.R.S. to improve security in public school facilities or vehicles.

"Local Education Provider" means a school district, a charter school that is authorized pursuant to part 1 of article 30.5 of title 22, an institute charter school authorized pursuant to part 5 of article 30.5 of title 22, or board of cooperative services as defined in section 22-5-103, C.R.S.

"Recipient" means an eligible applicant receiving an award.

"Award" means financial assistance that provides support to accomplish a public purpose given by the state to an eligible recipient.

"Period of Performance" means the period of time during which the recipient is required to complete the approved activities and to receive and expend approved funds.

"Match Amount or Local Share" means the portion of the project borne by the applicant, not borne by the State. Local share can include cash and/or in-kind (non-cash contributions.)

5. Program Requirements

5.1 Eligibility

A. Applicant must be a local education provider, including any combination of local education providers who wish to apply together as a single regional applicant, in order to apply, or a Nonprofit Organization that is exempt from taxation under section 501(c)(3) of the federal "Internal Revenue Code of 1986".as amended, that applies to work with specific local education providers or first responders, and that:

1. Has experience providing training for school safety incident response;
2. Has experience working with law enforcement agencies and other first responders;
3. Has experience working with school districts, school personnel, and students on issues related to school safety incident response;
4. And identifies in its application local education providers or first responders that will participate in school safety incident response training or programs.

B. Eligible Applicants must submit an Application developed by the Colorado Division of Homeland Security and Emergency Management, Office of Grants Management in conformance with the Application and the terms of the program guidance described below.

C. The program funds may only be used for the following purposes:

1. Capital construction that improves the security of a public school facility or public school vehicle, including any structure or installed hardware, device, or equipment that protects a public school facility or public school vehicle and the students, educators, and other individuals who attend, work in, or visit a public school facility or are transported in a public school vehicle from threats of physical harm including but not limited to any structure or installed hardware, device, or equipment that:

    - Prevents the entry of unauthorized individuals into a public school facility or a protected space within a public school facility or onto a public school vehicle;

    - Can be used to expedite communication when a threat is present

2. Training in student threat assessment provided to school building staff who have contact with students which must include best practices for conducting threat assessments, such as instruction on how to prevent bias when conducting a threat assessment;

3. In collaboration with local law enforcement agencies the training for peace officers on interaction with students at schools.

4. School emergency response training for school building staff.

5. Programs to help students become more resilient in meeting the daily challenges they face without resorting to violence against themselves or others, including addressing the fundamentals causes of violence and aggression and students become responsible members of their schools, neighborhoods, communities, and families.

6. Developing and providing training programs, curriculums, and seminars related to school safety incident response; and

7. Developing best practices and protocols related to school safety incident response.

D. The contract agreement between the State and the recipient(s) of the program will specify additional requirements, including, but not limited to: performance measures, reporting requirements, and monitoring of recipient's activities and expenditures.

E. Additionally, the following criteria will be evaluated in awarding any grant:

1. The likely effectiveness of the applicant's use of the disbursed money to improve security in public school facilities or vehicles.

2. The availability and commitment of the applicant to use financial resources (cash or in-kind) to provide local match to support this program.

5.2 **Award Details**

A. Period of Performance: Twenty-Eight (28) Months

B. Funding Instrument: Discretionary

5.3 **Time Frames for Application**

A. Time Frames

Application Submission Deadline:	January 6, 2023; 5:00 PM MST
Grant Awarded to Applicants Deadline:	March 1, 2023
Grant Fund Distribution Deadline:	April 30, 2023
Period of Performance – 28 months:	March 1, 2023 – June 30, 2025

B. Restrictions

1. Applications that are not submitted by the stated Application Submission Deadline will not be reviewed or considered for funding.
2. Pre award costs are NOT allowed under this program (costs incurred or work completed prior to application).

5.4 **Application Submissions**

A. Applicants must submit an email and electronic copy of their application as specified in the program application.

5.5 **Grant Guidance**

The DHSEM Office of Grants Management is responsible for the implementation of this grant program and will develop and publish a grant application and guidance.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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Office of the Attorney General

Tracking number: 2022-00514

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Homeland Security and Emergency Management

on 10/11/2022

8 CCR 1507-45

SCHOOL SECURITY DISBURSEMENT PROGRAM

The above-referenced rules were submitted to this office on 10/11/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 27, 2022 11:42:14

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Public Safety

Agency

Colorado State Patrol

CCR number

8 CCR 1507-59

Rule title

8 CCR 1507-59 Catalytic Converter Identification and Theft Prevention Grant Program 1 - eff 11/30/2022

Effective date

11/30/2022

DEPARTMENT OF PUBLIC SAFETY

Colorado State Patrol, Investigative Services Section

Colorado Automobile Theft Prevention Authority (CATPA) Unit:

CATALYTIC CONVERTER IDENTIFICATION AND THEFT PREVENTION (CCITP) GRANT PROGRAM

8 CCR 1507-59

CCITP 1: AUTHORITY TO ADOPT RULES AND REGULATIONS. These rules are adopted by the Colorado State Patrol, a division of the Colorado Department of Public Safety, consistent with the authority presented by §24-33.5-230 (1), CRS. As directed through §24-33.5-230 (2), CRS, the Colorado State Patrol has the authority to adopt rules necessary to facilitate the management and maintenance of the Catalytic Converter Identification and Theft Prevention Grant Program by the Colorado State Patrol CATPA Business Unit. All rules herein adopted are also promulgated according to and consistent with applicable provisions of the Colorado Administrative Procedures Act (APA), §24-4-101 et. Seq., CRS.

CCITP 2: SCOPE AND PURPOSE OF THESE RULES. Reflected by the passage of SB 22-009, HB 22-1217, and SB 22-179, the Colorado General Assembly affirmatively declared the increase in known catalytic converter theft as an imminent threat or harm to the preservation of public peace, health, and safety in Colorado. The General Assembly has further determined that financial assistance should be made available to support programs addressing automobile theft prevention for grants related to catalytic converter theft.

Responsibility for receiving, reviewing, and administering grants pursuant to the Catalytic Converter Identification and Theft Prevention Grant Program is statutorily assigned to the CATPA Business Unit of the Colorado State Patrol. The Colorado State Patrol is subsequently provided the authority to adopt rules necessary for the administration of the Catalytic Converter Identification and Theft Prevention Grant Program. Consistent with §24-33.5-230 (2), (4), and (5), CRS, these rules:

- identify definitions applicable to these rules and the Catalytic Converter Identification and Theft Prevention Grant Program;
- identify a grant application process subject to the requirements of applicable statutes;
- identify deadlines for grant applications received, reviewed, and grants awarded by the Colorado Department of Public Safety;
- identify mandatory criteria applicable to grant applicants, applications, selection, and fund allocation; and
- identify mandatory grant reporting responsibilities of applicants receiving grant awards and minimum reporting criteria established by the CATPA Business Unit on behalf of the Colorado Department of Public Safety to facilitate annual departmental reporting upon the Catalytic Converter Identification and Theft Prevention Program to the General Assembly required by §24-33.5-230 (5) (b), CRS.

CCITP 3: APPLICABILITY OF RULES. These rules apply to all grant applicants applying for Catalytic Converter Identification and Theft Prevention Program Grants. These rules are similarly applicable to all grant applicants receiving awards allocated consistent with §24-33.5-230 (4), CRS, and having reporting responsibilities as set forth by §24-33.5-230 (5) (a), CRS, and these rules.

CCITP 4: <u>DEFINITIONS</u>. Unless otherwise specifically indicated by these rules, the following definitions apply throughout:

4.1. Association: A Colorado public or private, incorporated or unincorporated, for-profit or not-for-profit entity of actual and/or legal persons who actively collaborate towards a common goal or purpose, meeting minimum requirements applicable to the entity set forth by applicable Colorado statutes. For purposes of these rules, an association must express a focus, initiative, project, or purpose related to automobile theft and the prevention of catalytic converter theft as part of their grant application.

4.2. Automobile: Means a motor vehicle as it is defined within §42-1-102 (58), CRS, except that this term does not include a motorcycle.

4.3. Automobile Dealer: Means a motor vehicle dealer consistent with §44-20-102 (14) and (18), CRS, or a used motor vehicle dealer as defined within §44-20-102 (26), CRS.

4.4. Award: Means financial assistance that provides support to accomplish a program proposed by a grant applicant as part of a Catalytic Converter Identification and Theft Prevention Grant Program Application.

4.5. Catalytic Converter: Means a post-combustion device that (1) oxidizes hydrocarbons and carbon monoxide gasses or reduces oxides of nitrogen, and (2) is designed or intended for use as part of an emission control system, and (3) is installed on a motor vehicle.

4.6. Catalytic Converter Identification and Theft Prevention Grant Program (CCITP): Means the grant program created by SB 22-1217 and managed by the CATPA Business Unit of the Colorado State Patrol consistent with the authority provided by §24-33.5-230 (1) and (2), CRS. Also referenced throughout these rules as the CCITP Grant Program.

4.7. Catalytic Converter Identification and Theft Prevention Grant Program (CCITP) Cash Fund: Means the cash fund established through HB 22-1217 and codified in statute as §24-33.5-230 (5.5), CRS. Referenced throughout these rules as the Cash Fund, this is a fund continuously appropriated by statute to the Colorado State Patrol to support the administration of the CCITP Grant Program, unless or until authority for the CCITP Grant Program is repealed. Initial funds appropriated to the CCITP Grant Program are set forth within Part 1 (a) of Section 3 of SB 22-1217.

4.8. CATPA: Means the Colorado Automobile Theft Prevention Authority as defined by §42-5-112 (1), CRS, and abbreviated throughout these rules as CATPA.

4.9. CATPA Board (Board): Means the Board created by §42-5-112 (2), CRS, and referenced throughout §24-33.5-230 (1), CRS. For purposes of these rules, the CATPA Board will review and provide recommendations regarding the CCITP Grant Program applications received by the CATPA Business Unit on behalf of the Colorado State Patrol as a division of the Colorado Department of Public Safety.

4.10. CATPA Business Unit: Means the CATPA Business Unit of the Colorado State Patrol Investigative Services Section.

4.11. CATPA CCITP Forms and Guidance Manual: Means the forms and guidance publication approved by the Colorado State Patrol and provided by the CATPA Business Unit providing forms to support applications to and required reporting of the CCITP Grant Program as it is published and available to the public November 2022.

4.12. CDPS (Department): Means the Colorado Department of Public Safety and is referenced throughout these rules as the Department.

4.13. Colorado State Patrol (CSP): Means the Colorado State Patrol and is abbreviated throughout these rules as the CSP.

4.14. Dealer: Consistent with §18-13-111 (8), CRS, means any person, business, or entity that buys, sells or distributes for the purposes of recycling, processing, or smelting, any commodity metal or detached catalytic converter on a wholesale basis.

4.15. Detached Catalytic Converter: Means a post-combustion device that (1) oxidizes hydrocarbons and carbon monoxide gasses or reduces oxides of nitrogen; (2) is designed or intended for use as a part of an emission control system; and (3) was previously installed on a motor vehicle and subsequently removed.

4.16. Emergency Repair Service: A Colorado public or private, incorporated or unincorporated, for-profit or not-for-profit entity whose primary business is to repair motor vehicles, to safeguard against immediate and substantial damage resulting from catalytic converter theft, and/or to otherwise secure and/or transport a vehicle that has sustained damage resulting from catalytic converter theft.

4.17. Emission Control System: Means an emissions control system as defined by §25-7-144 (8) (a), CRS.

4.18. Manufacturer: Consistent with §25-7-144 (8) (b), CRS, means any person who manufactures or assembles new and used motor vehicles of a type required to be registered according to §42-3-103, CRS. For purposes of these rules, automobile dealers and automobile repair businesses fall within the scope of this definition and each, manufacturer, automobile dealer, and automobile repair business are included in the definition of Qualified Applicant set forth within these rules.

4.19. Motorcycle: Means a motorcycle as it is defined by §25-7-144 (8) (c), CRS.

4.20. Motor Vehicle: Means a motor vehicle as it is set forth by §42-1-102 (58), CRS; except that this term does not include a motorcycle.

4.21. Performance Period: Means the period during which a grant award recipient is expected to use a grant award towards approved programs and activities proposed as part of a grant application. For purposes of these rules, the performance period also refers to the period during which a grant award recipient is expected and required to complete applicable reporting requirements.

4.22. Qualified Applicant: For purposes of the CCITP Grant Program and these rules, Qualified Applicants include groups of associated actual or legal persons actively working together or towards a common goal or purpose consistent with the definition of association set forth within these rules, but are not necessarily limited to, auto repair businesses, automobile dealers, associations focusing efforts on catalytic converter identification, theft prevention, or victim assistance, emergency repair services, law enforcement agencies, and local governments.

CCITP 5: <u>CCITP GRANT PROGRAM APPLICANT ELIGIBILITY</u>. CCITP Grant Program applicants must satisfy both the definition of a Qualified Applicant outlined in subsection 4.22 of these rules and as is consistent with §24-33.5-230 (3), CRS. All CCITP Grant Program applicants must complete all documents and forms required by the CATPA Business Unit and demonstrate in their application that the program therein proposed will address catalytic converter theft in Colorado.

5.1. Applicant Submissions not Meeting Minimum Threshold Criteria. CCITP Grant Program application submissions received by the CATPA Business Unit on behalf of the Department and the CSP not satisfying one or both of these threshold qualifications will be declined and returned to the applicant with a statement indicating that the applicant does not meet the minimum criteria.

5.2. Applicant Resubmission of Previously Declined CCITP Grant Program Application. CCITP Grant Program applications previously declined may be resubmitted at a future CCITP Grant Program application submission period if the applicant subsequently can satisfy both threshold conditions of applicant eligibility.

CCITP 6: SUBMISSION AND CONTENT OF CCITP GRANT PROGRAM APPLICATIONS. The CATPA Business Unit may solicit and will make available to the general public and CCITP Grant Program applicants specifically the CCITP Grant Forms and Guidance Manual online through the CATPA website. The CCITP Grant Forms and Guidance Manual includes forms and information significant to all submission and reporting obligations applicable to CCITP Grant Program applicants receiving CCITP Grant Program Awards.

6.1. Written Notice of Application Submission Period. The CATPA Business Unit, on behalf of the CSP, will announce annually the availability of CCITP Grant Program Funding and indicate the submission period for CCITP Grant Program applications. Written notice of available funding and the CCITP Grant Program application submission period may include but is not limited to direct or electronic postal mailings to identified parties, stakeholders, members of law enforcement, and automobile-related associations; the posting of information on the CSP CATPA and/or CDPS websites; and through other relevant agencies and trade organizations.

6.2. Application Forms and Required Content. All CCITP Grant Program applications must be in the form required by the grant announcement and supported by the forms provided in the CCITP Grant Forms and Guidance Manual and include minimum criteria consistent with applicable statutes and these rules.

6.2.1. Name, Address, General Contact Information, and Entity Identification: All CCITP Grant Program applications must include the name, address, email address, and/or phone number for a point of contact, and identify the entity type of the applicant(s).

6.2.2. Description of Grant Proposal and Impact on Catalytic Converter Theft: The application must describe the type of grant program proposed and how this program proposal will address the issue of catalytic converter theft in Colorado. Consistent with §24-33.5-230, CRS, grant applicants may propose types of programs including public awareness campaign programs regarding catalytic converter theft; programs involving catalytic converter theft prevention parts; programs aiding victims of catalytic converter theft; and/or programs supporting catalytic converter identification and tracking efforts. Where applicable, the grant proposal description must include an explanation as to how grant funding will help reduce catalytic converter theft in Colorado.

6.2.3. Additional Minimum Grant Application Criteria: All CCITP Grant Program applications must satisfy and include any additional information required by the CCITP Grant Program Forms and Guidance Manual and any additional information included as part of the written notice of the CCITP Grant Program application submission period.

6.3. CCITP Grant Deadlines and Notice. All dates applicable to the submission and receipt of CCITP Grant Program applications to the CATPA Business Unit will be as set forth within the grant schedule detailed within the CCITP Grant Forms and Guidance Manual.

6.4. Method and Delivery of Application Submission. All CCITP Grant Program applications must be submitted to the CATPA Business Unit as directed in the CCITP Grant Forms and Guidance Manual instructions and/or the written notice of the CCITP Grant Program application submission period. In the event of any disparity, the guidance provided by the latter will control.

CCITP 7: CCITP GRANT PROGRAM APPLICATION QUALIFICATION, EVALUATION, AND AWARD SELECTION. The CATPA Business Unit will review CCITP Grant Program applications on behalf of the Department and the CSP consistent with the requirements of §24-33.5-230 (1) – (4), CRS.

7.1. Application Qualification. The CATPA Business Unit will review CCITP Grant Program applications to determine the level of qualification meeting the following criteria:

7.1.1. Use of CCITP Grant Forms and Guidance Manual: All CCITP Grant Program applications will be reviewed consistent with §24-33.5-230 (1) – (4), CRS, these rules, and the CCITP Grant Forms and Guidance Manual.

7.1.2. Consistency with Other CDPS CATPA Grant Application Rules- Consideration of Multijurisdictional Applications: Under §24-33.5-230 (4) (a), CRS, CCITP Grant Program Awards may occur in accordance with other CDPS rules as well as the applicable statute. Consistent with Part 5 of 8 CCR 1507-50, the CATPA Rules, the CATPA Business Unit may prioritize the review and award of CCITP Grant Program applications representing or proposing multijurisdictional programs/approaches from Qualified Applicants satisfying the criteria of Part 6 of these rules.

7.1.3. Multi-Year Award Discretion: As may be applied for and at the discretion of the CATPA Business Unit on behalf of the Department and the CSP, CCITP Grant Program Awards may be awarded for individual annual performance periods or multi-year performance periods consistent with §24-33.5-230 (4) (a), CRS.

7.1.4. Minimum Threshold Eligibility Review: All CCITP Grant Program application submissions will first be reviewed to determine if the applicant(s) satisfy the definition of a Qualified Applicant set forth within these rules. Meeting this criterion, applicants will be reviewed to determine if they include a description of the proposed program as set forth within these rules. Satisfying both criteria, a reviewed CCITP Grant Program application will be reviewed consistent with the grant criteria outlined by §24-33.5-230 (3) and (4), CRS, and the elements set forth by Part 7 of these rules.

7.2. CCITP Grant Program Application Evaluation for Mandatory Review Elements. All CCITP Grant Program application submissions satisfying the requirements of Part 7.1 of these rules will be reviewed by the CATPA Business Unit. The CATPA Business Unit will evaluate how each application addresses the following mandatory CCITP Grant Program elements:

7.2.1. Clear Presentation of Catalytic Converter Theft Issue: The CCITP Grant Program application must present an issue involving or related to catalytic converter theft or identification that proposes a response involving a catalytic converter theft public awareness campaign, catalytic converter theft prevention parts, assistance to victims of catalytic converter theft, and/or catalytic converter identification and tracking efforts.

7.2.2. Explanation of Funding Effect on Catalytic Converter Theft: Except for CCITP Grant Program applications proposing programs only involving financial reimbursement or assistance to victims of catalytic converter theft absent any other efforts to reduce catalytic converter theft or to raise public awareness thereof, all CCITP Grant Program applications must include an explanation of how a grant funding award will help reduce catalytic converter theft in Colorado. Any CCITP Grant Program application proposing a program with an intent to decrease the incidence of catalytic converter theft or to facilitate efforts at catalytic converter identification and tracking must include an explanation of how CCITP Grant Program funding will support this goal.

7.2.3. Proposed Activities and Goals: The application must propose a program design wherein the activities and goals defined are realistic and attainable.

7.3. CCITP Grant Program Application Evaluation for Quality Review Elements. The CATPA Business Unit shall review all CCITP Grant Program applications satisfying Parts 7.1 and 7.2 of these rules against additional qualitative criteria:

7.3.1. Cost Structure: The application must demonstrate a realistic cost structure as compared to the expressed activities and goals of the proposed program.

7.3.2. Data Collection and Evaluation: The application must demonstrate that the proposed program design allows for the collection of data relevant and necessary to the expressed activities and goals of the program and will support evaluation thereof to measure the progress and effectiveness of the program upon the incidence of catalytic converter theft.

7.3.3. Innovation and Ingenuity: The application will be evaluated, to the extent possible, for any display of innovation or ingenuity in its concept, design, and/or operation concerning the issues identified in Part 6.2.2 of these rules. A CCITP Grant Program Application proposal will be considered to be innovative or demonstrate ingenuity where it introduces a new or different strategy or approach to preventing, deterring, reducing, or alleviating the negative consequences of catalytic converter theft upon business and the general public.

7.3.4. Experience, Expertise, or Demonstrated Ability: Information about an applicant's experience and qualifications regarding subject-area expertise, and/or a demonstrated ability to manage grant-funded projects or programs and to satisfy the reporting requirements thereof consistently and with success will be considered, but the absence thereof will not disqualify an applicant.

7.4. Criteria-Based Funding Allocation for Award Selection. CCITP Grant Program applications determined to satisfy Parts 7.1, 7.2, and 7.3 of these rules by the CATPA Business Unit will be finalized subsequent to the completion of the following post-requisite review:

7.4.1. CATPA Board Recommendation and Review: CCITP Grant Program applications meeting the requirements of Parts 7.1, 7.2, and 7.3 of these rules will be made available to the CATPA Board to review for purposes of minimizing the duplication of grant projects and awards.

7.4.2. Funding Apportionment: The CATPA Business Unit will consider apportionment of CCITP Grant Program funds contingent upon the number of applicants or qualified or approved applications in specific initiatives, consistent with §24-33.5-230 (4) (c), CRS. Under ideal circumstances, the CCITP Grant Program Awards will be apportioned such that 20 percent will be allocated towards victim-targeted initiatives, 20 percent will be to initiatives focused on catalytic converter theft prevention, 25 percent to proposals targeting the business impacts of catalytic converter theft, 25 percent to proposals focusing on enforcement, and the remaining 10 percent towards the administrative costs of all approved CCITP Grant Program proposals. Actual CCITP Grant Program funding available for each program type will be provided annually as part of the written notice for the grant application submission period.

7.4.3. CATPA Business Unit Recommendations: The CATPA Business Unit will provide CCITP Grant Program Award recommendations to the Colorado State Patrol Appointing Authority for each performance period to determine final awards consistent with §24-33.5-230 (4) (c), CRS.

CCITP 8. NOTICE OF GRANT AWARD, CONDITIONS OF ACCEPTANCE, AND RIGHT OF REFUSAL. The CATPA Business Unit, on behalf of the Department and the CSP, will notify all CCITP Grant Program applicants of the approval or denial of a CCITP Grant Program application in writing. Written notice of approval or denial may

occur both by electronic mail, and postal service in the event an email is not provided or is returned as undeliverable.

8.1. Reporting Requirements Applicable to Award. All recipients accepting CCITP Grant Program Awards are required to comply with the quarterly, annual, and/or final program reporting requirements set forth within these rules. All annual and final CCITP Grant Program reports must include project-specific information consistent with §24-33.5-230 (4) (b) and (5) (a), CRS, as referenced by Part 8.2 of these rules.

8.2. Quarterly, Annual, and Final Reporting Requirements Applicable to CCITP Grant Program Awards. Consistent with §24-33.5-230 (4) (b) and (5) (a), CRS, CCITP Grant Program Award recipients accepting awards must adhere to grant reporting requirements set forth by the Department. On behalf of the Department and the CSP, the CATPA Business Unit will require quarterly, annual, and/or final grant program reporting from all recipients accepting CCITP Grant Program Awards as follows:

8.2.1. Notice of Reporting Schedule and Applicable Forms: Timelines applicable to the submission of quarterly, annual, and/or final CCITP Grant Program Awards accepted by recipients to the CATPA Business Unit are provided within the CCITP Grant Program Forms and Guidance Manual.

8.2.2. Minimum Reporting Criteria: Forms provided within the CCITP Grant Program Forms and Guidance Manual indicate all required reporting criteria. At a minimum, CCITP Grant Program recipients must indicate for each scheduled reporting period:

8.2.2.1. A description of how the grant funding has been used during the applicable reporting period;

8.2.2.2. Any outcomes achieved or progress on program activities using grant funding;

8.2.2.3. Any project-specific information directly arising out of the targeted initiative(s) of the program; and

8.2.2.4. Any other required information indicated by the CCITP Grant Program Forms and Guidance Manual applicable to a quarterly, annual, and/or final CCITP Grant Program report.

8.2.3. CATPA Business Unit Review of CCITP Grant Program Recipient Reports: On behalf of the Department and the CSP, the CATPA Business Unit will review all quarterly, annual, and final CCITP Grant Program reports submitted by CCITP Grant Program Award recipients. The review of these reports will occur consistent with the statutorily identified goals and objectives of the CCITP Grant Program and will be included as part of the annual report required by §24-33.5-230 (5) (b), CRS.

8.2.4. Monitoring of the CCITP Grant Program: On behalf of the Department and the CSP, the CATPA Business Unit will monitor program implementation, financial administration, and the achievement of CCITP Grant Program objectives of CCITP Grant Program Award recipients as is consistent with §24-33.5-230 (5) (a), CRS, these rules, and the CCITP Grant Program Forms and Guidance Manual. The CATPA Business Unit will issue feedback to all CCITP Grant Program Award recipients submitting or failing to submit any required quarterly, annual, or final reports in writing, including any requests for reports or inquiries for the minimum information required to be included as part of any report. Written feedback will be delivered by electronic mail and by postal service if an email is returned as undeliverable.

8.3. Right of Refusal Without Prejudice. A CCITP Grant Program Award recipient has the discretion to decline or refuse any CCITP Grant Program Award without further explanation or prejudice.

CCITP 9. CCITP AWARD RECIPIENT FAILURE TO PERFORM AND CONSEQUENCES THEREOF. In the event a CCITP Grant Program Award recipient fails to perform or to complete the mandatory reporting requirements or satisfy the minimum reporting criteria required by §24-33.5-230 (4) (b) and (5) (a), CRS, these rules, and as identified within the CCITP Grant Program Forms and Guidance Manual, the CATPA Business Unit may:

9.1. Deliver Written Notice. The CATPA Business Unit will deliver written notice to a CCITP Grant Award recipient determined to have not submitted a required report or to have not reported required information requesting the award recipient to correct their noncompliance within 14 business days of the date of the notice. The written notice will be delivered by electronic mail, and by postal service where email is returned as undeliverable.

9.2. Implement Improvement Plan Consistent with CCITP Grant Program Forms and Guidance Manual. Failing to respond to a notice to correct CCITP Grant Program noncompliance within 14 business days of the date of the written notice, the CATPA Business Unit may present the CCITP Grant Program Award recipient with an improvement plan to correct noncompliance.

9.3. Recommend Refusal of Program Expenses. Failing to remediate following the implementation of an improvement plan or failing to respond to either a written notice or improvement plan as directed by Parts 9.1 or 9.2 of these rules, the CATPA Business Unit may recommend to the Department and the CSP that CCITP Grant Program expenses belatedly or not reported by the award recipient not be reimbursed.

9.4. Recommend Suspension or Revocation of CCITP Grant Program Award. Failing to remediate following the implementation of an improvement plan or failing to respond to either a written notice or improvement plan as described by Parts 9.1 or 9.2 of these rules, the CATPA Business Unit may recommend to the Department and the CSP the suspension or revocation of a CCITP Grant Program Award.

9.5. Failure to Perform Affects Future Grant Award Consideration. The failure to perform or to rehabilitate performance or the occurrence of a grant program suspension, revocation, or refusal by the CATPA Business Unit to pay CCITP Grant Program-related expenses based on non-compliance with CCITP Grant Program mandatory reporting requirements may affect the future consideration of any grant applications by the same award recipient(s) submitted to the CATPA Business Unit, Board, CSP, or the Department.

CCITP 10. EXPIRATION OF 8 CCR 1507-59, CCITP GRANT PROGRAM RULES. The entirety of this 8 CCR 1507-59 will expire upon the repeal of §24-33.5-230, CRS, on July 1. 2025, unless extended.

CCITP 11. SEVERABILITY OF RULES. If any provision of these rules or the applicability thereof to any person or circumstance is determined to be unlawful or invalid, the remaining provisions of these rules will not be affected absent a specific reference thereto.

CCITP 12. PUBLICATIONS INCORPORATED BY REFERENCE AND RULE INQUIRIES. All publications, standards, guidelines, and rules adopted and/or incorporated by reference in these rules are available for public inspection at any state publications depository library as is required by §24-4-103 (12), CRS.

12.1. Consistent with §24-4-103 (12.5), CRS. The following publication(s), standard(s), guidelines, and rules are adopted within these rules consistent with §24-4-103 (12.5), CRS:

12.1.1. CATPA (November 2022). **CCITP Grant Program Forms and Guidance Manual.** Lakewood, Colorado: Author.

12.1.2. Colorado Automobile Theft Prevention Authority (CATPA) Rules, **8 CCR 1507-50** (2020).

12.2. Maintenance of Copies. The CATPA Business Unit will maintain copies of the complete texts of these rules and any incorporated or adopted publication(s), standard(s), guidelines, and rules, and make each available for public inspection during regular business hours. Interested parties may contact the CATPA Business Unit by phone at 303-239-4560 or email the CATPA Business Unit at CDPS_CATPA@state.co.us. Interested parties may also access the following material(s) free of charge and at their convenience online:

12.2.1. CATPA (November 2022). **CCITP Grant Program Forms and Guidance Manual**, HTTPS://WWW.Colorado.Gov/Pacific/CSP/CATPA-Grants.

12.2.2. Colorado Automobile Theft Prevention Authority (CATPA) Rules, **8 CCR 1507-50** (2020), HTTPS://WWW.Colorado.Gov/Pachifc/CSP/CATPA-Grants.

12.3. Later Editions or Amendments not Incorporated. These rules do not include later amendments to or editions of any publication(s), standard(s), guidelines, or rules incorporated by reference herein.

PHILIP J. WEISER
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NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
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Office of the Attorney General

Tracking number: 2022-00523

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado State Patrol

on 10/05/2022

8 CCR 1507-59

Catalytic Converter Identification and Theft Prevention Grant Program

The above-referenced rules were submitted to this office on 10/07/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 25, 2022 12:51:39

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Human Services

Agency

Income Maintenance (Volume 3)

CCR number

9 CCR 2503-3

Rule title

9 CCR 2503-3 COLORADO REFUGEE SERVICES PROGRAM (CRSP) 1 - eff 11/30/2022

Effective date

11/30/2022

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3.321 CRSP ELIGIBLE POPULATIONS

A. A “refugee” means the same as in 8 U.S.C. 1101(a)(42) and accompanying notes to 8 U.S.C 1101.

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G. “Afghan humanitarian parolee” refers to Afghan individuals who have been granted humanitarian parole status by the U.S Department of Homeland Security and who qualify for refugee benefits under Pub. L. 117-43, § 2502 (Sept. 30, 2021), no later additions or amendments are incorporated. This public law is available at no cost from www.uscode.house.gov. This public law is also available for public inspection and copying at the Colorado Department of Human Services, Colorado Refugee Services Program, 1575 Sherman St., Denver, CO 80203, during regular business hours.

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I. “Ukrainian humanitarian parolee (UHPs)” refers to citizens or nationals of Ukraine who the Department of Homeland Security (DHS) has paroled into the United States between February 24, 2022, and September 30, 2023, due to urgent humanitarian reasons or for significant public benefit who qualify for refugee benefits under Pub. L. 117-128, § 401 (May 21, 2022), no later additions or amendments are incorporated. This public law is available at no cost from www.uscode.house.gov. This public law is also available for public inspection and copying at the Colorado Department of Human Services, Colorado Refugee Services Program, 1575 Sherman St., Denver, CO 80203, during regular business hours.

J. Non-Ukrainian individuals who last habitually resided in Ukraine, who DHS has paroled into the United States between February 24, 2022, and September 30, 2023, due to urgent humanitarian reasons or for significant public benefit.

K. A spouse or child of an individual described in section I) or J) who is paroled into the United States after September 30, 2023.

L. A parent, legal guardian, or primary caregiver of an unaccompanied refugee minor or an unaccompanied child described in section I) or J) who is paroled into the United States after September 30, 2023.

M. Unaccompanied refugee minors (URMs) are minors identified overseas who are eligible for resettlement in the United States, but do not have a parent or a relative available who is committed to providing for the minor’s long-term care. Upon arrival in the United States, these refugee youth are placed into the URM program and receive refugee foster care services and benefits. Youth who have an immigration status that enables them to become eligible for ORR services (for verification of status for program eligibility, see section 3.330), or who enter the United States with or without family but experience a family breakdown or cannot return home, may also be eligible to participate in the URM program if approved by ORR.

N. An I-551 (“green card”) holder who held one of the previously identified statuses is eligible to apply for both CDHS and CRSP benefits and services.

3.330 verification of status for program eligibility

J. United States citizenship and immigration service (USCIS) form I-94 noting humanitarian parole (per INA section 212(d)(5)(a)) or 8 U.S.C § 1182(d)(5)) if paroled into the United States between February 24, 2022, and September 30, 2023, or foreign passport with DHS/CBP admission stamp noting “DT” or a foreign passport with DHS/CBP admission stamp noting Uniting for Ukraine or “U4U” or a foreign passport with DHS/CBP admission stamp noting Ukrainian humanitarian parolee or “UHP” or form I-765 employment authorization document (EAD) receipt notice with code C11 or form I-766 employment authorization document (EAD) with the code C11.

K. Any one of the forms or stamps listed above for UHPs and documentation of last habitual residence in Ukraine.

L. Unaccompanied Refugee Minors (URMs) who meet the definition above will have one of the following statuses: refugee, asylee, Cuban/Haitian entrant, victim of trafficking, Amerasian, Iraqi or Afghani special immigrant visa holder, Special Immigrant Juvenile Status (SIJS), U visa holder, or has legal permanent resident status that previously held one of the statuses mentioned.
If the URM has SIJS status, documentation presented will be one of the following: I-797, notice of action indicating status (i.e., evidence of approved I-360, or evidence of approved I-360 and approved I-485); visa indicating SIJS status with SL class of admission; I-1551 indicating SIJS status with SL class of admission.
If the URM has a U-visa, documentation presented will be one of the following: I-797 notice of action indicating U status; a U-visa; or an I-94 arrival/departure record showing admission in U status. Please note: U-visa holders are not considered “qualified aliens” status for federal public benefits. It does qualify the person to be “lawfully present” for potential state benefits.

M. An I-551 form (“green card”, permanent resident card or resident alien card) with class of admission codes AS-6, AS -7, AS -8, RE-6, RE -7, RE -8, RE -9, CH-6, HA6, HB6, GA6, GA7, GA8, ST6, ST7, ST8, ST0, ST9, SI6, SI7, SI9, SQ6, SQ7, SQ9, AM-1, AM-2, AM-3, AM6, AM-7, or AM 8. The unexpired I-551 stamp may be located in a foreign passport.

If not eligible for the assistance of TANF/Colorado Works, individuals with this immigration status may be eligible for Refugee Cash Assistance (RCA) through the Colorado Refugee Services Program if income and program eligibility criteria are met. Persons must be enrolled in one of the refugee resettlement agencies in order to access RCA.

Individuals admitted to the United States who are classified by USCIS as "Applicants for Asylum" are not eligible for CRSP benefits. Once granted asylum, those individuals are eligible. The exception to this rule is Cuban and Haitian individuals applying for asylum; however, they must produce documents as described above.

CRSP follows the federal guidance on eligible populations, status and documentation in the office of refugee resettlement state letter # 16-01, dated 10/02/2015, located on the federal government web site at:
https://www.acf.hhs.gov/orr/policy-guidance/status-and-documentation-requirements-orr-refugee-resettlement-program
No later editions or amendments are incorporated. Copies may be reviewed during normal business hours by contacting the Refugee Services Coordinator in the Office of Economic Security, Colorado Refugee Services Program, 1575 Sherman St, Denver, Colorado 80203. If there is an eligibility question, please contact the Colorado Refugee Services Program for assistance.

PHILIP J. WEISER
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NATALIE HANLON LEH
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Office of the Attorney General

Tracking number: 2022-00528

Opinion of the Attorney General rendered in connection with the rules adopted by the

Income Maintenance (Volume 3)

on 10/07/2022

9 CCR 2503-3

COLORADO REFUGEE SERVICES PROGRAM (CRSP)

The above-referenced rules were submitted to this office on 10/12/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 24, 2022 14:16:51

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Human Services

Agency

Supplemental Nutrition Assistance Program (SNAP)

CCR number

10 CCR 2506-1

Rule title

10 CCR 2506-1 RULE MANUAL VOLUME 4, SNAP 1 - eff 11/30/2022

Effective date

11/30/2022

4.000.1 SNAP DEFINITIONS

“Able-Bodied Adult Without Dependents (ABAWD)” means an individual aged eighteen (18) through the age of forty-nine (49) without a physical or mental disability who lives in a SNAP household with no one under the age of eighteen (18).

“Administrative disqualification hearing (ADH)” means a disqualification hearing against an individual accused of wrongfully obtaining or attempting to obtain SNAP benefits.

“Administrative law judge (ALJ)” means a person that may preside over state-level fair hearings and administrative disqualification hearings.

“Administrative adjudicator” means a person who presides over state-level fair hearings and administrative disqualification hearings.

“Adverse action” means any action taken by a local office that causes a household’s SNAP benefits to be reduced, suspended, terminated, or denied.

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“Basic Utility Allowance (BUA)” means a fixed deduction applied to a household that does not pay for heating or cooling and incurs at least two (2) non-heating or non-cooling utility costs, such as electricity, water, sewer, trash, cooking fuel, or telephone.

“Bifurcated appeal” means an appeal that involves more than one benefit program area and where the administrative adjudicator determines to divide the appeal so that a SNAP appeal is reviewed separate from the appeal of a different benefit program area appeal.

“Boarder” means an individual residing with others and paying reasonable compensation to others for lodging and meals.

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“Collateral contact” means a verbal or written confirmation of a household's circumstances by a person outside the household who has first-hand knowledge of the information, made either in person, electronically submitted, or by telephone.

“Colorado Department Of Human Services (CDHS)” means the same as defined in section 26-1-105, C.R.S., which is incorporated by reference. No later editions or amendments are incorporated. This regulation is available for public inspection and copying at The Food and Energy Assistance Division Director, Colorado Department of Human Services, 1575 Sherman Street, 3rd Floor, Denver, Colorado 80203.

“Colorado Electronic Benefit Transfer System (CO/EBTS)” means the electronic system that enables SNAP participants or their authorized representatives to redeem their SNAP benefits at point-of-sale terminals.

“Colorado Unemployment Benefits System (CUBS)” means the electronic system by which Unemployment Insurance Benefits (UIB) are determined by the Colorado Department of Labor and Employment.

“Combined appeal” means an appeal that involves both a SNAP appeal and an appeal concerning any other benefit program area (ex. A SNAP appeal plus a Colorado Works appeal that are filed as one appeal). Combined appeals may be bifurcated to allow the SNAP portion of the appeal to move on a faster track to comply with federal SNAP timeliness requirements.

“Communal dining facility” means an establishment approved by FNS that prepares and serves meals for persons aged sixty (60) and older, or for Supplemental Security Income (SSI) recipients, and their spouses. This also includes federally subsidized housing for persons aged sixty (60) and older at which meals are prepared for and served to the residents. It also includes private establishments that contract with an appropriate state or local agency to offer meals at concessional prices to persons aged sixty (60) and older or SSI recipients, and their spouses.

“Compromise” means a local office’s decision to reduce the amount of a claim that is owed by a household.

“Countable month” means a month in which an ABAWD received a full SNAP allotment but did not meet work requirements or have an exemption from those requirements.

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“Fair hearing” or “State-level fair hearing” means a hearing conducted in person or on the telephone by an administrative adjudicator to provide an impartial decision on a household’s appeal of a local office’s decision or action.

“Final agency decision” means a decision issued by the Office of Appeals after reviewing the initial decision issued by an administrative adjudicator.

“Financial criteria” means the set of rules governing gross and net income and resource standards and the proper methods for computing a household’s income and resources.

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“Indigent non-citizen” means a sponsored non-citizen who, after considering all income and contributions provided by the sponsor and other sources in conjunction with the non-citizen’s own income, is unable to obtain food and shelter amounting to one hundred thirty percent (130%) of the federal poverty level (FPL), as defined in section 4.401.1, for the non-citizen’s household size. When a non-citizen is declared indigent, only the amount provided by the sponsor shall be deemed for the non-citizen. A declaration of indigence may last up to twelve (12) months but may be renewed at the end of such a period, if necessary. The local office must notify the U.S. Attorney General of each indigence determination, including the name of the sponsor and the sponsored non-citizen.

“Initial decision” means a decision issued by an administrative adjudicator after a state-level fair hearing.

“Initial application” means a household’s first application for assistance or an application for assistance that is received after the household has been off the program for any period following the end of a certification period.

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“Notice of Overpayment” means a notice sent to a household upon the establishment of a claim against the household for an overpayment of benefits.

“Office of Administrative Courts (OAC)” means the office within The Colorado Department of Personnel and Administration that The Colorado Department of Human Services may designate to hear state-level fair hearings as needed and as agreed to by The Office of Administrative Courts.

“Office of Appeals (OOA)” is an office within The Colorado Department of Human Services that issues final agency decisions on behalf of The Colorado Department of Human Services.

“On-the-job training (OJT)” means training provided to an employee after he or she is hired. Such training is designed for individuals who do not have the necessary work experience required for the job.

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“SNAP” means Supplemental Nutrition Assistance Program, formerly known as the Food Assistance program, administered by the state department in Colorado.

“SNAP fair hearings unit” means the unit within the Office of Appeals at the Colorado Department of Human Services that may be designated by the Colorado Department of Human Services to hear SNAP appeals, the SNAP portion of a bifurcated appeal, combined appeals, and administrative disqualification hearings. The SNAP fair hearings unit generally operates under the supervision of the chief adjudicator of the Office of Appeals but acts independently and in a fair and impartial manner concerning the fair hearings process and the issuance of initial decisions.

“Sponsor” means any person(s) who executed an affidavit of support (USCIS form I-864A (March 6, 2018)) or another form deemed legally binding by the Department of Homeland Security on behalf of a non-citizen as a condition of the non-citizen’s date of entry or admission into the United States as a permanent resident. These forms are herein incorporated by reference. This rule does not contain any later amendments or editions. These forms are available at no cost from https://www.uscis.gov/forms. These forms are also available for public inspection and copying at the Colorado Department of Human Services, Director of the Employment and Benefits Division, 1575 Sherman Street, Denver, Colorado, 80203, or at any state publications library during regular business hours.

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“State department” means the office/division within the Colorado Department of Human Services that administers SNAP. Currently, this is the Food and Energy Assistance Division within the Office of Economic Security.

“State-level fair hearing” or “Fair hearing” means a review (hearing) requested by a client which is held before an administrative adjudicator to establish whether an adverse action or eligibility determination taken was correct.

“Striker” or “striking member” means an individual who is involved in a strike or other concerted stoppage of work by employees, including a stoppage by reason of the expiration of a collective bargaining agreement and any concerted slowdown or other concerted interruption of operations by employees.

****

“Thrifty food plan” means the diet required to feed a family of four (4) persons, as defined by the FNS, as consisting of a man and a woman twenty (20) through fifty (50) years of age, a child six (6) through eight (8) years of age, and a child nine (9) through eleven (11) years of age, determined in accordance with the U.S. Department of Agriculture. The cost of such a diet shall be the basis for uniform allotments for all households regardless of their actual composition.

“Trafficking” means the same as defined in section 26-2-306, C.R.S. and 7 C.F.R. 271.2 (2019), which is incorporated by reference. No later editions or amendments are incorporated. The regulation is available at no cost at the FNS, 3101 Park Center Dr., #906, Alexandria, VA 22302, or at https://www.ecfr.gov. This regulation is also available for public inspection and copying at the Food and Energy Assistance Division Director, Colorado Department of Human Services, 1575 Sherman Street, 3rd Floor, Denver, Colorado 80203.

“Unclear information” unclear information is information that is not verified, or information that is verified but the local office needs additional information to act on the change.
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4.207.3 Benefit Allotment

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D. The SNAP maximum and minimum monthly benefit allotment tables will be adjusted as announced by the USDA, FNS.

Household Size	Maximum Monthly Allotment Effective October 1, 2022
1	$281
2	$516
3	$740
4	$939
5	$1,116
6	$1,339
7	$1,480
8	$1,691
Each additional person	+$211

Household Size	Minimum Monthly Allotment Effective October 1, 2022
1-2	$23

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4.310.3 General Work Requirement Exemptions

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C. A person physically or mentally unfit for employment;

Examples of being physically or mentally unfit for employment can include but are not limited to:

1. Persons experiencing homelessness, as defined in 4.000.1

****

4.401.1 Gross Income Limits

Effective October 1, 2022, the gross income level for one hundred thirty percent (130%), two hundred percent (200%), and one hundred sixty-five percent (165%) of the federal poverty level for the corresponding household size is as follows:

Household Size	130% Gross Income Level	200% Gross Income Level	165% Gross Income Level
1	$1,473	$2,266	$1,869
2	$1,984	$3,072	$2,518
3	$2,495	$3,840	$3,167
4	$3,007	$4,626	$3,816
5	$3,518	$5,412	$4,465
6	$4,029	$6,200	$5,114
7	$4,541	$6,986	$5,763
8	$5,052	$7,772	$6,412
Each additional person	+$512	+788	+$649

4.401.2 Net Income Levels

Effective October 1, 2022, the net income level of one hundred percent (100%) of the federal poverty level for the corresponding household size is as follows:

Household Size	100% Net Income Level
1	$1,133
2	$1,526
3	$1,920
4	$2,313
5	$2,706
6	$3,100
7	$3,493
8	$3,886

Each additional person	+$394

****

4.407.1 Standard Deduction

A standard deduction of 8.31% of the federal poverty income guidelines for the household size as described in 4.401.2 will be used to calculate the amount that is allowed to all households. The established standard amount will be adjusted annually as announced by FNS, USDA. The calculation of 8.31% of the federal poverty income guidelines for eligible members will be used for all households up to the household size of six (6). All households with six (6) or more eligible members will use the six (6) person standard deduction.

Standard Deduction Amount			
Household Size	**1-4**	**5**	**6+**
Effective October 1, 2022	$193	$225	$258

****

4.407.3 Excess Shelter Deduction

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B. A shelter deduction cap, as specified below, applies to households that do not contain a person who is aged sixty (60) and older or a person with a disability as defined in Section 4.304.41. Those households containing a person who is aged sixty (60) and older and/or a person with a disability shall receive an excess shelter deduction for the monthly cost of shelter that exceeds fifty percent (50%) of the household's monthly income after all other applicable deductions.

Shelter Deduction Cap	
Effective October 1, 2022	$624

C. Households in which all individuals are experiencing homelessness and are not receiving free shelter throughout the calendar month shall be entitled to use a standard estimate of shelter expenses.

The FNS, USDA, provides an update of this estimated figure annually when the shelter cap for other households is adjusted. The Homeless Shelter Deduction is as follows:

Homeless Shelter Deduction	
Effective October 1, 2022	$166.81

****

4.407.31 Four-Tiered Mandatory Standard Utility Allowance

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A. Heating and Cooling Utility Allowance (HCUA)

****

4. The HCUA standard is as follows:

HCUA Standard	
Effective October 1, 2022	$531

****

B. Basic Utility Allowance (BUA)

****

3. The BUA standard is as follows:

BUA Standard	
Effective October 1, 2022	$338

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C. One Utility Allowance (OUA)

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3. The OUA standard is as follows:

OUA Standard	
Effective October 1, 2022	$64

D. Telephone allowance

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2. The telephone allowance is as follows:

Telephone Standard	
Effective October 1, 2022	$86

****

4.408 RESOURCE ELIGIBILITY STANDARDS

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E. The resource limits are as follows:

Effective October 1, 2022, the resource limit for households that do contain a member who is aged sixty (60) and older and/or a person with a disability is four thousand two hundred and fifty dollars ($4,250). The resource limit for households that do not contain a member who is aged sixty (60) and older and/or a person with a disability is two thousand seven hundred and fifty dollars ($2,750).

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4.801.41 Methods of Collection Payment on Claims

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D. Offset Against Taxpayer's State Income Tax Refund

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3. Household Objection to Pre-Offset Notice

The taxpayer is entitled to object to the offset by filing a request for a DRC or state-level hearing within thirty (30) calendar days from the date the state department mails the pre-offset notice to the taxpayer. At the hearing on the offset, the local office or administrative adjudicator shall not consider whether an over-issuance has occurred, but may consider, if raised by the taxpayer in his or her request for a hearing, whether:

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E. Federal Treasury Offset Program (TOP)

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8. An OOA adjudicator within CDHS will review the proposed offset and issue only a final agency decision. The OOA shall find that the claim is past due and legally enforceable unless the household can provide documentation to show one (1) of the following:

a. The claim is not delinquent or was already paid, and the individual provides proof of payment.

b. The individual is not the person that is liable for the claim.

c. A bankruptcy action prohibits collection of the claim because the automatic stay under Section 362 of the Bankruptcy Code is in effect with respect to the individual or his or her spouse, or that the claim was discharged by a bankruptcy proceeding.

d. There is some other reason that the claim is not delinquent or is not legally enforceable.

9. The final agency decision by the OOA regarding the paper review will be issued by means of written findings. No oral argument is permitted. The written findings shall include the following:

   a. If the OOA determines that the claim is past due and legally enforceable:

      1. The individual shall be notified that the claim will continue to be referred for the offset; and,

      2. The individual is entitled to have the FNS review the OOA's decision. FNS must receive a request to do so within thirty (30) calendar days after the date of the state agency's notice of review decision. A request for FNS review shall include the individual's SSN. The notice shall also provide the address of the regional office including the phrase "Tax Offset Review" in the address.

   b. If the OOA determines that the claim is not past due or legally enforceable, it shall notify the individual and the local office that the claim will not be referred for the offset.

   c. While the OOA or FNS is conducting a review of the debt, the debt is not eligible for referral to TOP.

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4.801.43 Criteria for Terminating Collection Action [Rev. eff. 1/1/16]

The provisions within this section apply to Agency Error (AE) claims, Inadvertent Household Error (IHE) claims, and intentional Program violation (IPV) claims.

A. A terminated claim is a claim in which all collection activity has ceased. A terminated claim is no longer considered a receivable subject for continued state and federal agency collection and reporting requirements unless otherwise stated.

   Voluntary payments from a household on a terminated claim do not reactivate the claim. A terminated claim cannot be reactivated to pursue collection.

B. Collection action on a claim shall be terminated only in the following situations:

   1. A claim may be determined uncollectible after the collection action has been suspended for three (3) years. Prior to terminating such a claim, the local office may submit the claim for state or federal offset or pursue other collection actions. A terminated claim may not be reactivated to offset restoration of lost benefits.

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4.802 APPEAL PROCESS

Any household that is aggrieved by any action of the local office affecting the household's participation in SNAP may appeal by requesting a local-level dispute resolution conference (DRC) and/or a state-level fair hearing.

The right of a household to a DRC and state-level hearing is primarily to ensure that a proposed eligibility determination or action is valid, to protect the person against an erroneous action concerning benefits, and to ensure reasonable promptness of local office action. The individual may choose to request a DRC or bypass the DRC and appeal directly to the Colorado Department of Human Services (CDHS) for a state-level fair hearing.

CDHS may deny fair hearings to those households that are disputing a mass change, or the fact that a statewide reduction, cancellation, or suspension was ordered. In such instances, CDHS is not required to hold a fair hearing unless the request is based on the household's belief that the rules were misapplied.

If the household has a combined appeal, the appeal will be bifurcated. The SNAP fair hearings unit will process and hear the SNAP appeal, and the Office of Administrative Courts (OAC) will process and hear the other benefits program appeal(s). The SNAP fair hearings unit will provide the parties with any necessary instructions and/or procedures related to combined appeals.

4.802.1 Time Period for Requesting an Appeal

A. A household shall be allowed to request a DRC or state-level fair hearing on the following:

1. Any action by the local office that occurred in the previous ninety (90) calendar days.

2. A loss of benefits that occurred in the previous ninety (90) calendar days. Such SNAP action shall include a denial of a request for restoration of benefits lost more than ninety (90) calendar days, but less than a year prior to the request.

3. At any time during a certification period a household may request a fair hearing to dispute its current level of benefits.

B. An aggrieved household shall be advised that the use of a DRC is optional, and it shall in no way delay or replace the state-level fair hearing process. If the household does not want a DRC but desires to have the disputed matter considered only at a state-level hearing, this fact should be indicated in the case record. In these cases, the request for an appeal shall be forwarded to the SNAP fair hearings unit.

4.802.2 Continuation of Benefits Pending Final Agency Decision

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D. The certification office shall promptly inform the household in writing if the benefits are reduced or terminated pending the final agency decision. Once benefits are continued or reinstated, benefits shall not be reduced or terminated prior to the receipt of the final agency decision unless:

1. The certification period expires. The household may reapply and may be determined eligible for a new certification period with a benefit amount as determined by the local office.

2. The administrative adjudicator makes a preliminary determination, in writing and at the hearing, that the sole issue is one of federal law or regulation and that the household's claim that the local office improperly computed the benefits or misinterpreted or misapplied such law or regulation is invalid.

3. A change affecting the household's eligibility or basis of issuance occurs while the final agency decision is pending, and the household fails to request a hearing after the subsequent Notice of Adverse Action.

4. A mass change affecting the household's eligibility or basis of issuance occurs while the final agency decision is pending. During the fair hearing period, the local office shall adjust allotments to consider reported changes, information considered verified upon receipt, and mass changes, but not the factors on which the fair hearing is based.

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4.802.3 Rights During an Appeal

A. A household is entitled to the following:

1. Be represented by an authorized representative, such as legal counsel, relative, friend, or other spokesman, or they may represent themselves at the DRC or state-level fair hearing.

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4.802.5 Local-Level Dispute Resolution Conferences (DRC)

A. Before taking action to deny, terminate, reduce, or recover SNAP benefits, the local office shall provide the household an opportunity for a DRC. The individual may choose to bypass the DRC process and appeal directly to the SNAP fair hearings unit for a state-level fair hearing.

B. If the household requests a DRC, the local office shall arrange one to attempt to resolve the disputed action. The household may be represented by legal counsel or have other persons present to aid the household in the DRC.

C. Failure of the client to request a DRC within the prior notice period or failure to appear at the time of the scheduled DRC without making a timely request for postponement shall constitute abandonment of the right to a DRC, unless the client can show good cause for their failure to appear. “Good cause” includes, but is not limited to:

1. Death or incapacity of a client, or a member of his or her immediate family, or the representative;

2. Any other health or medical condition of an emergency nature; or

3. Other circumstances beyond the control of the client, and which would prevent a reasonable person from making a timely request for a DRC or postponement of a scheduled DRC.

D. The local office may consolidate the SNAP DRC with disputes regarding other assistance payments programs, the Colorado Works (CW) Program, or disputes concerning Medicaid eligibility~~,~~ if the facts are similar and consolidation will facilitate the resolution of all disputes.

4.802.51 Management of Local-Level Dispute Resolution Conference (DRC)

A. General Requirements

The DRC shall be conducted on an informal basis. Every effort shall be made to ensure that the household understands the local office's specific reasons for the proposed action and the applicable State Department's rules. The local office shall have available at the DRC all pertinent documents and records in the case file relevant to the specific action in dispute.

B. Scheduling

1. To the extent possible, the DRC shall be scheduled and conducted within the prior notice period. If the local office cannot conduct the DRC within this period, for whatever reason, the adverse action in dispute shall be delayed until a DRC can be held, unless the household waives continuation of benefits.

2. If a DRC is requested to attempt to resolve a contested denial of expedited service, it shall be scheduled within two (2) working days of the receipt of the request for a DRC unless the household requests that it be held later. Prior notice is not required.

3. The local office shall provide reasonable notice to the household of the scheduled time and location for the DRC, or the time of the scheduled telephone conference. Notice shall be in writing; however, verbal notice may be given to facilitate the DRC process.

C. Location

The DRC shall be held in the local office where the proposed decision is pending and before a person who was not directly involved in the initial determination of the action in question. The DRC may be conducted either in person or by telephone. If a telephonic conference is requested, it shall be agreed upon by the client. In the event the household does not speak English or is visually or hearing impaired, an interpreter or translator shall be provided by the local office.

D. County Representatives

The individual who initiated the action in dispute shall not conduct the DRC. The individual who initiated the action in dispute shall attend the DRC and present the factual basis for the disputed action. The person designated to conduct the DRC shall be in a position which, based on knowledge, experience, and training, would enable them to determine if the proposed action is valid.

E. Joint Dispute Resolution Processes

Two (2) or more local offices may establish a joint DRC process. If two or more counties establish a joint process, the location of the DRC need not be held in the county or agency taking the action, but the DRC location shall be convenient to the client.

F. Notice of DRC Decision

1. If the additional information presented in the DRC proves that the adverse action is not warranted, the case record shall be documented, and the Notice of Adverse Action cancelled.

2. At the conclusion of the DRC, the person presiding shall reduce to writing the agreement entered by the parties. Such agreement shall be signed by the parties and/or their representatives and shall be binding upon the parties. A copy of the written decision shall immediately be provided to the client and/or his or her representative. The local office shall also forward a copy of the decision to the State Department, within five (5) working days of the hearing, regardless of whether the client agrees with the outcome.

3. In the event the dispute is not resolved, the person presiding shall prepare a written statement indicating that the dispute was not resolved. The decision shall include:

   a. A statement explaining the client's right to request a state-level fair hearing;

   b. The time limit for requesting a state-level hearing; and,

   c. If appropriate, a statement that the household's previous benefit amount will continue pending a final state decision in accordance with Section 4.802.2, if appealed to the state within the appeal timeframe provided on the original Notice of Action cooresponding to the disputed action.

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4.802.61 MANAGEMENT OF STATE-LEVEL HEARINGS

A. Scheduling

1. The SNAP fair hearings unit at the Colorado Department of Human Services (CDHS) or the Office of Administrative Courts (OAC), if so designated by CDHS, shall arrange the time, date, and place of the state-level fair hearing so that the hearing is accessible to the household. At least ten (10) calendar days prior to the hearing, advance written notice shall be provided to all parties involved to permit adequate preparation of the case. The household, however, may request less advanced notice to expedite the scheduling of the hearing. The notice shall:

   a. Advise the household or its representative of the name, address, and phone number of the person to notify in the event it is not possible for the household to attend the scheduled hearing.

b. Specify that the household's hearing request will be dismissed if the household or its representative fails to appear for the hearing without good cause.

c. Include a copy of the information outlining CDHS' state-level fair hearing procedures.

d. Explain that the household may examine the case file prior to the hearing.

2. Hearing requests for households that plan to move from the area, such as migrant farm workers, shall be processed faster than others, if necessary, to enable them to receive a decision and any appropriate restoration of benefits before they leave the area.

3. The administrative adjudicator shall complete the hearing no more than twenty-five (25) calendar days from when the SNAP fair hearings unit received the notice of appeal. The household may request and is entitled to receive a postponement (also referred to as a continuance) of the scheduled hearing. The postponement shall not exceed 30 days and the time limit for action on the final agency decision may be extended for as many days as the hearing is postponed. A county may not request and is not entitled to receive a postponement.

4. The administrative adjudicator may respond to a series of individual requests for hearings by conducting a single group hearing related to SNAP appeals. The snap fair hearings unit may consolidate only SNAP related cases where individual issues of fact are not disputed and where related issues of state and/or federal law, regulation, or policy are the sole issues being raised. In all group hearings, the regulations governing individual hearings shall be followed. Each individual household shall be permitted to present its own case or have its case presented by a representative.

B. Hearings Conducted by Phone

The hearing may be conducted by telephone using conference call techniques or by video conference unless one of the parties objects to either of these methods. If a hearing is held by telephone using conference call techniques or by video conference, the rules of procedure (including a recording of the hearing) shall be the same as a face-to-face hearing.

C. Attendance

The hearing shall be attended by a representative of the local office and by the household and/or its representative. The hearing may also be attended by friends or relatives of the household if the household so chooses. The administrative adjudicator shall have the authority to limit the number of persons in attendance at the hearing if space limitations exist.

D. Administrative Adjudicator

The administrative adjudicator shall:

1. Administer all oaths or affirmations as required by the State;

2. Ensure all relevant issues are considered;

3. Request, receive, and make part of the record all evidence determined necessary to decide the issues being raised;

4. Regulate the conduct and course of the hearing consistent with due process to ensure an orderly hearing;

5. Order, where relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the household and the local office;

6. Provide a hearing record and prepare and file an initial hearing decision with the Office of Appeals (OOA) which shall serve each party with a copy of the initial decision.

4.802.62 Hearing Denials or Dismissals

A. CDHS shall not deny or dismiss a request for a hearing unless:

1. The request is not received within the time period specified in Section 4.802.1.

2. The request is withdrawn in writing by the household or its representative; or,

3. The household or its representative fails, without good cause, to appear at the scheduled hearing.

B. The administrative adjudicator shall not enter a default against any party for failure to file a written answer to the notice of hearing but shall base the initial decision upon the evidence presented at the hearing.

C. When the administrative adjudicator dismisses an appeal for reasons other than failure to appear, the decision of the administrative adjudicator shall be an initial decision, which shall not be implemented pending review by the Office of Appeals and entry of a final agency decision.

D. When an appellant fails to appear at a duly scheduled hearing, having been given proper notice, and without having given timely advance notice to the administrative adjudicator of acceptable good cause for inability to appear at the hearing at the time, date and place specified in the notice of hearing, then the appeal shall be considered abandoned, and an order of dismissal shall be entered by the administrative adjudicator and served upon the parties by the Office of Appeals (OOA). The order of dismissal for failure to appear shall not be implemented pending review by the OOA and entry of a final agency decision.

The appellant, however, shall be afforded a period of ten (10) calendar days from the date the order of dismissal was mailed, during which the appellant may explain in a letter to the administrative adjudicator the reason for his or her failure to appear. If the administrative adjudicator then finds that there was acceptable good cause for the appellant not appearing, the administrative adjudicator shall vacate the order dismissing the appeal and reschedule another hearing date.

If the appellant does not submit a letter seeking to show good cause within a period of ten (10) calendar days, the order of dismissal shall be filed with the OOA. The OOA shall confirm the dismissal of the appeal by an agency decision, which shall be served upon the parties and the interested division of the State Department. Within three (3) working days after the effective date of the decision, the local office shall implement necessary actions to provide benefits in the correct amount, terminate benefits, recover benefits incorrectly paid, and/or other appropriate actions in accordance with the rules.

If the appellant submits a letter seeking to show good cause and the administrative adjudicator finds that the stated facts do not constitute good cause, the administrative adjudicator shall enter an initial decision confirming the dismissal.

4.802.63 State-Level Hearing Decisions

A. Decisions of the administrative adjudicator shall not run counter to Federal law, State Department rule, or state statute, and shall be based on the hearing record.

The exclusive record for an initial decision by the administrative adjudicator shall constitute the verbatim transcript or recording of testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceedings. This record shall be retained in accordance with normal retention periods. This record shall also be available to the household or its representative at any reasonable time for copying and inspection.

B. Following the conclusion of the state hearing, the administrative adjudicator shall promptly prepare and issue an initial decision and file it with the OOA.

C. Initial Decision

1. The administrative adjudicator shall render an initial decision within ten (10) calendar days of the hearing date. However, if the head of the household or the household's representative requests a delay in the proceedings, the time limit for action on the decision may be extended for as many days as the hearing is delayed, up to thirty (30) calendar days.

2. The initial decision shall make an initial determination whether the county or the Colorado Department of Human Services (CDHS) or its agent acted in accordance with, and/or properly interpreted, the rules of the State Department. The administrative adjudicator may determine whether statutes were properly interpreted and applied only when no implementing state rules exist. The administrative adjudicator has no jurisdiction or authority to determine issues of constitutionality or legality of departmental rules.

3. The initial decision shall advise the household that failure to file exceptions to provisions of the initial decision will waive the right to seek judicial review of a final agency decision affirming those provisions.

4. The Office of Appeals shall promptly serve the initial decision upon each party by first class mail and shall transmit a copy of the decision to the divisions of the State Department that administer the program(s) pertinent to the appeal.

5. The initial decision by the administrative adjudicator shall summarize the facts of the case, specify the reasons for the initial decision, and identify the supporting evidence and the pertinent rules.

6. The Office of Appeals at CDHS, as the designee of the Executive Director, shall review the initial decision of the administrative adjudicator and shall enter a final agency decision affirming, modifying, or reversing the initial decision. The Office of Appeals may issue an order of remand upon receipt of the initial decision and identification of an issue that warrants a remand before the initial decision is sent to the parties. Additionally, the Office of Appeals may issue an order of remand at the time of the substantive review of an initial decision for final agency decision. An order of remand is not a final agency decision that is subject to judicial review. The initial decision shall not be implemented pending review by the Office of Appeals and entry of a final agency decision. While review of the initial decision is pending before the Office of Appeals, the record on review, including any transcript or tape of testimony filed with the Office of Appeals, shall be available for examination by any party at the Office of Appeals during regular business hours.

D. Exceptions to the Initial Decision

1. Any party seeking a final agency decision that reverses, modifies, or remands the initial decision of the administrative adjudicator must file a written notice of intent to file exceptions to the decision with the OOA within five (5) calendar days - plus three (3) calendar days for mailing - from the date the initial decision is mailed to the parties. If the party has filed such a notice of intent, the party will have fifteen (15) calendar days, plus three (3) calendar days for mailing from the date the initial decision is mailed to the parties to file its written exceptions with the OOA. Exceptions shall state specific grounds for reversal, modification, or remand of the initial decision. Exceptions that fail to state specific grounds for reversal, modification, or remand of the initial decision shall be considered as only arguments of general dissatisfaction.

2. If any party asserts that the administrative adjudicator findings of fact are not supported by the weight of the evidence, the OOA will request the SNAP fair hearings unit provide an audio recording of the hearing to the OOA. If the local office asserts that the administrative adjudicator's findings of fact are not supported by the weight of the evidence, the local office shall provide a hearing transcript to the OOA on or before the deadline for the filing of exceptions. If the local office's yearly budget is not sufficient to pay the cost of a hearing transcript, the local office may request that the OOA review an audio recording of the hearing in lieu of a hearing transcript. Such requests must be mailed or emailed to the OOA at least five (5) calendar days before the deadline for the filing of exceptions. Additionally, the letter must indicate the insufficiency of the local office's budget to pay for a hearing transcript and the letter must be signed by the county department's director. The OOA shall issue an order regarding the request, and if granted, the OOA shall request the audio recording from the SNAP fair hearings unit. If

the division(s) of the State Department responsible for administering the program(s) relevant to the appeal assert(s) that the administrative adjudicator's findings of fact are not supported by the weight of the evidence, it shall simultaneously with, or prior to the filing of exceptions, file a hearing transcript with the OOA on or before the deadline for filing exceptions.

3. Considering the federal timeliness requirements for SNAP cases, a party may not request an extension of time to file exceptions unless a party is able to show sufficient good cause as to why an extension of time should be granted. The determination of good cause is within the sole discretion of the OOA. When an extension of time is granted by the OOA, the extension shall not be for more than five (5) calendar days after the original exceptions filing deadline. Local offices or the State Department will need to immediately review initial decisions to assess any need to request an audio recording from the SNAP fair hearings unit to receive the audio recording and expedite the transcription of the audio recording through whatever transcription service it chooses. Any party requesting transcription services shall be fully responsible for the cost of such.

4. If the exceptions do not challenge the findings of fact, but instead assert only that the administrative adjudicator improperly interpreted or applied state rules or relevant statutes, no transcript review or audio recording review is required.

5. The OOA shall serve a copy of the exceptions on each party by first class mail and by electronic mail if the party has consented to receiving communications by electronic mail. Each party shall be limited to ten (10) calendar days from the date exceptions are mailed to the parties in which to file a written response to such exceptions. The OOA shall not permit oral argument.

6. The OOA shall not consider evidence that was not part of the record before the administrative adjudicator. However, the case may be remanded to the administrative adjudicator for rehearing if a party establishes in its exceptions that material evidence has been discovered that the party could not with reasonable diligence have produced at the hearing.

7. The division(s) of the State Department responsible for administering the program(s) relevant to the appeal may file exceptions to the initial decision, or respond to exceptions filed by a party, even though the Division has not previously appeared as a party to the appeal. The Division's exceptions shall be filed in compliance with the requirements of section 4.802.63, D, 1 and 2, above. Exceptions filed by a Division that did not appear as a party at the hearing shall be treated as requesting a review of the initial decision upon the State Department's own motion.

E. Final Agency Decisions

1. The OOA shall enter a final agency decision resolving the appeal within sixty (60) calendar days after the request for appeal was received by the SNAP fair hearings unit.

2. In the absence of exceptions filed by any party or by a division of the State Department, or when exceptions are filed, the OOA shall review the initial decision and may review the hearing file of the administrative adjudicator and/or the taped testimony of

witnesses before entering a final agency decision. Review by the OOA shall determine whether the initial decision properly interprets and applies the rules of the State Department or relevant statutes and whether the findings of fact and conclusions of law support the decision. If a party or Division of the State Department objects to the final agency decision entered upon review by the OOA, the party or Division may seek reconsideration.

3. The OOA shall mail copies of the final agency decision to all parties by first class mail.

4. For purposes of requesting judicial review, the effective date of the final agency decision shall be the third (3rd) day after the date the decision is mailed to the parties, even if the third day falls on Saturday, Sunday, or a legal holiday. The parties shall be advised of this in the final agency decision.

F. Motion for Reconsideration of a Final Agency Decision

1. A motion for reconsideration of a final agency decision may be granted by the OOA for the following reasons:

   a. Upon a showing of good cause for failure to file exceptions to the initial decision within the fifteen (15) calendar day period; or,

   b. Upon a showing that the final agency decision is based upon a clear or plain error of fact or law. An error of law means failure by the OOA to follow a rule, statute, or court decision that controls the outcome of the appeal.

2. No motion for reconsideration shall be granted unless it is filed in writing with the OOA within fifteen (15) calendar days of the date that the final agency decision is mailed to the parties. The motion shall state specific grounds for reconsideration of the agency decision.

3. The OOA shall mail a copy of the motion for reconsideration to each party of record and to the appropriate Division of the State Department.

G. Acting on Decisions

1. Initial decisions shall not be implemented pending review by the OOA and entry of a final agency decision.

2. The State Department or local office shall initiate action to comply with the final agency decision within three (3) working days after the effective date. The acting department/office shall comply with the decision, even if reconsideration is requested, unless the effective date of the agency decision is postponed by order of the OOA or a reviewing court.

3. If it is ruled that the household had its SNAP benefits wrongfully delayed, denied, or terminated, the local office shall provide retroactive benefits. If it is decided that benefits were over-issued before and during the pendency of the determination of final agency action, a claim for over-issued benefits will be prepared.

4. Final agency decisions which result in an increase in household benefits shall be reflected in the benefit allotment within ten (10) days of the receipt of the decision, even if the local office is obligated to provide a supplementary allotment or otherwise provide the household with the opportunity to obtain the allotment outside of the normal cycle. However, the local office may take longer than ten (10) days if it elects to make the decision effective in the household's normal issuance cycle, provided that the issuance will occur within sixty (60) days from the household's request for the hearing.

5. Final agency decisions which result in a decrease in household benefits shall be reflected in the next scheduled issuance following receipt of the decision unless the decision is stayed by the OOA upon a showing of irreparable harm.

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4.803.43 Notifying a Household of an IPV Administrative Disqualification Hearing [Rev. eff. 1/1/16]

A. The administrative adjudicator shall provide written notice to the household member suspected of intentional program violation at least thirty (30) calendar days in advance of the date an administrative disqualification hearing initiated by the local office has been scheduled.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
Solicitor General

STATE OF COLORADO
DEPARTMENT OF LAW

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Office of the Attorney General

Tracking number: 2022-00527

Opinion of the Attorney General rendered in connection with the rules adopted by the

Supplemental Nutrition Assistance Program (SNAP)

on 10/07/2022

10 CCR 2506-1

RULE MANUAL VOLUME 4, SNAP

The above-referenced rules were submitted to this office on 10/12/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 24, 2022 14:14:42

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Colorado Dental Board

CCR number

3 CCR 709-1

Rule title

3 CCR 709-1 DENTISTS & DENTAL HYGIENISTS RULES AND REGULATIONS 1 - eff 10/04/2022

Effective date

10/04/2022

Expiration date

02/01/2023

DEPARTMENT OF REGULATORY AGENCIES

Colorado Dental Board

DENTISTS, DENTAL THERAPISTS & DENTAL HYGIENISTS RULES AND REGULATIONS

3 CCR 709-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

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1.32 Protections for Provision of Reproductive Health Care in Colorado

This Rule is promulgated pursuant to Executive Order D 2022 032, and sections 25-6-401 *et seq.*, 12-220-105(3), and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Assisting in the provision reproductive health care" means aiding, abetting or complicity in the provision of reproductive health care.

3. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

4. "Criminal judgment" means criminal conviction as defined in Rule 1.1.

5. "Licensee" means as defined in section 12-20-102(10), C.R.S.

6. "Provision of reproductive health care," includes but is not limited to, transportation for reproductive health care, referrals for reproductive health care and related services, funding or assisting with payment of reproductive health care, prescribing, shipping or dispensing medications for reproductive health care in accordance with state and federal law, all options and mental health counseling and treatment related to reproductive health care. The "provision of reproductive health care" also includes all treatment contemplated in the definition of section 25-6-402(4), C.R.S.

7. "Regulator" means as defined in section 12-20-102(14), C.R.S.

8. "Reproductive health care" means as defined in section 25-6-402(4), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on the applicant's provision of or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice as defined in Colorado law and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant arising from the provision of, or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

D. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action or any other sanction against the applicant's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's provision of, or assistance in the provision of, reproductive health care and the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

E. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on the applicant/licensee's own personal effort to seek or obtain reproductive health care for themselves. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant arising from the individual's own personal receipt of reproductive health care in this state or any other state or U.S. territory.

1.33 Protecting Colorado's Workforce and Expanding Licensing Opportunities

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-220-105(3) and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means criminal conviction as defined in Rule 1.1.

4. "Licensee" means as defined in section 12-20-102(10), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action against the applicant's licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

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Editor's Notes

History

Rules XVII, XXVI eff. 07/01/2007.

Rules XXVI, XXIX, XXX eff. 12/31/2007.

Rule XXVI eff. 11/30/2008.

Rule III eff. 05/30/2009.

Rule III eff. 12/30/2009.

Rules III, XIV-XXX eff. 03/30/2010.

Rules I-IX, XI-XIII, XV-XXII eff. 12/30/2011.

Rules I-III, IX, XI-XIII, XXIII-XXIV eff. 03/30/2015. Rule XVI repealed eff. 03/30/2015.

Rules XIII, XIV, XXIV eff. 06/30/2015.

Rule XXIII eff. 03/16/2016.

Rules I, III, IV, V, IX, X, XIV, XV, XVI, XVIII, XX, XXI, XXIII, XXIV, XXV eff. 06/30/2016. Rules VI, VII, VIII, XIX, XXII repealed eff. 06/30/2016.

Rule XVII eff. 09/14/2016.

Rule XIII eff. 03/17/2018.

Rule XXIV eff. 07/03/2018.

Rule XXVI eff. 08/14/2018.

Rules III, XXVI eff. 07/01/2019.

Rule 1.3 J eff. 12/30/2019.

Rule 1.27 emer. rule eff. 05/01/2020; expired 08/29/2020.

Rule 1.28 emer. rule eff. 05/11/2020; expired 09/08/2020.

Rule 1.27 emer. rule eff. 08/30/2020.

Rule 1.28 emer. rule eff. 09/09/2020.

Rules 1.27, 1.28 emer. rules eff. 12/28/2020.

Rules 1.1-1.13, 1.15-1.18, 1.21, 1.22, 1.29, Appendix A eff. 12/30/2020. Rules 1.19, 1.22 repealed eff 12/30/2020.

Rule 1.31 emer. rule eff. 01/11/2021.

Rule 1.32 emer. rule eff. 03/02/2021; expired 06/30/2021.

Rules 1.27, 1.28 emer. rules eff. 04/27/2021.

Rule 1.31 emer. rule eff. 05/11/2021.

Rule 1.30 E-F eff. 06/30/2021.

Rules 1.27, 1.28 emer. rules eff. 07/12/2021.

Rules 1.27, 1.28 emer. rules eff. 08/17/2021.

Rules 1.25, 1.26 eff. 09/14/2021.

Rules 1.27, 1.28 emer. rules eff. 11/02/2021.

Rule 1.31 emer. rule eff. 11/04/2021.

Rules 1.6 A.5.b, 1.6 A.11, 1.6 B.2.a, 1.6 E.2.a, 1.6 F.1, 1.6 H.1.a, 1.6 I.1.a, 1.9 H, 1.13, 1.17 C.2-4, 1.21, 1.29, 1.30 A, 1.31 eff. 12/30/2021.

Rules 1.27, 1.28 emer. rules eff. 03/02/2022.

COLORADO
Department of Regulatory Agencies
Division of Professions and Occupations

STATEMENT OF BASIS, PURPOSE and JUSTIFICATION for EMERGENCY RULES

On July 6, 2022, Colorado Governor Jared Polis ("Governor") signed Executive Order D 2022 032, "Directing State Agencies to Protecting Access to Reproductive Health Care in Colorado."

On July 14, 2022, Colorado Governor Jared Polis ("Governor") signed Executive Order D 2022 034, "Protecting Colorado's Workforce and Expanding Licensing Opportunities."

Basis

The basis for these rules is Executive Order D 2022 032 and Executive Order D 2022 034.

Through Executive Order D 2022 032, Governor Jared Polis directed all state agencies not to share any information or data, including patient medical records, patient-level data or related billing information, or expend time, money, facilities property, equipment, personnel, or other resources to assist or further any investigation or proceeding initiated in or by another state that seeks to impose criminal or civil liability or professional sanction upon a person for conduct that would be legal in Colorado related to providing, assisting, seeking, or obtaining reproductive health care, unless pursuant to a court order.

Governor Jared Polis also directed the Department of Regulatory Agencies (DORA) to work with all programs and boards of professional licensure operating under its purview to promulgate and issue necessary rules that will ensure that no person shall be subject to a disciplinary action against a professional license or disqualified from professional licensure for providing or assisting in the provision of reproductive health care or as a consequence of any civil or criminal judgment, discipline, or other sanction threatened or imposed under the laws of another state so long as the care as provided is consistent with professional conduct and standards of care within the State of Colorado.

Through Executive Order D 2022 034, Governor Jared Polis directed the Department of Regulatory Agencies to work with all programs and boards of professional licensure operating under its purview to promulgate and issue rules as necessary to ensure that no person shall be subject to disciplinary action against a professional license or disqualified from professional licensure for any civil or criminal judgment, discipline, or other sanction or threat imposed under the laws of another state as long as the actions are lawful and consistent with professional conduct and standards of care within the State of Colorado.

Purpose

The purpose of these emergency rules is to effectuate Executive Order D 2022 032 and Executive Order D 2022 034.

As stated in Executive Order D 2022 032, Colorado is experiencing workforce shortage in many professions, and disqualifying people because they were prosecuted for taking actions in other states that are fully legal under Colorado law would hurt our economy and our State.

Colorado is committed to protecting access to reproductive health care. No one who is lawfully providing, assisting, seeking, or obtaining reproductive health care in Colorado should be subject to legal liability or professional sanctions in Colorado or any other state, nor will Colorado cooperate with criminal or civil investigations for actions that are fully legal in Colorado.

As stated in Executive Order D 2022 034, employers are having difficulty recruiting and retaining qualified employees, many of whom need professional licenses. The exclusion of people from the workforce because of marijuana-related activities that are lawful in Colorado, but illegal in other states, hinders our economy and our State.

Justification

As set forth in Executive Order D 2022 032, the need exists to immediately protect access to reproductive health care in Colorado by promulgating rules ensuring no licensee, certificant, or registrant shall be subject to disciplinary action against a professional license or disqualified from professional licensure for providing or assisting in the provision of reproductive health care or as a consequence of any civil or criminal judgment, discipline, or other sanction threatened or imposed under the laws of another state so long as the care provided is lawful and consistent with professional conduct and standards of care within the State of Colorado.

As set forth in Executive Order D 2022 034, the Order ensures that all Coloradans are afforded protections and rights under Colorado law.

Pursuant to section 24-4-103(6)(a), C.R.S., a temporary or emergency rule may be adopted without compliance with section 24-4-103(4),C.R.S., which requires the agency to hold a public hearing "at which it shall afford interested persons an opportunity to submit written a data, views, or arguments and to present the same orally"; and with less than the twenty days' notice set forth in section 24-4-103(3), C.R.S., or without notice where circumstances imperatively require, only if the agency finds that "[i]mmediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for preservation of the public health, safety or welfare and compliance with the requirements of this section would be contrary to the public interest." Such findings must be made on the record.

The Regulator, as defined in section 12-20-102(14), C.R.S., hereby finds the immediate adoption of these emergency rules is imperatively necessary to comply with Executive Order D 2022 032, to protect access to reproductive health care in Colorado. The adoption of emergency rules is imperatively necessary for the preservation of the public health, safety, and welfare, and cannot wait the several months required for permanent rulemaking and therefore emergency rules are appropriate pursuant to the Administrative Procedure Act.

The Regulator finds, as required by section 24-4-103(4)(b), C.R.S., that the need for the emergency rulemaking exists; the proper constitutional and/or statutory authority exists for the rules; to the extent practicable, the rules are clearly and simply stated so that their meaning will be understood by any required to comply with the rules; the rules do not conflict with other provisions of the law; and any duplication or overlapping of the rules, if any, has been explained.

These temporary/emergency rules take effect October 4, 2022, and remain in effect for up to a maximum of 120 days after adoption of these temporary/emergency rules.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
Solicitor General

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Office of the Attorney General

Tracking number: 2022-00635

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Colorado Dental Board

on 10/04/2022

3 CCR 709-1

DENTISTS, DENTAL THERAPISTS & DENTAL HYGIENISTS RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/04/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 24, 2022 11:07:23

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - State Electrical Board

CCR number

3 CCR 710-1

Rule title

3 CCR 710-1 STATE ELECTRICAL BOARD RULES AND REGULATIONS 1 - eff 09/28/2022

Effective date

09/28/2022

Expiration date

01/26/2023

DEPARTMENT OF REGULATORY AGENCIES

State Electrical Board

STATE ELECTRICAL BOARD RULES AND REGULATIONS

3 CCR 710-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

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1.14 PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-115-107(2)(a) and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

4. "Licensee" means as defined in section 12-20-102(10), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

6. "Registrant" means as defined in section 12-20-102(12), C.R.S.

B. The regulator shall not deny licensure or registration to an applicant or impose disciplinary action against an individual's license or registration based solely on a civil or criminal judgment against the applicant, registrant, or licensee regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure or registration to an applicant or impose disciplinary action against an individual's license or registration based solely on a professional disciplinary action against the applicant's, registrant's, or licensee's professional licensure or registration in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's, registrant's, or licensee's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

Editor's Notes

History

Entire rule eff. 08/01/2008.
Rules 3.7, 5.0-5.2, 9.0-10.0 eff. 08/01/2010.
Entire rule eff. 03/17/2011.
Rules 8.1, 9.7 m eff. 09/15/2011.
Rules 3.0-10.7 eff. 07/15/2012.
Entire rule eff. 07/01/2014.
Rules 2.2, 3.1, 4.4.1.2.B, 4.4.1.3.A eff. 01/30/2015.
Entire rule eff. 03/17/2017.
Rule 2.0 eff. 06/01/2017.
Rules 6.0, 11.0 eff. 07/15/2017.
Rules 7.2.5.9, 8.3.3, 11.2 eff. 03/17/2018. Rule 11.3.7 repealed eff. 03/17/2018.
Rule 8.3.3. eff. 11/14/2018.
Rule 1.2 eff. 07/15/2020.
Rule 1.3 E eff. 07/15/2021.
Rule 1.11 G.2 eff. 11/30/2021.
Entire rule eff. 07/15/2022.

COLORADO
Department of Regulatory Agencies
Division of Professions and Occupations

STATEMENT OF BASIS, PURPOSE and JUSTIFICATION for EMERGENCY RULE

On July 14, 2022, Colorado Governor Jared Polis ("Governor") signed Executive Order D 2022 034, "Protecting Colorado's Workforce and Expanding Licensing Opportunities."

Basis

The basis for this rule is Executive Order D 2022 034.

Through Executive Order D 2022 034, Governor Jared Polis directed the Department of Regulatory Agencies to work with all programs and boards of professional licensure operating under its purview to promulgate and issue rules as necessary to ensure that no person shall be subject to disciplinary action against a professional license or disqualified from professional licensure for any civil or criminal judgment, discipline, or other sanction or threat imposed under the laws of another state as long as the actions are lawful and consistent with professional conduct and standards of care within the State of Colorado.

Purpose

The purpose of this emergency rule is to effectuate Executive Order D 2022 034.

As stated in Executive Order D 2022 034, employers are having difficulty recruiting and retaining qualified employees, many of whom need professional licenses. The exclusion of people from the workforce because of marijuana-related activities that are lawful in Colorado, but illegal in other states, hinders our economy and our State.

Justification

As set forth in Executive Order D 2022 034, the Order ensures that all Coloradans are afforded protections and rights under Colorado law.

Pursuant to section 24-4-103(6)(a), C.R.S., a temporary or emergency rule may be adopted without compliance with section 24-4-103(4),C.R.S., which requires the agency to hold a public hearing "at which it shall afford interested persons an opportunity to submit written a data, views, or arguments and to present the same orally"; and with less than the twenty days' notice set forth in section 24-4-103(3), C.R.S., or without notice where circumstances imperatively require, only if the agency finds that "[i]mmediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for preservation of the public health, safety or welfare and compliance with the requirements of this section would be contrary to the public interest." Such findings must be made on the record.

The Regulator, as defined in section 12-20-102(14), C.R.S., hereby finds the immediate adoption of this emergency rule is imperatively necessary to comply with Executive Order D

2022 034, to protect Colorado's Workforce and Expanding Licensing Opportunities. The adoption of this emergency rule is imperatively necessary for the preservation of the public welfare, and cannot wait the several months required for permanent rulemaking and therefore an emergency rule is appropriate pursuant to the Administrative Procedure Act.

The Regulator finds, as required by section 24-4-103(4)(b), C.R.S., that the need for the emergency rulemaking exists; the proper constitutional and/or statutory authority exists for the rule; to the extent practicable, the rule is clearly and simply stated so that their meaning will be understood by any required to comply with the rule; the rule does not conflict with other provisions of the law; and any duplication or overlapping of the rule, if any, has been explained.

This temporary/emergency rule take effect September 28, 2022, and remain in effect for up to a maximum of 120 days after adoption of these temporary/emergency rules.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
Solicitor General

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Office of the Attorney General

Tracking number: 2022-00602

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - State Electrical Board

on 09/28/2022

3 CCR 710-1

STATE ELECTRICAL BOARD RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 09/29/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 18, 2022 11:46:44

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Colorado Medical Board

CCR number

3 CCR 713-51

Rule title

3 CCR 713-51 RULE 161 PROTECTIONS FOR PROVISION OF REPRODUCTIVE HEALTH CARE IN COLORADO 1 - eff 10/06/2022

Effective date

10/06/2022

Expiration date

02/03/2023

DEPARTMENT OF REGULATORY AGENCIES

Colorado Medical Board

RULE 161 – PROTECTIONS FOR PROVISION OF REPRODUCTIVE HEALTH CARE IN COLORADO

3 CCR 713-51

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

51.1 INTRODUCTION

The basis for the Board's promulgation of these rules and regulations is Executive Order D 2022 032, and sections 25-6-401 *et seq.*, 12-240-105(1)(a), and 12-20-204, C.R.S.

The purpose of these rules and regulations is to implement Executive Order D 2022 032.

51.2 RULES AND REGULATIONS

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Assisting in the provision reproductive health care" means aiding, abetting or complicity in the provision of reproductive health care.

3. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

4. "Criminal judgment" means criminal conviction as defined in Rule 1.1.

5. "Licensee" means as defined in section 12-20-102(10), C.R.S.

6. "Provision of reproductive health care," includes but is not limited to, transportation for reproductive health care, referrals for reproductive health care and related services, funding or assisting with payment of reproductive health care, prescribing, shipping or dispensing medications for reproductive health care in accordance with state and federal law, all options and mental health counseling and treatment related to reproductive health care. The "provision of reproductive health care" also includes all treatment contemplated in the definition of section 25-6-402(4), C.R.S.

7. "Regulator" means as defined in section 12-20-102(14), C.R.S.

8. "Reproductive health care" means as defined in section 25-6-402(4), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on the applicant's provision of or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice as defined in Colorado law and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant arising from the provision of, or assistance in the provision of reproductive health care in this state or any

other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

D. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action or any other sanction against the applicant's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's provision of, or assistance in the provision of, reproductive health care and the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

E. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on the applicant's own personal effort to seek or obtain reproductive health care for themselves. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant arising from the individual's own personal receipt of reproductive health care in this state or any other state or U.S. territory.

Editor's Notes

History

COLORADO
Department of Regulatory Agencies
Division of Professions and Occupations

STATEMENT OF BASIS, PURPOSE and JUSTIFICATION for EMERGENCY RULES

On July 6, 2022, Colorado Governor Jared Polis ("Governor") signed Executive Order D 2022 032, "Directing State Agencies to Protecting Access to Reproductive Health Care in Colorado."

Basis

The basis for this rule is Executive Order D 2022 032.

Through Executive Order D 2022 032, Governor Jared Polis directed all state agencies not to share any information or data, including patient medical records, patient-level data or related billing information, or expend time, money, facilities property, equipment, personnel, or other resources to assist or further any investigation or proceeding initiated in or by another state that seeks to impose criminal or civil liability or professional sanction upon a person for conduct that would be legal in Colorado related to providing, assisting, seeking, or obtaining reproductive health care, unless pursuant to a court order.

Governor Jared Polis also directed the Department of Regulatory Agencies (DORA) to work with all programs and boards of professional licensure operating under its purview to promulgate and issue necessary rules that will ensure that no person shall be subject to a disciplinary action against a professional license or disqualified from professional licensure for providing or assisting in the provision of reproductive health care or as a consequence of any civil or criminal judgment, discipline, or other sanction threatened or imposed under the laws of another state so long as the care as provided is consistent with professional conduct and standards of care within the State of Colorado.

Purpose

The purpose of this emergency rule is to effectuate Executive Order D 2022 032.

As stated in Executive Order D 2022 032, Colorado is experiencing workforce shortage in many professions, and disqualifying people because they were prosecuted for taking actions in other states that are fully legal under Colorado law would hurt our economy and our State. Colorado is committed to protecting access to reproductive health care. No one who is lawfully providing, assisting, seeking, or obtaining reproductive health care in Colorado should be subject to legal liability or professional sanctions in Colorado or any other state, nor will Colorado cooperate with criminal or civil investigations for actions that are fully legal in Colorado.

Justification

As set forth in Executive Order D 2022 032, the need exists to immediately protect access to reproductive health care in Colorado by promulgating rules ensuring no licensee, certificant, or registrant shall be subject to disciplinary action against a professional license or disqualified from professional licensure for providing or assisting in the provision of

reproductive health care or as a consequence of any civil or criminal judgment, discipline, or other sanction threatened or imposed under the laws of another state so long as the care provided is lawful and consistent with professional conduct and standards of care within the State of Colorado.

Pursuant to section 24-4-103(6)(a), C.R.S., a temporary or emergency rule may be adopted without compliance with section 24-4-103(4),C.R.S., which requires the agency to hold a public hearing "at which it shall afford interested persons an opportunity to submit written a data, views, or arguments and to present the same orally"; and with less than the twenty days' notice set forth in section 24-4-103(3), C.R.S., or without notice where circumstances imperatively require, only if the agency finds that "[i]mmediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for preservation of the public health, safety or welfare and compliance with the requirements of this section would be contrary to the public interest." Such findings must be made on the record.

The Regulator, as defined in section 12-20-102(14), C.R.S., hereby finds the immediate adoption of this emergency rule is imperatively necessary to comply with Executive Order D 2022 032, to protect access to reproductive health care in Colorado. The adoption of this emergency rule is imperatively necessary for the preservation of the public health, safety, and welfare, and cannot wait the several months required for permanent rulemaking and therefore emergency rules are appropriate pursuant to the Administrative Procedure Act.

The Regulator finds, as required by section 24-4-103(4)(b), C.R.S., that the need for the emergency rulemaking exists; the proper constitutional and/or statutory authority exists for the rule; to the extent practicable, the rule is clearly and simply stated so that its meaning will be understood by any required to comply with the rule; the rule does not conflict with other provisions of the law; and any duplication or overlapping of the rule, if any, has been explained.

This temporary/emergency rule takes effect October 6, 2022, and remain in effect for up to a maximum of 120 days after adoption of this temporary/emergency rule.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
Solicitor General

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Office of the Attorney General

Tracking number: 2022-00638

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Colorado Medical Board

on 10/06/2022

3 CCR 713-51

RULE 161 - PROTECTIONS FOR PROVISION OF REPRODUCTIVE HEALTH CARE IN COLORADO

The above-referenced rules were submitted to this office on 10/06/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 24, 2022 13:59:46

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Colorado Medical Board

CCR number

3 CCR 713-52

Rule title

3 CCR 713-52 RULE 162 PROTECTING COLORADOS WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES 1 - eff 10/06/2022

Effective date

10/06/2022

Expiration date

02/03/2023

DEPARTMENT OF REGULATORY AGENCIES

Colorado Medical Board

RULE 162 – PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES

3 CCR 713-52

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

52.1 INTRODUCTION

The basis for the Board's promulgation of these rules and regulations is Executive Order D 2022 034, and sections 25-6-401 *et seq.*, 12-240-105(1)(a), and 12-20-204, C.R.S.

The purpose of these rules and regulations is to implement Executive Order D 2022 034.

52.2 RULES AND REGULATIONS

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-250-105(1)(a) and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means criminal conviction as defined in Rule 1.1.

4. "Licensee" means as defined in section 12-20-102(10), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action against the applicant's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

Editor's Notes

History

COLORADO
Department of Regulatory Agencies
Division of Professions and Occupations

STATEMENT OF BASIS, PURPOSE and JUSTIFICATION for EMERGENCY RULES

On July 14, 2022, Colorado Governor Jared Polis ("Governor") signed Executive Order D 2022 034, "Protecting Colorado's Workforce and Expanding Licensing Opportunities."

Basis

The basis for this rule is Executive Order D 2022 034.

Through Executive Order D 2022 034, Governor Jared Polis directed the Department of Regulatory Agencies to work with all programs and boards of professional licensure operating under its purview to promulgate and issue rules as necessary to ensure that no person shall be subject to disciplinary action against a professional license or disqualified from professional licensure for any civil or criminal judgment, discipline, or other sanction or threat imposed under the laws of another state as long as the actions are lawful and consistent with professional conduct and standards of care within the State of Colorado.

Purpose

The purpose of this emergency rule is to effectuate Executive Order D 2022 034.

As stated in Executive Order D 2022 034, employers are having difficulty recruiting and retaining qualified employees, many of whom need professional licenses. The exclusion of people from the workforce because of marijuana-related activities that are lawful in Colorado, but illegal in other states, hinders our economy and our State.

Justification

As set forth in Executive Order D 2022 034, the Order ensures that all Coloradans are afforded protections and rights under Colorado law.

Pursuant to section 24-4-103(6)(a), C.R.S., a temporary or emergency rule may be adopted without compliance with section 24-4-103(4),C.R.S., which requires the agency to hold a public hearing "at which it shall afford interested persons an opportunity to submit written a data, views, or arguments and to present the same orally"; and with less than the twenty days' notice set forth in section 24-4-103(3), C.R.S., or without notice where circumstances imperatively require, only if the agency finds that "[i]mmediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for preservation of the public health, safety or welfare and compliance with the requirements of this section would be contrary to the public interest." Such findings must be made on the record.

The Regulator, as defined in section 12-20-102(14), C.R.S., hereby finds the immediate adoption of this emergency rule is imperatively necessary to comply with Executive Order D

2022 034, to protect Colorado's workforce and expand licensing opportunities. The adoption of this emergency rule is imperatively necessary for the preservation of the public health, safety, and welfare, and cannot wait the several months required for permanent rulemaking and therefore an emergency rule is appropriate pursuant to the Administrative Procedure Act.

The Regulator finds, as required by section 24-4-103(4)(b), C.R.S., that the need for the emergency rulemaking exists; the proper constitutional and/or statutory authority exists for the rule; to the extent practicable, the rule is clearly and simply stated so that its meaning will be understood by any required to comply with the rule; the rule does not conflict with other provisions of the law; and any duplication or overlapping of the rule, if any, has been explained.

This temporary/emergency rule take effect October 6, 2022, and remain in effect for up to a maximum of 120 days after adoption of this temporary/emergency rule.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
Solicitor General

STATE OF COLORADO
DEPARTMENT OF LAW

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Office of the Attorney General

Tracking number: 2022-00639

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Colorado Medical Board

on 10/06/2022

3 CCR 713-52

RULE 162 - PROTECTING COLORADOS WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES

The above-referenced rules were submitted to this office on 10/06/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 24, 2022 14:02:30

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Board of Psychologists Examiners

CCR number

3 CCR 721-1

Rule title

3 CCR 721-1 PSYCHOLOGIST EXAMINERS RULES AND REGULATIONS 1 - eff 10/07/2022

Effective date

10/07/2022

Expiration date

02/04/2023

DEPARTMENT OF REGULATORY AGENCIES

State Board of Psychologists Examiners

PSYCHOLOGIST EXAMINERS RULES AND REGULATIONS

3 CCR 721-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

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1.23 PROVISION OF REPRODUCTIVE HEALTH CARE IN COLORADO

This Rule is promulgated pursuant to Executive Order D 2022 032, and sections 25-6-401 *et seq.*, 12-245-204(4)(a), and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Assisting in the provision reproductive health care" means aiding, abetting or complicity in the provision of reproductive health care.

3. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

4. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

5. "Licensee" means as defined in section 12-20-102(10), C.R.S.

6. "Provision of reproductive health care," includes but is not limited to, transportation for reproductive health care, referrals for reproductive health care and related services, funding or assisting with payment of reproductive health care, prescribing, shipping or dispensing medications for reproductive health care in accordance with state and federal law, all options and mental health counseling and treatment related to reproductive health care. The "provision of reproductive health care" also includes all treatment contemplated in the definition of section 25-6-402(4), C.R.S.

7. "Regulator" means as defined in section 12-20-102(14), C.R.S.

8. "Reproductive health care" means as defined in section 25-6-402(4), C.R.S.

9. "Registrant" means as defined in section 12-20-102(12), C.R.S.

B. The regulator shall not deny licensure or registration to an applicant or impose disciplinary action against an individual's license or registration based solely on the applicant's, registrant's, or licensee's provision of or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice as defined in Colorado law and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure or registration to an applicant or impose disciplinary action against an individual's license or registration based solely on a civil or criminal judgment against the applicant, registrant, or licensee arising from the provision of, or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

D. The regulator shall not deny licensure or registration to an applicant or impose disciplinary action against an individual's license or registration based solely on a professional disciplinary action or any other sanction against the applicant's, registrant's, or licensee's professional licensure or registration in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's, registrant's, or licensee's provision of, or assistance in the provision of, reproductive health care and the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

E. The regulator shall not deny licensure or registration to an applicant or impose disciplinary action against an individual's registration or license based solely on the licensee's or registrant's own personal effort to seek or obtain reproductive health care for themselves. The regulator shall not deny licensure or registration to an applicant, registrant, or licensee, or impose disciplinary action against an individual's license or registration based solely on a civil or criminal judgment against the applicant, registrant, or licensee arising from the individual's own personal receipt of reproductive health care in this state or any other state or U.S. territory.

1.24 PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-245-204(4)(a) and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

4. "Licensee" means as defined in section 12-20-102(10), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

6. "Registrant" means as defined in section 12-20-102(12), C.R.S.

B. The regulator shall not deny licensure or registration to an applicant or impose disciplinary action against an individual's license or registration based solely on a civil or criminal judgment against the applicant, registrant, or licensee regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure or registration to an applicant or impose disciplinary action against an individual's license or registration based solely on a professional disciplinary action against the applicant's, registrant's, or licensee's professional licensure or registration in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on

the applicant's, registrant's, or licensee's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

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Editor's Notes

History

Entire rule emer. rule eff. 01/01/2012.

Entire rule eff. 02/01/2012.

Rule 12 eff. 03/16/2016.

Rules 13, 20, 21 emer. rules eff. 04/07/2017.

Rules 13, 20, 21 eff. 07/30/2017.

Rules 1.6 A, 1.6 B.2, 1.7 B.4, 1.14 A.2-5.b, 1.16 A emer. rules eff. 10/02/2020.

Rules 1.6 A, 1.6 B.2, 1.7 B.4, 1.12, 1.14 A.2-5.b, 1.16 A, 1.18 E, 1.22, Appendix A eff. 11/30/2020.

Rules 1.6 A, 1.12 C-D, 1.22, Appendix A eff. 05/30/2021.

Rule 1.8 B eff. 11/14/2021.

Annotations

Rules 1.12 C, 1.12 D, 1.22 E.4 (adopted 10/02/2020) were not extended by Senate Bill 21-152 and therefore expired 05/15/2021.

COLORADO
Department of Regulatory Agencies
Division of Professions and Occupations

STATEMENT OF BASIS, PURPOSE and JUSTIFICATION for EMERGENCY RULES

On July 6, 2022, Colorado Governor Jared Polis ("Governor") signed Executive Order D 2022 032, "Directing State Agencies to Protecting Access to Reproductive Health Care in Colorado."

On July 14, 2022, Colorado Governor Jared Polis ("Governor") signed Executive Order D 2022 034, "Protecting Colorado's Workforce and Expanding Licensing Opportunities."

Basis

The basis for these rules is Executive Order D 2022 032 and Executive Order D 2022 034.

Through Executive Order D 2022 032, Governor Jared Polis directed all state agencies not to share any information or data, including patient medical records, patient-level data or related billing information, or expend time, money, facilities property, equipment, personnel, or other resources to assist or further any investigation or proceeding initiated in or by another state that seeks to impose criminal or civil liability or professional sanction upon a person for conduct that would be legal in Colorado related to providing, assisting, seeking, or obtaining reproductive health care, unless pursuant to a court order.

Governor Jared Polis also directed the Department of Regulatory Agencies (DORA) to work with all programs and boards of professional licensure operating under its purview to promulgate and issue necessary rules that will ensure that no person shall be subject to a disciplinary action against a professional license or disqualified from professional licensure for providing or assisting in the provision of reproductive health care or as a consequence of any civil or criminal judgment, discipline, or other sanction threatened or imposed under the laws of another state so long as the care as provided is consistent with professional conduct and standards of care within the State of Colorado.

Through Executive Order D 2022 034, Governor Jared Polis directed the Department of Regulatory Agencies to work with all programs and boards of professional licensure operating under its purview to promulgate and issue rules as necessary to ensure that no person shall be subject to disciplinary action against a professional license or disqualified from professional licensure for any civil or criminal judgment, discipline, or other sanction or threat imposed under the laws of another state as long as the actions are lawful and consistent with professional conduct and standards of care within the State of Colorado.

Purpose

The purpose of these emergency rules is to effectuate Executive Order D 2022 032 and Executive Order D 2022 034.

As stated in Executive Order D 2022 032, Colorado is experiencing workforce shortage in many professions, and disqualifying people because they were prosecuted for taking actions in other states that are fully legal under Colorado law would hurt our economy and our State.

Colorado is committed to protecting access to reproductive health care. No one who is lawfully providing, assisting, seeking, or obtaining reproductive health care in Colorado should be subject to legal liability or professional sanctions in Colorado or any other state, nor will Colorado cooperate with criminal or civil investigations for actions that are fully legal in Colorado.

As stated in Executive Order D 2022 034, employers are having difficulty recruiting and retaining qualified employees, many of whom need professional licenses. The exclusion of people from the workforce because of marijuana-related activities that are lawful in Colorado, but illegal in other states, hinders our economy and our State.

Justification

As set forth in Executive Order D 2022 032, the need exists to immediately protect access to reproductive health care in Colorado by promulgating rules ensuring no licensee, certificant, or registrant shall be subject to disciplinary action against a professional license or disqualified from professional licensure for providing or assisting in the provision of reproductive health care or as a consequence of any civil or criminal judgment, discipline, or other sanction threatened or imposed under the laws of another state so long as the care provided is lawful and consistent with professional conduct and standards of care within the State of Colorado.

As set forth in Executive Order D 2022 034, the Order ensures that all Coloradans are afforded protections and rights under Colorado law.

Pursuant to section 24-4-103(6)(a), C.R.S., a temporary or emergency rule may be adopted without compliance with section 24-4-103(4),C.R.S., which requires the agency to hold a public hearing "at which it shall afford interested persons an opportunity to submit written a data, views, or arguments and to present the same orally"; and with less than the twenty days' notice set forth in section 24-4-103(3), C.R.S., or without notice where circumstances imperatively require, only if the agency finds that "[i]mmediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for preservation of the public health, safety or welfare and compliance with the requirements of this section would be contrary to the public interest." Such findings must be made on the record.

The Regulator, as defined in section 12-20-102(14), C.R.S., hereby finds the immediate adoption of these emergency rules is imperatively necessary to comply with Executive Order D 2022 032, to protect access to reproductive health care in Colorado. The adoption of emergency rules is imperatively necessary for the preservation of the public health, safety, and welfare, and cannot wait the several months required for permanent rulemaking and therefore emergency rules are appropriate pursuant to the Administrative Procedure Act.

The Regulator finds, as required by section 24-4-103(4)(b), C.R.S., that the need for the emergency rulemaking exists; the proper constitutional and/or statutory authority exists for the rules; to the extent practicable, the rules are clearly and simply stated so that their meaning will be understood by any required to comply with the rules; the rules do not conflict with other provisions of the law; and any duplication or overlapping of the rules, if any, has been explained.

These temporary/emergency rules take effect October 7, 2022, and remain in effect for up to a maximum of 120 days after adoption of these temporary/emergency rules.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
Solicitor General

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Office of the Attorney General

Tracking number: 2022-00640

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Board of Psychologists Examiners

on 10/07/2022

3 CCR 721-1

PSYCHOLOGIST EXAMINERS RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/07/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 27, 2022 17:53:05

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - State Board of Optometry

CCR number

4 CCR 728-1

Rule title

4 CCR 728-1 STATE BOARD OF OPTOMETRY RULES AND REGULATIONS 1 - eff 10/05/2022

Effective date

10/05/2022

Expiration date

02/02/2023

DEPARTMENT OF REGULATORY AGENCIES

State Board of Optometry

STATE BOARD OF OPTOMETRY RULES AND REGULATIONS

4 CCR 728-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

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1.30 PROTECTIONS FOR PROVISION OF REPRODUCTIVE HEALTH CARE IN COLORADO

This Rule is promulgated pursuant to Executive Order D 2022 032, and sections 25-6-401 *et seq.*, 12-250-105(1)(a), and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Assisting in the provision reproductive health care" means aiding and abetting, complicity, and conspiracy in the provision of reproductive health care.

2. "Certificate holder" or "certificant" means as defined in section 12-20-102(3), C.R.S.

3. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

4. "Criminal judgment" means criminal conviction as defined in Rule 1.1.

5. "Licensee" means as defined in section 12-20-102(10), C.R.S.

6. "Provision of reproductive health care," includes but is not limited to, transportation for reproductive health care, referrals for reproductive health care and related services, funding or assisting with payment of reproductive health care, prescribing, shipping or dispensing medications for reproductive health care in accordance with state and federal law, all options counseling, and mental health counseling and treatment related to reproductive health care. The "provision of reproductive health care" also includes all treatment contemplated in the definition of section 25-6-402(4), C.R.S.

7. "Registrant" means as defined in section 12-20-102(12), C.R.S.

8. "Regulator" means as defined in section 12-20-102(14), C.R.S.

9. "Reproductive health care" means as defined in section 25-6-402(4), C.R.S.

B. The regulator shall not deny registration, certification, or licensure to an applicant or impose disciplinary action against an individual's registration, certificate or license based solely on the applicant or registrant's provision of or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice as defined in Colorado law and did not otherwise violate Colorado law.

C. The regulator shall not deny registration, certification, or licensure to an applicant or impose disciplinary action against an individual's registration, certificate or license based solely on a civil or criminal judgment against the applicant or registrant arising from the provision of, or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

D. The regulator shall not deny registration, certification, or licensure to an applicant or impose disciplinary action against an individual's registration, certificate or license based solely on a professional disciplinary action or any other sanction against the applicant's or registrant's professional registration, certification or licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or registrant's provision of, or assistance in the provision of, reproductive health care and the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

E. The regulator shall not deny registration, certification, or licensure to an applicant or impose disciplinary action against an individual's registration, certificate or license based solely on the applicant/licensee/registrant's own personal effort to seek or obtain reproductive health care for themselves. The regulator shall not deny registration, certification, or licensure to an applicant or impose disciplinary action against an individual's registration, certificate, or license based solely on a civil or criminal judgment against the applicant or registrant arising from the individual's own personal receipt of reproductive health care in this state or any other state or U.S. territory.

1.31 PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-250-105(1)(a) and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Certificate holder" or "certificant" means as defined in section 12-20-102(3), C.R.S.

3. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

4. "Criminal judgment" means criminal conviction as defined in Rule 1.1.

5. "Licensee" means as defined in section 12-20-102(10), C.R.S.

7. "Registrant" means as defined in section 12-20-102(12), C.R.S.

8. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny registration, certification, or licensure to an applicant or impose disciplinary action against an individual's registration, certificate or license based solely on a civil or criminal judgment against the applicant or registrant regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny registration, certification, or licensure to an applicant or impose disciplinary action against an individual's registration, certificate or license based solely on a

professional disciplinary action against the applicant's or registrant's professional registration, certification or licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or registrant's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

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Editor's Notes

History

Rules 14, 15 eff. 08/01/2009.
Rules 9, 14, 15 eff. 01/01/2010.
Rule 15 repealed eff. 09/30/2010.
Rules 9, 14 eff. 01/01/2011.
Rule 11 eff. 07/01/2011.
Rules 9.01, 17-19 eff. 12/30/2011.
Rule 16 eff. 03/01/2012.
Entire rule eff. 07/15/2014.
Rules 1.8 A.5, 1.8 B.5, 1.22 eff. 12/15/2019.
Rule 1.27 emer. rule eff. 05/01/2020; expired 08/29/2020.
Rule 1.28 emer. rule eff. 05/11/2020; expired 09/08/2020.
Entire rule eff. 07/15/2020. Rules 1.9, 1.14, 1.17 repealed eff. 07/15/2020.
Rule 1.27 emer. rule eff. 08/30/2020.
Rule 1.28 emer. rule eff. 09/09/2020.
Rules 1.27, 1.28 emer. rules eff. 12/28/2020.
Rule 1.26, Appendix A eff. 12/30/2020.
Rule 1.29 emer. rule eff. 01/11/2021.
Rules 1.27, 1.28 emer. rules eff. 04/27/2021.
Rule 1.29 emer. rule eff. 05/11/2021.
Rules 1.27, 1.28 emer. rules eff. 07/12/2021.
Rules 1.26, Appendix A eff. 07/15/2021.
Rules 1.27, 1.28 emer. rules eff. 11/02/2021.
Rule 1.29 emer. rule eff 11/18/2021.
Rule 1.29 eff. 01/14/2022.
Rules 1.27, 1.28 emer. rules eff. 03/02/2022.
Rules 1.27, 1.28 emer. rules eff. 06/28/2022.

COLORADO
Department of Regulatory Agencies
Division of Professions and Occupations

STATEMENT OF BASIS, PURPOSE and JUSTIFICATION for EMERGENCY RULES

On July 6, 2022, Colorado Governor Jared Polis ("Governor") signed Executive Order D 2022 032, "Directing State Agencies to Protecting Access to Reproductive Health Care in Colorado."

On July 14, 2022, Colorado Governor Jared Polis ("Governor") signed Executive Order D 2022 034, "Protecting Colorado's Workforce and Expanding Licensing Opportunities."

Basis

The basis for these rules is Executive Order D 2022 032 and Executive Order D 2022 034.

Through Executive Order D 2022 032, Governor Jared Polis directed all state agencies not to share any information or data, including patient medical records, patient-level data or related billing information, or expend time, money, facilities property, equipment, personnel, or other resources to assist or further any investigation or proceeding initiated in or by another state that seeks to impose criminal or civil liability or professional sanction upon a person for conduct that would be legal in Colorado related to providing, assisting, seeking, or obtaining reproductive health care, unless pursuant to a court order.

Governor Jared Polis also directed the Department of Regulatory Agencies (DORA) to work with all programs and boards of professional licensure operating under its purview to promulgate and issue necessary rules that will ensure that no person shall be subject to a disciplinary action against a professional license or disqualified from professional licensure for providing or assisting in the provision of reproductive health care or as a consequence of any civil or criminal judgment, discipline, or other sanction threatened or imposed under the laws of another state so long as the care as provided is consistent with professional conduct and standards of care within the State of Colorado.

Through Executive Order D 2022 034, Governor Jared Polis directed the Department of Regulatory Agencies to work with all programs and boards of professional licensure operating under its purview to promulgate and issue rules as necessary to ensure that no person shall be subject to disciplinary action against a professional license or disqualified from professional licensure for any civil or criminal judgment, discipline, or other sanction or threat imposed under the laws of another state as long as the actions are lawful and consistent with professional conduct and standards of care within the State of Colorado.

Purpose

The purpose of these emergency rules is to effectuate Executive Order D 2022 032 and Executive Order D 2022 034.

As stated in Executive Order D 2022 032, Colorado is experiencing workforce shortage in many professions, and disqualifying people because they were prosecuted for taking actions in other states that are fully legal under Colorado law would hurt our economy and our State.

Colorado is committed to protecting access to reproductive health care. No one who is lawfully providing, assisting, seeking, or obtaining reproductive health care in Colorado should be subject to legal liability or professional sanctions in Colorado or any other state, nor will Colorado cooperate with criminal or civil investigations for actions that are fully legal in Colorado.

As stated in Executive Order D 2022 034, employers are having difficulty recruiting and retaining qualified employees, many of whom need professional licenses. The exclusion of people from the workforce because of marijuana-related activities that are lawful in Colorado, but illegal in other states, hinders our economy and our State.

Justification

As set forth in Executive Order D 2022 032, the need exists to immediately protect access to reproductive health care in Colorado by promulgating rules ensuring no licensee, certificant, or registrant shall be subject to disciplinary action against a professional license or disqualified from professional licensure for providing or assisting in the provision of reproductive health care or as a consequence of any civil or criminal judgment, discipline, or other sanction threatened or imposed under the laws of another state so long as the care provided is lawful and consistent with professional conduct and standards of care within the State of Colorado.

As set forth in Executive Order D 2022 034, the Order ensures that all Coloradans are afforded protections and rights under Colorado law.

Pursuant to section 24-4-103(6)(a), C.R.S., a temporary or emergency rule may be adopted without compliance with section 24-4-103(4),C.R.S., which requires the agency to hold a public hearing "at which it shall afford interested persons an opportunity to submit written a data, views, or arguments and to present the same orally"; and with less than the twenty days' notice set forth in section 24-4-103(3), C.R.S., or without notice where circumstances imperatively require, only if the agency finds that "[i]mmediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for preservation of the public health, safety or welfare and compliance with the requirements of this section would be contrary to the public interest." Such findings must be made on the record.

The Regulator, as defined in section 12-20-102(14), C.R.S., hereby finds the immediate adoption of these emergency rules is imperatively necessary to comply with Executive Order D 2022 032, to protect access to reproductive health care in Colorado. The adoption of emergency rules is imperatively necessary for the preservation of the public health, safety, and welfare, and cannot wait the several months required for permanent rulemaking and therefore emergency rules are appropriate pursuant to the Administrative Procedure Act.

The Regulator finds, as required by section 24-4-103(4)(b), C.R.S., that the need for the emergency rulemaking exists; the proper constitutional and/or statutory authority exists for the rules; to the extent practicable, the rules are clearly and simply stated so that their meaning will be understood by any required to comply with the rules; the rules do not conflict with other provisions of the law; and any duplication or overlapping of the rules, if any, has been explained.

These temporary/emergency rules take effect October 5, 2022, and remain in effect for up to a maximum of 120 days after adoption of these temporary/emergency rules.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
Solicitor General

STATE OF COLORADO
DEPARTMENT OF LAW

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Office of the Attorney General

Tracking number: 2022-00637

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - State Board of Optometry

on 10/05/2022

4 CCR 728-1

STATE BOARD OF OPTOMETRY RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/05/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 25, 2022 12:48:39

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Board of Architects, Engineers, and Land Surveyors

CCR number

4 CCR 730-1

Rule title

4 CCR 730-1 ARCHITECTS, PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS RULES AND REGULATIONS 1 - eff 10/14/2022

Effective date

10/14/2022

Expiration date

02/11/2023

DEPARTMENT OF REGULATORY AGENCIES

State Board of Licensure for Architects, Professional Engineers, and Professional Land Surveyors

ARCHITECTS, PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS RULES AND REGULATIONS

4 CCR 730-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

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1.9 PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-120-104(1)(a) and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

3. "Criminal judgment" means criminal conviction as defined in Rule 1.1.

4. "Licensee" means as defined in section 12-20-102(10), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the licensee regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action against the applicant's or licensee's professional license in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the licensee's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

Editor's Notes

History

Entire rule eff. 04/01/2008.

Rules 3.1.2, 4.9 eff. 12/31/2008.

Entire rule eff. 01/01/2010.

Entire rule eff. 01/01/2011.

Rules 4.8.2.2.1, 4.8.3 eff. 06/01/2011.

Rules 2.1, 1.2.2, 2.2, 3.1.9, 3.2.1.1, 4.1.1.3, 4.1.1.8, 4.3.3, 4.3.5, 4.7.2.2, 4.7.2.3, 4.9.1, 4.9.2, 4.9.3.1.2, 5.2.3, 6.2.3, 7.1.4 eff. 01/01/2012.

Rules 2.1-2.2, 3.1.10, 4.1.1.3, 4.1.1.6, 4.1.1.7-4.1.1.10, 4.3.4-4.3.5, 4.4.1, 4.5, 4.5.2-4.5.4, 4.6.1.10, 4.6.2.5, 4.6.7, 4.7.1.2, 4.7.1.4, 4.7.2.1, 4.8.2.1-4.8.2.2, 4.8.6, 4.9.1-4.9.1.2.1.1, 4.9.3.1.2.5, 4.9.3.1.2.15-4.9.3.1.2.16, 4.10.1, 4.11, 5.2.2, 6.5.1, 6.5.1.1, 6.5.4-6.5.4.2, 7.1.1, 7.1.5, 7.2 eff. 09/01/2015. Rules 4.4.1.1, 4.6.1.3, 4.6.2.3, 4.8.4, 4.10.2, 6.6.2(c), 7.1.7, 7.3 repealed eff. 09/01/2015.

Rule 4.9.1 eff 03/17/2017. Rules 4.9.1.1.1.1, 4.9.1.2.1.1 repealed eff 03/17/2017.

Rules 4.6.5, 4.8.1 emer. rules eff. 05/15/2019.

Rules 4.6.5, 4.8.1 emer. rules eff. 06/14/2019.

Rules 4.6.5, 4.8.1 eff. 09/14/2019.

Rules 1.2 A, 1.2 B.17.b, 1.3 A.3, 1.3 A.10.a, 1.3 C.3.a, 1.3 D.6, 1.3 E.2, 1.4 A, 1.4 F.1.d, 1.4 F.2.e, 1.4 G.2.a, 1.4 H.2.c, 1.4 I.1.a.(1), 1.4 I.1.b.(1), 1.4 I.3.a.(2)(d), 1.4 I.3.e, 1.4 I.3.(g), 1.4 I.3.(k), 1.4 I.3.(l)(iv), 1.4 I.3.(n)(ii), 1.4 I.3.(q)(iii), 1.4 K.1.d, 1.5 A, 1.6 A.2, 1.6 A.3, 1.6 A.7, 1.6 B, 1.6 D.3, 1.6 E.3, 1.6 L, 1.7 B eff. 08/14/2020.

Rules 1.7 A.2-3 eff. 08/30/2020.

Rules 1.4 A.1.g, 1.4 I.1.a.(1), 1.4 I.1.b, 1.4 I.2.a-b, 1.4 I.3.a.(2)(a)(c)(e)(g)(h)(i), 1.4 I.3.a.(2)(k)(ii)(vi), 1.4 I.3.a.(2)(l)(ix), 1.4 I.3.a.(2)(n), 1.4 I.3.a.(2)(r)(ii), 1.4 K.1 eff. 10/30/2021. Rules 1.4 I.3.a.(2)(j)(v), 1.4 I.3.a.(2)(l)(iv) repealed eff. 10/30/2021.

COLORADO
Department of Regulatory Agencies
Division of Professions and Occupations

STATEMENT OF BASIS, PURPOSE and JUSTIFICATION for EMERGENCY RULE

On July 14, 2022, Colorado Governor Jared Polis ("Governor") signed Executive Order D 2022 034, "Protecting Colorado's Workforce and Expanding Licensing Opportunities."

Basis

The basis for this rule is Executive Order D 2022 034.

Through Executive Order D 2022 034, Governor Jared Polis directed the Department of Regulatory Agencies to work with all programs and boards of professional licensure operating under its purview to promulgate and issue rules as necessary to ensure that no person shall be subject to disciplinary action against a professional license or disqualified from professional licensure for any civil or criminal judgment, discipline, or other sanction or threat imposed under the laws of another state as long as the actions are lawful and consistent with professional conduct and standards of care within the State of Colorado.

Purpose

The purpose of this emergency rule is to effectuate Executive Order D 2022 034.

As stated in Executive Order D 2022 034, employers are having difficulty recruiting and retaining qualified employees, many of whom need professional licenses. The exclusion of people from the workforce because of marijuana-related activities that are lawful in Colorado, but illegal in other states, hinders our economy and our State.

Justification

As set forth in Executive Order D 2022 034, the Order ensures that all Coloradans are afforded protections and rights under Colorado law.

Pursuant to section 24-4-103(6)(a), C.R.S., a temporary or emergency rule may be adopted without compliance with section 24-4-103(4),C.R.S., which requires the agency to hold a public hearing "at which it shall afford interested persons an opportunity to submit written a data, views, or arguments and to present the same orally"; and with less than the twenty days' notice set forth in section 24-4-103(3), C.R.S., or without notice where circumstances imperatively require, only if the agency finds that "[i]mmediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for preservation of the public health, safety or welfare and compliance with the requirements of this section would be contrary to the public interest." Such findings must be made on the record.

The Regulator, as defined in section 12-20-102(14), C.R.S., hereby finds the immediate adoption of this emergency rule is imperatively necessary to comply with Executive Order D

2022 034, to protect Colorado's Workforce and Expanding Licensing Opportunities. The adoption of this emergency rule is imperatively necessary for the preservation of the public welfare, and cannot wait the several months required for permanent rulemaking and therefore an emergency rule is appropriate pursuant to the Administrative Procedure Act.

The Regulator finds, as required by section 24-4-103(4)(b), C.R.S., that the need for the emergency rulemaking exists; the proper constitutional and/or statutory authority exists for the rule; to the extent practicable, the rule is clearly and simply stated so that their meaning will be understood by any required to comply with the rule; the rule does not conflict with other provisions of the law; and any duplication or overlapping of the rule, if any, has been explained.

This temporary/emergency rule take effect October 14, 2022, and remain in effect for up to a maximum of 120 days after adoption of these temporary/emergency rules.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
Solicitor General

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DEPARTMENT OF LAW

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Office of the Attorney General

Tracking number: 2022-00646

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Board of Architects, Engineers, and Land Surveyors

on 10/14/2022

4 CCR 730-1

ARCHITECTS, PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/14/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 31, 2022 11:37:57

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - State Physical Therapy Board

CCR number

4 CCR 732-1

Rule title

4 CCR 732-1 PHYSICAL THERAPY RULES AND REGULATIONS 1 - eff 10/13/2022

Effective date

10/13/2022

Expiration date

02/10/2023

DEPARTMENT OF REGULATORY AGENCIES

State Physical Therapy Board

PHYSICAL THERAPY RULES AND REGULATIONS

4 CCR 732-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

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1.8 PROVISION OF REPRODUCTIVE HEALTH CARE IN COLORADO

This Rule is promulgated pursuant to Executive Order D 2022 032, and sections 25-6-401 *et seq.*, 12-285-106(2)(b), and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Assisting in the provision reproductive health care" means aiding, abetting or complicity in the provision of reproductive health care.

3. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

4. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

5. "Licensee" means as defined in section 12-20-102(10), C.R.S.

6. "Provision of reproductive health care," includes but is not limited to, transportation for reproductive health care, referrals for reproductive health care and related services, funding or assisting with payment of reproductive health care, prescribing, shipping or dispensing medications for reproductive health care in accordance with state and federal law, all options and mental health counseling and treatment related to reproductive health care. The "provision of reproductive health care" also includes all treatment contemplated in the definition of section 25-6-402(4), C.R.S.

7. "Regulator" means as defined in section 12-20-102(14), C.R.S.

8. "Reproductive health care" means as defined in section 25-6-402(4), C.R.S.

9. "Certificate holder" or "certificant" means as defined in section 12-20-102(3), C.R.S.

B. The regulator shall not deny licensure or certification to an applicant or impose disciplinary action against an individual's license or certification based solely on the applicant's, certificant's, or licensee's provision of or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice as defined in Colorado law and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure or certification to an applicant or impose disciplinary action against an individual's license or certification based solely on a civil or criminal judgment against the applicant, certificant, or licensee arising from the provision of, or assistance in the provision of reproductive health care in this state or any other state or U.S. territory, so long as the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

D. The regulator shall not deny licensure or certification to an applicant or impose disciplinary action against an individual's license or certification based solely on a professional disciplinary action or any other sanction against the applicant's, certificant's, or licensee's professional licensure or certification in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant, certificant, or licensee's provision of, or assistance in the provision of, reproductive health care and the care provided was consistent with generally accepted standards of practice and did not otherwise violate Colorado law.

E. The regulator shall not deny licensure or certification to an applicant or impose disciplinary action against an individual's certificate or license based solely on the certificant's or licensee's own personal effort to seek or obtain reproductive health care for themselves. The regulator shall not deny licensure or certification to an applicant or impose disciplinary action against an individual's license or certification based solely on a civil or criminal judgment against the applicant, certificant, or licensee arising from the individual's own personal receipt of reproductive health care in this state or any other state or U.S. territory.

1.9 PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-285-106(2)(b) and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

4. "Licensee" means as defined in section 12-20-102(10), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

6. "Certificate holder" or "certificant" means as defined in section 12-20-102(3), C.R.S.

B. The regulator shall not deny licensure or certification to an applicant or impose disciplinary action against an individual's license or certification based solely on a civil or criminal judgment against the applicant, certificant, or licensee regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure or certification to an applicant or impose disciplinary action against an individual's license or certification based solely on a professional disciplinary action against the applicant's, certificant's, or licensee's professional licensure or certification in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on

the applicant's, certificant's, or licensee's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

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Editor's Notes

History

Rules 7, 10, 11 eff. 11/30/2007.

Rule 6 eff. 03/30/2011.

Rules 1-11 emer. rules repealed eff. 03/09/2012.

Rules 1-11 emer. rules eff. 03/09/2012.

Rules 1-11, 303, 304 emer. rules eff. 04/02/2012.

Rules 301, 302, 305, 306 emer. rules eff. 06/01/2012.

Rules 201-211, 301-305 eff. 06/30/2012. Rules 1-11 repealed eff. 06/30/2012.

Rules 101-102, 212, 214 eff. 01/30/2013.

Rule 215 emer. rule eff. 06/02/2014.

Rules 202-203, 205, 215, 303 eff. 09/14/2014.

Rules 207, 213 eff. 11/01/2014.

Rules 102, 103, 201-206, 208, 212, 302-306 eff. 05/15/2015.

Rules 101-107, 201-202, 204-207, 210, 212-213, 215, 301-306 eff. 11/14/2016. Rules 209, 214 repealed eff. 11/14/2016.

Rules 106, 107, 201, 204, 213, 303, 305 eff. 03/02/2017.

Rule 211 emer. rule eff. 01/11/2019.

Rules 204, 205, 206, 211, 213, 303, 304, 305, 307 eff. 04/30/2019.

Rule 1.4 emer. rule eff. 05/01/2020; expired 08/29/2020.

Rule 1.5 emer. rule eff. 05/11/2020; expired 09/08/2020.

Rule 1.4 emer. rule eff. 08/30/2020.

Rule 1.5 emer. rule eff. 09/09/2020.

Rules 1.2 F, 1.3 E, 1.6, Appendix A eff. 12/15/2020.

Rules 1.4, 1.5 emer. rules eff. 12/28/2020.

Rule 1.7 emer. rule eff. 01/11/2021.

Rules 1.4, 1.5 emer. rules eff. 04/27/2021.

Rule 1.7 emer. rule eff. 05/11/2021.

Rules 1.6, Appendix A eff. 06/14/2021.

Rules 1.4, 1.7 emer. rules eff. 07/12/2021.

Entire rule eff. 10/15/2021.

Rules 1.4, 1.7 emer. rules eff. 11/02/2021.

Rules 1.4, 1.7 emer. rules eff. 03/02/2022.

Rules 1.4, 1.7 emer. rules eff. 06/28/2022.

Annotations

Rule 1.6 E.4 (adopted 10/15/2020) was not extended by Senate Bill 21-152 and therefore expired 05/15/2021.

COLORADO
Department of Regulatory Agencies
Division of Professions and Occupations

STATEMENT OF BASIS, PURPOSE and JUSTIFICATION for EMERGENCY RULES

On July 6, 2022, Colorado Governor Jared Polis ("Governor") signed Executive Order D 2022 032, "Directing State Agencies to Protecting Access to Reproductive Health Care in Colorado."

On July 14, 2022, Colorado Governor Jared Polis ("Governor") signed Executive Order D 2022 034, "Protecting Colorado's Workforce and Expanding Licensing Opportunities."

Basis

The basis for these rules is Executive Order D 2022 032 and Executive Order D 2022 034.

Through Executive Order D 2022 032, Governor Jared Polis directed all state agencies not to share any information or data, including patient medical records, patient-level data or related billing information, or expend time, money, facilities property, equipment, personnel, or other resources to assist or further any investigation or proceeding initiated in or by another state that seeks to impose criminal or civil liability or professional sanction upon a person for conduct that would be legal in Colorado related to providing, assisting, seeking, or obtaining reproductive health care, unless pursuant to a court order.

Governor Jared Polis also directed the Department of Regulatory Agencies (DORA) to work with all programs and boards of professional licensure operating under its purview to promulgate and issue necessary rules that will ensure that no person shall be subject to a disciplinary action against a professional license or disqualified from professional licensure for providing or assisting in the provision of reproductive health care or as a consequence of any civil or criminal judgment, discipline, or other sanction threatened or imposed under the laws of another state so long as the care as provided is consistent with professional conduct and standards of care within the State of Colorado.

Through Executive Order D 2022 034, Governor Jared Polis directed the Department of Regulatory Agencies to work with all programs and boards of professional licensure operating under its purview to promulgate and issue rules as necessary to ensure that no person shall be subject to disciplinary action against a professional license or disqualified from professional licensure for any civil or criminal judgment, discipline, or other sanction or threat imposed under the laws of another state as long as the actions are lawful and consistent with professional conduct and standards of care within the State of Colorado.

Purpose

The purpose of these emergency rules is to effectuate Executive Order D 2022 032 and Executive Order D 2022 034.

As stated in Executive Order D 2022 032, Colorado is experiencing workforce shortage in many professions, and disqualifying people because they were prosecuted for taking actions in other states that are fully legal under Colorado law would hurt our economy and our State.

Colorado is committed to protecting access to reproductive health care. No one who is lawfully providing, assisting, seeking, or obtaining reproductive health care in Colorado should be subject to legal liability or professional sanctions in Colorado or any other state, nor will Colorado cooperate with criminal or civil investigations for actions that are fully legal in Colorado.

As stated in Executive Order D 2022 034, employers are having difficulty recruiting and retaining qualified employees, many of whom need professional licenses. The exclusion of people from the workforce because of marijuana-related activities that are lawful in Colorado, but illegal in other states, hinders our economy and our State.

Justification

As set forth in Executive Order D 2022 032, the need exists to immediately protect access to reproductive health care in Colorado by promulgating rules ensuring no licensee, certificant, or registrant shall be subject to disciplinary action against a professional license or disqualified from professional licensure for providing or assisting in the provision of reproductive health care or as a consequence of any civil or criminal judgment, discipline, or other sanction threatened or imposed under the laws of another state so long as the care provided is lawful and consistent with professional conduct and standards of care within the State of Colorado.

As set forth in Executive Order D 2022 034, the Order ensures that all Coloradans are afforded protections and rights under Colorado law.

Pursuant to section 24-4-103(6)(a), C.R.S., a temporary or emergency rule may be adopted without compliance with section 24-4-103(4),C.R.S., which requires the agency to hold a public hearing "at which it shall afford interested persons an opportunity to submit written a data, views, or arguments and to present the same orally"; and with less than the twenty days' notice set forth in section 24-4-103(3), C.R.S., or without notice where circumstances imperatively require, only if the agency finds that "[i]mmediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for preservation of the public health, safety or welfare and compliance with the requirements of this section would be contrary to the public interest." Such findings must be made on the record.

The Regulator, as defined in section 12-20-102(14), C.R.S., hereby finds the immediate adoption of these emergency rules is imperatively necessary to comply with Executive Order D 2022 032, to protect access to reproductive health care in Colorado. The adoption of emergency rules is imperatively necessary for the preservation of the public health, safety, and welfare, and cannot wait the several months required for permanent rulemaking and therefore emergency rules are appropriate pursuant to the Administrative Procedure Act.

The Regulator finds, as required by section 24-4-103(4)(b), C.R.S., that the need for the emergency rulemaking exists; the proper constitutional and/or statutory authority exists for the rules; to the extent practicable, the rules are clearly and simply stated so that their meaning will be understood by any required to comply with the rules; the rules do not conflict with other provisions of the law; and any duplication or overlapping of the rules, if any, has been explained.

These temporary/emergency rules take effect October 13, 2022, and remain in effect for up to a maximum of 120 days after adoption of these temporary/emergency rules.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
Solicitor General

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Office of the Attorney General

Tracking number: 2022-00643

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - State Physical Therapy Board

on 10/13/2022

4 CCR 732-1

PHYSICAL THERAPY RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/13/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 26, 2022 19:15:57

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Colorado Office of Combative Sports

CCR number

4 CCR 740-1

Rule title

4 CCR 740-1 COMBATIVE SPORTS RULES AND REGULATIONS 1 - eff 10/12/2022

Effective date

10/12/2022

Expiration date

02/09/2023

DEPARTMENT OF REGULATORY AGENCIES

Colorado Office of Combative Sports and Colorado Combative Sports Commission

COMBATIVE SPORTS RULES AND REGULATIONS

4 CCR 740-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

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1.18 PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES

This Rule is promulgated pursuant to Executive Order D 2022 034, and sections 12-110-107 and 12-20-204, C.R.S.

A. Definitions, for purposes of this Rule, are as follows:

1. "Applicant" means as defined in section 12-20-102(2), C.R.S.

2. "Civil judgment" means a final court decision and order resulting from a civil lawsuit.

3. "Criminal judgment" means a guilty verdict, a plea of guilty, a plea of nolo contendere, *or* a deferred judgment or sentence.

4. "Licensee" means as defined in section 12-20-102(10), C.R.S.

5. "Regulator" means as defined in section 12-20-102(14), C.R.S.

B. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a civil or criminal judgment against the applicant or licensee regarding the consumption, possession, cultivation, or processing of marijuana so long as the actions are lawful and consistent with professional conduct and standards of care within Colorado and did not otherwise violate Colorado law.

C. The regulator shall not deny licensure to an applicant or impose disciplinary action against an individual's license based solely on a professional disciplinary action against the applicant's or licensee's professional licensure in this, or any other state or U.S. territory so long as the professional disciplinary action is based solely on the applicant's or licensee's consumption, possession, cultivation, or processing of marijuana and did not otherwise violate Colorado law.

Editor's Notes

History

Rule 1.018 emer. rule eff. 09/24/2010; expired eff. 01/22/2011.

Entire rule eff. 09/01/2011.

Rules 1.1, 1.5, 2.6, 2.8, 2.9, 2.11, 3.2, 3.6, 5.11, 7.6, 12.4, 13.2, 13.3, 14.1 eff. 07/01/2016.

Entire rule eff. 07/01/2018.

Rules 1.1, 1.2, 1.7, 1.8, 2.5, 2.9-2.20, 3.3, 3.4, 5.1, Chapters 6-7, rules 8.6-8.13, 11.3 D.ix, 13.2, 13.3, 13.7-13.9, 14.1, 14.15-14.17 emer. rules eff. 06/18/2019.

Rules 1.1, 1.2, 1.7, 1.8, 2.1, 2.5, 2.9-2.20, 3.3, 3.4, 5.1, 5.4, 6.1-6.5, 7.1, 7.2, 8.6-8.13, 10.1, 11.3, 12.2-12.4, 13.1-13.9, 14.1, 14.2 D, 14.15-14.17 eff. 12/30/2019.

Entire rule eff. 05/30/2021.

Rule 1.4 K.2 eff. 11/30/2021.

COLORADO
Department of Regulatory Agencies
Division of Professions and Occupations

STATEMENT OF BASIS, PURPOSE and JUSTIFICATION for EMERGENCY RULE

On July 14, 2022, Colorado Governor Jared Polis ("Governor") signed Executive Order D 2022 034, "Protecting Colorado's Workforce and Expanding Licensing Opportunities."

Basis

The basis for this rule is Executive Order D 2022 034.

Through Executive Order D 2022 034, Governor Jared Polis directed the Department of Regulatory Agencies to work with all programs and boards of professional licensure operating under its purview to promulgate and issue rules as necessary to ensure that no person shall be subject to disciplinary action against a professional license or disqualified from professional licensure for any civil or criminal judgment, discipline, or other sanction or threat imposed under the laws of another state as long as the actions are lawful and consistent with professional conduct and standards of care within the State of Colorado.

Purpose

The purpose of this emergency rule is to effectuate Executive Order D 2022 034.

As stated in Executive Order D 2022 034, employers are having difficulty recruiting and retaining qualified employees, many of whom need professional licenses. The exclusion of people from the workforce because of marijuana-related activities that are lawful in Colorado, but illegal in other states, hinders our economy and our State.

Justification

As set forth in Executive Order D 2022 034, the Order ensures that all Coloradans are afforded protections and rights under Colorado law.

Pursuant to section 24-4-103(6)(a), C.R.S., a temporary or emergency rule may be adopted without compliance with section 24-4-103(4),C.R.S., which requires the agency to hold a public hearing "at which it shall afford interested persons an opportunity to submit written a data, views, or arguments and to present the same orally"; and with less than the twenty days' notice set forth in section 24-4-103(3), C.R.S., or without notice where circumstances imperatively require, only if the agency finds that "[i]mmediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for preservation of the public health, safety or welfare and compliance with the requirements of this section would be contrary to the public interest." Such findings must be made on the record.

The Regulator, as defined in section 12-20-102(14), C.R.S., hereby finds the immediate adoption of this emergency rule is imperatively necessary to comply with Executive Order D

2022 034, to protect Colorado's Workforce and Expanding Licensing Opportunities. The adoption of this emergency rule is imperatively necessary for the preservation of the public welfare, and cannot wait the several months required for permanent rulemaking and therefore an emergency rule is appropriate pursuant to the Administrative Procedure Act.

The Regulator finds, as required by section 24-4-103(4)(b), C.R.S., that the need for the emergency rulemaking exists; the proper constitutional and/or statutory authority exists for the rule; to the extent practicable, the rule is clearly and simply stated so that their meaning will be understood by any required to comply with the rule; the rule does not conflict with other provisions of the law; and any duplication or overlapping of the rule, if any, has been explained.

This temporary/emergency rule take effect October 12, 2022, and remain in effect for up to a maximum of 120 days after adoption of these temporary/emergency rules.

PHILIP J. WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

ERIC R. OLSON
Solicitor General

STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
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Office of the Attorney General

Tracking number: 2022-00642

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - Colorado Office of Combative Sports

on 10/12/2022

4 CCR 740-1

COMBATIVE SPORTS RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/12/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 31, 2022 11:33:57

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Departmental Regulatory Agendas

Department

Department of Law

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STATE OF COLORADO
DEPARTMENT OF LAW

DEPARTMENT OF LAW
CY 2023 REGULATORY AGENDA

Pursuant to section 2-7-203(2)(a)(IV), C.R.S., this document contains the Colorado Department of Law's regulatory agenda for calendar year ("CY") 2022 and details new rules or revisions to existing rules expected to be proposed in CY 2023.

I. PEACE OFFICERS STANDARDS AND TRAINING (P.O.S.T.)

A. Rule 1:

Proposed Rule Amendments and Purpose:
a. Define "inappropriate actions."
b. Define "tamper."

Statutory Basis:
Pursuant to sections §§ 24-31-303 (1)(g), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to clarify the hearings process to ensure it meets statutory requirements. Non-substantive amendments are proposed to correct an errant statutory citation.

Contemplated Schedule for Adoption:
Second quarter of 2023.

Listing of Persons and Parties Affected:
Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

B. Rule 3:

Proposed Rule Amendments and Purpose:
a. Delegate authority to the Director to summarily suspend a certificate holder under particular circumstances, so as to allow for expedient action in situations that would endanger the public health, safety, and welfare, without necessitating an emergency Board meeting.

Statutory Basis:
Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:
Rule 3 was adopted on September 9, 2022 with an effective date of November 1, 2022.

Listing of Persons and Parties Affected:
Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

C. Rule 5:

Proposed Rule Amendments and Purpose:
a. Distinguish criminal disqualifying incidents and the show cause hearing process, disqualifying incidents requiring a certificate holder to request a hearing for any action against certification to occur, and disqualifying incidents requiring an administrative hearing prior to any actions against certification with or without a request for hearing.

Statutory Basis:
Pursuant to sections §§ 24-31-303 (1)(g), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to clarify the hearings process to ensure it meets statutory requirements. Non-substantive amendments are proposed to correct an errant statutory citation.

Contemplated Schedule for Adoption:
Rule 5 was adopted on March 11, 2022, with an effective date of May 15, 2022.

Listing of Persons and Parties Affected:
Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

D. Rule 7:

Proposed Rule Amendments and Purpose:
a. Correct a typographical error referring to the enabling statute.

Statutory Basis:
Pursuant to sections §§ 24-31-303 (1)(g), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to clarify the

hearings process to ensure it meets statutory requirements. Non-substantive amendments are proposed to correct an errant statutory citation.

Contemplated Schedule for Adoption:
Rule 7 was adopted on March 11, 2022, with an effective date of May 15, 2022.

Listing of Persons and Parties Affected:
Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

E. <u>Rule 7:</u>

Proposed Rule Amendments and Purpose:
a. Add "or Director's Designee" after each reference to "Director".

Statutory Basis:
Pursuant to sections §§ 24-31-303 (1)(g), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to clarify the hearings process to ensure it meets statutory requirements. Non-substantive amendments are proposed to correct an errant statutory citation.

Contemplated Schedule for Adoption:
Anticipated effective date of second quarter, 2023.

Listing of Persons and Parties Affected:
Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

F. <u>All Rules Referring to Appeal of Director's Decision:</u>

Proposed Rule Amendments and Purpose:
a. Under section (e) make a reference correction from Rule 5(c) to Rule 5(d)

Statutory Basis:
Pursuant to sections §§ 24-31-303 (1)(g), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to clarify the hearings process to ensure it meets statutory requirements. Non-substantive amendments are proposed to correct an errant statutory citation.

Contemplated Schedule for Adoption:
Second quarter of 2023.

Listing of Persons and Parties Affected:

Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

G. <u>Rule 8:</u>

Proposed Rule Amendments and Purpose:
a. Add section (g)(III) from Rule 14.

Statutory Basis:
Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:
Second quarter of 2023.

Listing of Persons and Parties Affected:
Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

H. <u>Rule 10:</u>

Proposed Rule Amendments and Purpose:
a. Remove the word "Colorado" as it describes the type of driver's license or identification card required for an applicant to prove their identity, in order to comply with C.R.S. § 29-5-101.

Statutory Basis:
Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:
Rule 10 was adopted on September 9, 2022 with an effective date of November 1, 2022.

Listing of Persons and Parties Affected:
Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

I. Rule 12:

Proposed Rule Amendments and Purpose:
a. Remove the word "Colorado" as it describes the type of driver's license or identification card required for an applicant to prove their identity, in order to comply with C.R.S. § 29-5-101.

Statutory Basis:
Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:
Rule 12 was adopted on September 9, 2022 with an effective date of November 1, 2022.

Listing of Persons and Parties Affected:
Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

J. Rule 14:

Proposed Rule Amendments and Purpose:
a. Require that training academies return applicant finger-print results to POST within two weeks of the start of the academy session, to ensure that applicants and academies do not expend unnecessary resources if an applicant is ineligible for certification based on their criminal record.

Statutory Basis:
Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:
Rule 14 was adopted on September 9, 2022 with an effective date of November 1, 2022.

Listing of Persons and Parties Affected:
Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

K. Rule 14:

Proposed Rule Amendments and Purpose:
a. Use proper name for Rule 8, "Process for Seeking Exemption from Statutory Certification Restrictions," in section (g)(II).
b. Strike section (g)(III) and move to Rule 8.

Statutory Basis:
Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:
Second quarter of 2023.

Listing of Persons and Parties Affected:
Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

L. Rule 17:

Proposed Rule Amendments and Purpose:
a. Remove the word "Colorado" as it describes the type of driver's license or identification card required for an applicant to prove their identity, in order to comply with C.R.S. § 29-5-101.

Statutory Basis:
Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:
Rule 17 was adopted on September 9, 2022 with an effective date of November 1, 2022.

Listing of Persons and Parties Affected:
Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

M. Rule 21:

Proposed Rule Amendments and Purpose:
a. Clarify the format of make up instruction permitted when an applicant misses a portion of instruction at an academy, to ensure that academies are not relying inappropriately on virtual instruction, and that applicants make up the missed instruction in a timely and appropriate fashion.

Statutory Basis:
Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to

promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:
Rule 21 was adopted on September 9, 2022 with an effective date of November 1, 2022.

Listing of Persons and Parties Affected:
Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

N. Rule 23:

Proposed Rule Amendments and Purpose:
a. Change the number of hours required for assistant firearms skills instructors to become full firearms skills instructors from 80 hours to twice the hours of a POST academy firearms program, to allow for variations in program lengths across different academies.

Statutory Basis:
Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:
Rule 23 was adopted on September 9, 2022 with an effective date of November 1, 2022.

Listing of Persons and Parties Affected:
Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

O. Rule 28:

Proposed Rule Amendments and Purpose:
a. Clarify that in-service training requirements apply to all peace officers.

Statutory Basis:
Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:
Rule 28 was adopted on September 9, 2022 with an effective date of November 1, 2022.

Listing of Persons and Parties Affected:
Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

P. Rule 29:

Proposed Rule Amendments and Purpose:

a. Clarify that a new psychological evaluation is not needed in situations where an employee in a non- POST Certified position transfers to a POST Certified position within the same organization.

Statutory Basis:
Pursuant to sections §§ 24-31-303 (1)(g), (j), (l) and (m), 24-31-305 and 24-31-307(1), C.R.S., the Colorado Peace Officer Standards and Training Board (POST) has the authority and duty to promulgate and amend specific rules and regulations as further specified herein to provide further procedural clarity and to ensure that statutory requirements are met.

Contemplated Schedule for Adoption:
Rule 29 was adopted on September 9, 2022 with an effective date of November 1, 2022.

Listing of Persons and Parties Affected:
Peace officers, including those applying for peace officer certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, will be affected by the rule amendments.

II. CONSUMER CREDIT UNIT

A. Income Share Agreement ("ISA") Rulemaking: Colorado Uniform Consumer Credit Code ("UCCC") and Colorado Student Loan Equity Act ("SLEA")

Proposed Rule Amendments and Purpose:
In response to questions concerning the regulatory treatment of the relatively new financial product called an Income Share Agreement ("ISA"),the UCCC Administrator anticipates issuing rules regarding the application of the UCCC and SLEA to ISAs, creditors making ISAs, and ISA servicers. Rules will address: the applicability of and required information for disclosure and compliance with the Truth in Lending Act; methods for complying with Regulation Z; maximum finance charges; right to prepay and rebates; licensure and registration requirements; prohibitions against false, misleading, or deceptive statement or representation; prohibition against assignment of earnings; the definition of private education loan and student loan servicer; necessary protections for consumers entering into ISAs; and areas that need clarification to aid creditors or servicers in their efforts to comply with Colorado law.

Statutory Basis:
§ 5-6-104(1)(e), (2), (5), C.R.S.

Contemplated Schedule for Adoption:
Rules are anticipated to be adopted and/or repealed by January 2023

Listing of Persons and Parties Affected:
Creditors making ISAs and ISA servicers that may be affected by the anticipated rulemaking.

III. CONSUMER PROTECTION

A. Colorado Privacy Act Rulemaking

Proposed Rule and Purpose:
The Colorado Privacy Act ("CPA") mandates that the Attorney General promulgate new rules that detail the technical specifications for one or more Universal Opt-Out Mechanisms that clearly communicate a consumer's affirmative, freely given, and unambiguous choice to opt out of the processing of personal data for purposes of targeted advertising or the sale of Personal Data. The mechanisms will allow Colorado residents to automatically communicate their choice to opt out of the Processing of Personal Data across multiple Controllers that Coloradans interact with online or in the digital space. Rules will address notice, default settings, and Personal Data use limitations for Universal Opt-Out Mechanisms; technical requirements and system of recognition for Universal Opt-Out Mechanisms; obligations for Controllers; and Consumer consent after use of a Universal Opt-Out Mechanism.

The CPA further authorizes the Attorney General to promulgate rules for the purpose of carrying out the CPA. The Attorney General will adopt rules clarifying and providing further detail to certain CPA provisions. Specifically, the rules will address: the definition of terms used throughout the CPA and the rules; requirements for disclosures and notifications made to Consumers; the scope of Consumer Personal Data rights, including the right to opt out, right of access, right to correction, right to deletion, and right to data portability, and how data rights must be made available; the requirements for authenticating, processing, and responding to consumer requests; the requirements for Controller duties, including access to and content of privacy notices, the Processing of Personal Data in connection with loyalty programs, purpose specification, data minimization, secondary use, duty of care, use of sensitive data, and documentation; consent requirements, including the prohibition against using dark patterns; the scope, content and timing of data protection assessments; and the scope and requirements of Profiling.

The Attorney General will seek input from individual Coloradans, stakeholders, experts, advocacy groups, and other members of the public during the rulemaking process.

Statutory Basis:
§ 6-1-1308(1), § 6-1-1313(1), and § 6-1-1313(2), C.R.S.

Contemplated Schedule for Adoption:
Rules are anticipated to be adopted in or around February 2023, with an effective date of July 1, 2023.

Listing of Persons and Parties Affected:
Private and public entities subject to the Colorado Privacy Act; Colorado residents and consumers; and platforms, developers, and providers of Universal Opt-Out Mechanisms.

Departmental Regulatory Agendas

Department

Department of Education

2022-23 Regulatory Agendas for State Board of Education and Division of Capital Construction

State Board of Education Regulatory Agenda

Basis for Adoption	Purpose	Rule	SBE Votes to Notice	Info Item on Board Agenda	Hearing Date	Tentative Adopt Date
SB 22-004	Update to include new requirements for school administrators and updated assessments	1 CCR 301-92 Rules for the administration of the Colorado Reading to Ensure Academic Development Act	July 2022	Aug 2022	Sept 2022	Nov 2022
HB 22-1390	Expand eligibility to include shortage areas	1 CCR 301-113 Rules for the Administration of the Educator Recruitment and Retention Program	Aug 2022	Aug 2022	Oct 2022	Oct 2022
HB 22-1220	Update use of interim authorization for alternative teacher license	1 CCR 301-37 Rules for the administration of the Educator Licensing Act of 1991	Aug 2022	Aug 2022	Oct 2022	Oct 2022
Endorsement requirements	Update to add new endorsements and sunsetting other endorsements	1 CCR 301-101 Rules for the Administration of Educator License Endorsements	Aug 2022	Aug 2022	Oct 2022	Oct 2022
HB 22-1248	Update to reflect statutory changes	1 CCR 301-111 Rules for the Administration of the School Leadership Pilot Program	Aug 2022	Aug 2022	Oct 2022	Oct 2022
SB 22-140	Align to statutory requirements for grant applications	1 CCR 301-104 Education Stability Grant Program	Sept 2022	Sept 2022	Nov 2022	Nov 2022
HB 22-1294	Incorporate changes for charter schools	1 CCR 301-8 Rules for the Administration of the Exceptional Children's Educational Act	Jan 2023	Jan 2023	March 2023	March 2023
HB 22-1376	Update definitions in accordance with statute	1 CCR 301-45 Rules for the Administration of Protection of Persons from Restraint Act	Jan 2023	Jan 2023	March 2023	March 2023

2022-23 Regulatory Agendas for State Board of Education and Division of Capital Construction

Basis for Adoption	Purpose	Rule	SBE Votes to Notice	Info Item on Board Agenda	Hearing Date	Tentative Adopt Date
HB 22-1414	Establish rules for the new grant and wage program created under HB 22-1414	NEW: 1 CCR 301-114 Rules for the Administration of the Healthy School Meals for All Program	Jan 2023	Jan 2023	March 2023	March 2023
Transportation Advisory Committee	Update transportation regulations	1 CCR 301-25 Colorado Minimum Standards Governing School Transportation Vehicles	Jan 2023	Jan 2023	March 2023	March 2023
HB 22-1220	Options for proof of content competencies for licensure	1 CCR 301-37 Rules for the administration of the Educator Licensing Act of 1991	Feb 2023	Feb 2023	April 2023	April 2023
SB 22-070	Changes to criteria for performance evaluations	1 CCR 301-87 Rules for the administration of a statewide system to evaluate the effectiveness of licensed personnel employed by school districts and boards of cooperative education services	Feb 2023	Feb 2023	April 2023	April 2023
SB 22-054	Update rules to reflect additions to state statute for board's directed actions	1 CCR 301-1 Rules for the Administration of the Statewide Accountability System Statewide Accountability Measures	March 2023	March 2023	May 2023	May 2023
HB 22-1295	Repeal rules with move to universal preschool	Repeal 1 CCR 301-32 rules for the administration of the Colorado Preschool Program Act	April 2023	April 2023	June 2023	June 2023
HB 22-1295	Remove references to Colorado Preschool Program	1 CCR 301-39 Rules for the administration of the Public School Finance act of 1994	April 2023	April 2023	June 2023	June 2023

2022-23 Regulatory Agendas for State Board of Education and Division of Capital Construction

Division of Capital Construction Regulatory Agenda

Basis for Adoption	Purpose	Rule	Notice Date	Hearing Date	Tentative Adopt Date
22-43.7-106(2)(i)(II) C.R.S	Align rules with current statute and practice; technical clean-up	1 CCR 303-3 Rules for the Administration of the Building Excellent Schools Today (BEST) Program	Sept 2022	Nov 2022	Nov 2022

Departmental Regulatory Agendas

Department

Department of Personnel and Administration

2023

Regulatory Agenda

Jan. 1, 2023 – Dec. 31, 2023

COLORADO

Executive Director's Office

Department of Personnel & Administration

Overview

The Colorado Department of Personnel & Administration submits the following 2023 Regulatory Agenda (DRA) in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, executive-branch agencies must file a Departmental Regulatory Agenda (DORA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2021 (which are denoted as such in the "purpose" column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(II).

The following constitutes the Department of Personnel & Administration's Regulatory Agenda for 2023 and is provided in accordance with Colo. Rev. Stat. §2-7-203(4):

COLORADO
Executive Director's Office
Department of Personnel & Administration

Schedule	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders *Consider including high-level outreach bullets*
Anticipated hearing or adoption date			***If only a part of a CCR Is repealed, it should be classified as "revised"***			***Categories of stakeholders, not individual stakeholders***
February 2023	1 CCR 104-3	Admin. Courts Procedural Rules for Workers' Comp. Hearings	Revised	24-4-103	Implement changes to workers' compensation rules to streamline procedures for workers' compensation hearings	Beneficiaries of workers' comp., State agencies, risk managers, employers, workers' compensation bar, translators
December 2023	1 CCR 103-2	Capitol Complex Parking	Revised	24-82-103, EO D2022-016,	Changes to Parking rules to address daily paid parking and EV parking	State agencies, State employee parking tenants, collection agencies

Schedule	**Rule Number**	**Rule Title**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption or change to rule**	**Purpose of Proposed Rule**	**Stakeholders** *Consider including high-level outreach bullets*
March 2023	4 CCR 801-1	Personnel Director's Procedures	Revised	Article XII, CO Constitution, 24-50-11	Update Ch. 2 - Jobs, and Ch. 3 - Compensation	State employees, State personnel professionals, employment bar, employee partner groups
December 2023	1 CCR 103-1	Central Services Rules	Revised	24-30-1101	Changes to management services & equipment waiver rules	State agencies, print service suppliers, procurement professionals
July 2023	1 CCR 101-1	Colorado Fiscal Rules	Revised	24-30-202(13)	Update rules and technical corrections related to contracts, travel, and other sections	State agencies, travel partners, fiscal and procurement professionals

Departmental Regulatory Agendas

Department

Department of Public Safety

2023 Regulatory Agenda

COLORADO

Department of Public Safety

Executive Director's Office

Overview

The Colorado Department of Public Safety submits the following 2023 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2023 (which are denoted as such in the "purpose" column). This agenda is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its Regulatory Agenda as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(II).

Please note that, due the regulatory agenda being due on Nov. 1 each calendar year, this 2023 agenda includes regulatory activity that has been planned for December 2022 that was not included in the 2022 CDPS regulatory agenda.

The following constitutes the Department's Regulatory Agenda for 2023 and is provided in accordance with Colo. Rev. Stat. §24-7-203(4).

Public Safety 2023 Regulatory Agenda

Schedule	Title of the Rule	Rule Number	New rule, revision, mandatory review, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
Dec.	Code Enforcement and Certification of Inspectors for Public Schools, Charter Schools & Junior Colleges	8 CCR 1507-30	Revision	22-32-124, 23-71-122, CRS	no	Raise fees and change some verbiage related to special inspectors to better align with the changes being made in 8 CCR 1507-101	Fire Inspectors, building code Officials, Fire Code Officials	Dec 2022/Jan 2023
Jan.	Rules & Regulations Concerning the Permitting, Routing & Transportation of Hazardous & Nuclear Materials & the Intrastate Transportation of Agricultural Products in the State of Colorado	8 CCR 1507-25	Revision	42-20-109 (1)-(2), 42-20-404, 504, 508 & 42-20-108.5, CRS	yes	Review and update for consistency with state statutes and Code of Federal Regulations (CFR).Specifically: Update references to the CFR and Commercial Vehicle Safety Alliance (CVSA) Out of Service (OOS) Criteria; Clarify information required to be included as part of a Hazardous materials Routing Petition Application; Update description of hazmat routes within Colorado; Clarify the designation of temporary or alternate hazardous materials routing by the CSP; Clarify existing practice, policy, and rule interpretation regarding the notice to be provided by Licensees prior to shipping highway route-controlled quantities of nuclear materials within Colorado; Update verbiage and correct minor grammar errors, formatting issues and paragraph numbering as appropriate.	Local/State Government; CMCA and other requesting parties; members of the commercial motor vehicle industry	Jan/Feb 2023

Schedule	Title of the Rule	Rule Number	New rule, revision, mandatory review, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
Jan.	Amber Alert Program	8 CCR 1507-23	Review	24-33.5-415.7	yes	Mandatory rule review	Local law enforcement, media, general public	unknown/hearing necessity not yet determined.
Jan.	Missing senior citizen and person with developmental disabilities alert program	8 CCR 1507-26	Review	24-33.5-415.9	yes	Mandatory rule review	Local law enforcement, media, general public	unknown/hearing necessity not yet determined.
Jan.	Blue Alert program	8 CCR 1507-27	Review	24-33.5-416.5	yes	Mandatory rule review	Local law enforcement, media, general public	unknown/hearing necessity not yet determined.
Jan.	Medina Alert program	8 CCR 1507-33	Review	24-33.5-416.7	yes	Mandatory rule review	Local law enforcement, media, general public	unknown/hearing necessity not yet determined.
Jan.	Port of Entry Rules for Commercial Motor Carrier Size, Weight & Clearance	8 CCR 1507-28	Revision	42-8-104 (1), CRS	yes	Review and update for consistency with state statutes and CFRs. Specific changes are to update references to documentation from the FMCSA regarding High-Risk Motor Carriers; to reorganize and update formatting; and to update verbiage and grammar throughout the rules to improve clarity and flow.	Local/State Government; CMCA and other requesting parties. Members of the CMV industry	Jan/Feb 2023

Schedule	Title of the Rule	Rule Number	New rule, revision, mandatory review, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
Jan.	Claims for Reimbursement for the Costs of Response and Mitigation of Hazardous Substance Incidents (HM Reimbursement Rules)	8 CCR 1507-22	Revision	29-22-104, CRS	yes	Specifically: Updating federal website and document reference information relevant to the calculation of reimbursable expenses resulting from hazardous incident response; updating formatting to resolve incongruities in section and paragraph titling and numbering; and corrections to grammar and verbiage updating to improve the overall clarity of these rules, not affecting their existing interpretation or changing their substantive content.	Members of the CMV industry, law enforcement, other gvt. entities, CDOT, USDOT, members of the insurance industry	Jan/Feb 2023 TBD
Feb.	Persons Dealing with Fireworks	8 CCR 1507-12	Review	24-33.5-2004(7) CRS	yes	Mandatory rule review	Fireworks retailers, vendors and exporters	unknown/hearing necessity not yet determined.
Feb.	Uniform Standards and Minimum fire & Life Safety Requirements for Waste Tire Facilities	8 CCR 1507-53	Review	30-20-1401 CRS	yes	Mandatory rule review	CDPHE waste tire division & local fire jurisdictions	unknown/hearing necessity not yet determined.
Feb.	Building and Fire Code Enforcement and Certification of Inspectors for Limited Gaming Facilities Licensed by the State of Colorado	8 CCR 1507-57	Review	44-30-515 CRS	yes	Mandatory rule review	Building code officials, fire inspectors and limited gaming facilities	unknown/hearing necessity not yet determined.

Schedule	Title of the Rule	Rule Number	New rule, revision, mandatory review, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
Mar.	Local Firefighter Safety & Disease Prevention Fund	8 CCR 1507-34	Review	24-33.5-1203.5, 24-33.5-1231 CRS	yes	Mandatory rule review	Firefighting agencies, firefighters, municipalities, counties	unknown/hearing necessity not yet determined.
Mar.	Firefighter Voluntary Certification Program	8 CCR 1507-3	Review	24-33.5-1204 CRS	yes	Mandatory rule review and update rules to match NFPA standards	Volunteer firefighting agencies, firefighters, municipalities, counties	May/June 2022
Apr.	Continuity of State Government Operations	8 CCR 1507-40	Review	24-33.5-1609, C.R.S.	yes	Mandatory rule review		unknown/hearing necessity not yet determined.
Apr.	Building Security and Occupant Protection	8 CCR 1507-41	Review	24-33.5-1608, C.R.S.	yes	Mandatory rule review	DHSEM leadership	unknown/hearing necessity not yet determined.
Aug.	Third Party VIN Verification Program	8 CCR 1507-58	Revision	42-1-232, CRS	yes	Review and update, as may be determined necessary. to be consistent with current statutory requirements and to refine program. This rule review has yet to occur and any further specific changes to these rules is unknown at this time.	Commercial Motor Vehicle Industry	unknown/hearing necessity not yet determined.

2022 Regulatory Agenda Report

COLORADO

Department of Public Safety

Executive Director's Office

Overview

Pursuant to Colo. Rev. Stat. §2-7-203(4), the Department of Public Safety (CDPS) submits the following 2022 Regulatory Agenda Report. Pursuant to statutory requirements concerning the Department's Regulatory Agenda, this Regulatory Agenda Report details the results of the past year's rules review activity, including the results of mandatory rule reviews conducted under Colo. Rev. Stat. §24-4-103.3(4) as part of the Department's "Regulatory Efficiencies Reviews."

Please note that, due to the fact that this report is due by Nov. 1, it includes the status of activities completed through Oct. 25, 2022. Regulatory activities planned for the remainder of calendar year 2023 will be reflected in the Department's 2023 regulatory agenda and will be reported on in the department's 2023 regulatory agenda report.

The report includes three sections:

1. Results of rulemaking activity included in the 2022 CDPS Regulatory Agenda
2. A more detailed look at outcomes of mandatory rules efficiency reviews
3. Results of unplanned rulemaking

Note: Several rules appear in both the planned agenda and mandatory rules efficiency reviews table; these rules were specifically added to the 2022 agenda with the knowledge that they were required to undergo a mandatory rules efficiency rule in 2022.

Results of Rulemaking Activity Included in the 2022 CDPS Regulatory Agenda

Rule Number	Rule Title (or Brief Description)	New rule, revision, review or repeal?	Statutory or other basis for adoption of rule	Purpose	Stakeholders	Status	Adoption Date (if applicable)	Comments
8 CCR 1507-56	Rules & Regulations Concerning the Motorcycle Operator Safety Training (MOST) Program	Revision	43-5-502.5(2), 43-5-502(1)(III)(d), CRS	Revisions to update criteria related to eligibility requirements, maintenance of certifications, course criteria, and applicability of accountability matrix and contractual responsibilities to program participants.	MOSAB, Local/State Government, MOST Instructors, Vendors, Students, other interested parties	Adopted	12/18/21	Rulemaking hearing held 12/15/2021
8 CCR 1507-1	Minimum Safety Standards for Commercial Vehicles	Revision	42-4-235	Typical revisions necessary to comply with updated versions of the Code of Federal Regulations (CFR) and Commercial Vehicle Safety Alliance (CVSA) Out of Service (OOS) Criteria. Also updated references to websites, other applicable sections of the CSP and clarified requirements related to appeals of Civil Penalties.	Members of the CMV industry, law enforcement, other gvt. entities, CDOT, USDOT	Adopted	02/02/2022	Rulemaking hearing 02/02/22 virtually
8 CCR 1507-22	Claims for Reimbursement for the Costs of Response and Mitigation of Hazardous Substance Incidents (HM Reimbursement Rules)	Revision	29-22-104, CRS	Typical revisions necessary to comply with updated versions of the CFR and CVSA OOS Criteria. Updated website information for federal and state; updated formatting, including new section and subparagraph titling throughout consistent with recommendations and guidance provided by the SOS, updated existing definitions applicable to the rules, updated information referencing the process to request copies of these rules and introduced a severability clause into the rules.	Members of the CMV industry, law enforcement, other gvt. entities, CDOT, USDOT, members of the insurance industry	Adopted	02/04/2022	Rulemaking hearing 02/02/22 virtually

Rule Number	Rule Title (or Brief Description)	New rule, revision, review or repeal?	Statutory or other basis for adoption of rule	Purpose	Stakeholders	Status	Adoption Date (if applicable)	Comments
8 CCR 1507-25	Permitting, Routing & Transportation of Hazardous and Nuclear Materials and the Intrastate Transportation of Agricultural Products in the State of Colorado (HM Routing Rules)	Revision	42-20-108, 42-20-403, 42-20-504, 42-20-508, 42-20-108.5, CRS	Typical revisions necessary to comply with updated versions of the CFR and CVSA OOS Criteria. Updated existing definitions and references applicable to the rules, refined and reorganized existing rule provisions applicable to the declaration and longevity of temporary hazmat routing determinations by the CSP, introduced a new designated hazmat route running north and south using E470, updating information relevant to document requests, updating information related to other sections of the CSP, updating web address info for federal and state resources, updating provisions applicable to the scheduling of nuclear materials transports consistent with and to accurately reflect current, existing patrol practices; and to address minor grammar and formatting issues.	Members of the CMV industry, law enforcement, other Gov't entities, CDOT, USDOT	Adopted	02/02/2022	Rulemaking hearing 02/02/22 virtually

Rule Number	Rule Title (or Brief Description)	New rule, revision, review or repeal?	Statutory or other basis for adoption of rule	Purpose	Stakeholders	Status	Adoption Date (if applicable)	Comments
8 CCR 1507-28	Port of Entry Rules for Commercial Motor Carrier Size, Weight and Clearance (POE Size and Weight Rules)	Revision	42-8-104 CRS	Typical revisions necessary to comply with updated versions of the CFR, changes to CRS, updating website information and to correct minor formatting and grammar errors. Changes were completed to ensure compliance and consistency with applicable state law and federal regulations, to update information related to the request of information through other patrol sections, to correct inaccuracies in website and physical address information, to update or correct references to federal regulations and documents used to support the review of SRP applications and to correct minor grammar issues.	Members of the CMV industry, law enforcement, other gvt. entities, CDOT, USDOT	Adopted	02/02/2022	Rulemaking hearing 02/02/22 virtually
8 CCR 1507-29	Evidence Collection in Connection with Sexual Assaults	Revision	C.R.S § 24-33.5-113	Minor edits to update language and remove reference to organizations that no longer exist.	Local law enforcement, district attorneys, victims of sexual assaults, hospitals and nurses	Adopted	08/11/2022	
8 CCR 1507-44	School Access for Emergency Response (SAFER) Grant Program	Review		Mandatory efficiency review	Schools	Not Adopted		Reviewed, no revisions required
8 CCR 1507-52	Reduced Ignition Propensity Cigarettes Standards & Certification	Revision	24-33.5-1231, CRS	To provide clarification and written directions to the Certification Application and Recertification Procedures under Section 3.4, as well as to provide Supplemental Application Procedures under new section 3.5.		Ongoing	12/30/2022	Rulemaking scheduled for 11/3/2022

Results of Mandatory Rules Efficiency Review

Schedule (month reviewed)	Rule Number	Rule Title (or Brief Description)	Statutory or other basis for adoption of rule	Did review result in revisions to regulation?	Did review result in repeal of any part of the regulation? If so, how many rules?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)	Comments (optional)
Mar. 2022	8 CCR 1507-44	School Access for Emergency Response (SAFER) Grant	Mandatory rule review	No	No	No	N/A	Rule was reviewed and no changes were deemed necessary.
Mar. 2022	8 CCR 1507-28	Port of Entry Rules for Commercial Motor Carrier Size, Weight and Clearance (POE Size and Weight Rules)	Results of Mandatory reviews	Yes	No	No	2/2/2022	To implement the enforcement of applicable statutes and regulations concerning commercial motor carriers, owners and operators within or coming into the state of Colorado through the operation of the Port of Entry weigh stations on public highways of the state.
N/A	8 CCR 1507-21	Criminal History Records of Volunteers & Employees of Charitable Organizations	24-72-305.3, CRS	No	No	Yes	N/A	This rule was reviewed in 2021 and repeal was planned for 2022 but did not take place, so this repeal will be moved to the 2023 agenda.
Feb. 2022	8 CCR 1507-22	Claims for Reimbursement for the Costs and Mitigation of Hazardous Substance Incidents	29-22-104(6)(A), CRS	No	No	No	2/2/22	Will be reviewed again for rulemaking purposes in 2022
July 2022	8 CCR 1507-29	Evidence Collection with Sexual Assaults	C.R.S § 24-33.5-113	Yes	No	No	8/8/2022	Minor edits to update language and remove reference to organizations that no longer exist.

Unplanned Rulemaking - Not Part of Regulatory Agenda or Mandatory Rules Review

Rule Number	Rule Title (or Brief Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Purpose	Stakeholders	Status	Adoption Date (if applicable)	Comments
8 CCR 1507-11	Fire Suppression Program	Revision	C.R.S. 24-33.5-1203(1)(p.5), 24-33.5-1203.5, 24-33.5-2303	Adopt permanent rules that had been passed as emergency rules to allow an exemption for renewal applicants to alleviate a burden caused by a limited number of examinations that meet Division requirements. Additionally, addresses fire suppression for premanufactured housing to ensure suppression systems meet the same requirements of other suppression systems installed in Colorado.	Fire Suppression Contractors, & Fire Sprinkler Fitters	Adopted	10/17/2022	Permanent Rule
8 CCR 1507-11	Fire Suppression Program	Revision	C.R.S. 24-33.5-1203(1)(p.5), 24-33.5-1203.5, 24-33.5-2303	Provide immediate relief to alleviate a burden to timely contractor renewal caused by a limited number of examinations that meet Division requirements. Additionally, the change addresses fire suppression for premanufactured housing to ensure the suppression systems that are being installed in these premanufactured buildings are meeting the same requirements of other suppression systems installed in Colorado, it was necessary to create a separate contractor and inspector category to accommodate this work.	Fire Suppression Contractors, & Fire Sprinkler Fitters	Adopted	06/17/2022	Emergency Rule

Rule Number	Rule Title (or Brief Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Purpose	Stakeholders	Status	Adoption Date (if applicable)	Comments
8 CCR 1507-101	Building and Fire Code Adoption & Certification of Inspectors for Fire & Life Safety Programs Administered by the State of Colorado	Revision	C.R.S. 44-30-515, C.R.S. 24-4-103, C.R.S. 24-33.5-2003 and 2008, and C.R.S. Title 24 Article 33.5 Part 12	The purpose of this emergency rule change is to provide immediate relief for hardship complying with existing code that required that all antifreeze systems replace the antifreeze with a "listed" antifreeze by September 30, 2022. The rule change provides relief of this hardship, while still maintaining an industry-recognized appropriate level of safety.	Building Code officials, Fire Code Officials, Suppression Systems Contractors, Fire Sprinkler Fitters, Fire Inspectors, Colorado Fire Chiefs and Fire Marshals	Adopted	9/30/2022	Emergency Rule
8 CCR 1507-101	Building and Fire Code Adoption & Certification of Inspectors for Fire & Life Safety Programs Administered by the State of Colorado	Revision	C.R.S. 44-30-515, C.R.S. 24-4-103, C.R.S. 24-33.5-2003 and 2008, and C.R.S. Title 24 Article 33.5 Part 12	Codify in permanent rules an emergency update to the code provisions that addressed the use of antifreeze solutions in fire suppression systems for the purposes of freeze protection. The rule change provided relief of hardship, while still maintaining an industry-recognized appropriate level of safety.	Building Code officials, Fire Code Officials, Suppression Systems Contractors, Fire Sprinkler Fitters, Fire Inspectors, Colorado Fire Chiefs and Fire Marshals	Ongoing	1/23/2023	Permanent Rule
8 CCR 1507-56	Rules & Regulations Concerning the Motorcycle Operator Safety Training (MOST) Program	Revision	43-5-502.5(2), 43-5-502(1)(III)(d), CRS	Revisions to add document versions to MOST Program Documents as a result of OLLS review	MOSAB, Local/State Government, MOST Instructors, Vendors, Students, other interested parties	Ongoing		rulemaking hearing held 10/18/22

Rule Number	Rule Title (or Brief Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Purpose	Stakeholders	Status	Adoption Date (if applicable)	Comments
8 CCR 1507-59	Catalytic Converter Identification and Theft Prevention Grant Program Rules	New	24-33.5-230	Recently adopted legislation resulting in a statutory mandate to set up and manage a grant program focused on catalytic converter identification and theft prevention out of the CSP CATPA Section and under the authority of the CSP. Entirely new rules to establish all the terms and conditions of the program as required by statute.	Anyone who may be or could be affected by catalytic converter theft or who is interested in obtaining grant funding to run programs aimed at preventing catalytic converter theft or increasing the identification or knowledge thereof.	Adopted	10/5/2022	Rules to become effective by December 1, 2022
8 CCR 1507-36	Missing Indigenous Persons Alert Program	New	C.R.S § 24-33.5-431	Legislation adopted in 2022 created a new Missing Indigenous Alert Program to be run by the CBI and mandated that the Department promulgate rules for the administration of the new alert program.	Law enforcement, media, members of indigenous communities, general public	Ongoing	Anticipated 12/30/22	Rulemaking hearing was held 10/19/22 and public comment is being accepted until 10/28/22.

Departmental Regulatory Agendas

Department

Department of Local Affairs

2023

Regulatory Agenda

COLORADO

Department of Local Affairs

Overview

The Colorado Department of Local Affairs (DOLA) submits the following 2023 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2022 (which are denoted as such in the "purpose" column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(II).

The following constitutes DOLA's Regulatory Agenda for 2023 and is provided in accordance with Colo. Rev. Stat. §2-7-203(4):

Schedule *(Month, Year)*	**Rule Number and Title**	**Division/ Board/ Program**	**New rule or revision?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders** *Recommend including proposed stakeholder outreach*	**Anticipated Hearing Date**
October 2022	Rule #8 CCR 1307-1	Division of Local Government /Search and Rescue Program	Revision	CRS 31-1-1112.5		The purpose of these rule changes is to clarify program information and amend references and update language based on passage of SB22-168. None of these rule changes impact statute.	All Colorado Sheriff's Offices, All Colorado Search and Rescue programs, Colorado Search and Rescue Association	Oct 17, 2022

May 2023	8 CCR 1302-14 NON-RESIDENTIAL AND RESIDENTIAL FACTORY-BUILT STRUCTURES; SELLERS OF MANUFACTURED HOMES; MANUFACTURED HOME INSTALLATIONS; AND HOTELS, MOTELS, AND MULTI-FAMILY STRUCTURES IN THOSE AREAS OF THE STATE WHERE NO STANDARDS EXIST	Division of Housing/Office of Regulatory Oversight/Building Codes and Standards	New and amended rules	C.R.S. § § 24-32-3301(2), 24-32-3303(1), 24-32-3304(1), 24-32-3305, 24-32-3306(1), 24-32-3309(1), 24-32-3311(1)(a.3)(I) and (II), 24-32-3315(2), 24-32-3315(4)(c), 24-32-3315(6), 24-32-3317(2.9), 24-32-3317(5)(a), 24-32-3317(8), 24-32-3317(10), 24-32-3320, 24-32-3324(1), 24-32-3324(2)(a), 24-32-3326(2), and 24-32-3328	No	To clarify and implement statutory changes made by House Bill 22-1242	Tiny home owners, tiny home manufacturers, tiny home sellers, tiny home installers, Tiny Home Industry Association, Tiny Home Alliance, Rocky Mountain Home Association, Modular Building Institute, International Code Council, ASTM, RV Industry Association, NOAH Remote Digitized Inspections, other manufacturers of offsite constructed structures, sellers and installers of manufactured homes, third party plan review and inspection agencies, local jurisdictions, and other state agencies	May 9, 2023
October 2022	8 CCR 1302-15, Mobile Home Park Oversight Program	Division of Housing, Mobile Home Park Oversight Program	New and amended rules	C.R.S. § 38-12-1104(2)(j)	No	To further clarify and implement statutory changes made by House Bill 22-1287	Owners and managers of mobile home parks (MHPs), residents of mobile home parks, local government staff working with MHP owners or residents, Rocky Mountain Home Association, Colorado Coalition of	Sept 30, 2022

							Manufactured Home Owners, Colorado Poverty Law Project	
May 2023	8 CCR 1302-15, Mobile Home Park Oversight Program	Division of Housing, Mobile Home Park Oversight Program	New and amended rules	C.R.S. § 38-12-1104(2)(j)	No	To further clarify and implement statutory changes made by House Bill 22-1287	Owners and managers of mobile home parks (MHPs), residents of mobile home parks, local government staff working with MHP owners or residents, Rocky Mountain Home Association, Colorado Coalition of Manufactured Home Owners, Colorado Poverty Law Project	April 30, 2023

The Department has very few regulatory rules. As a result, all Divisions within the Department annually complete and internal review of all rules. Each Division maintains a statement on its website that comments to any rule will be accepted on an on-going basis.

Departmental Regulatory Agendas

Department

Office of the Governor

COLORADO
Energy Office

October 28, 2022

Attention: Colorado Secretary of State

Pursuant to § 2-7-203, C.R.S., the Community Access Enterprise (CAE), housed within the Colorado Energy Office (CEO) submits this letter as its departmental regulatory agenda. On March 10, 2022, the CAE board of directors unanimously voted to establish the "Community Access Retail Delivery Fee" as codified in 8 CCR 1501-10. The CAE has limited rulemaking authority and is only authorized to initiate rulemaking proceedings to set the retail delivery fee. The regulation became effective on July 1, 2022. The fee applies to retail deliveries of tangible personal property statewide and is administered by the Department of Revenue. The fee is applied in the same manner as the collection, administration, and enforcement of state sales tax as outlined in § 43-4-218(6), C.R.S.

The Department of Revenue aggregates the Community Access Enterprise, the Nonattainment Area Air Pollution Mitigation Enterprise, Clean Fleet Enterprise, Statewide Bridge and Tunnel Enterprise, and Clean Transit Enterprise's individual retail delivery fees as one line item on consumer receipts. § 43-4-218(4), C.R.S. The aggregated fee is a line item on each receipt described as "retail delivery fees" and the Department of Revenue ensures the appropriate portion of the aggregated fee is credited to the Enterprise.

The CAE's enabling statute required that the Enterprise establish the fee, and permits the Enterprise, with assistance from the Department of Revenue, to annually adjust the fee for inflation. This annual inflation does not require any subsequent rulemaking. The CAE's enabling statute references § 43-4-218(3), C.R.S. which explains that the Department of Revenue "shall adjust the amount of the retail delivery fee for retail deliveries of tangible personal property purchased during a state fiscal year only if inflation is positive and cumulative inflation…will result in an increase of at least one whole cent in the total amount of the retail delivery fee and all enterprise retail delivery fees imposed on each retail delivery." Any future adjustments for inflation will occur through the Department of Revenue's processes. The CAE does not intend to adjust the base retail delivery fee in a rulemaking at this time.

Sincerely,

Carrie Atiyeh, Community Access Enterprise Board Administrator

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Departmental Regulatory Agendas

Department

Department of State

STATE OF COLORADO
Department of State
1700 Broadway, Suite 550
Denver, CO 80290

Jena M. Griswold
Secretary of State
Christopher P. Beall
Deputy Secretary of State

2023 Departmental Regulatory Agenda

Office of the Secretary of State
November 1, 2022

To: The Staff of Legislative Council

Re: Colorado Department of State – 2023 Departmental Regulatory Agenda

The Colorado Secretary of State submits the following 2023 Departmental Regulatory Agenda for the Department of State to the General Assembly in accordance with state laws concerning legislative oversight of principal departments.[1]

Contents:

[1] Section 2-7-203(4), C.R.S.

DEPARTMENT REGULATORY AGENDA

Rule number & title	New or revised rules that the department expects to propose in the next calendar year and the purpose of the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-1: Elections	The Secretary of State may commence rulemaking to consider amendments to the Election Rules necessary to: • Improve the administration and enforcement of and to answer questions arising under Colorado elections law[1] • Implement amendments to Colorado laws adopted during the First Regular Session of the 74th General Assembly • Respond to comments from the Office of Legislative Legal Services • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S. Potential proposed amendments include: • Rules related to local ranked choice elections as required by HB 21-1071	Section 1-1-107(2)(a), C.R.S.; HB 21-1071 Depending on the subject matter of unanticipated rulemaking, additional statutory and constitutional authority may apply.	HB 21-1071 must be adopted by April 1, 2023. For all others, TBD; the Secretary of State will commence rulemaking as necessary in a timely manner and in accordance with the State Administrative Procedure Act.	Positively affect: • Current and potential Colorado residents • Colorado County Clerks and Recorders • Candidates for office in Colorado • Local Governments in Colorado • Voting system providers in Colorado • Political parties in Colorado
8 CCR 1505-2: Bingo and Raffles Games	The Secretary of State may commence rulemaking regarding the Rules Concerning Bingo and Raffles Games necessary to: • Improve the administration and enforcement of Colorado bingo and raffles law[2] • Implement amendments to Colorado laws adopted during the First Regular Session of the 74th General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S. Potential proposed amendments include: • Rules related to Bingo Strip Card Game as required by HB 22-1093	Sections 24-21-605(1)(b) and 24-21-618(7)(c), C.R.S.; HB 22-1093 Depending on the subject matter of unanticipated rulemaking, additional statutory and constitutional authority may apply.	HB 22-1093 must be effective by April 1, 2023. For all others, TBD; the Secretary of State will commence rulemaking as necessary in a timely manner and in accordance with the State Administrative Procedure Act.	Positively affect: • Charitable gaming licensees • Gaming equipment (bingo and pull tab) manufacturers and manufacturers' agents • Colorado citizens who bingo

[1] Article VII of the Colorado Constitution, Title 1 of the Colorado Revised Statutes, and the Help America Vote Act of 2002 ("HAVA"), P.L. No. 107-252.
[2] Article XVIII, Section 2 of the Colorado Constitution and Article 21, Part 6 of Title 24 of the Colorado Revised Statutes.

Rule number & title	New or revised rules that the department expects to propose in the next calendar year and the purpose of the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-3: Rules Governing General Policies and Administration	The Secretary does not anticipate rulemaking regarding the Rules Governing General Policies and Administration; however, the Secretary may commence rulemaking as necessary to: • Improve the administration and enforcement of and to answer questions arising under Colorado State Administrative Procedure Act[3] and State Emblems and Symbols laws[4] • Implement amendments to Colorado laws adopted during the First Regular Session of the 74th General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S.			
8 CCR 1505-6: Rules Concerning Campaign and Political Finance	The Secretary may propose amendments to the Rules Concerning Campaign and Political Finance as necessary to: • Improve the administration and enforcement of and to answer questions arising under Colorado campaign finance law[5] • Address any issues related to or to further implement HB 22-1060, HB 22-1156, and SB 22-237 • Implement amendments to Colorado laws adopted during the First Regular Session of the 74th General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S. Potential proposed amendments include: • Rules related to contribution limits in Rule 10.17 and the adjustment for inflation every four years as required by Colo. Const. Art. XXVIII, Section 3(13)	Colo. Const. Art. XXVIII, Sections 3(13); Section 45-111.5(1), C.R.S. Depending on the subject matter of unanticipated rulemaking, additional statutory and constitutional authority may apply.	The Secretary of State commenced rulemaking on August 15, 2022. For more information and to monitor this rulemaking please see www.sos.state.co.us/pubs/rule_making/hearings/2022/CampaignandPoliticalFinanceRulesHearing20220915.html. The Secretary of State will commence any additional rulemaking as necessary in a timely manner and in accordance with the State Administrative Procedure Act.	Positively affect: • Political subdivisions • Officeholders • Candidates for office in Colorado • Independent expenditure committees Negatively affect: • Advocacy groups • Current and future issue committees

[3] Article 4 of Title 24, C.R.S.
[4] Article 80, Part 9, of Title 24, C.R.S.
[5] Article 45 of Title 1, C.R.S., and Article XXVIII of the Colorado Constitution.

Rule number & title	New or revised rules that the department expects to propose in the next calendar year and the purpose of the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-7: UCC Filing Office Rules	The Secretary of State does not anticipate rulemaking regarding the UCC Filing Office Rules; however, the Secretary may commence rulemaking as necessary to: • Improve the administration and enforcement of Colorado's Uniform Commercial Code[6] • Implement amendments to Colorado laws adopted during the First Regular Session of the 74th General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S.			
8 CCR 1505-8: Rules Concerning Lobbyist Regulation	The Secretary of State may propose amendments to the Rules Concerning Lobbyist Regulation necessary to: • Improve the administration and enforcement of and to answer questions arising under Colorado laws regarding lobbyist regulation, including the adjusting of lobbyist registration fees.[7] • Implement amendments to Colorado laws adopted during the First Regular Session of the 74th General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S.	Section 24-6-305(2)(b), C.R.S. Depending on the subject matter of unanticipated rulemaking, additional statutory and constitutional authority may apply.	TBD; the Secretary of State will commence rulemaking as necessary in a timely manner and in accordance with the State Administrative Procedure Act	Positively affect: • Current and potential Colorado residents • Registered lobbyists and lobbying firms • Colorado legislators and other elected officials • Colorado rulemaking bodies
8 CCR 1505-9: Rules for the Administration of the Colorado Charitable Solicitations Act	The Secretary does not anticipate rulemaking regarding the Rules for the Administration of the Colorado Charitable Solicitations Act[8]; however, the Secretary may commence rulemaking as necessary to: • Improve the administration and enforcement of and to answer questions arising under the Colorado Charitable Solicitations Act • Implement amendments to Colorado laws adopted during the First Regular Session of the 74th General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S.			

[6] Article 9 of Title 4, C.R.S.
[7] Part 3 of Article 6 of Title 24, C.R.S.

Rule number & title	New or revised rules that the department expects to propose in the next calendar year and the purpose of the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-11: Notary Program Rules	The Secretary of State does not anticipate rulemaking regarding the Notary Program Rules; however, the Secretary may commence rulemaking as necessary to: • Improve the administration and enforcement of the Colorado Revised Uniform Law on Notarial Acts (RULONA)[9] • Implement amendments to Colorado laws adopted during the First Regular Session of the 74th General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S.			
8 CCR 1505-12: Public Records Pursuant to the Colorado Open Records Act (CORA)	The Secretary does not anticipate rulemaking regarding the Rules Concerning Public Records Pursuant to the Colorado Open Records Act (CORA); however, the Secretary may commence rulemaking as necessary to: • Improve the administration and enforcement of the Colorado Open Records Act[10] • Implement amendments to Colorado laws adopted during the First Regular Session of the 74th General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S.			
8 CCR 1505-14: Rules Concerning Conflict of Interest Disclosures	The Secretary does not anticipate rulemaking regarding the Rules Concerning Conflict of Interest Disclosures; however, the Secretary may commence rulemaking as necessary to: • Improve the administration and enforcement Colorado standards of conduct law[11] • Implement amendments to Colorado laws adopted during the First Regular Session of the 74th General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S.			

[8] Article 16 of Title 6, C.R.S.
[9] Article 21, Part 5 of Title 24, C.R.S.
[10] Article 72 of Title 24, C.R.S.

SUMMARY OF RULES ADOPTED AFTER NOVEMBER 1, 2021:

Rule Number &Title	CCR Tracking Number	Type	Adopted	Effective	Summary
8 CCR 1505-1: Elections	2022-00078	Temporary	2/10/2022	2/10/2022	The Secretary adopted amendments to the Colorado Secretary of State's Elections Rules on a temporary basis to ensure uniform and proper administration, implementation, and enforcement of Colorado laws regarding voting systems. The Secretary issued a notice of proposed rulemaking on April 15, 2022 (CCR tracking #2022-00197).
	2022-00197	Permanent	7/1/2022	8/30/2022	The Secretary adopted amendments to the Colorado Secretary of State's Election Rules to ensure uniform and proper administration, implementation, and enforcement of Federal and Colorado election law, improve elections administration in Colorado, increase transparency and security of the election process, and implement amendments to the election laws made during the 2021 regular session of the 72nd General Assembly. Specifically, the Secretary adopted permanent rule revisions necessary to: implement House Bills 21-1011 and 21-1071; repeal current Rule 20 for coherent structural changes and re-codify security-related rules adopted throughout these rules into New Rule 20; re-codify definition rules in Rule 26.1 to Rule 1.1; eliminate obsolete provisions; organize existing rules for clarity; simplify the language of existing rules; and ensure consistency with Department rulemaking standards. Additionally, the Secretary permanently adopted the voting system security emergency rules that were temporarily adopted on February 10, 2022 (CCR Tracking # 2022-00078) and temporarily readopted on June 10, 2022 (CCR Tracking #2022-00279).
	2022-00279	Temporary	6/10/2022	6/10/2022	The Secretary adopted temporary rules on February 10, 2022 (CCR Tracking #2022-00078). Additionally, the Secretary issued a notice of proposed rulemaking on April 15, 2022 (CCR Tracking #2022-00197). A public rulemaking hearing was conducted in accordance with the State Administrative Procedure Act[12] on May 24, 2022. The Secretary readopted these rules on a brief, temporary basis to provide clear guidance to interested parties, including county clerks, vote system vendors, and the general public, while the Secretary reviewed the comments and testimony received during the permanent rulemaking hearing.
8 CCR 1505-11: Notary Program Rules	2021-00756	Permanent	1/14/2022	3/17/2022	The Secretary adopted amendments to the Colorado Secretary of State's Notary Program Rules. The rules are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado laws regarding Revised Uniform Law and Notarial Acts (RULONA).
	2022-00351	Temporary	7/1/2022	7/1/2022	The Secretary adopted amendments to the Colorado Secretary of State's Notary Program Rules. The rules are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado laws regarding Revised Uniform Law and Notarial Acts (RULONA). Specifically, the Secretary temporarily adopted amendments to Rule 2.3 to clarify the exception that authorizes use of an interpreter for deaf, hard of hearing, and deafblind individuals during notarial acts. The rules were also adopted on a permanent basis

[11] Article 18 of Title 24, C.R.S.
[12] Section 24-4-103(3)(a), C.R.S.

					(CCR tracking #2022-00352).
	2022-00352	Permanent	8/24/2022	10/15/2022	The Secretary adopted amendments to the Colorado Secretary of State's Notary Program Rules. The rules are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado laws regarding Revised Uniform Law and Notarial Acts (RULONA). The rules were also adopted on a temporary basis (CCR tracking #2022-00351).
8 CCR 1505-6 Campaign & Political Finance Rules	2022-00451	Permanent	9/23/20222	Anticipated effective date: 11/14/2022	The Secretary adopted amendments to the Colorado Secretary of State's Campaign & Political Finance Rules. The rules are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado campaign finance law; ensure the proper administration of legislation passed in the Second Regular Session of the 73rd General Assembly; eliminate obsolete provisions; remove language that is duplicative of statute or constitutional provisions; simplify the language of existing rules; and ensure consistency with Department rulemaking standards.

PUBLICATION AND AVAILABILITY TO THE PUBLIC

On November 1, 2022, the Secretary of State will post this document on the Department's website at: https://www.coloradosos.gov/pubs/newsRoom/SMART-Act/FY23-24/index.html. The document will also be available at http://www.coloradosos.gov/pubs/rule_making/regulatoryAgendas.html and https://www.coloradosos.gov/pubs/newsRoom/SMART-Act/index.html. Additionally, the Secretary of State filed this agenda for publication in the November 10, 2022, Colorado Register.

Departmental Regulatory Agendas

Department

Department of Transportation

2023

Regulatory Agenda

COLORADO
Department of Transportation

Overview of Regulatory Agenda Requirements

The Colorado Department of Transportation submits the following 2023 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2023. The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(II).

The following constitutes Colorado Department of Transportation's DRA for 2023 and is provided in accordance with Colo. Rev. Stat. §24-7-203(4).

Schedule (month)	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? X if yes	Purpose	Stakeholders	Anticipated Hearing Date
Jan.	2 CCR 601-1A, State Highway Access Category Assignment Schedule	Revision	§ 43-2-147 and § 43-1-106(8)(k), C.R.S.	No	The rule is being revised to update Access Category Classifications as a result of new additions and abandonments in the State Highway System.	The Department is working with: (1) Local Jurisdictions, (2) Metropolitan Districts; (3) Transportation Management organizations and associations; and (4) the Statewide Transportation Advisory Committee.	January/February 2023
Feb.	2 CCR 601-21, Law Enforcement Assistance Fund (LEAF) rules	Revision	§ 43-4-403, C.R.S.	Yes	The purpose of the rulemaking will be to conduct a review to assess the continuing need for, appropriateness and cost effectiveness of the program's rules as mandated by statute. The assessment will determine whether the rules should be continued in their current form, modified or repealed. This will include reviewing and revising the administrative rules regarding Statement of Basis and Purpose, Authority, Definitions, Application Requirements and Procedures, and Fiscal Accounting Requirements. The rule may be updated to meet current formatting and accessibility standards	The Department will work with the following stakeholders: (1) Local Governments, (2) Colorado State Patrol, and (3) Previous recipients of LEAF funds, including law enforcement.	Spring 2023
Mar.	2 CCR 605-1, Colorado State Infrastructure Bank rules	Revision	§ 43-1-105(6) and § 42-20-205, C.R.S	Yes	The purpose of the rulemaking will be to conduct a review to assess the continuing need for, appropriateness and cost effectiveness of the program's rules as mandated by statute. The assessment will determine whether the rules should be continued in their current form, modified or repealed. This will include reviewing and revising the administrative rules regarding Statement of Basis and Purpose, Authority, Definitions, Eligibility Requirements, Application Procedures, Review Procedures, and Repayment of Loan Requirements. The rule may be updated to meet current formatting and accessibility standards.	The Department will work with the following stakeholders: (1) Current and previous recipients of SIB loan funds; and (2) Other potential stakeholders who may apply for SIB loans in the future.	Spring 2023

Schedule (month)	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? X if yes	Purpose	Stakeholders	Anticipated Hearing Date
Apr.	2 CCR 601-22, Rules Governing Statewide Transportation Planning Process and Transportation Planning Regions	Revision	§ 43-1-106(8)(k) and § 43-1-1103(5), C.R.S.	No	This rule, adopted just last year, is not only a first for Colorado, but for the nation. As such, we expect minor revisions to the rule in 2023 to improve clarity and clarify intent during the rule's implementation.	The Department will work with the following stakeholders: (1) environmental organizations; (2) the Statewide Transportation Advisory Committee; and (3) approximately 1,000 stakeholders who participated in the 2021 rulemaking.	Summer 2023

Report on the 2022 Regulatory Agenda

Overview

Pursuant to Colo. Rev. Stat. § 2-7-203(4), the Colorado Department of Transportation submits its Report on the 2022 Regulatory Agenda. Pursuant to statutory requirements concerning the Department's Regulatory Agenda, this Report on the 2022 Regulatory Agenda details the results of the past year's rules review activity, including the results of mandatory rule reviews conducted under Colo. Rev. Stat. § 24-4-103.3(4) as part of the Department's "Regulatory Efficiencies Reviews".

This report includes the following items:

- "Rulemaking included in 2022 Regulatory Agenda" providing a status of the rules reviewed (see "Table 1");
- "Results of Mandatory Rules Review" providing a summary of the activities and outcomes associated with this review under Colo. Rev. Stat. § 24-4-103.3(4) (see "Table 2"); and
- "Unplanned Rulemaking" summarizing rule activity that was neither part of mandatory regulatory efficiency review nor part of the Regulatory Agenda (see "Table 3").

Table 1: Rulemaking Included in 2022 Regulatory Agenda

Rule Number	Rule Title (or Brief Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Purpose	Stakeholders	Status	Adoption Date (if applicable)	Comments
2 CCR 601-1A	State Highway Access Category Assignment Schedule	Revision	§ 43-2-147 and § 43-1-106(8)(k), C.R.S.	The rule is being revised to update Access Category Classifications as a result of new additions and abandonments in the State Highway System.	The Department is working with: (1) Local Jurisdictions, (2) Metropolitan Districts; (3) Transportation Management organizations and associations; and (4) the Statewide Transportation Advisory Committee.	Notice of rulemaking will be filed in late 2022 or early 2023	Anticipated January or February 2023	
2 CCR 601-17	Implementation of the Use of Waste Tires for Noise Mitigation Purposes along Colorado State Highways	Revision	§ 43-2-401, § 43-2-404, C.R.S.	The rule was reviewed for efficiency and effectiveness. It was determined that the rule will require updates in the future; however, the Federal Highway Administration is in the process of updating federal regulations governing noise, so the Department will defer rulemaking for now and place this rule on its 2024 Regulatory Agenda.	The Department worked with the following stakeholders: the Federal Highway Administration.	Postponed until 2024	n/a	The Colorado Department of Transportation decided to postpone this rulemaking proceeding until 2024.

Rule Number	Rule Title (or Brief Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Purpose	Stakeholders	Status	Adoption Date (if applicable)	Comments
Rule 910 in 2 CCR 601-4, Rules Pertaining to Transport Permits for the Movement of Extra-Legal Vehicles or Loads	Hours of Operation and Restrictions	Revision	§ 42-4-505 and § 42-4-511(1), C.R.S.	This rule was removed through the Department's March 30, 2020 emergency rulemaking and removed the prohibition of operation of Longer Vehicle Combinations ("LVCs") in three metropolitan areas during rush hour times.	The Department will continue to work with the Colorado Motor Carrier Association, the Colorado State Patrol, and the Federal Highway Administration.	Postponed	n/a	Upon review, the Department determined that the continuation of supply chain issues and the absence of a demonstrated need for the reinstatement of Rule 910 supports a decision to defer reinstatement. The Department will reassess the need for this rule as necessary.

Table 2: Results of Mandatory Rules Review

Schedule (month reviewed)	Rule Number	Rule Title (or Brief Description)	Statutory or other basis for adoption of rule	Did review result in revisions to regulation?	Did review result in repeal of any part of the regulation? If so, how many rules?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)	Comments (optional)
May 2022	2 CCR 601-17	Implementation of the Use of Waste Tires for Noise Mitigation Purposes along Colorado State Highways	§ 43-2-401 and § 43-2-404, C.R.S.	The rule was reviewed for efficiency and effectiveness. It was determined that the rule will require updates in the future; however, the Federal Highway Administration is in the process of updating federal regulations governing noise, so the Department will defer rulemaking for now and place this rule on its 2024 Regulatory Agenda.	No	No	N/A	As required by state law, the Department on behalf of the Transportation Commission of Colorado ("Commission") initiated a rule review to assess the continuing need for, appropriateness and cost effectiveness of the rule. The review also assessed whether the rule should be continued in its current form, amended or repealed. The Federal Highway Administration is planning to update its noise guidance. Due to the fact that this update may affect this rule, it was decided that this rule should remain unchanged in 2022 and should be reconsidered for review in 2024.

Table 3: Unplanned Rulemaking

Rule Number	Rule Title (or Brief Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Purpose	Stakeholders	Status	Adoption Date (if applicable)	Comments
2 CCR 607-1	Rules Governing Clean Transit Enterprise Processes and Fees	NEW	§ 43-4-1203(6)-(8), C.R.S.	The purpose of these rules is to impose the Clean Transit Retail Delivery Fee and to govern the process for providing grants, loans, and rebates.	The Department worked with the following stakeholders: (1) CASTA; (2) Colorado Retail Council; (3) Transit Agencies; and (4) other state agencies.	Adopted	Adopted 04/12/2022 Effective 06/14/2022	This rulemaking resulted from the passage of SB 21-260 and the creation of the Clean Transit Enterprise. The legislation required the Clean Transit Enterprise to promulgate rules to set the Retail Delivery Fee at a maximum amount of three (3) cents and to describe the process to govern grants, loans, and rebates.
2 CCR 608-1	Rules Governing Nonattainment Area Air Pollution Mitigation Enterprise Fees	NEW	§ 43-4-1303(6)-(8), C.R.S.	The purpose of these rules is to impose the Air Pollution Mitigation Retail Delivery Fee and the Air Pollution Mitigation Per Ride Fee.	The Department worked with the following stakeholders: (1) Transportation Network Providers; (2) Colorado Retail Council; (3) MPOs in the Nonattainment Area; (4) conservation/environmental groups in the Nonattainment Area; (5) and other state agencies.	Adopted	Adopted 04/14/2022 Effective 06/14/2022	This rulemaking resulted from the passage of SB 21-260 and the creation of the Nonattainment Area Air Pollution Mitigation Enterprise. The legislation required the Enterprise to promulgate rules to set the Retail Delivery Fee at a maximum amount of seven-tenths of one cent and the Per Ride Fee at a maximum amount of either 11 ¼ cents or 22 ½ cents based on the type of ride.

Rule Number	Rule Title (or Brief Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Purpose	Stakeholders	Status	Adoption Date (if applicable)	Comments
2 CCR 606-1	Rules Governing the Administrative Toll Enforcement Process	Revision	§ 43-4-806(11) and § 43-4-808(2)(d), C.R.S.	This rule allows enforcement of toll evasion violations on the Peak Period Shoulder Lanes on I-70 and establishes that swerving or weaving between a managed lane and a general lane constitutes toll evasion.	The Department worked with the following stakeholders: (1) Colorado Motor Carrier Association; (2) Federal Highway Administration; (3) local governments; and (4) Colorado State Patrol.	Adopted	Adopted 06/15/22 Effective 08/14/2022	This rulemaking resulted from the passage of HB 22-1074. In addition to allowing for enforcement of toll violations on managed shoulder lanes and for weaving, the rule allows for the Enterprise to entertain petitions for declaratory orders and makes other minor, non-substantive changes.
2 CCR 601-22	Rules Governing Statewide Transportation Planning Processes and Transportation Planning Regions	Revision	§ 43-1-1103 (5), and § 43-1-106 (8)(k), C.R.S.	The purpose of this emergency rulemaking was to add specificity about the types of funds that could be restricted upon noncompliance with the October 1, 2022 deadline in Rule 8.02.5.1. The purpose of the permanent rulemaking was to make the emergency change permanent and make other minor changes to make the rule easier to read and understand by the public.	The Department worked with the following stakeholders: (1) environmental organizations; (2) the Statewide Transportation Advisory Committee; and (3) 1,000 stakeholders who participated in the 2021 rulemaking	Adopted	Emergency Rule adopted 07/21/2022 Permanent Rule Adopted 09/15/22 Effective 10/30/22	This rulemaking resulted from conversations with Metropolitan Planning Organization stakeholders and other transportation planning partners. In response to stakeholder requests during outreach, the Department and the Transportation Commission added a requirement for a rural Transportation Planning Region Chair to be appointed to the State Interagency Consultation Team. The rulemaking also incorporated non-substantive changes recommended by OLLS and staff.

Departmental Regulatory Agendas

Department

Department of Natural Resources

2023

Regulatory Agenda

January 1, 2023 -December 31, 2023

COLORADO
Department of
Natural Resources

Overview

The Colorado Department of Natural Resources submits the following 2023 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2018 (which are denoted as such in the "purpose" column). The DRA is to be filed with the Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(III).

The following constitutes the Department's Regulatory Agenda for 2023 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

Colorado Parks and Wildlife							
Anticipated Hearing or Adoption Date	**Rule Number**	**Rule Title**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption or change to rule**	**Purpose of Proposed Rule**	**Stakeholders Consider including high-level outreach bullets**	**List of all rules adopted since previous DRA was filed**
11/17/2022	2 CCR-405-3	River Outfitters	Revision	33-32-101	Open annually for all issues. Changes may include, but are not limited to, regulations regarding personal floatation devices.	River Outfitters	See below
11/17/2022	2 CCR-405-7	Passes, Permits and Registrations	New rule and Revision	33-12-100.2	Open annually for all issues. Changes may include, but are not limited to, regulations pertaining to eligibility requirements for the Centennial pass, daily park pass fee, discounted camping rates for seniors who purchase the non-motor vehicle individual annual pass and the replacement of a lost or stolen non-motor vehicle individual annual pass.	Park Users	See below

11/17/2022	2 CCR-406-0 2 CCR-406-2 2 CCR-406-3 2 CCR-406-11 2 CCR-406-15 2 CCR-405-7	General Provisions	Revision	33-4-101 33-4-102(1.6)	Open annually for CPI adjustments to license fees and commission rates for license agents.	Hunters, Anglers, License Agents	See below
11/17/2022	2 CCR-406-0	General Provisions	Revisions	33-1-101(1)	Open for consideration of revisions to the low-income Colorado State Wildlife Area pass, and a bighorn sheep unit boundary name.	General Public, hunters and Anglers	See below
11/17/2022	2 CCR-406-1	Fishing	Revision	33-1-101(4)	Open annually for all issues. Changes may include, but are not limited to, bag and possession limits at Rifle Gap and revisions to the fishing restrictions on Vallecito Creek.	Anglers	See below
11/17/2022	2 CCR-406-2	Big Game	Revision	33-1-101(4)	Open for consideration for changes to license distribution and a game management boundary name.	Hunters	See below

11/17/2022	2 CCR-406-3	Furbearers and Small Game, Except Migratory Birds	Revision	33-1-101(4)	Open annually for all issues related to turkey and annual changes to turkey seasons and Quotas.	Hunters	See below
01/17/2023	2 CCR-406-0	General Provisions	Revision	33-1-101(2)	Open annually for all issues. Changes may include, but are not limited to, Game Management Unit boundaries, regulations relating to fish management, health, importation, prohibited species, and other annual changes.	Hunters, Anglers	See below
01/17/2023	2 CCR-406-2	Big Game	Revision	33-1-101(4)	Annual changes to deer, elk, pronghorn, bear, moose, sheep, goat, and lion seasons. Annual changes to sheep and goat quotas and lion harvest limits.	Hunters	See below

3/15/2023	2 CCR-406-2	Big Game	Revision	33-1-101(4)	Annual big game clean up. Changes may include, but are not limited to, necessary corrections and administrative cleanups to regulations previously adopted by the Parks and Wildlife Commission.	Hunters	See below
3/15/2023	2 CCR-406-3	Furbearers and Small Game, Except Migratory Birds	Revision	33-1-101(4)	Open for annual review including all issues, except turkey. Changes may include, but are not limited to, annual changes to game bird seasons, excluding turkey, and other small game seasons and related provisions, including season dates, bag and possession limits and manner of take provisions.	Hunters	See below
3/15/2023	2 CCR-406-5	Small Game - Migratory Birds	Revision	33-1-101(4)	Open annually for all issues. Changes may include, but are not limited to, annual changes to waterfowl and migratory bird hunting seasons and related provisions,	Hunters	See below

					including season dates, bag and possession limits and manner of take provisions.		
3/15/2023	2 CCR-406-9	Division Properties	Revision	33-1-107	Open annually for all issues. Changes may include, but are not limited to, generally applicable and property-specific requirements for, or restrictions on use of, wildlife properties controlled by Colorado Parks and Wildlife, including State Trust Lands leased by the Division.	Hunters, Anglers	See below
3/15/2023	2 CCR-406-11	Wildlife Parks and Unregulated Wildlife	Revision	33-1-101(2)	Open annually for all issues including unregulated wildlife requests. Changes may include, but are not limited to, regulations pertaining to wildlife parks, sanctuaries and unregulated wildlife.	General Public	See below

3/15/2023	2CCR-405-13	Wildlife Possession, Scientific Collecting & Special licenses	Revision	33-1-101(2)	Open for review of all issues. Changes may include, but are not limited to, regulations pertaining to wildlife possession, scientific collection and special licenses.	General Public	See below
3/15/2023	2 CCR-405-7 , 2 CCR-406-0	Passes, Permits, and Registrations, General Provisions	Revision	33-12-100.2 , 33-1-107	Open for necessary changes to the poverty guidelines for applicable passes.	Park Users, State Wildlife Area Users	See below
3/15/2023	2 CCR-405-4	Snowmobile Regulations	Revision	33-14-102	Open annually for all issues. Changes may include, but are not limited to, regulations pertaining to registration and required safety equipment of snowmobiles.	Snowmobile Users	See below
5/3/2023	2 CCR-406-2	Big Game	Revision	33-1-101(4)	Annual changes to deer, elk, pronghorn, bear, and moose quotas for all Game Management Units in the state that have limited licenses for these species.	Hunters	See below

5/3/2023	2CCR-406-3	Furbearers and Small Game, Except Migratory Birds	Revision	33-1-101	Open for necessary changes for the reintroduction of wolves.	General Public	See below
5/3/2023	2 CCR-406-10	Nongame Wildlife	New rule	33-1-101	Open for necessary changes for the reintroduction of wolves.	General Public	See below
5/3/2023	2 CCR-406-17	Damage Caused by Wildlife	New rule	33-1-101	Open for necessary changes for the reintroduction of wolves.	General Public	See below
7/20/2023	2 CCR-406-9	Division Properties	Revision	33-1-107	Open for wildlife property additions and deletions. Changes may include, but are not limited to, necessary cleanups to the list of wildlife properties in regulation.	Hunters, Anglers	See below

8/24/2023	2 CCR-405-1	Parks and Outdoor Rec Lands	Revision	33-10-101	Open annually for all issues. Changes may include, but are not limited to, generally applicable and property specific requirements for, or restrictions on use of, parks properties controlled by Colorado Parks and Wildlife.	Park Users	See below
8/24/2023	2 CCR-405-2	Boating	Revision	33-13-101	Open annually for all issues. Changes may include, but are not limited to, regulations pertaining to registration, required equipment and safe operation of vessels on waters within the state.	Boaters	See below
8/24/2023	2 CCR-405-5	Off-Highway Vehicles	Revision	33-14.5-107	Open annually for all issues. Changes may include, but are not limited to, regulations pertaining to registration, off-highway use permits and required equipment for safe operation of OHVs within the state.	OHV Users	See below

8/24/2023	2 CCR-405- 7	Passes, Permits and Registrations	Revision	33-12-100.2	Open annually for all issues. Changes may include, but are not limited to, regulations pertaining to eligibility requirements and fees for individual and vehicle park passes, use permits, vessel, snowmobile and off-highway vehicle registrations and license agent requirements.	Park Users	See below
8/24/2023	2 CCR-405-8	Aquatic Nuisance Species	Revision	33-10.5-107	Open annually for all issues. Changes may include, but are not limited to, regulations pertaining to inspections, decontaminations and impounding of vessels or other floatation devices, as well as establishing monitoring, identification and reporting procedures for suspected aquatic nuisance species.	Boaters	See below

11/16/2023	2 CCR-405-3	River Outfitters	Revision	33-32-101	Open annually for all issues. Changes may include, but are not limited to, regulations regarding river outfitter requirements.	River Outfitters	See below
11/16/2023	2 CCR-406-0 2 CCR-406-2 2 CCR-406-3 2 CCR-406-11 2 CCR-406-15 2 CCR-405-7	General Provisions	Revision	33-4-101 33-4-102(1.6)	Open annually for CPI adjustments to license fees and commission rates for license agents.	Hunters, Anglers, License Agents	See below
11/16/2023	2 CCR-406-1	Fishing	Revision	33-1-101(4)	Open annually for all issues. Changes may include, but are not limited to, season dates, bag and possession limits, licensing requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state.	Anglers	See below

11/16/2023	2 CCR-406-3	Furbearers and Small Game, Except Migratory Birds	Revision	33-1-101(4)	Annual changes to turkey seasons and Quotas.	Hunters	See below
January 2024	2 CCR-406-0	General Provisions	Revision	33-1-101(2)	Open annually for all issues. Changes may include, but are not limited to, Game Management Unit boundaries, regulations relating to fish management, health, importation, prohibited species, and other annual changes.	Hunters, Anglers	See below
January 2024	2 CCR-406-2	Big Game	Revision	33-1-101(4)	Annual changes to deer, elk, pronghorn, bear, moose, sheep, goat, and lion seasons. Annual changes to sheep and goat quotas, and lion harvest limits.	Hunters	See below

Colorado Parks and Wildlife Permanent and temporary rules adopted since the previous DRA was filed:

- November 2021 Regulations Summary
- January 2022 Regulations Summary
- March 2022 Regulations Summary
- May 2022 Regulations Summary
- July 2022 Regulations Summary
- September 2022 Regulations Summary

Colorado Oil and Gas Conservation Commission							
Anticipated Hearing or Adoption Date	**Rule Number**	**Rule Title**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption or change to rule**	**Purpose of Proposed Rule**	**Stakeholders Consider including high-level outreach bullets**	**List of all rules adopted since previous DRA was filed**
3/1/2022	700 Series Update	Financial Assurance	Revision	s.34-60-105(1), -106(2.5)(a), and (13) C.R.S.	To update the rules to meet the mandate of SB 19-181.	Industry, mineral owners, surface owners, environmentalists, and ecologists.	Update to High Priority Habitat Maps
2023	Worker Certification	Worker Certification	New rule	s.34-60-105(1), 106(2) C.R.S.	To adopt rules addressing worker certification as required by SB 19-181.	Industry, mineral owners, surface owners, environmentalists, and ecologists.	None
2023	Fees	Fees	Revision	s.34-60-105(1), 106(7) C.R.S.	Update rules to meet the mandate of SB 19-181.	Industry, mineral owners, surface owners, environmentalists, and ecologists.	Unknown

2023	100-600, 800, 900 and 1200 Series Clean-up	Rule clean-up	Revision	s.34-60-105(1)(a) C.R.S.	Finalize necessary corrections and administrative cleanups to regulations previously adopted by the COGCC	Industry; surface owners, environmentalists, ecologists, and sportspersons	Unknown
2023	1000 Series Update	Reclamation	Revision	s.34-60-105(1), -106(2)(a), (c), and (2.5)(a) C.R.S.	Update rules to meet the mandate of SB 19-181.	Industry, mineral owners, surface owners, environmentalists, and ecologists.	Unknown
May 2023	Update High Priority Habitat Maps in Appendix VII	High Priority Habitat Maps	Revision	100 Series	Required by 100 Series Definition of High Priority Habitat Maps	Industry; surface owners, environmentalists, ecologists, and sportspersons	Revisions to Rule 205, Orphaned Wells Mitigation Enterprise
June 30, 2022	Rule 205	Orphaned Wells Mitigation Enterprise	Revision	S. 34-60-132	Implementing an annual orphan well fee and the creation of an Enterprise Board to oversee the Orphaned Well Mitigation Fee	Industry; surface owners, environmentalists, ecologists, and sportspersons	Unknown

Colorado Division of Reclamation, Mining and Safety							
Anticipated Hearing or Adoption Date	**Rule Number**	**Rule Title**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption or change to rule**	**Purpose of Proposed Rule**	**Stakeholders Consider including high-level outreach bullets**	**List of all rules adopted since previous DRA was filed**
May 25, 2022	CCR 407-1 Rule 1,3 and 4, 6 and 7	Hard Rock/Metal Mining Rules	New rules for perpetual water treatment and repeal of self bonding per HB19-1113 Revisions for Temporary Cessation, including definition of production E-filing of applications and notice processes	C.R.S. 34-32-10 1	Implementation of HB19-1113 regarding perpetual water treatment and repeal of self-bonding Revise Temporary Cessation Rules to address Court of Appeals decision and process issues	Hard Rock Mining Community and Environmental Community Public scoping meetings began in January of 2020 and ran until April of 2022. Individual and group stakeholder meetings were held to gain consensus. Promulgation Hearing received high praise for stakeholder outreach and engagement.	Promulgation in May of 2022, Enacted in July of 2022

Colorado Division of Water Resources							
Anticipated Hearing or Adoption Date	**Rule Number**	**Rule Title**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption or change to rule**	**Purpose of Proposed Rule**	**Stakeholders Consider including high-level outreach bullets**	**List of all rules adopted since previous DRA was filed**
June 2023	2 CCR 402-2	Water Well Construction, Pump Installation, Cistern Installation and Monitoring and Observation Hole/Well Construction	Review for revision	Sections 37-91-104(1)(c), (J) and (k), 37-91-106(4) and 37-91-110(2)	Sets standards for the construction and repair of wells, test holes, dewatering wells, monitoring and observation holes/wells, sealing and abandonment.	Well users throughout the state, well constructors, water resource engineers, pump installers	Ongoing
Hearing previously scheduled for 01/20/21 postponed pending outcome of water court Case No. 21CW3046 in Water Division No. 1	2 CCR 402-7	Statewide Nontributary Rules	Review for revisions	Sections 37-90-137(9)(a) , (b) and 37-80-102(1)(g)	Governs well permitting of nontributary water statewide. The review is being conducted to update the provisions of the rules.	Water users throughout the state, water lawyers, water engineers, ground water modelers	Withdrawn

Stakeholder process underway. Hearing to be held in mid-2023	2 CCR 402-9	Fees set and collected by the State Engineer for the Water Data Bank Cash Fund, the Division of Water Resources Publication Cash Fund, and the Satellite Monitoring System Cash Fund	Review for revisions	Sections 37-80-111.5, 37-80-102(1)(h) , 24-72-205, 24-4-103	Governs fees charged for satellite system use, data and document costs to the public	Water users, satellite system users, CWCB, water engineers and firms, public at large, water lawyers	Ongoing
Internal review determined no amendments or revisions necessary at this time	2 CCR 402-10	Rules for Permitting the Development and Appropriation of Geothermal Resources through the use of wells.	Review for revisions	Sections 37-80-102(1)(g) & (k), 37-90-138, 37-90.5-106 thru 108	Governs geothermal well permitting and development	Water users, specific towns and areas of the state where geothermal resources exist, water resources engineers, geologists, geothermal resource developers,	Withdrawn

						water lawyers, & public at large	
Approved by Water Court on March 4, 2022.		Water Court Republican River Compact Rules	New Rules	U.S. Supreme Court in Kansas v. Nebraska & Colorado, Number 126, Original, Sections 37-80-102(1)(a) & 37-80-104	The rulemaking considers the requirement to offset impacts in excess of Colorado's apportionment under the Republican River Compact as determined under the Final Settlement Stipulation, and work to ensure that all users of waters accounted for in Colorado's Republican River Compact Accounting have a stake in ensuring ongoing compact compliance	Water users in the Northern High Plains designated ground water basin.	Ongoing

Water Division 6 stakeholder review was undertaken during 2021 and 20221. Rules to be filed with the Secretary of State Scheduled to be complete by end of October 2021. Rules to be filed with Secretary of State late 2021 or early 2022. Hearing in early 2022.		Measurement rules for the western slope water divisions in Colorado. Rulemaking will begin with Water Division 6, then continue to Water Division 7, Division 4 and Division 5 in succession.	New Rules	Sections 37-80-102(1)(g), 37-80-104, 37-92-501, 37-92-502(5).	Proposed rules will govern the requirements for the measurement and reporting of water diversions by water users on the western slope.	Water users on the western slope of Colorado	Ongoing

Colorado Division of Water Resources Permanent Rules since previous DRA was filed: Republican River Compact Rules, March 4, 2022.

Colorado State Board of Land Commissioners							
Anticipated Hearing or Adoption Date	**Rule Number**	**Rule Title**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption or change to rule**	**Purpose of Proposed Rule**	**Stakeholders Consider including high-level outreach bullets**	**List of all rules adopted since previous DRA was filed**
2018	2 CCR 409-1;	State Forest Lands	Revision or Repeal, TBD	§36-7-104; §36-7-201; §24-4-103	Review the rule to determine if the best course of action is to revise or repeal rule to simplify and align the rule with contemporary forest management protocols and resources	Colorado State Forest Service; Beneficiaries of affected land trusts; Jackson and Larimer County governments; State Forest Steering Committee; Colorado Parks and Wildlife; lessees of affected parcels; adjacent landowners to adjacent parcels; Natural Resources stakeholder notification groups	Ongoing (Last reviewed 2018)

Colorado Water Conservation Board							
Anticipated Hearing or Adoption Date	**Rule Number**	**Rule Title**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption or change to rule**	**Purpose of Proposed Rule**	**Stakeholders Consider including high-level outreach bullets**	**List of all rules adopted since previous DRA was filed**
January 26, 2021	2 CCR 408-2	Rules Concerning the Colorado Instream Flow and Natural Lake Level Program	Revisions	Sections 37-60-108, 37-83-105, and 37-92-102(3), C.R.S.	Implement HB20-1157 and update references to CWCB website and to Colorado Parks and Wildlife	Water rights owners, water conservancy and conservation districts, local governments, state and federal agencies, nonprofit organizations, conservation interests, and interested citizens.	Adopted March 2021

November 19, 2021	2 CCR 408-1	Floodplain Rules and Regulations for REgulatory Floodplains in CO	Revisions	Sections 24-65.1-101(1)(c), 24-65.1-202(2)(a), 24-65.1-302(2)(a), 24-65.1-403(3), 37-60-106(1), 37-60-106(1)(c)–(g), (j), (k), and 37-60-108, C.R.S.	Update the standards and processes for floodplain designation to make the Rules consistent with FEMA floodplain mapping procedures, amend and clarify Rule 4 definitions, update references, and revise for clarification.	Municipalities, County floodplain administrators and planners, utilities, flood districts, public works departments	Adopted November 2021

Departmental Regulatory Agendas

Department

Department of Agriculture

2023

Regulatory Agenda

January 1, 2023-December 31, 2023

2022

Regulatory Report

January 1, 2022-December 31, 2022

COLORADO
Department of Agriculture

Overview

The Colorado Department of Agriculture submits the following 2023 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2023 (which are denoted as such in the "purpose" column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(II).

The following constitutes the Department of Agriculture's Regulatory Agenda for 2023 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV).

The Colorado Department of Agriculture also submits the following 2022 Regulatory Agenda Report in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4), detailing the results of the past year's rules review activity.

2023 REGULATORY AGENDA							
Anticipated Adoption Date	**Rule Number**	**Rule Title**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption or change to rule**	**Purpose of Proposed Rule**	**Stakeholders** *Consider including high-level outreach bullets*	**Part of Mandatory Rule Review**
3/15/2023	8 CCR 1202-15	Rules and Regulations Pertaining to the Administration and Enforcement of the Pet Animal Care and Facilities Act	Revision	Title 35, Article 80	Implement new regulations requiring facilities to draft and follow protocols to promote disease control and treatment to pet animals in Colorado (DCAT Plan), new definitions and regulations to implement the provisions of 35-80-106.6, C.R.S which requires shelters and rescues to provide enrichment to dogs and cats in their care, implement new regulations that require facilities to have a contingency plan for emergencies and disasters, and other rule updates.	Licensees and pet animal associations	No
3/15/2023	8 CCR 1206-2	Rules Pertaining to the Administration and Enforcement of the Colorado Noxious Weed Act	Revision	Title 35, Article 5.5	Revise the statewide management plans for a subset of List B noxious weeds, and amend the regulated list of List A and List C noxious weeds.	Landowners of Colorado, local, state and federal weed managers, and nursery association	No
7/12/2023	8 CCR 1202-17	Rules Pertaining to the Administration and Enforcement of the Produce Safety Act	Revision	Title 35, Article 77	Adjust the minimum threshold of gross sales for produce farms that will be subject to the Produce Safety Rule based on a federal index.	Produce Farms, Colorado Fruit and Vegetable Growers Association, Rocky Mountain Farmers Union, and Colorado Farm Bureau	No

2023 REGULATORY AGENDA							
Anticipated Adoption Date	**Rule Number**	**Rule Title**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption or change to rule**	**Purpose of Proposed Rule**	**Stakeholders** *Consider including high-level outreach bullets*	**Part of Mandatory Rule Review**
11/8/2023	8 CCR 1203-1	Administration and Enforcement of the Pesticide Act	Revision	Title 35, Article 9	Address registration requirements for Pesticide Incorporated Protectants (PIPs) and clarify registration submission information requirements for pesticides being used for Experimental Use.	Pesticide Registrants, and persons conducting research with pesticides	No
11/8/2023	8 CCR 1203-2	Rules and Regulations Pertaining to the Administration and Enforcement of the Pesticide Applicators' Act	Revision	Title 35, Article 10	Make necessary amendments to meet the new Federal Certification and Training Requirements, add additional licensure categories, address supervision provisions, and clarify licensure categories to meet federal requirements.	Commercial Applicators, Qualified Supervisors, Certified Operators, and Private Applicator license holders	No

2023 REGULATORY EFFICIENCY REVIEWS							
Anticipated Adoption Date	**Rule Number**	**Rule Title**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption or change to rule**	**Purpose of Proposed Rule**	**Stakeholders** *Consider including high-level outreach bullets*	**Part of Mandatory Rule Review**
5/10/2023	8 CCR 1201-21	Rule Pertaining to the Administration and Enforcement of the Colorado Aquaculture Act	Revision	Title 35, Article 24.5	Changes may be proposed as a result of the Department's Regulatory Efficiency Review Process.	Colorado Aquaculture Board, Colorado Division of Parks and Wildlife	Yes
7/12/2023	8 CCR 1201-19	Livestock Disease Control	Revision	Title 35, Article 50	Changes may be proposed as a result of the Department's Regulatory Efficiency Review Process.	Colorado Cattlemen's Association, Colorado Livestock Association, livestock producers	Yes
	8 CCR 1202-1	Packaging and Labeling			Changes may be proposed as a result of the Department's Regulatory Efficiency Review Process.		Yes

2023 REGULATORY EFFICIENCY REVIEWS							
Anticipated Adoption Date	**Rule Number**	**Rule Title**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption or change to rule**	**Purpose of Proposed Rule**	**Stakeholders** *Consider including high-level outreach bullets*	**Part of Mandatory Rule Review**
	8 CCR 1202-2	Measurement Standards			Changes may be proposed as a result of the Department's Regulatory Efficiency Review Process.		Yes
	8 CCR 1202-14	Method of Sale of Retail Commodities			Changes may be proposed as a result of the Department's Regulatory Efficiency Review Process.		Yes
	8 CCR 1203-9	Administration and Enforcement of the Organic Certification Act			Changes may be proposed as a result of the Department's Regulatory Efficiency Review Process.		Yes
	8 CCR 1203-21	Quarantine Imposed Against All Life Stages of the Japanese Beetle (Popillia Japonica) and Hosts or Possible Carriers of Japanese Beetle Pursuant to the Colorado Pest Control Act			Changes may be proposed as a result of the Department's Regulatory Efficiency Review Process.		Yes – Review was not completed in 2022
	8 CCR 1204-8	Rules and Regulations Pertaining to the Administration and Enforcement of the Colorado Agricultural Marketing Act of 1939	Revision		Changes may be proposed as a result of the Department's Regulatory Efficiency Review Process.		Yes
	8 CCR 1205-3	Rules Pertaining to the Annual Transportation Permit for Cattle or Alternative Livestock	Revision		Changes may be proposed as a result of the Department's Regulatory Efficiency Review Process.		Yes

2023 REGULATORY EFFICIENCY REVIEWS							
Anticipated Adoption Date	**Rule Number**	**Rule Title**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption or change to rule**	**Purpose of Proposed Rule**	**Stakeholders** *Consider including high-level outreach bullets*	**Part of Mandatory Rule Review**
	8 CCR 1205-5	Rules Pertaining to the Publication and Sale of Abandoned Brands	Revision		Changes may be proposed as a result of the Department's Regulatory Efficiency Review Process.		Yes
	8 CCR 1207-3	Rules Pertaining to the Agricultural Workforce Development Program	Revision		Changes may be proposed as a result of the Department's Regulatory Efficiency Review Process.		Yes

2022 REGULATORY REPORT							
Rule Number (CCR) and Title	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Stakeholders	Status	Comments
1201-19 Livestock Disease Control	Animal Health Division	Revision	Title 35, Article 50	As a result of Highly Pathogenic Avian Influenza (HPAI) it was imperatively necessary for the public health, safety, and welfare to establish this temporary prohibition of commingling of birds at events.	General public, and bird owners	Emergency Rule Adopted 3/30/2022 Effective 4/1/2022	Emergency Rule Expired 6/30/2022
8 CCR 1202-15 Rules and Regulations Pertaining to the Administration and Enforcement of the Pet Animal Care and Facilities Act	Inspection & Consumer Services Division	Revision	Title 35, Article 80	Clarify statutory regulations regarding disclosure rules for pet stores, and shelter and rescue requirements related to vet care and behavior.	Licensees and pet animal associations	Adopted 4/13/2022 Effective 6/15/2022	

2022 REGULATORY REPORT							
Rule Number (CCR) and Title	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Stakeholders	Status	Comments
8 CCR 1201-17 Concerning the Prevention of Disease in Alternative Livestock	Animal Health Division	Revision	Title 35, Article 50	To remove the Chronic Wasting Disease (CWD) testing requirement for fallow deer and the Tuberculosis (TB) testing requirement for in-state animal movement.	Colorado Elk Breeders Association, alternative livestock producers	Adopted 4/13/2022 Effective 6/15/2022	Revisions as a result of Mandatory Regulatory Efficiency Review
8 CCR 1202-19 Rules Pertaining to the Confinement of Egg Laying Hens	Inspection & Consumer Services Division	New	Title 35, Article 21	Implement regulations related to statutory requirements for the sale of cage-free eggs.	Licensees, egg producers, Colorado Egg Producers, Rocky Mountain Farmers Union, Farm Bureau	Adopted 6/8/2022 Effective 7/30/2022	To comply with HB 20-1343
8 CCR 1201-16 Control and Eradication of Scrapie in Sheep and Goats	Animal Health Division	Revision	Title 35, Article 50	Bring the rule into alignment with recent updates to federal rules and regulations pertaining to the importation of sheep and goats.	Colorado Wool Growers Association, Colorado Livestock Association, livestock producers	Adopted 6/8/2022 Effective 7/30/2022	Revisions as a result of Mandatory Regulatory Efficiency Review
8 CCR 1202-4 Fertilizers and Soil Conditioners	Inspection & Consumer Services Division	Revision	Title 35, Article 12	Update references to the current publication of the Association of American Plant Food Control Officials, amend definitions to clarify and become consistent with the 2022 Official Publication, and to correct minor spelling errors.	Licensees	Adopted 6/8/2022 Effective 7/30/2022	Revisions as a result of Mandatory Regulatory Efficiency Review

2022 REGULATORY REPORT							
Rule Number (CCR) and Title	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Stakeholders	Status	Comments
8 CCR 1205-7 Rules Pertaining to Inspection of Livestock Sold as Animal Shares	Division of Brand Inspection	New	Title 25, Article 4	Identify brand inspection requirements for animal shares.	Brand inspection staff, cattle producers, Colorado Cattlemen's Association, Colorado Livestock Association	Adopted 9/20/2022 Effective 11/15/2022	To comply with SB21-079
8 CCR 1202-17 Rules Pertaining to the Administration and Enforcement of the Produce Safety Act	Inspection & Consumer Services Division	Revision	Title 35, Article 77	Adjust the minimum threshold of gross sales for produce farms that will be subject to the Produce Safety Rule based on a federal index.	Produce Farms, Colorado Fruit and Vegetable Growers Association, Rocky Mountain Farmers Union, Farm Bureau	Adopted 10/12/2022 Effective 12/15/2022	
8 CCR 1202-6 Rules for Commercial Feed Under the Colorado Feed Law, Sections 35-60-101 through 115, C.R.S.	Inspection & Consumer Services Division	Revision	Title 35, Article 60	Update references to the 2022 publication of the Association of American Feed Control Officials.	Licensees	Adopted 10/12/2022 Effective 12/15/2022	Revisions as a result of Mandatory Regulatory Efficiency Review
8 CCR 1202-7 Rules for Pet Food Under the Colorado Feed Law, Sections 35-60-101 through 115, C.R.S.	Inspection & Consumer Services Division	Revision	Title 35, Article 60	Update references throughout the rules to the official publication of the Association of American Feed Control Officials incorporated by reference to the 2022 version.	Licensees	Adopted 10/12/2022 Effective 12/15/2022	Revisions as a result of Mandatory Regulatory Efficiency Review

2022 REGULATORY REPORT							
Rule Number (CCR) and Title	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Stakeholders	Status	Comments
8 CCR 1201-18 Bureau of Animal Protection Rules	Animal Health Division	Revision	Title 35, Article 42	Streamline the training, continuing education, renewal process, and statistics reporting for BAP agents.	Companion animal owners, livestock owners, local law enforcement agencies, Bureau of Animal Protection agents, Colorado Federation of Animal Welfare Agencies, Colorado Veterinary Medical Association	To be Adopted 12/14/2022 To be Effective 2/15/2023	Revisions as a result of Mandatory Regulatory Efficiency Review
8 CCR 1202-15 Rules and Regulations Pertaining to the Administration and Enforcement of the Pet Animal Care and Facilities Act	Inspection & Consumer Services Division	Revision	Title 35, Article 80	Implement new regulations requiring facilities to draft and follow protocols to promote disease control and treatment to pet animals in Colorado (DCAT Plan).	Licensees and pet animal association	Moved to 2023 Regulatory Agenda	Working with PACFA Advisory Committee and other stakeholder on the plan and proposed changes
8 CCR 1203-13 Quarantine for Late Blight	Division of Plant Industry	Revision	Title 35, Article 4	Update inspection and holding requirements for imported seed potatoes.	Potato industry, Colorado Potato Administrative Committee, CSU	POSTPONED	Industry is still considering if revisions are needed

2022 REGULATORY REPORT							
Rule Number (CCR) and Title	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Stakeholders	Status	Comments
8 CCR 1203-23 Rules Pertaining to the Administration and Enforcement of the Industrial Hemp Regulatory Program Act	Division of Plant Industry	Revision	Title 35, Article 1	Align to the USDA Federal Rule.	Hemp growers, hemp processors, hemp associations, counties and municipalities, CSU	POSTPONED	Rule revisions are not needed at this time

2022 RESULTS OF MANDATORY RULES REVIEW								
Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Did review result in revisions to regulation?	Purpose of Proposed Rule (if applicable)	Did review result in repeal of entire CCR volume?	Did the review result in repeal of any part of the regulation?	Adoption date (if applicable)	Comments
8 CCR 1201-16 Control and Eradication of Scrapie in Sheep and Goats	Animal Health Division	Title 35, Article 50	Yes	Bring the rule into alignment with recent updates to federal rules and regulations pertaining to the importation of sheep and goats.	No	No	Adopted 6/8/2022 Effective 7/30/2022	
8 CCR 1201-17 Concerning the Prevention of Disease in Alternative Livestock	Animal Health Division	Title 35, Article 50	Yes	To remove the Chronic Wasting Disease (CWD) testing requirement for fallow deer and the Tuberculosis (TB) testing requirement for in-state animal movement.	No	Yes	Adopted 4/13/2022 Effective 6/15/2022	
8 CCR 1201-18 Bureau of Animal Protection Rules	Animal Health Division	Title 35, Article 42	Yes	Streamline the training, continuing education, renewal process, and statistics reporting for BAP agents.	No	No	To be Adopted 12/14/2022 To be Effective 2/15/2023	
8 CCR 1201-19 Livestock Disease Control	Animal Health Division	Title 35, Article 50	N/A	N/A	N/A	N/A	N/A	Review cycle was changed, this rule review was moved to 2023

2022 RESULTS OF MANDATORY RULES REVIEW								
Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Did review result in revisions to regulation?	Purpose of Proposed Rule (if applicable)	Did review result in repeal of entire CCR volume?	Did the review result in repeal of any part of the regulation?	Adoption date (if applicable)	Comments
8 CCR 1202-4 Fertilizers and Soil Conditioners	Inspection & Consumer Services Division	Title 35, Article 12	Yes	Update references to the current publication of the Association of American Plant Food Control Officials, amend definitions to clarify and become consistent with the 2022 Official Publication, and to correct minor spelling errors.	No	No	Adopted 6/8/2022 Effective 7/30/2022	
8 CCR 1202-6 Rules for Commercial Feed Under the Colorado Feed Law, Sections 35-60-101 through 115, C.R.S.	Inspection & Consumer Services Division	Title 35, Article 60	Yes	Update references to the 2022 publication of the Association of American Feed Control Officials.	No	No	Adopted 10/12/2022 Effective 12/15/2022	
8 CCR 1202-7 Rules for Pet Food Under the Colorado Feed Law, Sections 35-60-101 through 115, C.R.S.	Inspection & Consumer Services Division	Title 35, Article 60	Yes	Update references throughout the rules to the official publication of the Association of American Feed Control Officials incorporated by reference to the 2022 version.	No	No	Adopted 10/12/2022 Effective 12/15/2022	
8 CCR 1203-13 Quarantine for Late Blight	Division of Plant Industry	Title 35, Article 4	No	N/A	No	No	N/A	Review Completed

2022 RESULTS OF MANDATORY RULES REVIEW								
Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Did review result in revisions to regulation?	Purpose of Proposed Rule (if applicable)	Did review result in repeal of entire CCR volume?	Did the review result in repeal of any part of the regulation?	Adoption date (if applicable)	Comments
8 CCR 1203-21 Quarantine Imposed Against All Life Stages of the Japanese Beetle (Popillia Japonica) and Hosts or Possible Carriers of Japanese Beetle Pursuant to the Colorado Pest Control Act	Division of Plant Industry	Title 35, Article 4	N/A	N/A	N/A	N/A	N/A	With the detection of Japanese Beetle postponing to 2023 will allow time to develop a response plan, and gather stakeholder feedback on a newly and rapidly evolving situation that may drive changes
8 CCR 1203-23 Rules Pertaining to the Administration and Enforcement of the Industrial Hemp Regulatory Program Act	Division of Plant Industry	Title 35, Article 61	No	N/A	No	No	N/A	Review scheduled to be completed by the end of the year
8 CCR 1203-26 The Use of Pesticides in the Cultivation of Retail Marijuana	Division of Plant Industry	Title 24, Article 20	No	N/A	No	No	N/A	Review Completed

2022 RESULTS OF MANDATORY RULES REVIEW								
Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Did review result in revisions to regulation?	Purpose of Proposed Rule (if applicable)	Did review result in repeal of entire CCR volume?	Did the review result in repeal of any part of the regulation?	Adoption date (if applicable)	Comments
8 CCR 1205-4 Rules Pertaining to the Feedlot Certification Act	Division of Brand Inspection	Title 35, Article 53.5	No	N/A	No	No	N/A	Review scheduled to be completed by the end of the year
8 CCR 1206-2 Rules Pertaining to the Administration and Enforcement of the Colorado Noxious Weed Act	Conservation Services Division	Title 35, Article 5.5	No	Revise the statewide management plans for a subset of List B noxious weeds, and amend the regulated list of List A and List C noxious weeds.	No	No	N/A	Review Completed – Changes will be proposed in 2023

Departmental Regulatory Agendas

Department

Department of Public Health and Environment

2023

Regulatory Agenda

January 1, 2023 – December 31, 2023

COLORADO
Department of Public
Health & Environment

Overview

Pursuant to Colorado Revised Statute §2-7-203(4), the Colorado Department of Public Health and Environment submits the following 2023 Regulatory Agenda. Pursuant to statutory requirements concerning the Department's Regulatory Agenda (§2-7-202(6), C.R.S.), this also contains the department's 2022 Regulatory Agenda Summary and the 2022 Results of Mandatory Review of Rules (Pursuant to §24-4-103.3(4), C.R.S.).

2023 Regulatory Agenda

Schedule *Anticipated hearing date*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders**
January 19, 2023	6 CCR 1014-4 Colorado Health Care Professional Credentials Application	Health Care Credentials Application Review Committee/Board of Health	Repeal	House Bill 22-1401, §25-1-108.7 C.R.S.		Repeal due to statutory authority being removed pursuant to House Bill 22-1401	Credentialing entities, health care professionals
February 15, 2023	6 CCR 1011-01 Chapter 4: General Hospitals	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	House Bill 22-1401, §25-1.5-103, §25-3-101, and §25-3-103, C.R.S.		Implement House Bill 22-1401 regarding nurse staffing plans	Current and future licensees; families, clients and consumers; providers; organizations that represent licensed facilities, practitioners and consumers

Schedule *Anticipated hearing date*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders**
March 13, 2023	5 CCR 1002-73, Chatfield Reservoir Control Regulation	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202(1)(a), (b), and (2); §25-8-203; §25-8-204; and §25-8-402, §24-4-103(4), C.R.S.		To consider updates to the Chatfield Reservoir Control Regulation to reflect updates to wasteload allocation for trades, provide additional clarity regarding trading process; refinement of phosphorus trade review and approval process and timeframes; revise nonpoint to point source trade ratios and to provide better understanding of nonpoint sources and regulatory sources in trading; clarify definitions; and general housekeeping	Chatfield Watershed Authority and members, JRW Family Limited Partnership, LLP, Dominion Water and Sanitation District, Town of Castle Rock, Water Quality Control Division
March 15, 2023	6 CCR 1009-2 Infant Immunization Program and Immunization of Students Attending School	Disease Control and Public Health Response Division/Board of Health	Revision	§25-4-903, §24-4-904, §25-4-1704, §25-4-1705, §25-4-2403,C.R.S.	X	Technical updates	Health care providers, school nurses, child care providers, schools, local public health, citizen groups, and individual citizens

Schedule *Anticipated hearing date*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders**
April 10, 2023	5 CCR 1002-85, Nutrients Management Control Regulation	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202(1)(a), (b), and (2); 25-8-203; 25-8-204; and 25-8-402, C.R.S.	X	To control nutrients (phosphorus and nitrogen) statewide through permits and voluntary nonpoint source controls, outreach and education	Point source dischargers, municipalities, watershed authorities and associations, water districts, environmental organizations, wastewater treatment operators, U.S. Environmental Protection Agency
April 10, 2023	5 CCR 1002-31, The Basic Standards and Methodologies for Surface Water, 5 CCR 1002-32, 5 CCR 1002-33, 5 CCR 1002-34, 5 CCR 1002-35, 5 CCR 1002-36, 5 CCR 1002-37, 5 CCR 1002-38, Classifications and Numeric Standards for the Arkansas, Upper Colorado, North Platte, San Juan, Dolores, Gunnison, Lower Dolores, Rio Grande, Lower Colorado, South Platte, Laramie, Republican, and Smoky Hill River Basins (Lakes Nutrients Criteria)	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202(1)(a), (b), and (2); 25-8-203; 25-8-204; and 25-8-402, C.R.S.		To consider revised lakes nutrients criteria to ensure that water quality standards protective of classified uses are appropriately applied based on available data and other supporting information	Point source dischargers, municipalities, watershed authorities and associations, water districts, environmental organizations, wastewater treatment operators, U.S. Environmental Protection Agency

Schedule *Anticipated hearing date*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders**
April 19, 2023	6 CCR 1009-1 Epidemic and Communicable Disease Control	Disease Control and Public Health Response Division/Board of Health	Revision	§25-1.5-102, §25-1-122 C.R.S.	X	Annual update of the reportable conditions, require reporting of negative Hepatitis C results, updates following EO2 rule review and technical edits	Hospitals, local public health, health care providers
April 19, 2023	6 CCR 1014-5 Office of Health Equity Rules for the Health Disparities and Community Grant Program	Office of Health Equity Rules for Health Disparities and Community Grant Program/Board of Health	Revision	§25-4-2203, §24-22-117(2)(d)(III), §24-22-117(f), C.R.S.		Update language to further implement changes to the Office from SB21-181	Community organizations that work with vulnerable populations in Colorado. In statute, these populations are identified by "race, ethnicity, sexual orientation, gender identify, disability status, aging population, and socioeconomic statue and other factors such as those who have experienced socioeconomic disadvantages or historical injustices

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April 20 & 21, 2023	5 CCR 1001-24: Regulation Number 20 - Colorado Low Emission Automobile Regulation	Air Pollution Control Division/Air Quality Control Commission	Revision	§§ 25-7-101 to 25-7-110; 24-4-103 C.R.S., as applicable and amended.		Consider revisions to Regulation Number 20 regarding California's Advanced Clean Trucks (ACT) and Low NOx Omnibus rules	Vehicle manufacturers, vehicle dealers, consumers of vehicles
April 20 & 21, 2023	5 CCR 1001-9: Regulation Number 7 - Control of Ozone via Ozone Precursors and Control of Hydrocarbons via Oil and Gas Emissions (Emissions of Volatile Organic Compounds and Nitrogen Oxides) AND 5 CCR 1001-26: Regulation Number 22 - Colorado Greenhouse Gas Reporting and Monitoring AND 5 CCR 1001-28: Regulation Number 24 - <NEW REG - TITLE TBD> AND 5 CCR 1001-29: Regulation Number 25 - <NEW REG - TITLE TBD> AND 5 CCR 1001-30: Regulation Number 26 - <NEW REG - TITLE TBD>	Air Pollution Control Division/Air Quality Control Commission	Revision	§§ 25-7-101 to 25-7-110; 24-4-103 C.R.S., as applicable and amended.		Consider separating Regulations Numbers 7 and 22. This would be completed by maintaining parts of Regulation Number 7 as such and establishing new regulations: Part B becomes Regulation Number 24; Part C becomes Regulation Number 25; and Part E becomes Regulation Number 26. The upstream oil and gas intensity and midstream combustion program provisions currently in Regulation Number 22 would be moved to Regulation Number 7. The manufacturing sector greenhouse gas provisions in Regulation Number 22 would become a new Regulation Number 27. The proposed revisions will also include formatting changes	Local govt, Industry, trade & environmental groups, concerned public members

Schedule *Anticipated hearing date*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders**
May 8, 2023	5 CCR 1002-93, Colorado's Section 303(d) List of Impaired Waters and Monitoring and Evaluation List	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202(1)(a), (b), and (2); 25-8-203; 25-8-204; and 25-8-402, C.R.S.		To consider the bi-annual update to the 303(d) list of impaired waters	Point source dischargers, municipalities, environmental organizations, wastewater treatment operators
May 16, 2023	6 CCR 1007-3, Part 6 - Solid and Hazardous Waste Commission Fee	Solid and Hazardous Waste Commission	Revision	§25-15-314, C.R.S.		To amend the SHWC fee to fund the operation of the commission to fiscal year 2023-2024	Treatment, storage and disposal facilities, generators and transporters of hazardous waste
May 16, 2023	6 CCR 1007-3, Parts 262, 264, and 265 - Checklist 244: Canada Import Export Recovery and Disposal Code Changes	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§25-15-302(2), C.R.S.		To align with federal regulations regarding Canada's regulatory changes to Canada-specific operation codes and descriptions	US hazardous waste importers and exporters
May 16, 2023	6 CCR 1007-3, Multiple Parts - Correction of Typographical Errors	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§25-15-302(2), C.R.S.	X	To correct various typographical errors throughout the hazardous waste regulations	Treatment, storage and disposal facilities, generators and transporters of hazardous waste
May 17, 2023	6 CCR 1009-3 Central Cancer Registry	Center for Health and Environmental Data/Board of Health	Revision	§25-1.5-101(1)(q), §25-1-122, C.R.S.	X	Updates following EO2 review	Patients and their families, hospitals, diagnostic and treatment clinics, laboratories, physicians

Schedule *Anticipated hearing date*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders**
May 17, 2023	6 CCR 1009-10 Colorado HIV and AIDS Prevention Grant Program	Office of STI/HIV/Viral Hepatitis/Board of Health	Revision	§25-4-1404, C.R.S.	X	Updates following EO2 review	Colorado HIV/AIDS Prevention Program Advisory Committee, community based organizations serving persons at risk or living with of HIV/AIDS, local public /private health agencies, citizen groups, and individual citizens
May 17, 2023	6 CCR 1007-1 Part 3, Radiation Control: Licensing of Radioactive Material	Hazardous Materials and Waste Management Division/Board of Health	Revision	§25-1.5-101(1)(k) & (l), §25-11-103 & 104, §25-1-108, C.R.S.	X	Technical corrections required for compatibility with federal rule	Radioactive Material Licensees
May 18 & 19, 2023	5 CCR 1001-8: Regulation Number 6 - Standards of Performance for New Stationary Sources	Air Pollution Control Division/Air Quality Control Commission	Revision	§§ 25-7-101 to 25-7-110; 24-4-103 C.R.S., as applicable and amended.		Consider revisions to Regulation Number 6, Part A (NSPS) to incorporate by reference changes the EPA made to its New Source Performance Standards and/or Emission Guidelines	Local govt, Industry, trade & environmental groups, concerned public members

Schedule *Anticipated hearing date*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders**
May 18 & 19, 2023	5 CCR 1001-10: Regulation Number 8 - Control of Hazardous Air Pollutants	Air Pollution Control Division/Air Quality Control Commission	Revision	§§ 25-7-101 to 25-7-110; 24-4-103 C.R.S., as applicable and amended.		Consider revisions to Regulation Number 8, Parts A and E (MACT Standards) to incorporate by reference changes the EPA made to its National Emission Standards for Hazardous Air Pollutants rules	Local govt, Industry, trade & environmental groups, concerned public members
May 18 & 19, 2023	5 CCR 1001-5: Regulation Number 3 - Stationary Source Permitting and Air Pollutant Emission Notice Requirements	Air Pollution Control Division/Air Quality Control Commission	Revision	§§ 25-7-101 to 25-7-110; 24-4-103 C.R.S., as applicable and amended.		Consider revisions to Regulation Number 3, to establish air toxics reporting, monitoring and permitting requirements for stationary sources in disproportionately impacted communities, in response to HB21-1266	Disproportionately impacted communities, local govt, environmental groups and industry & trade groups
May 18 & 19, 2023	5 CCR 1001-32: Regulation Number 28 - <NEW REG - TITLE TBD>	Air Pollution Control Division/Air Quality Control Commission	Revision	§§ 25-7-101 to 25-7-110; 24-4-103 C.R.S., as applicable and amended.		Consider establishing a new Regulation Number 28 to address greenhouse gases in terms of building energy efficiency in response to HB19-1261 and HB21-1286	CEO, E3, disproportionately impacted communities, local govt, Industry, trade & environmental groups, large building owners & operators

Schedule *Anticipated hearing date*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders**
June 12, 2023	5 CCR 1002-32, Classifications and Numeric Standards for Arkansas River Basin	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202(1)(a), (b), and (2); 25-8-203; 25-8-204; and 25-8-402, C.R.S.	X	To consider updates to the classifications and standards for this river basin, discharger specific variances, and temporary modifications	Point source dischargers, municipalities, environmental organizations, wastewater treatment operators, U.S. Environmental Protection Agency
June 12, 2023	5 CCR 1002-36, Classifications and Numeric Standards for Rio Grande Basin	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202(1)(a), (b), and (2); 25-8-203; 25-8-204; and 25-8-402, C.R.S.	X	To consider updates to the classifications and standards for this river basin, discharger specific variances, and temporary modifications	Point source dischargers, municipalities, environmental organizations, wastewater treatment operators, U.S. Environmental Protection Agency
June 12, 2023	5 CCR 1002-31, The Basic Standards and Methodologies for Surface Water, and 5 CCR 1002-33, Classifications and Numeric Standards for Upper Colorado River Basin and North Platte River (Planning Region 12)	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202(1)(a), (b), and (2); 25-8-203; 25-8-204; and 25-8-402, C.R.S.		To consider revision of molybdenum water quality standards and temporary modifications	Point source dischargers, municipalities, environmental organizations, wastewater treatment operator, U.S. Environmental Protection Agency

Schedule *Anticipated hearing date*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders**
June 21, 2023	5 CCR 1005-4 Newborn Screening and Second Newborn Screening	Division of Disease Control and Public Health Response/ Board of Health	Revision	§ 25-4-1004(1)(c)(I-IV) and 25-4-1004.5(3)(b)(V), C.R.S with consideration of §25-4-1003(2)(a), C.R.S		Align testing panel with federal recommendations.	Families of newborns, Birthing Facilities, Physicians, Midwives, Pediatricians, Advocacy Groups, Adult Patients with Rare Diseases, Clinical Specialists, Labs, Colorado Department of Health Care Policy and Financing
June 21, 2023	6 CCR 1011-1 Chapter 5 Nursing Care Facilities	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	§ 25-3-103(1)(c) and 25-3-105(1)(a)(I)(B), C.R.S.		Implement Senate Bill 22-079	Current and future licensees; families, clients and consumers; providers; organizations that represent licensed facilities, practitioners and consumers

Schedule *Anticipated hearing date*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders**
June 21, 2023	6 CCR 1011-1 Chapter 7 Assisted Living Residences	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	§ 25-3-103(1)(c) and 25-3-105(1)(a)(I)(B), C.R.S.		Implement Senate Bill 22-079	Current and future licensees; families, clients and consumers; providers; organizations that represent licensed facilities, practitioners and consumers
July 20, 2023	5 CCR 1001-9: Regulation Number 7 - Control of Ozone via Ozone Precursors and Control of Hydrocarbons via Oil and Gas Emissions	Air Pollution Control Division/Air Quality Control Commission	Revision	§§ 25-7-101 to 25-7-110; 24-4-103 C.R.S., as applicable and amended.		Consider revisions to revisions to Regulation Number 7 to address greenhouse gas intensity verification in the oil and gas sector	CEO, E3, disproportionately impacted communities, local govt, Industry, trade & environmental groups
August 14, 2023	5 CCR 1002-86, Graywater Control Regulation	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202(1)(m) and (2), and 25-10-101 through 113, C.R.S.	X	To consider graywater uses, clarify graywater control program, and other revisions	Point source dischargers, municipalities, environmental organizations, wastewater treatment operators
August 14, 2023	5 CCR 1002-11, Colorado Primary Drinking Water Regulations	Water Quality Control Division/Water Quality Control Commission	Revision	§24-4-104, 24-4-105, 25-1.5-101, 25-1.5 Part 2, 25-1-109, 25-1-114, 25-1-114.1, and 25-8-202, C.R.S.		To consider revisions to Colorado Primary Drinking Water Regulations and lead and copper rule revisions	Public water systems, advocacy groups, Environmental organizations, U.S. Environmental Protection Agency, municipalities

Schedule *Anticipated hearing date*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders**
August 16, 2023	6 CCR 1014-9 Minimum Quality Standards for Public Health Services	Office of Public Health Practice, Planning & Local Partnerships/Board of Health	Revisions	§ 25-1-503(1)(b), C.R.S.	X	Implement EO2 rule review and stakeholder feedback	Local Public Health Agencies, and the communities they serve
August 16, 2023	6 CCR 1009-11 Hepatitis C Education and Screening	Division of Disease Control and Public Health Response/ Board of Health	Revision	§ 25-1.5-105, 25-1.5-102, 25-1-122, 25-1.5-101(1)(k) and (l), C.R.S.	X	Implement EO2 rule review	Primary health care providers, local public /private health agencies, citizen groups, and individual citizens
August 16, 2023	6 CCR 1015-6 State-Designated Health Professional Shortage Area Designation	Prevention Services Division/Board of Health	Revision	§25-1.5-404 and §25-1.5-501 et seq, C.R.S.		Add methodologies for oral health, mental health, and Medicaid eligible populations.	Center for Improving Value in Health Care, Colorado Association of Local Public Health Officials, Colorado Behavioral Health Care Council Colorado Community Health Network, Colorado Medical Society, Colorado Rural Health Center, federally qualified health centers, Mental Health Colorado

Schedule *Anticipated hearing date*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders**
September 20, 2023	5 CCR 1005-5, Hemp Lab Certification	Division of Disease Control and Public Health Response/ Board of Health	Revision	§35-61-105.5(2)(d) and §25-1.5-101(1)(f), C.R.S.		Incorporate stakeholder feedback and other regulatory changes	Cannabis testing laboratories, industrial hemp cultivators, hemp-derived product manufacturers, Colorado Department of Agriculture, CDPHE-Division of Environmental Health and Sustainability, Colorado Hemp Advancement and Management Plan (CHAMP) participants
September 20, 2023	6 CCR 1007-1 Part 04 RADIATION CONTROL: STANDARDS FOR PROTECTION AGAINST RADIATION	Hazardous Materials and Waste Management Division/Board of Health	Revisions	§25-1.5-101(1)(k) & (l), §25-11-103 & 104, §25-1-108, C.R.S.	X	Technical corrections required for compatibility with federal rule	Radioactive Material Licensees

Schedule *Anticipated hearing date*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders**
September 21 & 22, 2023	5 CCR 1001-31: Regulation Number 27 - <NEW REG - TITLE TBD>	Air Pollution Control Division/Air Quality Control Commission	Revision	§§ 25-7-101 to 25-7-110; 24-4-103 C.R.S., as applicable and amended.		Consider revisions to Regulation Number 27 adding new revisions to reduce greenhouse gas emissions for the industrial and manufacturing sector, and make any necessary revisions to reduction strategies for Energy Intensive, Trade-Exposed Manufacturing Source Audit Program, in response to HB19-1261 and HB21-1266	Disproportionately impacted communities, local govt, environmental groups and industry & trade groups
October 18, 2023	6 CCR 1011-1 Chapter 7 Assisted Living Residences	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	§ 25-3-103(1)(c) and 25-3-105(1)(a)(I)(B), C.R.S.		Implement Senate Bill 22-154	Current and future licensees; families, clients and consumers; providers; organizations that represent licensed facilities, practitioners and consumers

Schedule *Anticipated hearing date*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders**
October 19 & 20, 2023	5 CCR 1001-2: Common Provisions Regulation	Air Pollution Control Division/Air Quality Control Commission	Revision	§§ 25-7-101 to 25-7-110; 24-4-103 C.R.S., as applicable and amended.		Consider revisions to the Common Provisions regulation to address HB20-1143 with respect to inflation adjustments for maximum fines and penalties for air quality control violations	Local govt, Industry, trade & environmental groups, concerned public members
November 15, 2023	6 CCR 1010-21, Wholesale Food, Industrial Hemp, and Shellfish Regulations	Division of Environmental Health and Sustainability/ Board of Health	Revisions	§25-5-418 and §25-5-426, C.R.S.		Update depends on SB 22-203 task force outcomes	Industrial hemp operators that need to register as a Wholesale Food operator, Department of Agriculture, Department of Revenue
November 15, 2023	6 CCR 1009-5 Preparations for Bioterrorist Event, Pandemic Flu, or an Outbreak by a Novel and Highly Fatal Infectious Agent of Biological Toxin	Division of Disease Control and Public Health Response/ Board of Health	Revision	§§24-33.5-703, §24-33.5-711.5, §25-1-502 and §25.1-108(c)(VI), C.R.S., House Bill 22-1325		Implement House Bill 22-1352 and undertake technical updates to rule text	Health care facilities, Local Public Health agencies, health care professionals
November 21, 2023	6 CCR 1007-2, Part 1, Section 10 - Waste Tires	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§§30-20-1403 and 30-20-1405, C.R.S.		To set the annual waste tire end user rebate amounts, and set the waste tire fee	Tire retailers, waste tire processors, waste tire monofills, and waste tire end users

Schedule *Anticipated hearing date*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders**
November 21, 2023	6 CCR 1007-3, Part 7 - Procedural Rules for the Solid and Hazardous Waste Commission	Solid and Hazardous Waste Commission	Revision	§25-15-302(7)(b), C.R.S.	X	To update the commission's procedural rules to conform with updated processes	Interested parties to commission hearings/meetings
November 28, 2023	5 CCR 1003-2 - Regulation 100 - Water and Wastewater Facility Operators Certification Requirements	Water Quality Control Division/Water and Wastewater Facility Operators Certification Board	Revision	§25-9-104, C.R.S.		To update operator exam fees based on contractor increases for exam services	Certified operator exam candidates, facilities who pay for operator exams
December 11, 2023	5 CCR 1002-21, Procedural Rules	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202(1)(b); 25-8-204; and 25-8-402, C.R.S.		To consider revisions for the administrative appeal scope and procedures; permitting-specific administrative appeal availability and procedures; clarify assignment of administrative appeal authority; stakeholder-proposed revisions; procedures for petitions; and organizational and housekeeping revisions	Interested parties to commission hearings/meetings

Schedule *Anticipated hearing date*	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** *(X if yes)*	**Purpose**	**Stakeholders**
December 20, 2023	6 CCR 1015-3 Chapter 4 Rules Pertaining to Licensure of Ground Ambulance Services	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	§25-3.5-308, C.R.S.		Implement SB 22-225	Regional Emergency Medical and Trauma Services Advisory Councils and ambulance agencies
December 20, 2023	6 CCR 1010-4, Milk and Dairy Products Regulations	Division of Environmental Health and Sustainability/Board of Health	Revision	§25-1.5-104, 25-5.5-103, §25-5.5-109(2)(5)(6), §25-5.5-205, §25-5.5-309, §25-5.5-310 C.R.S.		Updates to align with current federal practice	Dairy farmers, dairy plants and consumers

2022

Regulatory Agenda Summary

January 1, 2022 – December 31, 2022

COLORADO
Department of Public Health & Environment

2022 Regulatory Agenda Summary

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
6 CCR 1007-2, Part 1, Section 4 - Financial Assurance Requirements	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§30-20-109, C.R.S.	To include a provision requiring bond holders to notify the Department prior to releasing a bond that is held for financial assurance	February 15, 2022	All solid waste facilities, financial institutions	Adopted August 16, 2022
5 CCR 1006-2 Medical Use of Marijuana	Center for Health and Environmental Data/Board of Health	Revision	Colorado Constitution, Article XVIII, Section 14 and §25-1.5-106, C.R.S.	Adopt permanent changes to align 5 CCR 1006-2 with the changes in HB 21-1317	February 16, 2022	Medical marijuana registry customers which includes patients, prospective patients, parents, guardians, and legal representatives of patients, caregivers, and health care providers	Adopted February 16, 2022
5 CCR 1002-72, Cherry Creek Reservoir Control Regulation	Water Quality Control Division/Water Quality Control Commission	Revision	§§25-8-202(1)(c) and 25-8-205, C.R.S.	Revise Section 72.7 (MS4s) and related definitions to update, clarify and prevent conflicts with other regulations	April 11, 2022	Cherry Creek Basin Water Quality Authority (CCBWQA),CCBWQA members, CCBWQA MS4 entities	Adopted May 9, 2022

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
6 CCR 1015-3 Chapter 3 Emergency Medical Services	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	§§25-3.5-203, 25-3.5-203.5, 25-3.5-205, 25-3.5-206, 25-3.5-207, 25-3.5-208, 25-3.5-1103, and 25-3.5-1104, C.R.S.	Update current data reporting standards and timelines	April 20, 2022	Emergency Medical Services agencies and personnel, patients and their families, Department of Regulatory Agencies	Adopted April 20, 2022
5 CCR 1002-84, Reclaimed Water Control Regulation	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202 and §25-8-205, C.R.S.	To improve the regulation, make general clarifications and corrections, improve efficiency in the reclaimed water program and reduce repetitiveness in the regulation	May 9, 2022	Reclaimed water treaters and users and the general public	Adopted June 13, 2022
6 CCR 1007-2, Part 1, Section 12 - Water Treatment Plant Sludge	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Repeal	§30-20-109, C.R.S.	Repeal section due to overlapping solid waste regulations	May 17, 2022	Drinking water treatment facilities, water utilities, municipalities	Pending for November 15, 2022
6 CCR 1007-2, Part 1, Section 16 - Materials Prohibited From Disposal	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§30-20-109, C.R.S.	To include a prohibition on the disposal of radioactive licensed material in solid waste landfills	May 17, 2022	Solid waste landfill operators, exploration and production companies, E&P waste haulers, environmental, consulting firms, COGCC	Pending for November 15, 2022

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
6 CCR 1007-2, Part 1, Section 2 - Minimum Standards	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§30-20-109, C.R.S.	To include a TENORM waste characterization requirement for solid waste disposal sites that complies with 6 CCR 1007-1 Part 20	May 17, 2022	Solid waste landfill operators, exploration and production companies, E&P waste haulers, environmental, consulting firms, COGCC	Pending for November 15, 2022
6 CCR 1007-3, Part 6 - Solid and Hazardous Waste Commission Fee	Solid and Hazardous Waste Commission	Revision	§25-15-314, C.R.S.	To amend the SHWC fee to fund the operation of the commission to fiscal year 2022-2023	May 17, 2022	Treatment, storage and disposal facilities, generators and transporters of hazardous waste	Adopted May 17, 2022
5 CCR 1001-8, Regulation Number 6: Standards of Performance for New Stationary Sources	Air Pollution Control Division/Air Quality Control Commission	Revision	§§24-4-103 and 25-7-110, 25-7-110.5 and 25-7-110.8, C.R.S.	To consider a proposal to revise Regulation Number 6, Part A (NSPS) to incorporate by reference changes the EPA made to its New Source Performance Standards and/or Emission Guidelines	May 19 & 20, 2022	Industry & trade groups, local governments, environmental & citizen groups, concerned public members	Adopted May 19, 2022
5 CCR 1001-10 - Regulation Number 8: Control of Hazardous Air Pollutants	Air Pollution Control Division/Air Quality Control Commission	Revision	§§24-4-103 and 25-7-110, 25-7-110.5 and 25-7-110.8, C.R.S	To consider revisions Regulation Number 8, Parts A and E (MACT Standards) to incorporate by reference changes the EPA made to its National Emission Standards for Hazardous Air Pollutants rules	May 19 & 20, 2022	Industry & trade groups, local governments, environmental & citizen groups, concerned public members	Adopted May 19, 2022

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
5 CCR 1002-34 and 5 CCR 1002-35 Classifications and Numeric Standards for San Juan River and Dolores River Basins and Gunnison and Lower Dolores River Basins 5 CCR 1002-31 through 5 CCR 1002-38, Discharger Specific Variances and Temporary Modifications	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-101 et seq., 25-8-203 and 25-8-204, C.R.S.	Update classifications and standards for this river basin , update discharger specific variances for lagoons, and revise temporary modifications expiring in the next two years, and consider proposals for new temporary modifications	June 13 & 14, 2022	Entities with a Temporary modification expiring in the next two years, point source dischargers, municipalities, environmental organizations, wastewater treatment operators	Adopted August 8, 2022
6 CCR 1011-4 Behavioral Crisis Secure Transport	Health Facilities and Emergency Medical Services Division/Board of Health	New Rule	§§25-3.5-103, 25-3.5-309, 25-3.5-310 - 313, C.R.S.	Establish minimum requirements for secure transportation services licensing, pursuant to HB21-1085	June 15, 2022	Counties, Ambulance Agencies, Behavioral Health Entities, Community Organizations, Patients, Families and consumers	Adopted June 15, 2022
6 CCR 1009-13 Community Behavioral Health Disaster Program	Division of Disease Control and Public Health Response/Boar d of Health	New Rule	HB21-1281	To create the criteria in rule for the community behavioral health disaster preparedness and response program	June 15, 2022	Community behavioral health agencies and the communities they serve	Adopted June 15, 2022
6 CCR 1014-5 Office of Health Equity Rules for the Health Disparities Grant Program	Colorado State Board of Health	Revision	§25-4-2203, C.R.S.	Incorporate stakeholder feedback following issuance of new grant funds	June 15, 2022	Community organizations working with vulnerable populations	Rescheduled for 2023

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
6 CCR 1007-2, Part 1, Section 10 - Waste Tires	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§§30-20-1403 and 30-20-1405, C.R.S.	To set the annual waste tire end user rebate amounts, and set the waste tire fee (if needed)	August 16, 2022	Tire retailers, waste tire processors, waste tire monofills, and waste tire end users	Pending for November 15, 2022
6 CCR 1009-1 Epidemic and Communicable Disease Control	Division of Disease Control and Public Health Response/ Board of Health	Revision	§§25-1-108(1)(c), 25-1.5-102, 25-1-122, and 25-4-511(1), C.R.S.	To update this rule so that the Department can better respond to emerging issues, and to align this rule with current practice, including advances in prevention, diagnosis, and treatment of communicable diseases	August 17, 2022	CO healthcare providers, CO hospital infection preventionists & lab directors, LPHAs, CO Regional Epidemiologists, Association for Professionals in Infection Control, CO reference lab contacts, CO Chapter of the American Society for Clinical Laboratory Science, CO Hospital Association, CO Medical Society	Rescheduled for 2023
5 CCR 1001-24 – Regulation Number 20: Colorado Low Emission Automobile Regulation	Air Pollution Control Division/Air Quality Control Commission	Revision	§§25-7-102, 25-7-101 et seq., C.R.S.	To consider the adoption of the Advanced Clean Trucks Rule	August 18 & 19, 2022	Disproportionately Impacted Communities, local governments, environmental groups, automobile dealers and manufacturers, and trade groups	Rescheduled for 2023

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
5 CCR 1001-5 - Regulation Number 3: Stationary Source Permitting and Air Pollutant Emission Notice Requirements	Air Pollution Control Division/Air Quality Control Commission	Revision	§§24-4-103 and 25-7-110, 25-7-110.5 and 25-7-110.8, C.R.S.	To establish greenhouse gas emissions reporting and implement HB21-1266	September 15 & 16, 2022	CEO, local governments, environmental groups, disproportionately impacted communities, industry & trade groups	Pending for December 13-16, 2022
5 CCR 1002-101, Water Quality Civil Penalty Inflation Adjustment Regulation	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202, §25-8-203, §25-7-608, §25-7-609, and §25-8-610, C.R.S.	Incorporate civil penalty requirements per HB20-1143	October 11, 2022	Point source dischargers, municipalities, environmental organizations, wastewater treatment operators	Adopted October 11, 2022
5 CCR 1002-11, Colorado Primary Drinking Water Regulations	Water Quality Control Division/Water Quality Control Commission	Revision	§24-4-104, §24-4-105, §25-1.5-101, §25-1.5 Part 2, §25-1-109, §25-1-114, §25-1-114.1, §25-8-202, §24-4-103(4), C.R.S.	Establish a direct potable reuse rule	October 11, 2022	Public water systems, advocacy groups, environmental organizations, the U.S. Environmental Protection Agency	Pending for November 14, 2022

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
5 CCR 1002-73 Chatfield Reservoir Control Regulation	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202(1)(a), (b), and (2); §25-8-203; §25-8-204; and §25-8-402, §24-4-103(4), C.R.S.	To consider updates to the Chatfield Reservoir Control Regulation to reflect updates to wasteload allocation for trades, provide additional clarity regarding trading process; refinement of phosphorus trade review and approval process and timeframes; revise nonpoint to point source trade ratios and to provide better understanding of nonpoint sources and regulatory sources in trading; clarify definitions; and general housekeeping	October 11, 2022	Chatfield Watershed Authority and members, JRW Family Limited Partnership, LLP, Dominion Water and Sanitation District, Town of Castle Rock, Water Quality Control Division	Rescheduled for March 13, 2023
6 CCR 1011-1 Chapter 6 Acute Treatment Units	Health Facilities and Emergency Medical Services Division/Board of Health	Repeal	§25-1.5-103, C.R.S.	Repeal of Chapter 6 - Acute Treatment Units occasioned by the development of Behavioral Health Entities as a licensure category	October 19, 2022	Licensees; families, patients and consumers; professional associations that represent licensed health care facilities	Adopted October 19, 2022

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
6 CCR 1007-1 Part 7 Radiation Control - Use of Radionuclides in the Healing Arts	Hazardous Materials and Waste Management Division/Board of Health	Revision	§§25-1-108, 25-1.5-101(1)(l), and 25-11-104, C.R.S.	Minor editorial corrections; Minor technical updates for conformance to 2021 federal rule changes of the Nuclear Regulatory Commission (NRC). See NRC Regulatory Action Tracking System (RATS) 2021-1	October 19, 2022	All facilities using radioactive materials for healing arts (medical) purposes, including private clinics and hospitals	Adopted October 19, 2022
6 CCR 1007-1 Part 17 Radiation Control - Transportation of Radioactive Materials	Hazardous Materials and Waste Management Division/Board of Health	Revision	§§25-1-108, 25-1.5-101(1)(l), and 25-11-104, C.R.S.	Minor editorial corrections; Minor technical updates for conformance to 2020 federal rule changes of the Nuclear Regulatory Commission (NRC). See NRC Regulatory Action Tracking System (RATS) 2020-3	October 19, 2022	All facilities that transport or ship radioactive materials	Adopted October 19, 2022
5 CCR 1002-85, Nutrients Management Control Regulation	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-205 C.R.S.	To control nutrients (phosphorus and nitrogen) statewide through permits and voluntary nonpoint source controls, outreach and education	November 14, 2022	Point source dischargers, municipalities, environmental organizations, wastewater treatment operators	Rescheduled for April 2023

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
5 CCR 1002-31, The Basic Standards and Methodologies for Surface Water, 5 CCR 1002-32, 5 CCR 1002-33, 5 CCR 1002-34, 5 CCR 1002-35, 5 CCR 1002-36, 5 CCR 1002-37, 5 CCR 1002-38, Classifications and Numeric Standards for the Arkansas, Upper Colorado, North Platte, San Juan, Dolores, Gunnison, Lower Dolores, Rio Grande, Lower Colorado, South Platte, Laramie, Republican, and Smoky Hill River Basins (Lakes Nutrients Criteria)	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-101 et seq., 25-8-203 and 25-8-204, C.R.S.	To consider revised lakes nutrients criteria to ensure that water quality standards protective of classified uses are appropriately applied based on available data and other supporting information	November 14, 2022	Point source dischargers, municipalities, environmental organizations, wastewater treatment operators	Rescheduled for April 2023
6 CCR 1010-4 Colorado Milk and Dairy Products Regulation	Division of Environmental Health and Sustainability/ Board of Health	Revision	§§25-1.5-104(1)(b)(I), 25-5.5-103, 25-5.5-107(5) and (6), 25-5.5-205, 25-5.5-309, and 25-5.5-310, C.R.S.	Incorporation by reference of the requirements and provisions of FDA's current Grade "A" Pasteurized Milk Ordinance	November 16, 2022	Grade 'A' milk processors, licensed mile and dairy plant samplers, manufacturers, farms, transport firms, licensed haulers, consulting and engineering firms, CDA, retail food establishments, consumers	Rescheduled for 2023

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
5 CCR 1005-5 Hemp Testing Laboratory Certification	Laboratory Services Division/Board of Health	Revision	§35-61-105.5(2)(d) and §25-1.5-101(1)(f), C.R.S.	To update the criteria in the rule for the certification of laboratories to test industrial hemp and hemp-derived products	November 16, 2022	Cannabis testing laboratories, industrial hemp cultivators, hemp-derived product manufacturers, Colorado Department of Agriculture, CDPHE-Division of Environmental Health and Sustainability, Colorado Hemp Advancement and Management Plan (CHAMP) participants	Rescheduled for 2023
5 CCR 1006-2 Medical Use of Marijuana	Center for Health and Environmental Data/Board of Health	Revision	Colorado Constitution, Article XVIII, Section 14 and §25-1.5-106, C.R.S.	Review rule to ensure that it is in alignment with all statutes and does not need to be updated to align with any new legislative changes	November 16, 2022	Medical marijuana registry customers which includes patients, prospective patients, parents, guardians, and legal representatives of patients, caregivers, and health care providers	Withdrawn
5 CCR 1001-26 - Regulation Number 22: Colorado Greenhouse Gas Reporting and Monitoring	Air Pollution Control Division/Air Quality Control Commission	Revision	§§25-7-102, 25-7-103, 25-7-105, 25-7-106, 25-7-109, and 25-7-110, C.R.S.	To consider revisions to Regulation Number 22 establishing a recovered methane protocol and establishing a greenhouse gas crediting and tracking system in response to SB21-264	November 17 & 18, 2022	CEO, PUC, gas distribution utilities, disproportionately impacted communities, local governments, environmental groups and industry & trade groups	Pending for November 18, 2022

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
5 CCR 1001-5 - Regulation Number 3 - Stationary Source Permitting and Air Pollutant Emission Notice Requirements	Air Pollution Control Division/Air Quality Control Commission	Revision	§§25-7-102, 25-7-105, 25-7-106, 25-7-109, 25-7-110, and 25-7-114, C.R.S.	To consider revisions addressing the Clean Air Act (CAA) Ozone Nonattainment requirements for the 2008 and/or 2015 Ozone National Ambient Air Quality Standards (NAAQS). This would include proposed elements to Colorado's State Implementation Plan (SIP) and revisions to associated regulations	December 15 & 16, 2022	EPA, RAQC, Industry & trade groups, local governments, environmental & citizen groups, concerned public members	Pending for December 16, 2022
5 CCR 1001-9 - Regulation Number 7 - Control of Ozone Precursors and Control of Hydrocarbons via Oil and Gas Emissions (Emissions of Volatile Organic Compounds and Nitrogen Oxides)	Air Pollution Control Division/Air Quality Control Commission	Revision	§§25-7-102, 25-7-105, 25-7-106, 25-7-109, 25-7-110, and 25-7-114, C.R.S.	To consider revisions addressing the Clean Air Act (CAA) Ozone Nonattainment requirements for the 2008 and/or 2015 Ozone National Ambient Air Quality Standards (NAAQS). This would include proposed elements to Colorado's State Implementation Plan (SIP) and revisions to associated regulations	December 15 & 16, 2022	EPA, RAQC, Industry & trade groups, local governments, environmental & citizen groups, concerned public members	Pending for December 16, 2022

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
5 CCR 1001-13 - Regulation Number 11 - Motor Vehicle Emissions Inspection Program	Air Pollution Control Division/Air Quality Control Commission	Revision	§§25-7-102, 25-7-105, 25-7-106, 25-7-109, 25-7-110, and 25-7-114, C.R.S.	To consider revisions addressing the Clean Air Act (CAA) Ozone Nonattainment requirements for the 2008 and/or 2015 Ozone National Ambient Air Quality Standards (NAAQS). This would include proposed elements to Colorado's State Implementation Plan (SIP) and revisions to associated regulations	December 15 & 16, 2022	EPA, RAQC, Industry & trade groups, local governments, environmental & citizen groups, concerned public members	Removed; no longer part of this hearing
5 CCR 1001-14 - Air Quality Standards - Air Quality Standards, Designations and Emission Budgets	Air Pollution Control Division/Air Quality Control Commission	Revision	§§25-7-102, 25-7-105, 25-7-106, 25-7-109, 25-7-110, and 25-7-114, C.R.S.	To consider revisions addressing the Clean Air Act (CAA) Ozone Nonattainment requirements for the 2008 and/or 2015 Ozone National Ambient Air Quality Standards (NAAQS). This would include proposed elements to Colorado's State Implementation Plan (SIP) and revisions to associated regulations	December 15 & 16, 2022	EPA, RAQC, Industry & trade groups, local governments, environmental & citizen groups, concerned public members	Pending for December 16, 2022

Rulemakings that did not appear on the original 2022 Regulatory Agenda

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for Adoption	Stakeholders	Status
6 CCR 1018-1, Regulation 1 - Clean Fleet Enterprise Fees	Clean Fleet Enterprise	New rule	§25-7.5-103(6)(h), (7) and (8), C.R.S.	Adopting a retail delivery fee and prearranged ride fee and setting the amounts of fees called for in Senate Bill 21-260	February 24, 2022	General public/community members, disproportionately impacted communities, transportation network companies, retail delivery companies	Adopted February 24, 2022
Emergency Rulemaking 6 CCR 1011-1 Chapter 2 General Licensure Standards	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	§§24-4-103(6), 25-1.5-102, 25-1.5-103, and 25-3-103, C.R.S.	The changes are to implement the COVID- 19 vaccination requirement in licensed healthcare facilities	March 16, 2022	Licensees; families, clients and consumers; professional associations that represent licensed facilities	Adopted March 16, 2022
5 CCR 1001-26 - Regulation Number 22: Colorado Greenhouse Gas Reporting and Monitoring	Air Pollution Control Division/Air Quality Control Commission	Revision	§§ 25-7-105(1)(b), 25-7-109, 24-4-103 and 25-7-110, 110.5 and 110.8 C.R.S., as applicable and amended.	To consider revisions to Regulation Number 22 for the limited purpose of removing the incorporated by reference date in Part B, Section II.B.25.	July 21, 2022	CEO, PUC, gas distribution utilities, disproportionately impacted communities, local governments, environmental groups and industry & trade groups	Adopted July 21, 2022

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for Adoption	Stakeholders	Status
6 CCR 1007-3, Part 261, Appendix IX - Revocation of Delisting #003	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§25-15-302(2), C.R.S.	To remove Delisting #003 the conditional delisting granted to the Denver Arapahoe Chemical Waste Processing Facility, operated by Waste Management of Colorado, Inc.	August 16, 2022	Waste Management of Colorado, Inc.	Adopted August 16, 2022
Emergency Rulemaking 6 CCR 1011-1, Chapter 4 General Hospitals	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	§§24-4-103(6), 25-1.5-102, 25-1.5-103, and 25-3-103, C.R.S	To implement portions of House Bill 22-1401 by the September 1, 2022 statutory deadline	August 17, 2022	Licensees; families, clients and consumers; professional associations that represent licensed facilities	Adopted August 17, 2022
5 CCR 1002-38, Classifications and Numeric Standards for the South Platte River Basin, Laramie River Basin, Republican River Basin, Smoky Hill River Basin	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202(1)(a) and (b); §25-8-203; §25-8-204; §25-8-209; and §25-8-402; §24-4-103(4), C.R.S.	To amend the antidegradation designations for Upper South Platte Segment 15, Middle South Platte Segment 1a, and Clear Creek Segment 15	September 13, 2022	Point source dischargers, municipalities, watershed authorities and associations, water districts, environmental organizations, Disproportionately Impacted Communities, wastewater treatment operators	Adopted October 11, 2022

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for Adoption	Stakeholders	Status
6 CCR 1007-1 Part 22: Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material	Hazardous Materials and Waste Management Division/Board of Health	Revision	§§25-1-108, 25-1.5-101(1)(l), and 25-11-104, C.R.S.	Minor editorial corrections; Minor technical updates for conformance to 2021 federal rule changes of the Nuclear Regulatory Commission (NRC). See NRC Regulatory Action Tracking System (RATS) 2021-2.	October 19, 2022	Radioactive materials licensees required to implement increase security controls (about 25 of 320 licensees)	October 19, 2022
Emergency Rulemaking 6 CCR 1011-1, Chapter 4 General Hospitals	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	§§24-4-103(6), 25-1.5-102, 25-1.5-103, and 25-3-103, C.R.S	To ensure that rules adopted to implement portions of House Bill 22-1401 by the September 1, 2022 statutory deadline remain in place while more stakeholder engagement takes place.	November 16, 2022	Licensees; families, clients and consumers; professional associations that represent licensed facilities	Anticipated November 16, 2022

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for Adoption	Stakeholders	Status
5 CCR 1002-55, State Funded Water and Wastewater Infrastructure Programs	Water Quality Control Division/Water Quality Control Commission	Revision	§25-1.5-202; §25-8-202(1)(n); and §25-8-401; §24-4-103(4) C.R.S.	To consider updates to the regulation pursuant to Colorado General Assembly requirements and sunsetting of other programs	December 12, 2022	Point source dischargers, municipalities, watershed authorities and associations, water and wastewater districts, environmental organizations, Disproportionately Impacted Communities, wastewater treatment operators	Anticipated December 12, 2022
5 CCR 1001-2 - Common Provisions	Air Pollution Control Division/Air Quality Control Commission	Revision	§§25-7-102, 25-7-105, 25-7-106, 25-7-109, 25-7-110, and 25-7-114, C.R.S.	To consider revisions addressing the Clean Air Act (CAA) Ozone Nonattainment requirements for the 2008 and/or 2015 Ozone National Ambient Air Quality Standards (NAAQS). This would include proposed elements to Colorado's State Implementation Plan (SIP) and revisions to associated regulations	December 15 & 16, 2022	EPA, RAQC, Industry & trade groups, local governments, environmental & citizen groups, concerned public members	Anticipated for December 16, 2022

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for Adoption	Stakeholders	Status
5 CCR 1001-25: Regulation Number 21 - Control of Volatile Organic Compounds from Consumer Products and Architectural and Industrial Maintenance Coatings	Air Pollution Control Division/Air Quality Control Commission	Revision	§§25-7-102, 25-7-105, 25-7-106, 25-7-109, 25-7-110, and 25-7-114, C.R.S.	To consider revisions addressing the Clean Air Act (CAA) Ozone Nonattainment requirements for the 2008 and/or 2015 Ozone National Ambient Air Quality Standards (NAAQS). This would include proposed elements to Colorado's State Implementation Plan (SIP) and revisions to associated regulations	December 15 & 16, 2022	EPA, RAQC, Industry & trade groups, local governments, environmental & citizen groups, concerned public members	Anticipated for December 16, 2022

2022

Results of Mandatory Review of Rules

COLORADO
Department of Public Health & Environment

2022 Results of Mandatory Review of Rules

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
6 CCR 1007-1 Part 17 - Radiation Control - Transportation of Radioactive Materials	Board of Health	§§25-1-108, 25-1.5-101(1)(l), and 25-11-104, C.R.S.	February 2022	Y	N	N	October 19, 2022
5 CCR 1002-21 - Procedural Rules	Water Quality Control Division/Water Quality Control Commission	§25-8-202(1)(b); 25-8-204; and 25-8-402, C.R.S.	March 2022	Pending	Pending	Pending	Pending for 2023
6 CCR 1009-10 - Colorado HIV and AIDS Prevention Grant Program	Board of Health	§25--4--1401 et seq, C.R.S.	April 2022	Y	N	N	Pending for 2023
5 CCR 1002-72 - Cherry Creek Reservoir Control Regulation	Water Quality Control Division/Water Quality Control Commission	§§25-8-202(1)(c) and 25-8-205, C.R.S.	April 2022	Y	N	N	May 2022
6 CCR 1007-1 Part 09 - Radiation Control - Radiation Safety Requirements for Particle Accelerators Not Used in the Healing Arts	Board of Health	§§25-1-108, 25-1.5-101(1)(l), and 25-11-104, C.R.S.	April 2022	Y	N	N	Pending

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
5 CCR 1001-8 - Regulation Number 6 - Standards of Performance for Stationary Sources	Air Pollution Control Division/Air Quality Control Commission	§§24-4-103 and 25-7-110, 25-7-110.5 and 25-7-110.8, C.R.S.	May 2022	Y	N	N	May 19, 2022
5 CCR 1001-10 - Regulation Number 8 - Control of Hazardous Air Pollutants	Air Pollution Control Division/Air Quality Control Commission	§§24-4-103 and 25-7-110, 25-7-110.5 and 25-7-110.8, C.R.S.	May 2022	Y	N	N	May 19, 2022
5 CCR 1002-71 - Dillon Reservoir Control Regulation	Water Quality Control Division/Water Quality Control Commission	§25-8-205, C.R.S.	May 2022	N	N	N	N/A
5 CCR 1002-84 - Reclaimed Water Control Regulation	Water Quality Control Division/Water Quality Control Commission	§25-8-202 and §25-8-205, C.R.S.	May 9, 2022	Y	N	N	June 13, 2022

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
5 CCR 1002-34 and 5 CCR 1002-35 - Classifications and Numeric Standards for San Juan River and Dolores River Basins and Gunnison and Lower Dolores River Basins 5 CCR 1002-31 through 5 CCR 1002-38 - Discharger Specific Variances and Temporary Modifications	Water Quality Control Division/Water Quality Control Commission	§25-8-101 et seq., 25-8-203 and 25-8-204, C.R.S.	June 2022	Y	N	N	August 8, 2022
6 CCR 1014-9 - Colorado Minimum Quality Standards for Public Health Services	Board of Health	§25-1-503 et seq., C.R.S.	June 2022	Y	N	N	Pending for 2023
6 CCR 1007-3, Part 7 - Procedural Rules for the Solid and Hazardous Waste Commission	Solid and Hazardous Waste Commission	§25-15-302(7)(b), C.R.S.	June 2022	Y	N	N	Pending for 2023

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
6 CCR 1007-1 Part 03 - Radiation Control - Licensing of Radioactive Material	Board of Health	§§25-1-108, 25-1.5-101(1)(k), 25-1.5-101(1)(l), and 25-11-104, C.R.S.	July 2022	Y	N	N	Pending for 2023
5 CCR 1001-24 - Regulation Number 20 - Colorado Low Emission Automobile Regulation	Air Pollution Control Division/Air Quality Control Commission	§§25-7-101, 25-7-102, 25-7-103, 25-7-106, 25-7-109, and 25-7-110, C.R.S.	August 2022	NA	NA	NA	Rescheduled for 2023
5 CCR 1005-1 - Environmental Laboratory Accreditation	Board of Health	§25-1.5-101(e), C.R.S.	August 2022	N	N	N	N/A
5 CCR 1002-74 - Bear Creek Watershed Control Regulation	Water Quality Control Division/Water Quality Control Commission	§25-8-202(1)(c) and 25-8-205, C.R.S	September 2022	N	N	N	N/A

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
6 CCR 1009-7 - Rules and Regulations Pertaining to the Detection, Monitoring, and Investigation of Environmental and Chronic Diseases	Board of Health	§§25-1.5-105, 25-1.5-102, 25-1-122, 25-1.5-101(1)(k) and (l), C.R.S.	September 2022	Y	Y	N	Pending
6 CCR 1007-1 Part 01 - Radiation Control - General Provisions	Board of Health	§§25-1-108, 25-1.5-101(1)(k), 25-1.5-101(1)(l), and 25-11-104, C.R.S.	September 2022	Y	N	N	Pending
6 CCR 1009-11 - Hepatitis C Education and Screening	Board of Health	§25-4-2005, C.R.S	October 2022	Y	N	N	Pending
6 CCR 1011-1 Chapter 22 - Birth Centers	Board of Health	§§25-1-107.5, 25-1-108, 25-1-120, 25-1-124(3), 25-1.5-101, 25-1.5-103, 25-1.5-108, 25-3-101 et seq., 25-27.5-101 et seq., and 26-20-108 et seq., C.R.S.	October 2022	Y	N	N	Pending
6 CCR 1007-1 Part 22 - Radiation Control - Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material	Board of Health	§§25-1-108, 25-1.5-101(1)(k) and (1)(l), and 25-11-104, C.R.S.	October 2022	N	N	N	October 19, 2022

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
5 CCR 1001-26 - Regulation Number 22 - Colorado Greenhouse Gas Reporting and Monitoring	Air Pollution Control Division/Air Quality Control Commission	§§25-7-102, 25-7-103, 25-7-105, 25-7-106, 25-7-109, and 25-7-110, C.R.S.	November 2022	NA	NA	NA	Pending for November 18, 2022
5 CCR 1002-32 - Classifications and Numeric Standards for Arkansas River Basin	Water Quality Control Division/Water Quality Control Commission	§§25-8-101 et seq., 25-8-203 and 25-8-20, C.R.S.	November 2022	Pending	Pending	Pending	Pending for November 14, 2022
5 CCR 1002-36 - Classifications and Numeric Standards for Rio Grande Basin	Water Quality Control Division/Water Quality Control Commission	§§25-8-101 et seq., 25-8-203 and 25-8-204, C.R.S.	November 2022	Pending	Pending	Pending	Pending for November 14, 2022
5 CCR 1002-33 - Classifications and Numeric Standards for Upper Colorado River Basin and North Platte River	Water Quality Control Division/Water Quality Control Commission	§25-8-202(1)(f) C.R.S.	November 2022	Pending	Pending	Pending	Pending for 2024
5 CCR 1002-37 - Classifications and Numeric Standards for Lower Colorado River Basin	Water Quality Control Division/Water Quality Control Commission	§25-8-202(1)(f) C.R.S.	November 2022	Pending	Pending	Pending	Pending for 2024

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
5 CCR 1001-26 - Regulation Number 22 - Colorado Greenhouse Gas Reporting and Monitoring	Air Pollution Control Division/Air Quality Control Commission	§§25-7-102, 25-7-103, 25-7-105, 25-7-106, 25-7-109, and 25-7-110, C.R.S.	December 2022	NA	NA	NA	Rescheduled for 2023
5 CCR 1001-9 - Regulation Number 7 - Control of Ozone Precursors and Control of Hydrocarbons via Oil and Gas Emissions (Emissions of Volatile Organic Compounds and Nitrogen Oxides)	Air Pollution Control Division/Air Quality Control Commission	§§25-7-102, 25-7-105, 25-7-106, 25-7-109, 25-7-110, and 25-7-114, C.R.S.	December 2022	NA	NA	NA	Pending for December 16, 2022
5 CCR 1001-5 - Regulation Number 3 - Stationary Source Permitting and Air Pollutant Emission Notice Requirements	Air Pollution Control Division/Air Quality Control Commission	§§25-7-102, 25-7-105, 25-7-106, 25-7-109, 25-7-110, and 25-7-114, C.R.S.	December 2022	NA	NA	NA	Pending for December 16, 2022
6 CCR 1007-2, Part 1, Section 1 - Administrative Information	Solid and Hazardous Waste Commission	§30-20-109, et.seq., C.R.S.	December 2022	Pending	Pending	Pending	TBD
6 CCR 1007-2, Part 1, Section 2 - Minimum Standards	Solid and Hazardous Waste Commission	§30-20-109, et.seq., C.R.S.	December 2022	Pending	Pending	Pending	TBD

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
6 CCR 1007-2, Part 3 - Inspection of Offsite Hazardous Waste Disposal Sites	Solid and Hazardous Waste Commission	§25-15-209.5, C.R.S.	December 2022	Pending	Pending	Pending	TBD
6 CCR 1007-3, Part 260 - Hazardous Waste - Hazardous Waste Management System: General	Solid and Hazardous Waste Commission	§25-15-301, et.seq., C.R.S.	December 2022	Pending	Pending	Pending	TBD
6 CCR 1007-3, Part 261 - Hazardous Waste - Identification and Listing of Hazardous Waste	Solid and Hazardous Waste Commission	§25-15-301, et.seq., C.R.S.	December 2022	Pending	Pending	Pending	TBD
6 CCR 1007-3, Part 262 - Hazardous Waste - Standards Applicable to Generators of Hazardous Waste	Solid and Hazardous Waste Commission	§25-15-301, et.seq., C.R.S.	December 2022	Pending	Pending	Pending	TBD
6 CCR 1007-3, Part 263 - Hazardous Waste - Standards Applicable to Transporters of Hazardous Waste	Solid and Hazardous Waste Commission	§25-15-301, et.seq., C.R.S.	December 2022	Pending	Pending	Pending	TBD

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
6 CCR 1007-3, Part 273 - Hazardous Waste - Standards for Universal Waste Management	Solid and Hazardous Waste Commission	§25-15-301, et.seq., C.R.S.	December 2022	Pending	Pending	Pending	TBD
6 CCR 1007-3, Part 279 - Hazardous Waste - Standards for the Management of Used Oil	Solid and Hazardous Waste Commission	§25-15-301, et.seq., C.R.S.	December 2022	Pending	Pending	Pending	TBD
6 CCR 1007-3, Part 2 - Hazardous Waste - Public Information	Solid and Hazardous Waste Commission	§25-15-301, et.seq., C.R.S.	December 2022	Pending	Pending	Pending	TBD

Departmental Regulatory Agendas

Department

Department of Treasury

STATE OF COLORADO
DEPARTMENT OF THE TREASURY

Dave Young
State Treasurer

Eric Rothaus
Deputy Treasurer

2023
Regulatory Agenda

Overview

The Colorado Department of Treasury submits the following 2023 Regulatory Agenda in fulfillment of the statutory requirements set forth in §2-7-203(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to §24-4-103.3, C.R.S., rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2023 (which are denoted as such in the "purpose" column). The DRA is to be filed with the Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to §2-7-203(2)(a)(II), C.R.S.

Ref #	Div	Anticipated Hearing or Adoption Date	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders
1	Admin	July 2023	New	General Administration of Property Tax Deferral Program	New	§39-3.5-103.5(3), CRS	To provide guidance for process and procedures surrounding the Property Tax Deferral Program	Property Owners, County Treasurers, Program Participants
2	Admin	September 2023	8 CCR 1508-2	State Public Finance Policy	Review	§24-36-121, CRS	To provide guidance related to state public financing	State Agencies, Financial Advisors, Financial Community, Underwriters

Departmental Regulatory Agendas

Department

Department of Higher Education

COLORADO
Division of Private Occupational Schools
Department of Higher Education

Jared Polis
Governor

Dr. Angie Paccione
Executive Director

Lorna Candler
Chief Occupational Education Officer/Director

October 31, 2021

Office of the Secretary of State
1700 Broadway, Suite 550
Denver, CO 80290

Pursuant to Colorado Revised Statutes 2-7-203(4), the Colorado Department of Higher Education respectfully submits the following regulatory agenda, which includes items for the Division of Private Occupational Schools, the Colorado Opportunity Scholarship Initiative, and the State Historical Society.

2022 REGULATORY AGENDA of the COLORADO DEPARTMENT OF HIGHER EDUCATION

Title/Description Proposed Rule	Basis and/or Statutory Authority	Purpose of Proposed Rule	Estimated Schedule for Rule-Making	Parties Potentially Affected
State Historical Society				
*No anticipated changes for 2023				

Title/Description Proposed Rule	Basis and/or Statutory Authority	Purpose of Proposed Rule	Estimated Schedule for Rule-Making	Parties Potentially Affected
Division of Private Occupational Schools				

Title/Description Proposed Rule	Basis and/or Statutory Authority	Purpose of Proposed Rule	Estimated Schedule for Rule-Making	Parties Potentially Affected
REVISE: 8CCR 1504-1, sections I.N, CC., and DD., to include definitions for terms that require clarity.	C.R.S. § 23-64-101 et seq.; and specifically, C.R.S. § 23-64-108(1)(i).	Clarify definitions, requirements, and correct typos. Update definitions to ensure that the terms with multiple uses or new meanings are clearly defined.	1/24/2023	Owners & Operators of Private Occupational Schools will understand the terms as applied to Colorado's Act and Rules; the Division of Private Occupational Schools and all other stakeholders will benefit from clarity as our rules protect members of the general public (including students and residents of Colorado). There is no fiscal impact.
REVISE: Clarification to Rule regarding payment of all Board fees.	C.R.S. § 23-64-101 et seq.; and specifically, C.R.S. § 23-64-108(1)(i).	Clarify the method of payment as a result of our new online system DPOS Connect	1/24/2023	Owners & Operators of Private Occupational Schools, the Division and the Board. There is no fiscal impact.
NEW: Rules to clarify changes made to statute in 2021 Legislative Session regarding programmatic accreditation for construction schools as outlined in C.R.S. § 23-64-104 2(a) and (b); C.R.S. § 23-64-112(1)(t); C.R.S. § 23-64-123(1)(l)	C.R.S. § 23-64-101 et seq.; and specifically, C.R.S. § 23-64-108(1)(i).	Clarify rules regarding Exemptions, Minimum Standards and Deceptive Sales and Trade in response to the changes in statute.	1/24/2023	Owners & Operators of Private Occupational Schools. There was a significant fiscal impact to the Division and Board of Private Occupational Schools as a result of the statutory change now requiring a rule change.
REVISE: 8CCR 1504-1, sections III. to include definitions, terms or grammatical changes that provide clarity.	C.R.S. § 23-64-101 et seq.; and specifically, C.R.S. § 23-64-108(1)(i).	Clarify rules related to Minimum Standards to provide clarity and consistency.	1/24/2023	Owners & Operators of Private Occupational Schools, the Division and the Board. There is no fiscal impact.

Title/Description Proposed Rule	Basis and/or Statutory Authority	Purpose of Proposed Rule	Estimated Schedule for Rule-Making	Parties Potentially Affected
REVISE: 8CCR 1504-1, sections III. to include definitions, terms or grammatical changes that provide clarity.	C.R.S. § 23-64-101 et seq.; and specifically, C.R.S. § 23-64-108(1)(i).	Clarify rules related to Minimum Standards to provide clarity and consistency.	1/24/2023	Owners & Operators of Private Occupational Schools, the Division and the Board. There is no fiscal impact.
REVISE: 8CCR 1504-1, sections IV. to add a provision pertaining to the Division's authority to approve changes of locations and the school obligation to make such applications within 30 days of changing location.	C.R.S. § 23-64-101 et seq.; and specifically, C.R.S. § 23-64-108(1)(i).	Clarify rules related to change of location to create clarity and consistency.	1/24/2023	Owners & Operators of Private Occupational Schools, the Division and the Board. There is no fiscal impact.
REVISE: 8CCR 1504-1, sections IX to clarify that complaints may now be filed with the Division electronically.	C.R.S. § 23-64-101 et seq.; and specifically, C.R.S. § 23-64-108(1)(i).	Clarify the new process for filing complaints since the Division has integrated its workflows into our new electronic DPOS Connect system.	1/24/2023	Owners & Operators of Private Occupational Schools, the Division and the Board. There is no fiscal impact.

Title/Description Proposed Rule	Basis and/or Statutory Authority	Purpose of Proposed Rule	Estimated Schedule for Rule-Making	Parties Potentially Affected
Colorado Opportunity Scholarship Initiative				
Revise 8 CCR 1504-9, 1.09 Eligible Student definition	23-3.3-1004(4), 23-3.3-1006, and 23-3.3-1007 C.R.S.,	SB22-192 modified the eligible student population	March 2023	Public institutions of higher education participating in the program.
Revise 8 CCR 1504-9, 2.02.5 Other Permitted Uses of Matching Funds	23-3.3-1004(4), 23-3.3-1006, and 23-3.3-1007 C.R.S.,	SB22-140 Added references to work-based learning opportunities for the use of Matching Funds	March 2023	This change provides an opportunity for future focuses on the use of matching funds. No current grantees will be impacted as there is no programming specifically geared toward this population.

Departmental Regulatory Agendas

Department

Department of Early Childhood

COLORADO
Department of Early Childhood

November 1, 2022

The Honorable Alec Garnett
Speaker, Colorado State House of Representatives

The Honorable Stephen Fenberg
President, Colorado State Senate

Members of the Colorado General Assembly c/o the Staff of the Legislative Council

Re: Colorado Department of Early Childhood 2022 Regulatory Agenda and 2021 Regulatory Report

Representative Garnett, Senator Fenberg, and members of the General Assembly:

I am pleased to submit the first iteration of the Colorado Department of Early Childhood's (CDEC) 2022 Regulatory Agenda Report and 2023 Regulatory Agenda pursuant to C.R.S. § 2-7-203 (2022).[1] CDEC's 2023 Regulatory Agenda has also been submitted to the Colorado Secretary of State for publication in the Colorado Register, and will be posted to our website.

While we have only been a "Department" for a short four months, we have been hard at work and are happy to report on the progress made thus far regarding rulemaking activities, particularly related to the forthcoming Universal Preschool Program. Furthermore, we are equally excited to present our 2023 Agenda which serves as a roadmap for ensuring our existing programs continue to operate seamlessly, while also preparing for the implementation of our new programs.

Naturally, the task of relettering, amending, revising, and updating all of CDEC's related regulations is a somewhat daunting endeavor. Fortunately, it is one we have already made significant progress in. This puts CDEC in an advantageous position to continue to tackle these

[1] As this is the Department of Early Childhood's first year as a state agency, we will not be including a mandatory review of rules pursuant to C.R.S. § 24-4-103.3(4) (2022), but will work on incorporating this in future years, in partnership with the Department of Regulatory Agencies.

regulatory hurdles in a timely manner so that we may continue to offer the highest quality services that our children deserve, and our families have rightfully come to expect.

Not unexpectedly, these processes have involved and require robust stakeholder engagement, and a summary of this is included in the Report as well. We are also prepared to discuss our 2022 Regulatory Agenda Report and 2023 Regulatory Agenda with the Department's joint committee of reference during our upcoming SMART Act hearing held pursuant to C.R.S. § 2-7-203(2)(a)(II) (2022).

Lastly, should you have any questions, comments, or concerns related to a specific rule or regulation, please do not hesitate to reach out to Kristina Heyl at kristina.heyl@state.co.us.

Sincerely,

Lisa K. Roy, Ed.D.

Dr. Lisa Roy
Executive Director

Enclosures: 2022 Regulatory Report
2023 Regulatory Agenda

COLORADO
Department of Early Childhood

2022 Regulatory REPORT July 1, 2022 - December 31, 2022

Overview
The Colorado Department of Early Childhood (CDEC) submits the following 2022 Regulatory Agenda Report in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. § 2-7-203(4).

Hearing or Adoption Date	Current CCR Number	Rule Title (CDEC Tracking)	New Rule, Revised, Reviewed or Repeal?	Statutory or Other Basis for Adoption of Rule	Purpose of Proposed Rule	High-Level Stakeholders	Status *Adopted/Not Adopted/ Withdrawn/ Ongoing*
Adopted: September 29, 2022 (emergency) Hearing: November 21, 2022 (permanent)	9 CCR 2503-9	CCCAP FPL and SMI Updates	Revision	Federal Requirement to Update FPL and SMI	Annual update to the Federal Poverty Levels and State Median Income; move all CCCAP codes to CDEC codes section	SubPAC	Adopted (emergency) Ongoing (permanent)
Adopted: September 29, 2022 (emergency) Hearing: November 21, 2022 (permanent)	NA	Income levels, Eligibility Factors + Additional Hours for UPK	New Rule	26.5-4-204(4)(a) C.R.S. (2022)	To develop rules that outline the income levels necessary for children 3 and under to receive services; the qualifying factors that a child must meet to be eligible to receive additional preschool services; and the number of hours of preschool services that an eligible child may receive.	LCOs, Early Childhood Providers, Program Quality & Alignment Subcommittee	Adopted (emergency) Ongoing (permanent)

Hearing: November 21, 2022 (emergency)	NA	Universal Preschool Rate-Setting Formula	New Rule	26.5-4-208 C.R.S. (2022)	The formulas for setting the per-child rates for universal preschool services, for preschool services for children with disabilities, for preschool services for eligible children who are three years of age or younger as described in subsections (3)(a)(III) and (3)(a)(IV) of this section, and for additional preschool services, as provided in section 26.5-4-208.	LCOs, Early Childhood Providers, Early Childhood Leadership Commission, School Districts	Ongoing

COLORADO
Department of Early Childhood

2023 Regulatory AGENDA January 1, 2023-December 31, 2023

Overview

The Colorado Department of Early Childhood (CDEC) submits the following 2023 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. § 2-7-203(4). Pursuant to state law, annually by November 1, executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules; and
- An identification and listing of persons or parties that may be affected positively or negatively by the rules.

The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's website, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. § 2-7-203(2)(a)(III)(A).

The following constitutes the Department of Early Childhoods' DRA for 2023 and is provided in accordance with Colo. Rev. Stat. § 24-7-203(2)(a)(IV):

Legislation (if applicable)	Office / Division/ Program / Section	Current CCR Number	Rule Title	Purpose of Proposed Rule	Statutory or other basis for adoption or change to rule	New Rule, Revisions or Repeal?	Anticipated Hearing Date	Stakeholders
NA	Division of Community and Family Supports (DCFS) - Early Intervention (EI)	12 CCR 2509-10	Early Intervention Eligibility Definition	The EI program received additional funding to serve more children and families by reviewing the current definition of developmental delay and consider broadening to 25% (from 33%); also transition rules from CDHS to CDEC	Part 4 of Article 3 of Title 26.5 C.R.S. (2022)	Revision	January 2023	Families, local EI programs, EI direct service providers, CICC, any interested stakeholder
HB22-1295, SB18-099, HB05-1238	Division of Early Learning Access and Quality (DELAQ) - School Readiness Quality Improvement Program (SRQIP)	12-CCR 2509-8	School Readiness Quality Improvement Program Rules	Technical cleanup and transfer from CDHS to CDEC	Part 1 of Article 5 of Title 26.5 C.R.S. (2022)	Revision	March 2023	Early Childhood Councils, QRIS Eligible Providers
HB22-1295	Universal Preschool	NA	Universal Preschool Quality Standards	To implement Preschool Quality Standards	26.5-4-205 C.R.S. (2022)	New rule	March 2023	LCOs, Early Childhood Providers, School Districts

HB22-1295	DELAQ - Early Childhood Council (ECC) Rules	12-CCR 2509-8	Early Childhood Council Rules	Transition from CDHS to CDEC	Part 2 of Article 2 of Title 26.5 C.R.S. (2022)	Revision	April 2023	Early Childhood Councils
HB22-1295	Division of Early Learning, Licensing and Administration (DELLA)-Licensing	12 CCR 2509-8	Rules Regulating Child Care Centers that Provide Less Than 24-hour Care	Adding a new Outdoor Nature-based Preschool License type. Updating statute citations and rules for the transition to the new department.	26.5-5-316(4)(a) C.R.S. (2022), and 26.5-5-322 C.R.S. (2022)	New Rule; Revision	June 2023	Outdoor Nature-Based Programs
NA	DCFS - EI	12 CCR 2509-10	Early Intervention Rules	There are several updates needed to align with current language, additions to dispute resolution requirements, and update requirements needed with the implementation of SB 21-175	Part 4 of Article 3 of Title 26.5 C.R.S. (2022)	Revision	July 2023	Families, local EI programs, EI direct service providers, CICC, any interested stakeholder
HB22-1295	DELAQ - Colorado Child Care Assistance Program (CCCAP)	8 CCR 1403-1	Colorado Child Care Assistance Program	Per HB22-1295, cooperation with Child Support Services cannot be a requirement for CCCAP eligibility. CCCAP must revise our rules to align with this requirement. The rate-setting requirements in HB22-1295 will also impact our rules and we expect to make the associated changes at this time.	26.5-4-111 C.R.S. (2022)	Revision, New Rules, Repealed Rules	July 2023	CDHS (Child Support Services), County Rule Committee, Rate Setting Committee

HB22-1295	DELLA-Licensing	12 CCR 2509-8	Rules Regulating Family Child Care Homes	Comprehensive review of the rules and regulations and the licensing procedures governing family child care homes; Updating statute citations and rules for the transition to the new department.	26.5-5-316(4)(a) C.R.S. (2022), and 26.5-5-322 C.R.S. (2022)	Revision	July 2023	Licensed family child care home providers
NA	Nurse Home Visiting Program (NHVP)	12 CCR 2509-9	Early Childhood - Nurse Home Visitor Program	To review rule and make any necessary changes; transition from CDHS to CDEC	Part 5 of Article 3 of Title 26.5 C.R.S. (2022)	Revision	July 2023	Invest in Kids
NA	DELAQ - CCCAP	8 CCR 1403-1	CCCAP FPL and SMI Updates	Annual update to the Federal Poverty Levels and State Median Income; move all CCCAP codes to CDEC codes section	Federal Requirement to Update FPL and SMI	Revision	October 2023	County Subcommittee

NA	DELLA-Licensing	12 CCR 2509-8	General Rules for Child Care Facilities	Removing regulations related to 24-hour Child Welfare Program Services Unit licensing. Updating statute citations and rules for the transition to the new department.	26.5-5-316(4)(a) C.R.S. (2022), and 26.5-5-322 C.R.S. (2022)	Revision	December 2023	Licensed family child care home providers, licensed child care center providers, Licensed school-age child care center providers, licensed neighborhood youth organizations, licensed children's resident camp providers,
HB22-1295	DELLA-Licensing	12 CCR 2509-8	Rules Regulating Neighborhood Youth Organizations	Comprehensive review of the rules and regulations and the licensing procedures governing neighborhood youth organizations; Updating statute citations and rules for the transition to the new department.	26.5-5-316(4)(a) C.R.S. (2022), and 26.5-5-322 C.R.S. (2022)	Revision	December 2023	Licensed neighborhood youth organizations
HB22-1295	DELLA-Licensing	12 CCR 2509-8	Rules Regulating Children's Resident Camps	Updating statute citations and rules for the transition to the new department.	26.5-5-316(4)(a) C.R.S. (2022), and 26.5-5-322 C.R.S. (2022)	Revision	December 2023	Licensed children's resident camps

HB22-1295 SB21-167	DELLA-Licensing	12 CCR 2509-8	Rules Regulating School-age Child Care Centers	Revising rule to incorporate language included in SB21-167; Updating statute citations and rule for the transition to the new department.	26.5-5-316(4)(a) C.R.S. (2022), and 26.5-5-322 C.R.S. (2022)	New rule; Revision	December 2023	Licensed school-age child care centers
HB22-1295	DELLA-Licensing	12 CCR 2509-8	Rules Regulating Special Activities	Comprehensive review; Updating statute citations and rules for the transition to the new department.	26.5-5-316(4)(a) C.R.S. (2022), and 26.5-5-322 C.R.S. (2022)	New rule; Revision	December 2023	Licensed child care centers, licensed school-age child care centers, licensed children's resident camps
HB22-1295	DELLA-Licensing	12 CCR 2509-8	Rules Regulating Substitute Placement Agencies	Updating statute citations and rules for the transition to the new department.	26.5-5-316(4)(a) C.R.S. (2022), and 26.5-5-322 C.R.S. (2022)	Revision	December 2023	Licensed child care programs
HB22-1295	Appeals Processes	9 CCR 2503-9 (Admin. Procedures for [CCCAP])	Unified Appeals Process	To create a unified process for administrative decisions and appeals throughout the entire department	26.5-4-108, C.R.S. (2022); 26.5-5-313, C.R.S. (2022); 26.5-1-104, C.R.S. (2022)	New rule; Revision	TBD	Licensed child care facilities; CCCAP applicants

HB22-1295	Universal Preschool	NA	Additional Universal Preschool Rules	To implement other rules as are required in Part 2 or as may be necessary to implement the preschool program.	26.5-4-204(4)(a)(VII) C.R.S. (2022)	New rule	TBD	LCOs, Early Childhood Providers

Departmental Regulatory Agendas

Department

Department of Revenue

COLORADO
Department of Revenue

Colorado Department of Revenue

2023 Regulatory Agenda

(January 1, 2023 - December 31, 2023)

Taxation Division 2023 Regulatory Agenda

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month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
Jan.	1 CCR 201-20, Rule 40-10.1-607.5, Prearranged Ride Fees	New	§ 24-35-108, 39-21-112(1), 39-21-102 (7), 25-7.5-103(7), 40-10.1-607.5, and 43-4-1303(7), C.R.S.		Set forth the manner in which the prearranged ride fees are collected, administered, and enforced	All Transportation Network Companies, All Taxpayers, Tax Practitioners	November 1, 2022
Jan.	1 CCR 201-20, Rule 43-4-218, Retail Delivery Fees	New	§ 39-21-112(1), 43-4-218, 24-38.5-303, 25-7.5-103, 43-4-805, 43-4-1203, and 43-4-1303, C.R.S.		Set forth the manner in which the retail delivery fees are collected, administered, and enforced	All Taxpayers, All Retailers, Tax Practitioners	November 3, 2022
Jan.	1 CCR 201-1 Rule 39-21-119, Date Return or Payment Deemed Filed or Made When Sent by Mail	Revision	§ 39-21-102, 39-21-112(1) and 39-21-119, C.R.S.		Remove provisions regarding electronic filing and payment, which are being moved to a new rule, 1 CCR 201-1, Rule 39-21-119.5	All Taxpayers, All Retailers, Tax Practitioners	December 1, 2022
Jan.	1 CCR 201-1 Rule 39-21-119.5, Mandatory Electronic Filing of Returns	New	§ 39-21-102, 39-21-112(1), 39-21-119, 39-21-119.5, and 39-21-120, C.R.S.		Clarify provisions of House Bill 19-1256 and consolidate and explain other requirements for electronic returns and payments that are currently in 1 CCR 201-1, Rule 39-21-119 and Special Rule 1	All Taxpayers, All Retailers, Tax Practitioners	December 1, 2022
Jan.	1 CCR 201-1 Special Rule 1, Electronic Funds Transfer	Repeal	§ 39-21-112(1), 39-21-119.5, and 39-26-105.5, C.R.S.		Repeal rule because its provisions have been codified in either section 39-21-119.5, C.R.S., or are being promulgated in Rule 39-21-119.5	All Taxpayers, All Retailers, Tax Practitioners	December 1, 2022
Feb.	1 CCR 201-2 Rule 39-22-504-1, Colorado Net Operating Losses for Individual, Estates, and Trusts	Revision	§ 39-21-112(1) and 39-22-504, C.R.S.	X	Repeal current rule and update to clarify the application of the net operating loss deduction for individuals, estates, and trusts	Income Taxpayers, Tax Practitioners	December 15, 2022
Feb.	1 CCR 201-2 Rule 39-22-504-2, Colorado Net Operating Losses for C Corporation	Revision	§ 39-21-112(1) and 39-22-504, C.R.S.		Repeal current rule and update to clarify the application of the net operating loss deduction for C corporations	Corporate Income Taxpayers, Tax Practitioners	December 15, 2022

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Feb.	1 CCR 201-2 Rule 39-22-303(10), Foreign Source Income	Revision	§ 39-21-112(1) and 39-22-303(10), C.R.S.		Prescribe rules for the determination of foreign source income considered in the calculation of Colorado corporate income tax	Corporate Income Taxpayers, Tax Practitioners	December 15, 2022
Feb.	1 CCR 201-2 Rule 39-22-304(3)(j), Corporate Subtraction for Section 78 Dividend	New	§ 39-21-112(1) and 39-22-304(3)(j), C.R.S.		Clarify the application of section 39-22-304(3)(j), C.R.S., regarding the subtraction from federal taxable income of amounts treated as dividends pursuant section 78 of the Internal Revenue Code	Corporate Income Taxpayers, Tax Practitioners	December 15, 2022
Mar.	1 CCR 201-4, Rule 39-26-717-2, Period Products	New	§ 39-21-112(1) and 39-26-717, C. R.S.		Provide clarification regarding sales and use tax exemption allowed for period products	All Taxpayers, All Retailers, Tax Practitioners	January 18, 2023
Mar.	1 CCR 201-4, Rule 39-26-717-3, Incontinence Products and Diapers	New	§ 39-21-112(1) and 39-26-717, C. R.S.		Provide clarification regarding sales and use tax exemption allowed for incontinence products and diapers	All Taxpayers, All Retailers, Tax Practitioners	January 18, 2023
Jan.	1 CCR 201-2, Rule 39-22-604, Wage Withholding	Revision	§ 39-21-112(1), 39-21-119(3), 39-22-103(11) and 39-22-604, C.R.S.		Revising the rule based on changes made to the federal W-4 form	All Taxpayers, All Businesses, Tax Practitioners, Payroll Companies	March 15, 2023
Jan.	1 CCR 201-2, Rule 39-22-104(4)(n.5), Wildfire Mitigation Measures Subtraction	Revision	§ 39-21-112(1) and 39-22-104, C. R.S.	X	Make minor clarifying revisions and include an additional example of a noneligible expense relating to inspections	All Taxpayers, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-2, 39-22-543, Wildfire Mitigation Measures Credit	New	§ 39-21-112(1) and 39-26-543, C. R.S.		Clarify application of the credit authorized by HB22-1007.	All Taxpayers, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-2, 39-22-538, Rural Primary Health Care Preceptor Credit	Revision	§ 39-21-112(1) and 39-26-538, C. R.S.	X	Conform the rule to changes made in HB22-1010	Healthcare Industry, Higher Education, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-10, Rule 39-29-106, Coal	Revision	§ 39-21-112(1) and 39-29-106, C. R.S.		Conform the rule to changes made by HB 21-1312	Coal Industry	March 15, 2023

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Jan.	1 CCR 201-1, Rule 39-21-102, Limitation Period for Recovery of Erroneous or Excessive Refund	Repeal	§ 13-80-101, 39-21-102, 39-21-107, and 39-21-112(1), C.R.S.	X	Repeal the rule because it is duplicative of § 13-80-101, C.R.S.	All Taxpayers, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-4, Rule 39-26-110, Retailer with Multiple Locations	Repeal	§ 39-21-112(1) and 39-26-110, C. R.S.		Repeal the rule because § 39-26-110, C.R.S., was repealed in House Bill 21-1155	All Taxpayers, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-4, Rule 39-26-703-1, Contractor's Claim for Refund	Repeal	§ 39-21-112(1) and 39-26-703, C. R.S.	X	Repeal the rule because the provisions of the statute for which this rule is clarifying have not been applicable since on or before July 1, 1979	All Taxpayers, All Retailers, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-4, Rule 39-26-703-2, Overpayment or Credit of Sales Tax	Repeal	§ 39-21-112(1) and 39-26-703, C. R.S.	X	Repeal this rule because it is duplicative of the statute	All Taxpayers, All Retailers, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-4, Rule 39-26-720, Bingo Equipment	Repeal	§ 39-21-112(1) and 39-26-720, C. R.S.	X	Repeal this rule because it is duplicative of section 39-26-720, C.R.S., and the provisions of Part 6 of Article 21 of Title 24, C.R.S.	Bingo Equipment Lessors, Bingo Equipment Lessees, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-4, Rule 39-26-721, Factory Built Housing	Repeal	§ 39-21-112(1) and 39-26-721, C. R.S.	X	Repeal the rule because the term "factory-built housing" is no longer used in § 39-26-721, C.R.S., pursuant to amendments made in House Bill 19-1011	Manufactured Home Industry, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-2, Rule 39-22-104(5), Gross Receipts Tax	Repeal	§ 39-21-112(1) and 39-22-104(5), C. R. S.		Repeal the rule because House Bill 22-1025 no longer authorizes the use of the election provided in § 39-22-104(5), C.R.S., for tax years commencing after January 1, 2023	All Individual Taxpayers, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-2, Rule 39-22-301(2), Gross Receipts Tax	Repeal	§ 39-21-112(1) and 39-22-301(2), C. R. S.		Repeal the rule because House Bill 22-1025 no longer authorizes the use of the election provided in § 39-22-301(2), C.R.S., for tax years commencing after January 1, 2023	All Corporate Taxpayers, Tax Practitioners	March 15, 2023

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Jan.	1 CCR 201-2, Rule 39-22-507.5(1), The "Old" Colorado Investment Tax Credit	Repeal	§ 39-21-112(1) and 39-22-507.5, C. R.S.	X	Repeal the rule because House Bill 22-1025 no longer authorizes the credit provided in section 39-22-507.5, C. R.S., for tax years commencing after January 1, 2023	All Taxpayers, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-2, Rule 39-22-507.5(2), Property Used in Colorado	Repeal	§ 39-21-112(1) and 39-22-507.5, C. R.S.	X	Repeal the rule because House Bill 22-1025 no longer authorizes the credit provided in section 39-22-507.5, C. R.S., for tax years commencing after January 1, 2023	All Taxpayers, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-2, Rule 39-22-507.5 (12), Duplicate Credits Not Allowed	Repeal	§ 39-21-112(1) and 39-22-507.5, C. R.S.	X	Repeal the rule because House Bill 22-1025 no longer authorizes the credit provided in section 39-22-507.5, C. R.S., for tax years commencing after January 1, 2023	All Taxpayers, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-2, Rule 39-22-507.6, The New Colorado Investment Tax Credit	Repeal	§ 39-21-112(1) and 39-22-507.6, C. R.S.	X	Repeal the rule because House Bill 22-1025 no longer authorizes the credit provided in section 39-22-507.6, C. R.S., for tax years commencing after January 1, 2023	All Taxpayers, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-2, Rule 39-22-514, Historic Property Preservation Credit	Repeal	§ 39-21-112(1) and 39-22-514, C. R.S.	X	Repeal the rule because the credit is no longer available for any person for income tax years commencing on or after January 1, 2020	All Taxpayers, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-2, Rule 39-22-516(2.7), Alternative Fuel Refueling Facility Credit	Repeal	§ 39-21-112(1) and 39-22-516, C. R.S.	X	Repeal the rule because the credit has not been authorized for tax years beginning after January 1, 2011	All Taxpayers, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-2, Rule 39-22-517, Tax Credit for Child Care Investment	Repeal	§ 39-21-112(1) and 39-22-517, C. R.S.	X	Repeal this rule because it is duplicative of the statute	Child Care Providers, All Taxpayers, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-2, Rule 39-22-517(3)(a), Child Care Center	Repeal	§ 39-21-112(1) and 39-22-517, C. R.S.	X	Repeal this rule because it is duplicative of the statutory definition provided in section 26-6-102(5)(a), C.R.S.	Child Care Providers, All Taxpayers, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-2, Rule 39-22-517(3)(b), "Family Child Care Home"	Repeal	§ 39-21-112(1) and 39-22-517, C. R.S.	X	Repeal this rule because it is duplicative of the statutory definition provided in section 26-6-102(13), C.R.S.	Child Care Providers, All Taxpayers, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-2, Rule 39-22-517(3)(d), Qualifying Tangible Personal Property	Revision	§ 39-21-112(1) and 39-22-517, C. R.S.	X	Amend the rule to more closely conform to statute and repeal parts of the rule that are duplicative of the statute.	Child Care Providers, All Taxpayers, Tax Practitioners	March 15, 2023

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Jan.	1 CCR 201-9, Rule 42-3-123(11)(a)	Repeal	§ 39-21-112(1) and 42-3-304, C. R.S.	X	Repeal the rule because it is obsolete and pertains to statutes that are not administered by the Taxation Division	Commercial Vehicle Industry, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-9, Rule 42-3-123(11)(c)	Repeal	§ 39-21-112(1) and 42-3-304, C. R.S.	X	Repeal the rule because it is obsolete and pertains to statutes that are not administered by the Taxation Division	Commercial Vehicle Industry, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-9, Rule 42-3-123(14)(b)	Repeal	§ 39-21-112(1) and 42-3-304, C. R.S.	X	Repeal the rule because it is obsolete and pertains to statutes that are not administered by the Taxation Division	Commercial Vehicle Industry, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-9, Rule 42-3-123(14)(c)	Repeal	§ 39-21-112(1) and 42-3-304, C. R.S.	X	Repeal the rule because it is obsolete and pertains to statutes that are not administered by the Taxation Division	Commercial Vehicle Industry, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-9, Rule 42-3-123(15)	Repeal	§ 39-21-112(1) and 42-3-304, C. R.S.	X	Repeal the rule because it is obsolete and pertains to statutes that are not administered by the Taxation Division	Commercial Vehicle Industry, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-9, Rule 42-3-123(16)	Repeal	§ 39-21-112(1) and 42-3-304, C. R.S.	X	Repeal the rule because it is obsolete and pertains to statutes that are not administered by the Taxation Division	Commercial Vehicle Industry, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-9, Rule 42-3-304(13), Passenger Mile Tax	Revision	§ 39-21-112(1) and 42-3-304, C. R.S.	X	Update the numbering of the rule to match the current corresponding statute and amend the rule to more closely reflect the statute	Commercial Vehicle Industry, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-2, Rule 39-22-627, Temporary Adjustment of Income Tax Rates	Revision	§ 39-21-112(1), 39-22-104(1.7), 39-22-301(1)(d), and 39-22-627, C.R.S.		Adjust the Colorado income tax rate for 2022 in accordance with section 39-22-627, C.R.S.	All Taxpayers, Tax Practitioners	March 15, 2023

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month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
Jan.	1 CCR 201-2, Rule 39-22-2003, State Sales Tax Refund	New	§ 39-21-112(1), 39-22-2001, 39-22-2002, and 39-22-2003, C.R.S.		Publish the amount of any state sales tax refund when there are sufficient excess state revenues under the Taxpayer's Bill of Rights (TABOR)	All Taxpayers, Tax Practitioners	March 15, 2023
Jan.	1 CCR 201-5, Special Rule 43, Prepaid Wireless Telecommunication Service Surcharges	Repeal	§ 29-11-101, 29-11-102.5, 29-11-102.7, 40-17-102, 40-17-103, and 39-21-112 (1),, C.R.S.	X	Repeal rule because pertinent sections will be moved to 1 CCR 201-20, Special Rule 1	Prepaid Wireless Industry, Wireless Industry, Tax Practitioners	March 30, 2023
Jan.	1 CCR 201-20, Special Rule 1, Prepaid Wireless Telecommunications Service Charges	New	§ 29-11-102.5, 29-11-102.7, 40-17-103 40-17.5-101, 40-17.5-104, 27-64-103 (4)(b), and 39-21-112(1),, C.R.S.		Establish registration, documentation, and payment procedures, as required by statute, for the prepaid wireless 911 charge, the prepaid wireless telecommunications relay service (TRS) charge, and the prepaid wireless 988 charge	Prepaid Wireless Industry, Wireless Industry, Tax Practitioners	March 30, 2023
Jan.	1 CCR 201-4, Rule 39-26-703-1, Buyer's Claims for Refund of Sales Tax Paid	New	§ 39-21-112(1) and 39-26-703, C. R.S.		Set forth the requirements purchasers claiming a refund of sales tax must submit to the Department	All Taxpayers, All Retailers, Tax Practitioners	June 14, 2023
Feb.	1 CCR 201-2, Rule 39-22-104(3)(d), State Income Tax Addback	New	§ 39-21-112(1), 39-22-104, 39-22-202, 39-22-203, 39-22-303.6, 39-22-304, 39-22-321, 39-22-322, 39-22-323, C. R.S.		Provide clarification regarding the addition of income required for state income taxes deducted in the calculation of federal taxable income	All Taxpayers, Tax Practitioners	July 19, 2023
Feb.	1 CCR 201-2, Rule 39-22-108, Credit for Taxes Paid to Another State	Revision	§ 39-21-112(1) and 39-22-108, C. R.S.	X	Conform the rule to changes made in SB22-124	All Taxpayers, Tax Practitioners	July 19, 2023

Taxation Division 2023 Regulatory Agenda

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month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
Mar.	1 CCR 201-2, Rule 39-22-104(4)(i), State Tuition Program Contribution	New	§ 39-21-112(1), 39-22-104(4)(i), and 39-22-539, C. R.S.		Clarify requirements relating to the subtraction allowed to individuals, estates, and trusts for payments and contributions made to a qualified state tuition program	All Taxpayers, Tax Practitioners	July 12, 2023
Mar.	1 CCR 201-2, Rule 39-22-539, Credit for Employer Contributions to Employee Qualified State Tuition Program	New	§ 39-21-112(1), 39-22-104(4)(i), and 39-22-539, C. R.S.		Clarify requirements relating to the credit allowed to employers for contributions made to an employees qualified state tuition program	All Taxpayers, Tax Practitioners	July 12, 2023
Apr.	1 CCR 201-10, Rule 39-29-102(3)(a), Definition of "Gross Income" for Severance Tax on Oil and Gas	Revision	§ 39-21-112(1) and 39-21-102, C. R.S.		Conform the rule to changes made in HB21-1312	Oil and Gas Industry, Royalty Owners, Tax Practitioners	December 15, 2023
Apr.	1 CCR 201-13 Rule 39-30-106, Enterprise Zone Machinery and Machine Tools Sales Tax Exemption	New	§ 39-21-112(1), 39-30-106, and 39-30-108(1), C.R.S.		Clarify the expansion of the sales tax exemption for machinery and machine tools used exclusively in an enterprise zone to include only those activities related directly to the mining of natural resources	Enterprise Zone Businesses and Administrators, Mining Businesses, Oil and Gas Businesses	December 15, 2023
Apr.	1 CCR 201-2, Rule 39-22-526, Credit for Environmental Remediation of Contaminated Land	Revision	§ 39-21-112(1) and 39-22-526, C. R.S.		Conform rule to changes made in HB22-1392	All Taxpayers, Tax Practitioners	August 3, 2023
Aug.	1 CCR 201-4, Rule 39-26-102(5.7), Mainframe Computer Access Defined	New	§ 39-21-112(1), 39-26-102(5.7), and 39-26-122, C.R.S.		Interpret the statutory definition of "mainframe computer access"	All Taxpayers, Tax Practitioners	August 30, 2023
Aug.	1 CCR 201-4, Rule 39-26-104-8, Mainframe Computer Access	New	§ 39-21-112(1), 39-26-104(1)(a) and (3)(a), and 39-26-122, C.R.S.		Explain the imposition of sales tax on mainframe computer access	All Taxpayers, Tax Practitioners	August 30, 2023

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month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
Jun.	1 CCR 201-18, Rule 39-28.8-101, Retail Marijuana Definitions	Revision	§ 39-21-112(1), 39-28.8-101, 39-28.8-205, and 39-28.8-308, C.R.S.		Consider adding additional average market rate categories	All Retail Marijuana Businesses, Tax Practitioners	November 30, 2023
Jun.	1 CCR 201-18, Rule 39-28.8-302, Retail Marijuana Excise Tax	Revision	§ 39-21-112(1), 39-28.8-101, 39-28.8-301, 39-28.8-302, and 39-28.8-308, C. R.S.		Clarify when to excise tax is due for transfers authorized under SB22-178	All Retail Marijuana Businesses, Tax Practitioners	November 30, 2023
Sep.	1 CCR 201-2, Rule 39-22-104(3)(p), Itemized Deduction Addback	New	§ 39-21-112(1) and 39-22-104, C. R.S.		Clarify how to apply the itemized deduction addback and clarify treatment of head of households	All Taxpayers, Tax Practitioners	December 15, 2023
Aug.	1 CCR 201-1 Rule 39-21-105.5-2, Electronic Notices	New	§ 39-21-112(1) and 39-21-105.5, C.R.S.		Create a procedures that allow taxpayers to voluntarily elect to receive notices from the Department by electronic means	All Taxpayers, Tax Practitioners	November 3, 2023
Sep.	1 CCR 201-2, Rule 39-22-522, Conservation Easement Credit	Revision	§ 39-21-112(1), 39-21-113, 39-22-522, and 39-22-522.5, C. R.S.		Conform the rule to changes made in HB21-1233	All Taxpayers, Tax Practitioners	January 16, 2024

Liquor Enforcement Division 2023 Regulatory Agenda

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month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
May	1 CCR 203-2; Regulation 47-912; Identification	Revision	§44-3-202, C.R.S.	X	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	LED Liquor Stakeholder List	November 2023
May	1 CCR 203-2; Regulation 47-913; Age of Employees	Revision	§44-3-202, C.R.S.	X	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	LED Liquor Stakeholder List	November 2023
May	1 CCR 203-2; Regulation 47-914; Unlicensed Possession of Beverages	Revision	§44-3-202, C.R.S.	X	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	LED Liquor Stakeholder List	November 2023
May	1 CCR 203-2; Regulation 47-916; Advertising	Revision	§44-3-202, C.R.S.	X	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	LED Liquor Stakeholder List	November 2023
May	1 CCR 203-2; Regulation 47-918; Removal of Alcohol Beverages from Premises	Revision	§44-3-202, C.R.S.	X	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	LED Liquor Stakeholder List	November 2023
May	1 CCR 203-2; Regulation 47-920; Solicitation of Drinks	Revision	§44-3-202, C.R.S.	X	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	LED Liquor Stakeholder List	November 2023
May	1 CCR 203-2; Regulation 47-922; Gambling	Revision	§44-3-202, C.R.S.	X	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	LED Liquor Stakeholder List	November 2023
May	1 CCR 203-2; Regulation 47-924; Importation and Sole Source of Supply/Brand Registration	Revision	§44-3-202, C.R.S.	X	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	LED Liquor Stakeholder List	November 2023
May	1 CCR 203-2; Regulation 47-008; Fermented Malt Beverages - Limitations of License	Revision	§44-3-202, C.R.S.		The Division may engage in emergency rulemaking pertaining to this regulation as pending ballot measures may require changes or additions. If the Division engages in emergency rulemaking, the affected sections may be adopted in March with a hearing date possibly in February; otherwise, the hearing will be set for November 2023.	LED Liquor Stakeholder List	Emergency February 2023 / November 2023

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month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
May	1 CCR 203-2; Regulation 47-009; Fermented Malt Beverage Off-Premises Licenses Distance Requirement	Revision	§44-3-202, C.R.S.		The Division may engage in emergency rulemaking pertaining to this regulation as pending ballot measures may require changes or additions. If the Division engages in emergency rulemaking, the affected sections may be adopted in March with a hearing date possibly in February; otherwise, the hearing will be set for November 2023.	LED Liquor Stakeholder List	Emergency February 2023 / November 2023
May	1 CCR 203-2; Regulation 47-010; Items Approved for Sale in Fermented Malt Beverage Off-Premises Licenses	Revision	§44-3-202, C.R.S.		The Division may engage in emergency rulemaking pertaining to this regulation as pending ballot measures may require changes or additions. If the Division engages in emergency rulemaking, the affected sections may be adopted in March with a hearing date possibly in February; otherwise, the hearing will be set for November 2023.	LED Liquor Stakeholder List	Emergency February 2023 / November 2023
May	1 CCR 203-2; Regulation 47-417; Bed and Breakfast Permit	Revision	§44-3-202, C.R.S.		The Division agreed to continue engagement regarding this regulation as it was introduced to stakeholders not long before the October 20, 2022 hearing.	LED Liquor Stakeholder List	November 2023
May	1 CCR 203-2; Regulation 47-426; Delivery Sales by Off-Premises Licensees	Revision	§44-3-202, C.R.S.		The Division may engage in emergency rulemaking pertaining to this regulation as pending ballot measures may require changes or additions. If the Division engages in emergency rulemaking, the affected sections may be adopted in March with a hearing date possibly in February; otherwise, the hearing will be set for November 2023.	LED Liquor Stakeholder List	Emergency February 2023 / November 2023

Liquor Enforcement Division 2023 Regulatory Agenda

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month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
May	1 CCR 203-2; Regulation 47-506; Fees	Revision	§44-3-202, C.R.S.		This regulation is always in "open" status as fees must be adjusted on an annual basis to meet requirements of legislation and reflect direct/indirect costs of the Division	LED Liquor Stakeholder List	November 2023
May	1 CCR 203-2; Regulation 47-605; Responsible Alcohol Beverage Vendor and Permitted Tastings by Retail Liquor Stores and Liquor-Licensed Drugstores	Revision	§44-3-202, C.R.S.		The Division may engage in emergency rulemaking pertaining to this regulation as pending ballot measures may require changes or additions. If the Division engages in emergency rulemaking, the affected sections may be adopted in March with a hearing date possibly in February; otherwise, the hearing will be set for November 2023.	LED Liquor Stakeholder List	Emergency February 2023 / November 2023
May	1 CCR 203-2; Regulation 47-900; Conduct of Establishment	Revision	§44-3-202, C.R.S.		The Division may engage in emergency rulemaking pertaining to this regulation as pending ballot measures may require changes or additions. If the Division engages in emergency rulemaking, the affected sections may be adopted in March with a hearing date possibly in February; otherwise, the hearing will be set for November 2023.	LED Liquor Stakeholder List	Emergency February 2023 / November 2023
May	1 CCR 203-2; Regulation 47-906; Container Size	Revision	§44-3-202, C.R.S.		The Division agreed to continue engagement regarding this regulation after rulemaking is finalized on a federal level that may inform our standards.	LED Liquor Stakeholder List	November 2023

Liquor Enforcement Division 2023 Regulatory Agenda

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month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
May	1 CCR 203-2; Regulation 47-1101; Delivery and Takeout Sales by On-Premises Licensees	Revision	§44-3-202, C.R.S.		The Division may engage in emergency rulemaking pertaining to this regulation as pending ballot measures may require changes or additions. If the Division engages in emergency rulemaking, the affected sections may be adopted in March with a hearing date possibly in February; otherwise, the hearing will be set for November 2023.	LED Liquor Stakeholder List	Emergency February 2023 / November 2023

Liquor Enforcement Division 2023 Regulatory Agenda - Tobacco Rules

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month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
May	1 CCR 203-1; Regulation 7-300; Large-Operators	Revision	§44-7-104(5), C.R.S.	X	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	LED Tobacco Stakeholder List	November 2023
May	1 CCR 203-1; Regulation 7-305; Temporary State Licenses	Revision	§44-7-104(5), C.R.S.	X	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	LED Tobacco Stakeholder List	November 2023
May	1 CCR 203-1; Regulation 7-800; Smuggling	Revision	§44-7-104(5), C.R.S.		The Division agreed to continue engagement regarding this regulation after more research can be completed that may inform language choice for this regulation.	LED Tobacco Stakeholder List	November 2023
May	1 CCR 203-1; Assurance of Voluntary Compliance	New	§44-7-104(5), C.R.S.		Focused on education first, the Division has engaged in industry discussions regarding assurances of voluntary compliance and believes a new regulation may be beneficial to the tobacco administrative action process.	LED Tobacco Stakeholder List	November 2023

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month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
May	1 CCR 203-1; Assessment of Penalties	New	§44-7-104(5), C.R.S.		Focused on education first, the Division has engaged in industry discussions regarding assurances of voluntary compliance and believes a new regulation may be beneficial to the tobacco administrative action process.	LED Tobacco Stakeholder List	November 2023

Division of Motor Vehicles 2023 Regulatory Agenda

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month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
May	1 CCR 204-1, Rule 1	Revision	24-4-101 through 24-4-108, 42-4-401 through 42-4-414, 42-9-101 through 42-9-113, and 25-7-122.1, C.R.S.	X	Regulatory Review	Diesel emission stations, diesel vehicle owners, CDPHE	June 2022
Jan.	1 CCR 204-10, Rule 2	Revision	42-1-204, 42-3-102, 42-3-103, 42-3-104, 42-3-106, 42-3-107, 42-3-112, 42-3-114, 42-3-115, 42-3-116, 42-3-201, 42-3-202, 42-3-203, 42-3-211, 42-3-301, 42-3-304, 42-3-306, 43-4-506(1)(k), 43-4-804(1)(a)(I), 43-4-805(5)(g)(I), 42-12-301, and 42-12-401 C.R.S.	X	Regulatory Review	The general public, County Clerk and Recorders, Third Party	June 2022
Feb.	1 CCR 204-10, Rule 5	Revision	42-1-102(35), 42-1-102(36), 42-1-204, 42-3-107(16)(f), 42-3-107(27), 42-3-113(8)(a)(II), and 42-3-125, C.R.S.	X	Regulatory Review	Fleet Operators, Rental Companies, SMM, County Clerk and Recorders, Third Party	June 2022
Mar.	1 CCR 204-10, Rule 18	Revision	42-1-204, 42-6-104, 42-6-106, 42-6-107, 42-6-109, 42-6-110, 42-6-113, 42-6-114, 42-6-115, and 42-6-119, C.R.S.	X	Regulatory Review	County Clerk and Recorders, The General Population, Lean Holders, Banks, Salvage Yards	June 2022
Apr.	1 CCR 204-10, Rule 26	Revision	42-1-204, 42-3-105(1)(c)(I), 42-5-202, 42-5-204, 42-5-207, 42-6-107(1)(b), 42-6-117(2), 42-6-119, and 42-12-202, C.R.S.	X	Regulatory Review	Colorado State Patrol, Certified Vin Inspections, County Clerk and Recorders, Vehicle Owners	June 2022
Jul.	1 CCR 204-10, Rule 43	Revision	42-3-118(2)(a) and 42-6-145(3)(b), C.R.S.	X	Regulatory Review	Law Enforcement, Insurance Companies, Lean Holders, County Clerk and Recorders	June 2022

Division of Motor Vehicles 2023 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2023 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in §2-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.
Per §2-7- 202(6), C.R.S., the Agenda must contain:
(a) A list of new rules or revisions to existing rules that the department expects to propose in the next calendar year;
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The Agenda is to be filed with Legislative Council Staff for distribution to committee(s) of reference, posted on CDOR's website, and submitted to the State Library, the Colorado Department of Regulatory Agencies, and the Secretary of State for publication in the Colorado Register.
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CDOR works with several boards and commissions that promulgate rules; for ease of use for the consumer, those rules are included in CDOR's Agenda.
The Agenda covers Calendar Year 2023 (CY23).

Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
Aug.	1 CCR 204-28	Revision	section 42-4-1012 of the Colorado Revised Statutes, and specifically pursuant to section 42-1-204 of the Colorado Revised Statutes. The purpose of these rules is to adopt necessary provisions and uniform procedures to allow the use of HOV and HOT lanes by qualifying Hybrid Vehicles. The Statement of Basis and Specific Statutory Authority, and Statement of Purpose for the rules are hereby incorporated by this reference and made part of these rules.	X	Regulatory Review	County Clerk and Recorders, CDOT, Tolling Authority, Colorado Interactive	June 2022
Apr.	1 CCR 204-30, Rule 2	Revision	24-4-104, 24-60-1101 et seq., 42-1-204, 42-2-202, C.R.S.	X	Regulatory Review	DMV Stakeholder	June 2022
Apr.	1 CCR 204-30, Rule 3	Revision	42-2-111, 42-2-112, and 42-2-104, C.R.S	X	Regulatory Review	DMV Stakeholder	June 2022
Feb.	1 CCR 204-30, Rule 7	Revision	24-4-103, 42-2-111(1)(b), 42-2-114.5, 42-2-403, 42-2-406 (3 through 7), and 42-2-407(8), C.R.S.	X	Regulatory Review	Third Party Testing Agencies, Counties, CDL Drivers, General Public	June 2022
Mar.	1 CCR 204-30, Rule 8	Revision	24-4-103, 104 and 105; 42-1-102 (43.5); 42-1-204; 42-1-211; 42-1-222; 42-2-105.5; 42-2-106; 42-2-111; 42-2-601, 602, 603, and 604, C.R.S.	X	Regulatory Review	Third Party Testing Agencies, General Public	June 2022
Nov.	1 CCR 204-10, Rule 51	New	42-3-201, 42-3-202		Legislation	DMV Stakeholder	February 2022
Nov.	1 CCR 204-10, Rule 23	Revision	42-1-204 and 42-3-107(16), C.R.S.		Legislation	DMV Stakeholder	February 2022

Motor Vehicle Dealer Board 2023 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2023 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in §2-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.
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Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
Mar.	1CCR 205-1, Regulation 44-20-104(3)(e)	Revision	§44-20-104(3)(e)		To add the ability to send notification via electronic mail	Motor Vehicle Dealers and the Organizations representing New and Used Motor Vehicle Dealers and New and Used Powersports Vehicle Dealers	March 2023
Mar.	1 CCR 205-2, Regulation 44-20-404(1)(e)(I)	Revision	44-20-404(1)(e)(I)		To add the ability to send notification via electronic mail	Powersports Vehicle Dealers, and the Organizations representing New and Used Motor Vehicle Dealers and New and Used Powersports Vehicle Dealers	March 2023
Mar.	1CCR 205-1, Regulation 44-20-118(6)	Revision	§44-20-118(6)		To add the ability to send notification via electronic mail	Motor Vehicle Dealers and the Organizations representing New and Used Motor Vehicle Dealers and New and Used Powersports Vehicle Dealers	March 2023
Mar.	1 CCR 205-2, Regulation 44-20-417(6)	Revision	§44-20-417(6)		To add the ability to send notification via electronic mail	Powersports Vehicle Dealers, and the Organizations representing New and Used Motor Vehicle Dealers and New and Used Powersports Vehicle Dealers	March 2023

Motor Vehicle Dealer Board 2023 Regulatory Agenda

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Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
Jun.	1CCR 205-1, Regulation 44-20-121(4)	New	§44-20-121(4)		Address consignment sales by Wholesalers	Motor Vehicle Dealers and the Organizations representing New and Used Motor Vehicle Dealers and New and Used Powersports Vehicle Dealers	June 2023
Jun.	1 CCR 205-2, Regulation 44-20-420(4)	New	§44-20-420(4)		Address consignment sales by Wholesalers	Powersports Vehicle Dealers, and the Organizations representing New and Used Motor Vehicle Dealers and New and Used Powersports Vehicle Dealers	June 2023

Colorado Lottery 2023 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2023 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in §2-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.
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Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
Dec.	1 CCR 206-1 Rule 2 Licensing General Rules and Regulations	Revision	44-40-107 and 44-40-109(1)(a) and (2)	X	Add Licensee and Commission Bonus verbiage removed from Rules 5, 10 and 14 in CY 19 and update to reflect changes made to CRS 44-40-109.	LOT Stakeholders List	Dec 2022
Jan.	1 CCR 206-1 Rule 1 General Rules, Regulations, and Definitions	Revision	44-40-101(5), 44-40-109(1)(a) and (2), and 44-40-110	X	Update according to enhanced business processes.	LOT Stakeholders List	Jan 2023
Mar.	1 CCR 206-1 Rule 4 Suspension, Revocation, or Non-Renewal of License	Revision	44-40-107 and C.R. S. 44-40-109	X	Review and update to reflect changes made to referenced rules and according to enhanced business processes.	LOT Stakeholders List	Mar 2023
Oct.	1 CCR 206-1 Rule 14.C Multi-State Jackpot Game Mega Millions Game®	Revision	44-40-101, 44-40-109 (1) (a) and (2), and 44-40-113 and 44-40-114		Update according to anticipated game changes, awaiting details from MUSL group.	LOT Stakeholders List	Oct 2023
Oct.	1 CCR 206-1 Rule 14.D Multi-State Jackpot Game Mega Millions Megaplier®	Revision	44-40-101, 44-40-109 (1) (a) and (2), and 44-40-113		Update according to anticipated game changes, awaiting details from MUSL group.	LOT Stakeholders List	Oct 2023

	LOT Stakeholders List	The standard LOT stakeholder list includes one (1) representative from PGCC (Problem Gaming Coalition of Colorado), one (1) Chain Retailer, one (1) Independent Retailer, one (1) representative from GOCO (Great Outdoors Colorado), two (2) Players, two (2) representatives from CPW (Colorado Parks and Wildlife), and one (1) representative from CTF (Conservation Trust Fund).

Division of Gaming - Rules Promulgated by Gaming Commission 2023 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2023 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in §2-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.
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Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
Dec.	1 CCR 207-1 Rule 4.5 Publicly Traded Corporations and Public Offerings of Securities	Revision	§44-30-201, C.R.S., 44-30-203, C.R.S., 44-30-302, C.R.S., 44-30-503, C.R.S., 44-30-510, C.R.S., and 44-30-801, C.R.S.	X if yes	Mandatory rule review. It is unknown at this time if changes will be proposed.	Limited Gaming Licensees, Div. of Gaming Employees.	unknown
Dec.	1 CCR 207-1 Rule 14 Gaming Tax	Revision	§44-30-201, C.R.S., 44-30-203, C.R.S., 44-30-302, C.R.S., 44-30-602, C.R.S., and 44-30-604, C.R.S., (1991)	X if yes	Mandatory rule review. It is unknown at this time if changes will be proposed.	Limited Gaming Licensees, Div. of Gaming Employees.	unknown
Dec.	1 CCR 207-1 Rule 3 Applications, Investigations, and Licensure	Revision	§44-30-102, C.R.S., 44-30-103, C.R.S., 44-30-201, C.R.S., 44-30-203, C.R.S., 44-30-302, C.R.S., and part 5 of article 30 of title 44, C.R.S.		Annual fee analysis	Limited Gaming Licensees, Div. of Gaming Employees.	unknown
Dec.	1 CCR 207-1 Rule 14 Gaming Tax	Revision	§44-30-201, C.R.S., 44-30-203, C.R.S., 44-30-302, C.R.S., 44-30-602, C.R.S., and 44-30-604, C.R.S., (1991)		Annual tax setting hearings	Limited Gaming Licensees, Div. of Gaming Employees.	April & May

Colorado Racing Commission 2023 Regulatory Agenda

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Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
Aug.	1 CCR 208-1, Chapter 6			X	Mandatory Review		
Mar.	1 CCR 208-1, Rule 9.316	Revision	44-32-705(1), C.R.S.		To modify the formula used for distribution of owners and breeders award funds among the breed groups.	Owners and breeders associations, horsemen	3/8/2023

Executive Director of the Department of Revenue 2023 Regulatory Agenda

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Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
June	1 CCR 210-1 Gambling Payment Intercept	Revision	§44-33-101, et seq, C.R.S.		legislation HB22-1412	Limited Gaming Licensees, Div. of Gaming Employees, gaming patrons.	May

Hearings Division 2023 Regulatory Agenda

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month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
Mar.	1 CCR 211-1 Add rules	New	24-4-101 et. seq.		The purpose is to put in rule our processes and expectations for parties in cases for the regulatory (non-dmv) cases	Public; Attorney General's appearing in front of us; DOR sections and divisions we do hearings for except DMV	
Mar.	1 CCR 211-1 Rules 1-4	Revision	24-4-101 et. seq.		The purpose of the revision is to document our current processes and put in more specifics related to the processes to help Respondents and their attorneys understand the hearings process.	Public; Attorney General's appearing in front of us; DOR sections and divisions we do hearings for except DMV	

Marijuana Enforcement Division 2023 Regulatory Agenda

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month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
Jul.	1 CCR 212-3 Rule 2-220 Fees	Revision	44-10-103, 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(k), 44-10-203(1)(i), 44-10-203(2)(b), 44-10-203(2)(h), 44-10-203(2)(q), 44-10-203(2)(w), 44-10-203(2)(dd)(XII), 44-10-303(2)(b), 44-10-310(7), 44-10-313, 44-10-401, 44-10-801, 44-10-802, 44-10-803, 44-10-1201, 44-10-1202, C.R.S.		Revision	Stakeholder List	Fall 2023

Marijuana Enforcement Division 2023 Regulatory Agenda

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month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
Aug.	1 CCR 212-3, Rule 4-110- Regulated Marijuana Testing Program: Sampling Procedures	Revision	44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S.	x	Review	Stakeholder List	Fall 2023
Aug.	1 CCR 212-3 Rule 3-1100 Series – Accelerator Program Operations	Revision	44-10-202(1)(c), 44-10- 203(2)(aa), 44-10-310(2), and 44-10-311(2), C.R.S.		Review	MED Stakeholder list	Fall 2023

Marijuana Enforcement Division 2023 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2023 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in §2-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.
Per §2-7- 202(6), C.R.S., the Agenda must contain:
(a) A list of new rules or revisions to existing rules that the department expects to propose in the next calendar year;
(b) The statutory or other basis for adoption of the proposed rules;
(c) The purpose of the proposed rules;
(d) The contemplated schedule for adoption of the rules;
(e) An identification and listing of persons or parties that may be affected positively or negatively by the rules.
The Agenda is to be filed with Legislative Council Staff for distribution to committee(s) of reference, posted on CDOR's website, and submitted to the State Library, the Colorado Department of Regulatory Agencies, and the Secretary of State for publication in the Colorado Register.
CDOR must also present its Agenda as part of its "SMART Act" presentation pursuant to §2-7-203(2)(a), C.R.S.
CDOR works with several boards and commissions that promulgate rules; for ease of use for the consumer, those rules are included in CDOR's Agenda.
The Agenda covers Calendar Year 2023 (CY23).

Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
Aug.	1 CCR 212-3, Rule 4-120	Revision	44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S.	X	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	MED Stakeholder list	Fall 2023

Marijuana Enforcement Division 2023 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2023 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in §2-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.
Per §2-7- 202(6), C.R.S., the Agenda must contain:
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The Agenda is to be filed with Legislative Council Staff for distribution to committee(s) of reference, posted on CDOR's website, and submitted to the State Library, the Colorado Department of Regulatory Agencies, and the Secretary of State for publication in the Colorado Register.
CDOR must also present its Agenda as part of its "SMART Act" presentation pursuant to §2-7-203(2)(a), C.R.S.
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The Agenda covers Calendar Year 2023 (CY23).

Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
Aug.	1 CCR 212-3, Rule 4-121	Revision	44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S.	X	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	MED Stakeholder list	Fall 2023

Marijuana Enforcement Division 2023 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2023 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in §2-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.
Per §2-7- 202(6), C.R.S., the Agenda must contain:
(a) A list of new rules or revisions to existing rules that the department expects to propose in the next calendar year;
(b) The statutory or other basis for adoption of the proposed rules;
(c) The purpose of the proposed rules;
(d) The contemplated schedule for adoption of the rules;
(e) An identification and listing of persons or parties that may be affected positively or negatively by the rules.
The Agenda is to be filed with Legislative Council Staff for distribution to committee(s) of reference, posted on CDOR's website, and submitted to the State Library, the Colorado Department of Regulatory Agencies, and the Secretary of State for publication in the Colorado Register.
CDOR must also present its Agenda as part of its "SMART Act" presentation pursuant to §2-7-203(2)(a), C.R.S.
CDOR works with several boards and commissions that promulgate rules; for ease of use for the consumer, those rules are included in CDOR's Agenda.
The Agenda covers Calendar Year 2023 (CY23).

Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
Aug.	1 CCR 212-3, Rule 4-124	Revision	44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(k), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S.	X	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	MED Stakeholder list	Fall 2023

Marijuana Enforcement Division 2023 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2023 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in §2-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.
Per §2-7- 202(6), C.R.S., the Agenda must contain:
(a) A list of new rules or revisions to existing rules that the department expects to propose in the next calendar year;
(b) The statutory or other basis for adoption of the proposed rules;
(c) The purpose of the proposed rules;
(d) The contemplated schedule for adoption of the rules;
(e) An identification and listing of persons or parties that may be affected positively or negatively by the rules.
The Agenda is to be filed with Legislative Council Staff for distribution to committee(s) of reference, posted on CDOR's website, and submitted to the State Library, the Colorado Department of Regulatory Agencies, and the Secretary of State for publication in the Colorado Register.
CDOR must also present its Agenda as part of its "SMART Act" presentation pursuant to §2-7-203(2)(a), C.R.S.
CDOR works with several boards and commissions that promulgate rules; for ease of use for the consumer, those rules are included in CDOR's Agenda.
The Agenda covers Calendar Year 2023 (CY23).

Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	*(ex: 1 CCR 201-1, Rule #101)*		*(ex: 2-3-401, C.R.S.)*	*X if yes*	*(Purpose for the change, ex: legislation)*		
Aug.	1 CCR 212-3, Rule 3-315	Revision	44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(k), 44-10-203(1)(g), 44-10-203(2)(g), 44-10-203(2)(h), 44-10-203(2)(i), and 44-10-1001(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII)		Review	MED Stakeholder list	Fall 2023

Departmental Regulatory Agendas

Department

Department of Human Services

November 1, 2022

The Honorable Alec Garnett
Speaker, Colorado House of Representatives

The Honorable Stephen Fenberg
President, Colorado Senate

Representative Garnett and Senator Fenberg:

The Colorado Department of Human Services, in response to reporting requirements set forth in Section 2-7-203, C.R.S., respectfully submits the attached departmental regulatory agenda.

> *"(4) On November 1, 2013, and each November 1 thereafter, each department shall file a departmental regulatory agenda with the staff of the legislative council, who shall distribute the departmental regulatory agenda to the applicable committee of reference prior to the departmental presentations to the committee of reference. On November 1, 2013, and each November 1 thereafter, each department shall also post its departmental regulatory agenda on the department's website and shall submit its departmental regulatory agenda to the secretary of state for publication in the Colorado register."*

If you have any questions, please contact me at 303-620-6450.

Sincerely,

Kevin D. Neimond

Kevin Neimond
Director of Policy and Legislative Affairs

2023

Regulatory Agenda

January 1, 2023-December 31, 2023

COLORADO
Department of Human Services

Overview

The Colorado Department of Human Services (CDHS) submits the following 2023 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. § 2-7-203(4). Pursuant to state law, annually by November 1, executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules; and
- An identification and listing of persons or parties that may be affected positively or negatively by the rules.

The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. § 2-7-203(2)(a)(III)(A).

The following constitutes Department of Human Services' DRA for 2023 and is provided in accordance with Colo. Rev. Stat. § 24-7-203(2)(a)(IV):

Bill (if applicable)	Office	CCR	Rule Title	Purpose of Proposed Rule	Statutory or other basis for adoption or change to rule	New rule, revision, or repeal?	Anticipated Hearing	Stakeholders
SB21-137	Office of Children Youth and Families (OCYF)	12 CCR 2509-5	Resources, Reimbursement, Reporting, and Provider Requirements	To update rules to reflect changes to contracted bed programming.	§ 26-1-107(5)(b), C.R.S.; SB21-137; 26-5-117, C.R.S.	Revision	January 2023	Contracted providers; Health Care Policy and Financing (HCPF); Behavioral Health Administration (BHA); county departments of human services; CDHS; Certified Public Accountants (CPAs); youth receiving treatment in contracted beds; and youth referred to contracted beds.
SB21-199	Office of Economic Security (OES)	9 CCR 2503-5	Elimination of Lawful Presence for Old Age Pension	To comply with the intent of SB21-199, which eliminated "lawful presence" as a requirement for state funded programs. An initial rule was passed and effective July 1, 2022. However, upon further	26-1-109, C.R.S.; 26-1-111, C.R.S.; 24-76.5-103, C.R.S.	Revision	January 2023	State Board of Human Services (SBHS); County Human Services Directors Association (CHSDA); Colorado Commission on Aging (CCOA); Colorado

Bill (if applicable)	Office	CCR	Rule Title	Purpose of Proposed Rule	Statutory or other basis for adoption or change to rule	New rule, revision, or repeal?	Anticipated Hearing	Stakeholders
				review, additional rule updates were needed to fully comply with the intent of the legislation.				Legal Services; Disability Law Colorado; Colorado Senior Lobby; Policy Advisory Committee (PAC) & Economic Security Sub-PAC; Colorado Gerontological Society; Area Agencies on Aging (AAAs); Colorado Center on Law and Policy (CCLP); Colorado Department of Human Services Food & Energy Assistance Division; and, HCPF
	OCYF	12 CCR 2509-1	Overview of Child Welfare Services: Definitions	To update definitions that have been updated in conjunction with other rules.	26-1-107, C.R.S.;	Revision	January 2023, April 2023, June 2023	Workgroups for each affected rule.
	OCYF	12 CCR 2509-2	Review, Evaluate, and Direct (RED) Teams	To update guidance for RED teams.	19-3-308 , C.R.S.	Revision	February 2023	Includes the Child Protection Task Group.
Federal guidelines	Office of Aging, Adult, and Disability Services (OAADS)	12 CCR 2516-1	Technical Update for the CCDHHDB Communications Technology Program	To update rules in in order for the numbers to reflect the current 2022's Federal Poverty Guidelines.	Federal guidelines	Revision	February 2023	Colorado Commission for Deaf, Hard of Hearing, and DeafBlind (CCDHHDB); individuals/consumers; Advocacy Coalition for Equality Vendors; and Independent Living Centers.
	OCYF	12 CCR 2509- 2	Person Responsible for Abuse/Neglect (PRANs) under 18	To respond to requests to review rules around findings when the person responsible for abuse and neglect is under 18 years of age and the allegation results in a finding of a minor level.	26-1-107, C.R.S.;	Revision	February 2023	Work group, Child protection task group, others

Bill (if applicable)	Office	CCR	Rule Title	Purpose of Proposed Rule	Statutory or other basis for adoption or change to rule	New rule, revision, or repeal?	Anticipated Hearing	Stakeholders
HB 22-1278	Behavioral Health Administration (BHA)	New rule volume (or 2 CCR 502-1 or 2 CCR 502-5)	Form and Manner to Apply to Become a BHASO	To comply with HB 22-1278, which establishes that by "July 1, 2024 the [BHA] Commissioner shall select and contract with regionally based behavioral health organizations to establish, administer, and maintain adequate networks of behavioral health safety net services and care coordination."	27-50-402(1), C.R.S.	New Rule	February 2023	All behavioral health stakeholders, including but not limited to: individuals and families with lived experience; behavioral health advocacy organizations; behavioral health providers; and any public or private agency, organization, or institution interested in applying to become a BHASO.
	OCYF	12 CCR 2509-8	Rules Regulating Residential Child Care Facilities	To update Psychiatric Residential Treatment Facilities (PRTF) section, Qualified Residential Treatment Programs (QRTP) section, staff qualifications.	26-6-909(1)	Revision	March 2023	Residential Child Care Facilities (RCCF), Colorado Department of Public Health and the Environment (CDPHE), BHA, HCPF, children/youth.
HB 22-1283	OCYF	12 CCR 2509-5	Rules Regulating Contract Respite Programs	To set criteria for admission and discharge into respite beds	26-1-107(5)(b), C.R.S. (2021)	New Rule	March 2023	County departments of human services; child placement agencies; family foster homes, youth receiving foster care services; and CDHS.
HB 22-1278	BHA	2 CCR 502-1	Behavioral Health Entity License and Safety-Net Service Provider Approval	To comply with HB 22-1278, which requires that, "No later than April 30, 2023, the BHA shall promulgate rules pursuant to section 24-4-103 providing minimum standards for the operation of behavioral health entities in this state."	27-50-502, C.R.S.	New Rule, Revision, Repeal	March 2023	All behavioral health stakeholders, including but not limited to: individuals and families with lived experience; behavioral health advocacy organizations; behavioral health facilities and providers; and any public or private agency, organization, or institution interested in providing

Bill (if applicable)	Office	CCR	Rule Title	Purpose of Proposed Rule	Statutory or other basis for adoption or change to rule	New rule, revision, or repeal?	Anticipated Hearing	Stakeholders
								behavioral health services in Colorado.
	OCYF	12 CCR 2509-5	Family Preservation (CORE), Prevention Rule	To update Core rules to align with family preservation and prevention practices, and to modify rules to incorporate Family First.	26-1-107, C.R.S.;	New Rule, Revision	April 2023	Child Welfare Prevention Task Group; Child Protection Task group; Core Coordinator Group; and Prevention Implementation team
HB 22-1295	OES	9 CCR 2504-1	2023 Child Support Services Rule Change	To implement HB22-1295, to remove gendered-language, and to make technical amendments to ensure clarity and accuracy of the existing rule.	26-1-107, C.R.S.; 26-1-109, C.R.S.; 24-4-103, C.R.S.; 26-13-114, C.R.S.	Revision	April 2023	Division of Child Support Services; Office of Information and Technology; county human services directors and designees; county child support services; IV-D Administrators; The Office of Child Support Enforcement; IV-D attorneys; Judicial Department; Legal Services; and Center on Fathering.
	OCYF	12 CCR 2509-4	Core, Family Preservation	To revise rules to provide guidance for utilizing family preservation funds. Companion to rules in 12 CCR 2509-5.	26-1-107, C.R.S.	Revision	April 2023	Child Protection Task Group; Prevention Task Group; and Core coordinators group.
HB 22-1259	OES	9 CCR 2053-6	Modifications and Technical Clean-Up of the Colorado Works Program	To comply with new requirements of HB 22-1259, including establishing criteria for earned income disregard and 60 month extensions (phase 1), technical cleanup, aligning program redeterminations, and other rules to simplify eligibility processes (phase 2).	26-1-109, C.R.S; 26-2-706(1)(b)-(d), (2)(a), (4), C.R.S.; 26-2-706.6(4)(c), C.R.S.; 26-2-707.5(2), C.R.S.; 26-2-708(5), C.R.S.; 26-2-709(1)(a),	New Rule, Revision	May 2023	County departments of human services; individuals receiving Colorado Works; human services advocacy groups; and community organizations.

Bill (if applicable)	Office	CCR	Rule Title	Purpose of Proposed Rule	Statutory or other basis for adoption or change to rule	New rule, revision, or repeal?	Anticipated Hearing	Stakeholders
					(1.5), C.R.S.; 26-2-711(1), C.R.S.; 26-2-712(5)(a), C.R.S.; 26-2-716(5)(a), (g), C.R.S.			
	OCYF	12 CCR 2509-2	Differential Response	To update practice guidance	19-3-308, C.R.S.	Revision	June 2023	Differential Response Leadership Council; and Child Protection Task Group.
	OCYF	12 CCR 2509-8	Quality Standards for Twenty-four (24) Hour Child Care	To update restraint and seclusion, adding definitions, adding carve out populations	C.R.S 26-6-909(1)	Revision	June 2023	Colorado Department of Education (CDE); CDPHE; BHA; HCPF; and RCCFs.
HB 22-1360	OES	9 CCR 2504-1	Child Support Incentives	To define a joint decision making process for the county and state to approve the use of federal incentives to fund enhancements to the Automated Child Support Enforcement System (ACSES).	26-13-112.5, C.R.S.; 26-1-107, C.R.S.; 26-1-109, C.R.S.; 24-4-103, C.R.S.; 26-13-114, C.R.S.	New Rule	July 2023	Division of Child Support Services; Office of Information and Technology; county human services directors and designees; county child support services; IV-D Administrators; The Office of Child Support Enforcement; IV-D attorneys; Judicial Department; Legal Services; and Center on Fathering.
	OES	10 CCR 2506-1	Supplemental Nutrition Assistance Program (SNAP) Annual Update	To complete the annual technical clean up of various aspects of the SNAP rule.	26-1-107, C.R.S.;	Revision	July 2023	County departments of human services; CCLP; and SNAP advocates.
	OCYF	12 CCR 2509-8	Rules Regulating Day Treatment Centers	To update standards to increase quality	26-6-909(1), C.R.S.	Revision	August 2023	CDE; CDHPE; CDHS; BHA; and Residential Providers

Bill (if applicable)	Office	CCR	Rule Title	Purpose of Proposed Rule	Statutory or other basis for adoption or change to rule	New rule, revision, or repeal?	Anticipated Hearing	Stakeholders
SB 21-216	OAADS	12 CCR 2516-1	Rural Auxiliary Services Rule	To promulgate rules for a new auxiliary services program that is available to rural areas.	26-21-106(9)(b), C.R.S.	New Rule	August 2023	Rural Auxiliary Services Advisory Council; CCDHHDB's Commission Auxiliary Service Providers; Rural Deaf, Hard of Hearing, and DeafBlind consumers Access to Equality Coalition members Professional auxiliary service training programs (individual trainers included)
	OES	10 CCR 2506-1	SNAP	To provide for the annual Cost of Living adjustments based on federal guidance.	Federal SNAP regulations	Revision	October 2023	County Departments, CCLP, SNAP advocates
	OCYF	CCR 12 2509-8	Rules Regulating Family Foster Care Homes	To update immunization and health requirements, and to align with county rule changes, general updates	26-6-909(1), C.R.S.	Revision	November 2023	County Departments of HS, CDPHE, CDE, HCPF
	OCYF	CCR 12 2509-8	General Rules for Child Care Facilities	To update background checks and training requirements	26-6-909(1)C.R.S.	Revision	November 2023	All 24 hour child care providers; CDPHE; CDE; BHA; HCPF; and CDHS.
	OES	9 CCR 2503-7	Low Income Energy Assistance Program (LEAP) Annual Updates	To make annually required updates to program rules.	26-1-107(5)(b), C.R.S.	Revision	November 2023	LEAP Counties; Goodwill Contractor for LEAP Administration and Outreach.
	OCYF	CCR 12 2509-8	Rules and Regulations for Child Placement Agencies	To updated SAFE requirements and to align same with county rules	C.R.S. 26-6-909(1)	Revision	December 2023	CDPHE; County human services departments; HCPF; and child placement agencies.
HB 22-1038	OCYF	12 CCR 2509-1;	HB22-1038 Right to Counsel for Youth Workgroup for Potential Rule Changes	To add Right to Counsel to Volume 7 to be in compliance with state statutes.	HB22-1038	New Rule, Revision	December 2023	Child welfare Sub-PAC; Permanency Task Force; Office of the Child Representative; and

Bill (if applicable)	Office	CCR	Rule Title	Purpose of Proposed Rule	Statutory or other basis for adoption or change to rule	New rule, revision, or repeal?	Anticipated Hearing	Stakeholders
		12 CCR 2509-2; 12 CCR 2509-4; 12 CCR 2509-8						Office of Respondent parent counsel.
	OAADS	12 CCR 2518-1	CAPS Checks and Staffing Agencies (TBD)	To align with potential legislation to update CAPS Checks and to expand to staffing agencies responsibilities and information sharing.	26-3.1-111, C.R.S.	New Rule	TBD	Employers; staffing agencies; and Colorado Healthcare Association.
	OAADS	12 CCR 2510-1	Volume 10	To revise and update rules for the Older Americans Act and State Funding for Senior Services Programs.	26-11-100.1 - 26-11-207, C.R.S	Revision	Late 2023	AAAs; and CCOA.

2022

Regulatory Agenda REPORT

January 1, 2022-December 31, 2022

COLORADO
Department of Human Services

Overview

The Colorado Department of Human Services (CDHS) submits the following 2022 Regulatory Agenda Report and Results of Mandatory Review of Rules in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. § 2-7-203(4), detailing the results of the past year's rules review activity and the results of its mandatory review of rules pursuant to Colo. Rev. Stat. § 24-4-103.3.

Hearing or Adoption Date	CCR Number	Rule Title	New Rule, Revised, Reviewed or Repeal?	Statutory or Other Basis for Adoption of Rule	Purpose of Proposed Rule	High-Level Stakeholders	Status *Adopted/Not Adopted/ Withdrawn/ Ongoing*
1/7/2022	12 CCR 2509-1	Severity Level for Allegations of Abuse and Neglect	New	26-1-107, C.R.S.; 19-3-216, C.R.S.	To add a definition for "medium" as it relates to the severity of an allegation of abuse and/or neglect.	Child Protection Task Group (CPTG); Child Welfare Sub-Policy Advisory Committee (PAC)	Adopted
1/7/2022	2 CCR 502-1	Addiction Counselor Training Requirements	Revised, Repealed, Reviewed	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 12-245-804(3), C.R.S.; 27-80-108(1), C.R.S.; HB 21-1305	To establish the training requirements that individuals must meet in order to be eligible for an addiction counselor licensure or certification, and to repeal the Office of Behavioral Health (OBH) rules for the addiction counselor continuing competency program.	OBH; Department of Regulatory Agencies (DORA) staff and members of DORA's State Board of Addiction Counselor Examiners; Colorado Association of Addiction Professionals.	Adopted
1/7/2022	12 CCR 2518-1	30.920 State Level Appeals Process	New	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 26-3.1-111(5); 26-3.1-111(5)(h); HB21-1132.	To comply with HB21-1132, which requires CDHS to share appeal information, to include appeal outcome, with the Colorado Department of Regulatory Agencies (DORA) for the purposes of a regulatory investigation.	Adult Protective Services (APS) Task Group; Administrative Review Division (ARD) Steering Committee; PAC; Aging and Adult Sub-PAC; and DORA	Adopted
1/7/2022	9 CCR 2503-5	Old Age Pension (OAP) and Aid to the Needy Disabled Colorado Supplement (AND-CS) Cost	Revised	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 24-4-103, C.R.S.; 26-2-111, C.R.S.; 26-2-114, C.R.S.; Colorado Constitution, Article XXIV, Section 6	To increase the Supplemental Security Income (SSI) maximum payment per month. This rule will increase the OAP grant standard to $879 and the AND-CS grant standard to $841 in order to pass along the $47 COLA increase.	County Human Services Directors Association (CHSDA); Colorado Commission on Aging (CCOA); Colorado Legal Services (CLS); and Disability Law Colorado (DLC).	Adopted

Hearing or Adoption Date	CCR Number	Rule Title	New Rule, Revised, Reviewed or Repeal?	Statutory or Other Basis for Adoption of Rule	Purpose of Proposed Rule	High-Level Stakeholders	Status *Adopted/Not Adopted/ Withdrawn/ Ongoing*
		of Living Adjustment (COLA) Increase for 2022					
1/7/2022	9 CCR 2503-6	Afghanistan Non-Citizen Updates 2022 (9 CCR 2503-6)	Revised	26-1-107, C.R.S.; 24-4-103, C.R.S.; 26-1-111, C.R.S.; 26-2-709 (1.5), C.R.S.; 26-2-138(3), (4), (5), C.R.S.	To add language in order to align with federal changes, to remove overly specific language that does not identify currently eligible Afghani Special Immigrants as eligible, and to update a citation which was previously incorporated by reference.	CHSDA; CCOA; CLS; and DLC.	Adopted
1/7/2022	9 CCR 2503-3	Addition of New Eligible Categories of Afghan Population Groups	Revised	26-1-107, C.R.S.; 24-4-103, C.R.S.; 26-1-111, C.R.S.; 26-2-709 (1.5), C.R.S.; 26-2-138(3), (4), (5), C.R.S.	To ensure that the new categories of Afghan population groups and their proof of status documents are clearly reflected in the state rules.	Refugee Resettlement Agencies; Colorado Alliance for Refugee Empowerment and Success (CARES) contractors; Counties serving Colorado Refugee Services eligible populations.	Adopted
1/7/2022	12 CCR 2518-1	Expansion of CAPS Checks to DORA and the Courts	Revised	26-1-107(5)(b), C.R.S.; 26-3.1-108(1), C.R.S.; HB21-1123	To implement HB21-1123, which makes changes to the Adult Protective Services statute relating to CAPS checks.	County department directors; APS Task Group members; Aging and Adult Sub-PAC, PAC; Department of Regulatory Affairs; and Judicial.	Adopted
2/4/2022	10 CCR 2506-1	SNAP Technical Cleanup 2021	Amended, Repealed	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 26-2-301, C.R.S. 26-2-302.	To revise and improve terminology and definitions based on feedback from SNAP regulation workgroup. Also included is general technical cleanup.	SNAP applicants and recipients, CDHS SNAP program area staff, county SNAP administrators and eligibility technicians.	Adopted

Hearing or Adoption Date	CCR Number	Rule Title	New Rule, Revised, Reviewed or Repeal?	Statutory or Other Basis for Adoption of Rule	Purpose of Proposed Rule	High-Level Stakeholders	Status *Adopted/Not Adopted/ Withdrawn/ Ongoing*
2/4/2022	12 CCR 2509-2	Plan of Safe Care Practice Guidance	New	26-1-107(5)(I-II), C.R.S.; 26-1-109(2)(a), C.R.S.; 42 U.S.C.A. § 290ee-9(a); 42 U.S.C.A. § 5106a(4)	To bring rule in alignment with Federal legislation: Comprehensive Addiction and Recovery Act (CARA) and the Child Abuse Prevention Treatment Act (CAPTA).	CPTG; county child welfare; individuals with lived experience; Sub-PAC; and CDPHE.	Adopted
2/4/2022	9 CCR 2503-5	Adult Financial Modernizatio n – Phase II	Revised, New	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 26-2-119, C.R.S.; 26-2-122.3, C.R.S.	Adds the ability for counties to make supportive payments based on a declared disaster. Increases the AND-SO grant payment. Makes Home Care Allowance (HCA) the program of last resort. Corrects the treatment of Child Support income to align with federal benefit programs.	CCLP; Economic Security Sub-PAC; and AAAs.	Adopted
2/4/2022	12 CCR 2509-7	Extended Foster Care & Re-Entry (12 CCR 2509-7)	Revised, New	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.	To implement HB 21-1094, which establishes the Foster Youth in Transition Program, a youth-driven and developmentally appropriate approach to extended foster care.	Child Welfare Sub-PAC; Office of the Child's Representative (OCR); foster care providers; child placement agencies; and a youth advocacy group.	Adopted
2/4/2022 (Emergency) 4/8/2022 (Permanent)	12 CCR 2516-1	Emergency Rulemaking for the Colorado Commission for the Deaf, Hard of Hearing, and DeafBlind's Communicati ons Technology Program	Revised	26-1-107(5), (6), C.R.S.; 26-21-106(1)(d), (3), C.R.S.; 26-21-107.5(3), C.R.S.	To update the eligibility section of relevant rules to reflect the current 2022 Federal Poverty Guidelines.	Deaf, hard of hearing and deafblind individuals/consumers	Adopted

Hearing or Adoption Date	CCR Number	Rule Title	New Rule, Revised, Reviewed or Repeal?	Statutory or Other Basis for Adoption of Rule	Purpose of Proposed Rule	High-Level Stakeholders	Status *Adopted/Not Adopted/ Withdrawn/ Ongoing*
3/4/2022	12 CCR 2509-1	Plan of Safe Care Practice Guidance	New	26-1-107(5)(I-II), C.R.S.; 26-1-109(2)(a), C.R.S.; 42 U.S.C.A. § 290ee-9(a); 42 U.S.C.A. § 5106a(4)	To bring rule in alignment with Federal legislation: CARA and CAPTA.	CPTG; county child welfare; individuals with lived experience; Sub-PAC; and CDPHE.	Adopted
3/4/2022	12 CCR 2509-3	Monthly Parent Contacts	New, Revised	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.	To resolve discrepancies in Child Welfare rules regarding the parent contact expectations regarding frequency and exceptions to contact.	Permanency Task Group; Child Protection Task Group; and Sub-PAC.	Adopted
3/4/2022	12 CCR 2509-10	Extended Part C Option	Revised	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 27-10.5-703 (2) & (3)(b), C.R.S.; 34 CFR §303.211	To secure additional federal Part C funding to offer extended Part C services to children with a May 1 or later birthdate.	Federal Office of Special Education Programs (OSEP); and Colorado Department of Education.	Adopted
5/6/2022	12 CCR 2509-2	Institutional Abuse	Revised, Repealed	26-1-107, C.R.S.	To provide consistency in screening, conducting assessments and further incorporating statutory changes into administrative rule. The proposed rule also includes a strikethrough of the redundant revision history of Volume 7.	Institutional Assessment Rule Workgroup, Institutional Assessment Review Team, Child Welfare Sub-PAC.	Adopted
5/6/2022	12 CCR 2509-1	Institutional Abuse	Revised, Repealed, New	26-1-107, C.R.S.	To provide consistency in screening, conducting assessments and further incorporate statutory changes into administrative rule. The proposed rule also includes a strikethrough of the redundant revision history of Volume 7.	Institutional Assessment Rule Workgroup, Institutional Assessment Review Team, Child Welfare Sub-PAC.	Adopted
5/6/2022	9 CCR 2503-9	Colorado Child Care Assistance Program Rules	Revised, Repealed, New	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; SB21-199	To reduce the burden on families and reduce a county's workload since they require less verification from the family.	Counties; child care providers; and the community.	Adopted

Hearing or Adoption Date	CCR Number	Rule Title	New Rule, Revised, Reviewed or Repeal?	Statutory or Other Basis for Adoption of Rule	Purpose of Proposed Rule	High-Level Stakeholders	Status *Adopted/Not Adopted/ Withdrawn/ Ongoing*
5/6/2022	2 CCR 502-1	Recovery Support Services Organization Medicaid Billing	Revised, New	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.	To establish minimum standards that recovery support services organizations must meet to bill Medicaid.	Behavioral health stakeholders, including: Colorado Behavioral Healthcare Council; Colorado Hospital Association; Mental Health Colorado; Behavioral Health Planning and Advisory Council.	Adopted
6/3/2022	12 CCR 2516-1	Technical Update for the CCDHHDB's Grant Program	Revised	26-1-107(5)(b), C.R.S.; 26-1-111(2)(d)(I), C.R.S.; 26-21-107.5(3), C.R.S.; 26-21-107.5(1),(3) C.R.S.; 26-21-107.7(2), C.R.S.; SB21-216	To make language in the rules consistent with the CCDHHDB statute due to recent legislative changes.	CCDHHDB; CCDHHDB Grant Program Committee; Deaf, hard of hearing, and deafblind consumers.	Adopted
6/3/2022 (Emergency) 7/8/2022 (Permanent)	9 CCR 2503-5	Adult Financial Elimination of Lawful Presence	Revised, repealed	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 24-76.5-103, C.R.S.; SB21-199	To eliminate the need to collect a lawful presence affidavit for the Adult Financial programs. This change is a result of Senate Bill 21-199 which eliminates the need to verify lawful presence if not otherwise required in federal law.	The Food and Energy Assistance Division and Economic Security Sub-PAC.	Adopted
6/3/2022 (Emergency) 7/8/2022 (Permanent)	9 CCR 2503-6	Increase to Colorado Works Basic Cash Assistance 2022	Revised	26-1-107, C.R.S.; 26-2-709 (1) (a), C.R.S.	To comply with legislation requiring a 10% increase to the Colorado Works cash assistance grant effective 7/1/2022.	County Departments of Human Services, Economic Security Sub-PAC, PAC, Advocacy agencies.	Adopted
7/8/2022	12 CCR 2516-1	Legal Auxiliary Services Program Rule Updates	Revised	§ 26-1-107(5), (6), C.R.S.; § 13-90-203, C.R.S.; 24-1-120(5)(h), C.R.S.; §§ 26-21-102, 104(1), 106(4), C.R.S	To revise rules relating to court/legal qualification credentials for sign language interpreters and Communication Access Realtime Translation (CART) providers.	Legal Auxiliary Services Advisory Council (LASAC), which includes certified sign language interpreters, a CART provider, deaf and hard of hearing community	Adopted

Hearing or Adoption Date	CCR Number	Rule Title	New Rule, Revised, Reviewed or Repeal?	Statutory or Other Basis for Adoption of Rule	Purpose of Proposed Rule	High-Level Stakeholders	Status *Adopted/Not Adopted/ Withdrawn/ Ongoing*
						representatives, and a disability law representative.	
7/8/2022	12 CCR 2516-1	Legal Auxiliary Services Program Rule Updates	Revised	§ 26-1-107(5), (6), C.R.S.; § 13-90-203, C.R.S.; 24-1-120(5)(h), C.R.S.; §§ 26-21-102, 104(1), 106(4), C.R.S	To revise rules relating to court/legal qualification credentials for sign language interpreters and Communication Access Realtime Translation (CART) providers.	Legal Auxiliary Services Advisory Council (LASAC), which includes certified sign language interpreters, a CART provider, deaf and hard of hearing community representatives, and a disability law representative.	Adopted
7/8/2022 (Emergency) 8/5/2022 (Permanent)	12 CCR 2509-8	Change of Capacities in Specialized Group Facilities	Revised, New	26-6-106(1)(a), C.R.S.;26-6-106(1)(a), C.R.S.	To allow child placement agencies and county departments of human services to increase the capacities for children/youth being served by the Children's Habilitation Residential Program Waiver (CHRP), in certified foster homes and licensed specialized group facilities.	County departments of human services; child placement agencies, resource agencies; and HCPF.	Adopted
9/9/2022	9 CCR 2503-7	Revisions to the Low Income Energy Assistance Program (LEAP)	Revised, New	26-1-111(2)(a), C.R.S.; 40-8.5-101, C.R.S.; 40-8.7-109, C.R.S.	To complete the annual update to the LEAP rules which includes technical clean up and changes in income limits.	Colorado Legal Services; Sub-PAC; PAC; Energy Outreach Colorado; Colorado Energy Office; County LEAP managers; and CHSDA.	Adopted
9/9/2022	10 CCR 2506-1	SNAP 4.900 Updates	Revised, New	26-1-107(5)(b), C.R.S.; 26-1-111(2)(a), C.R.S.; 26-2-104(2)(a), (b), C.R.S.; 26-2-106(1), C.R.S.; 26-2-301, C.R.S.	To align with newly issued CDHS guidance as well as introduce a new expectation for a bi-annual reporting process to confirm case corrections are complete. Minor technical clean-up.	Sub-PAC; PAC; County departments of human services.	Adopted
9/9/2022 (Emergency)	10 CCR 2506-1	FFY23 SNAP COLA and	Revised	26-1-107(5)(b), C.R.S.; 26-1-111(2)(a), C.R.S.;	To align with federally released eligibility figures effective	Office of Appeals; Sub-PAC.	Adopted

Hearing or Adoption Date	CCR Number	Rule Title	New Rule, Revised, Reviewed or Repeal?	Statutory or Other Basis for Adoption of Rule	Purpose of Proposed Rule	High-Level Stakeholders	Status *Adopted/Not Adopted/ Withdrawn/ Ongoing*
10/7/2022 (Permanent)		Office of Appeals Update		26-2-104(2)(a), (b), C.R.S. (2021) 26-2-106(1), C.R.S.; 26-2-301, C.R.S.	10/01/2022 and recent legislative changes relating to the Office of Appeals.		
9/9/2022 (Emergency) 10/7/2022 (Permanent)	9 CCR 2503-3	Addition of new eligible categories of Ukrainian population groups	Revised	26-1-107(5)(a)(I), (b), C.R.S.; 26-1-111(2)(a), C.R.S.; 26-2-137(1)(b), C.R.S.; 26-2-138(3)-(5), C.R.S.; Pub. L. 117-128, Title IV, § 401(a), (b); 8 U.S.C. 1101; 8 U.S.C. § 1522(a)(2),(6)	To ensure that the new categories of Ukrainian population groups and the document types, necessary for proof of their status, are clearly reflected in the state rules.	Refugee Resettlement Agencies and Counties serving CRSP eligible populations.	Adopted
11/4/2022 (Emergency, Anticipated) 12/9/2022 (Permanent, Anticipated)	9CCR 2503-5	Elimination of Lawful Presence for Old Age Pension	Revised	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 24-76.5-103, C.R.S.	To eliminate the need for an applicant to be lawfully present in order to be eligible for the Old Age Pension in the Adult Financial programs.	The Food and Energy Assistance Division and Economic Security Sub-PAC.	Ongoing
12/9/2022 (Anticipated)	12 CCR 2509-3	Foster Youth in Transition Program Clean Up Rules	Revised, New	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 19-7-315, C.R.S.; HB21-1094.	To promulgate rules for implementation of HB21-1094, which established the Foster Youth in Transition Program, a youth-driven and developmentally appropriate approach to extended foster care.	County departments of human services, OCR; Colorado Network to End Youth Homelessness; Rural Collaborative for Homeless Youth; and Project Foster Power.	Ongoing

Results of Mandatory Review of Rules

COLORADO
Department of Human Services

2022 Results of Mandatory Review of Rules

Number (CCR) and Title (or Description)	Office	Identified Sections With Rules For Potential or Enacted Repeal, Revision, or Amendment	Did Review Result in Repeal of Entire CCR Volume?	Adoption Date (if applicable)
10 CCR 2506-1 (Food Assistance Program (Volume 4B)	OES	N/A Note: CCR Section was subject to comprehensive review during the rulemaking process in 2022 as detailed in the above table.	No.	N/A
11 CCR 2508-1 (County Finance and Accounting, Executive Director Rules (Volume 5))	OAS	5.302; 5.800 (Revision)	No.	N/A
12 CCR 2509-1 (Volume 7; Child Welfare, Child Care Facilities)	OCYF	7.000.2 (Revision) **Note**: CCR Section was subject to partial review and revision during rulemaking in 2022 as detailed in the above above table.	No.	N/A
12 CCR 2509-2 (Volume 7; Child Welfare, Child Care Facilities)	OCYF	7.103.71; 7.103.8; 7.103.10; 7.104.1; 7.104.13; 7.104.14; 7.107.2; 7.110 (Revision) **Note**: CCR Section was subject to partial review and revision during	No.	N/A

Number (CCR) and Title (or Description)	Office	Identified Sections With Rules For Potential or Enacted Repeal, Revision, or Amendment	Did Review Result in Repeal of Entire CCR Volume?	Adoption Date (if applicable)
		rulemaking in 2022 as detailed in the above table.		
12 CCR 2509-3 (Volume 7; Child Welfare, Child Care Facilities)	OCYF	N/A **Note**: CCR Section was subject to partial review and revision during rulemaking in 2022 as detailed in the above table.	No.	N/A

Departmental Regulatory Agendas

Department

Department of Health Care Policy and Financing

COLORADO
Department of Health Care Policy & Financing

1570 Grant Street
Denver, CO 80203

November 1, 2022

Members of the Colorado General Assembly
c/o Legislative Council
State Capitol Building
200 East Colfax
Denver, CO 80203

Dear Members of the General Assembly:

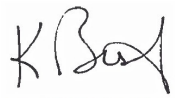
I am pleased to submit the Department of Health Care Policy and Financing (HCPF)'s 2022 Regulatory Agenda Report and 2023 Regulatory Agenda, in compliance with Colo. Rev. Stat. §2-7-203, as amended by House Bill 12-1008. The Department's 2023 Regulatory Agenda has also been submitted to the Colorado Secretary of State for publication in the Colorado Register, and will be posted to our website.

The Department's 2022 Regulatory Agenda Report provides a brief summary of all permanent, temporary and emergency rules reviewed, revised and adopted since the Department's 2022 Departmental Regulatory Agenda was filed on November 1, 2021, as well as the status, comments, and information relative to stakeholder input. Pursuant to Colo. Rev. Stat. § 24-4-103.3(4), the 2022 Regulatory Agenda Report also reflects the results of the Department's mandatory rule review activity over the past year. Effective July 1, 2016, all permanent rules adopted by the Department, as reflected in the 2021 Regulatory Agenda Report, involved early stakeholder engagement, as described by the Department's procedures for public participation in rulemaking (available online at https://www.colorado.gov/hcpf/stakeholder-engagement-protocols).

Information pertaining to a specific rule can be obtained by contacting Jo Donlin (jo.donlin@state.co.us) or Chris Sykes (chris.sykes@state.co.us).

Pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(II), we will be prepared to discuss our 2022 Regulatory Agenda Report and 2023 Regulatory Agenda with the Department's Joint Committee of Reference during our upcoming SMART Act hearing.

Sincerely,



Kim Bimestefer
Executive Director

Enclosure: HCPF 2022 Regulatory Agenda Report and 2023 Regulatory Agenda

CC: Legislative Council Library
State Library
Cristen Bates, Medicaid and CHP+ Behavioral Health Initiatives and Coverage Office, HCPF
Ralph Choate, Medicaid Operations Office Director, HCPF
Charlotte Crist, Cost Control & Quality Improvement Office Director, HCPF
Adela Flores-Brennan, Medicaid Director, HCPF
Thomas Leahey, Pharmacy Office Director, HCPF
Tom Massey, Policy, Communications, and Administration Office Director, HCPF
Bettina Schneider, Finance Office Director, HCPF
Bonnie Silva, Office of Community Living Director, HCPF
Parrish Steinbrecher, Health Information Office Director, HCPF
Rachel Reiter, External Relations Division Director, HCPF
Jo Donlin, Legislative Liaison, HCPF

2023

Regulatory Agenda

COLORADO
Department of Health Care Policy & Financing

Overview

The Colorado Department of Health Care Policy and Financing submits the following 2023 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous Department Regulatory Agenda was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2022 (which are denoted as such in the "purpose" column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(III)(A).

The following constitutes Department of Health Care Policy and Financing's DRA for 2022-2023 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

Schedule (Month, Year)	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** (X if yes)	**Purpose**	**Stakeholders** Consider including high-level outreach bullets	**Anticipated Hearing Date**
March 2023	10 CCR 2505-10 Section 8.494.40 Non-Emergent Transportation	Office of Community Living	Revision	C.R.S. 25.5-6-313(1)		Update benefit	Health First Colorado clients, providers	March 2023

Schedule (Month, Year)	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** (X if yes)	**Purpose**	**Stakeholders** Consider including high-level outreach bullets	**Anticipated Hearing Date**
April 2023	10 CCR 2505-10 Section 8.500.5.B HCBS-DD Waiver Services	Office of Community Living	Revision	25.5-10-204, C.R.S.		Addition of Benefits Planning and Workplace Assistance services	Health First Colorado clients, providers	April 2023
January 2023	10 CCR 2505-10 Section 8.500.94 HCBS-SLS Waiver Services	Office of Community Living	Revision	25.5-6-306, C.R.S		Addition of Benefits Planning and Workplace Assistance services	Health First Colorado clients, providers	January 2023
May 2023	10 CCR 2505-10 Section 8.500.102.B Service Plan Authorization Limits (SPAL)	Office of Community Living	Revision	25.5-5-329, C.R.S.		Removal of Employment Services	Health First Colorado clients, providers	May 2023
February 2023	10 CCR 2505-10 Section 8.500.5.B.2.e.iii HCBS-DD Waiver Services	Office of Community Living	Revision	25.5-10-204, C.R.S.		Removal of subminimum wage requirement	Health First Colorado clients, providers	February 2023
June 2023	10 CCR 2505-10 Section 8.500.94.B.3.e.iii HCBS-SLS Waiver Services	Office of Community Living	Revision	25.5-6-306, C.R.S		Removal of subminimum wage requirement	Health First Colorado clients, providers	June 2023

Schedule (Month, Year)	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** (X if yes)	**Purpose**	**Stakeholders** Consider including high-level outreach bullets	**Anticipated Hearing Date**
September 2023	10 CCR 2505-10 Section 8.510 Consumer Directed Attendant Support Services	Office of Community Living	Revision	25.5-6-1601 – 1605, C.R.S.		Amend Supported Living Services health maintenance activities service definitions to redirect to Consumer Directed Attendant Support Services health maintenance activities service definition	Health First Colorado clients, providers	September 2023
January 2023	10 CCR 2505-10 Section 8.500.94.C HCBS-SLS Waiver Services	Office of Community Living	Revision	25.5-6-306, C.R.S		Amend CDASS Attendant background check requirements to allow for an exceptions process for individuals convicted of crimes previously considered "Barrier Crimes" Add language to allow CDASS exercise to be prescribed by an Occupational and / or Physical Therapist	Health First Colorado clients, providers	January 2023

Schedule (Month, Year)	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** (X if yes)	**Purpose**	**Stakeholders** Consider including high-level outreach bullets	**Anticipated Hearing Date**
June 2023	10 CCR 2505-10 Section 8.516.10 Independent Living Skills Training	Office of Community Living	Revision	25.5-6-704, C.R.S.		Update benefit	Health First Colorado clients, providers	June 2023
February 2023	10 CCR 2505-10 Section 8.516.30 Independent Living Skills Training	Office of Community Living	Revision	25.5-6-704, C.R.S.		Update benefit	Health First Colorado clients, providers	February 2023
April 2023	10 CCR 2505-10 Section 8.553 Life Skills Training, Home Delivered Meals, Peer Mentorship, & Transition Setup Services	Office of Community Living	Revision	25-1.5-108.5, C.R.S.		Update benefit	Health First Colorado clients, providers	April 2023
July 2023	10 CCR 2505-10 Section 8.500.5 HCBS-DD Waiver Services	Office of Community Living	Revision	25.5-10-204, C.R.S.			Health First Colorado clients, providers	July 2023

Schedule (Month, Year)	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision , or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** (X if yes)	**Purpose**	**Stakeholders** Consider including high-level outreach bullets	**Anticipated Hearing Date**
January 2023	10 CCR 2505-10 Section 8.519.6 Case Management Agency Selection Repeal	Office of Community Living	Revision	25.5-10-208, C.R.S.		This rule was intended to outline requirements for a third-party to facilitate member choice of CMA for the purpose of conflict-free case management compliance. It is no longer needed because the Department has changed the model for conflict free case management as part of case management redesign and legislation has been passed to that effect.	Health First Colorado clients, providers	January 2023

Schedule (Month, Year)	**Rule Number and Title or Brief Description**	**Division/ Board/ Program**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption of rule**	**Part of Mandatory Rule Review?** (X if yes)	**Purpose**	**Stakeholders** Consider including high-level outreach bullets	**Anticipated Hearing Date**
January 2023	10 CCR 2505-10 Section 8.612 Supports Intensity Scale Assessment	Office of Community Living	Revision	25.5-6-409.3, C.R.S.		The purpose of this rule revision is to correct and clarify regulations related to the Supports Intensity Scale (SIS) algorithm currently used to determine support levels for members in the Supported Living Services and Developmental Disabilities HCBS waivers.	Health First Colorado clients, providers	January 2023

2022

Regulatory Agenda Report

COLORADO
Department of Health Care Policy & Financing

Overview

Pursuant to Colo. Rev. Stat. §2-7-203(4), the Department of Health Care Policy and Financing submits the following 2022 Regulatory Agenda Report. Pursuant to statutory requirements concerning the Department's Regulatory Agenda, this Regulatory Agenda Report details the results of the past year's rules review activity, including the results of mandatory rule reviews conducted under Colo. Rev. Stat. §24-4-103.3(4) as part of the Department's "Regulatory Efficiencies Reviews."

This report includes the following items:

- "Rulemaking included in 2022 Regulatory Agenda," providing an update of rules included in the Department's 2022 Regulatory Agenda (filed on November 1st, 2021)
- "Results of Mandatory Rules Review," providing a summary of the activities and outcomes associated with the Department's mandatory rule reviews conducted under Colo. Rev. Stat. §24-4-103.3(4)
- "Unplanned Rulemaking", summarizing rule activity that was not neither part of mandatory regulatory efficiency review nor part of the Regulatory Agenda.

Rulemaking included in 2022 Regulatory Agenda

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Stakeholders	Status	Comments
MSB 21-04-26-A	Pharmacy Office	Revision	Sections 25.5-5-501	Update the pharmacy rate methodology for clotting factor drugs	Health First Colorado clients, providers	Adopted – February 2022	
MSB 21-08-04-A	Office of Community Living	Revision	Sections 25.5-6-202 & 25.5-6-203, C.R.S.	Develop consistent methodology for new Nursing Facility Medicaid certification or added bed approval and technical changes in accordance with HB 21-1227	Health First Colorado clients, providers	Adopted – April 2022	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Stakeholders	Status	Comments
MSB 21-08-04-B	Office of Community Living	Revision	C.R.S. 25.5-6-1101	The rule revision is to enact program rules for member level compliance with Electronic Visit Verification	Health First Colorado clients, providers	Adopted – December 2021	
MSB 22-01-18-A	Office of Community Living	New	Sections 25.5-1- 301 through 25.5-1-303, C.R.S.	Define amount, duration and scope of benefit.	Health First Colorado clients, providers	Adopted – February 2022	
MSB 22-01-17-B	Health Programs Office	Revision	C.R.S. § 25.5-5- 202(1)(i)	Clarify the qualified residential treatment program requirements.	Health First Colorado clients, ambulatory surgery centers	Adopted – March 2022	
MSB 22-01-30-B	Pharmacy Office	Revision	HB21-1275	This rule change will implement HB21-1275 to allow pharmacies to bill for extended-release injectable medications used for the treatment of mental health or substance use disorders if they are administered in a physician's office or clinic.	Health First Colorado clients, providers	Adopted – March 2022	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Stakeholders	Status	Comments
MSB 22-01-30-C	Health Programs Office	Revision	HB21-1275	A pharmacist will eligible for reimbursement under the medical assistance program for certain medically necessary pharmacist services under Colorado House Bill 21-1275 that are not duplicative of other pharmacist services or programs reimbursed under the medical assistance program.	Health First Colorado clients, providers	Adopted – March 2022	

Results of Mandatory Rules Review

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
10 C.C.R. 2505-10 Section 8.200 Physician Services	Health Policy Office	25.5-5-102(d), C.R.S.	July	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.201 Adult Dental Services	Health Policy Office	25.5-5-202(1)(w), C.R.S.	July	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.202 Dental Services for Children	Health Policy Office	25.5-5-207, C.R.S.	July	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.205 Medicaid Managed Care Program	Health Policy Office	25.3-5-401 – 425, C.R.S.	July	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.209 Medicaid Managed Care Grievance and Appeal Processes	Health Policy Office	25.5-5-406, C.R.S.	July	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.212 Community Behavioral Services	Health Policy Office	25-20.5-1301 – 1303, C.R.S.	July	Y	N	N	Pending

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
10 C.C.R. 2505-10 Section 8.215 Community Mental Health Services Program Capitation Rate Setting	Health Policy Office	25.5-5-202(1)(i) C.R.S.	July	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.220 Competitive Procurement and Selective Contracting, Including Global Fee Payment Programs	Health Policy Office	25.5-5-415, C.R.S.	July	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.221 General Provisions	Health Policy Office	25.5-5-415, C.R.S.	July	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.280 Early and Periodic Screening, Diagnostic and Treatment	Health Policy Office	Social Security Act, Section 1905(a)(4)(b)	July	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.290 School Health Services	Special Finance Division	25.5-5-318(9), C.R.S.	July	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.600 Services for Individuals with Intellectual and Developmental Disabilities	Office of Community Living	25.5-6-401 - 413, C.R.S.	September	Y	N	N	Pending

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
10 C.C.R. 2505-10 Section 8.601 Administrative Services	Office of Community Living	25.5-6-401 - 413, C.R.S.	September	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.602 Service Agencies	Office of Community Living	25.5-6-401 - 413, C.R.S.	September	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.603 Program Approval by the Department	Office of Community Living	25.5-6-401 - 413, C.R.S.	September	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.604 Due Process and Confidentiality	Office of Community Living	25.5-6-401 - 413, C.R.S.	September	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.605 Dispute Resolution Procedures	Office of Community Living	25.5-6-401 - 413, C.R.S.	September	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.606 Confidentiality	Office of Community Living	25.5-6-401 - 413, C.R.S.	September	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.607 Case Management Services	Office of Community Living	25.5-6-1703, C.R.S.	September	Y	N	N	Pending

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
10 C.C.R. 2505-10 Section 8.608 Service and Support Planning, Supporting People with Challenging Behavior, and Protections	Office of Community Living	25.5-6-1201 – 1208, C.R.S.	September	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.609 Program Services and Supports	Office of Community Living	25.5-10 C.R.S.	September	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.610 Facility Based Adult Day Habilitation Services and Supports	Office of Community Living	25.5-10-201 - 240, C.R.S.	September	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.611 Transportation	Office of Community Living	25.5-10-201 - 240, C.R.S.	September	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.612 Supports Intensity Scale Assessment and Support Levels	Office of Community Living	25.5-5-202(1)(i), C.R.S.	September	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.613 Family Support Services (FSS) Program	Office of Community Living	25.5-10-303, C.R.S.	September	Y	N	N	Pending

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
10 C.C.R. 2505-10 Section 8.614 Gastronomy Services	Office of Community Living	21 C.F.R. 876.5980	September	Y	N	N	Pending
10 C.C.R. 2505-10 Section 8.660 Laboratory and X-Ray	Office of Community Living	25.5-5-102, C.R.S.	September	Y	N	N	Pending
10 C.C.R. 2505-3 Section 50 Definitions	Health Policy Office	25.5-8-101 – 113, C.R.S.	July	Y	N	N	Pending
10 C.C.R. 2505-3 Section 100 Eligibility	Health Policy Office	25.5-8-101 – 113, C.R.S.	July	Y	N	N	Pending
10 C.C.R. 2505-3 Section 200 Benefits Package	Health Policy Office	25.5-8-101 – 113, C.R.S.	July	Y	N	N	Pending
10 C.C.R. 2505-3 Section 300 Enrollment Fees and Copayments	Health Policy Office	25.5-8-101 – 113, C.R.S.	July	Y	N	N	Pending
10 C.C.R. 2505-3 Section 400 Enrollment	Health Policy Office	25.5-8-101 – 113, C.R.S.	July	Y	N	N	Pending
10 C.C.R. 2505-3 Section 500 Financial Management	Health Policy Office	25.5-8-101 – 113, C.R.S.	July	Y	N	N	Pending
10 C.C.R. 2505-3 Section 600 Appeals Process	Health Policy Office	25.5-8-101 – 113, C.R.S.	July	Y	N	N	Pending

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
10 C.C.R. 2505-5 Section 1.010 Finance and Accounting	Local Partnerships & Program Team	25.5-1-108, C.R.S.	August	Y	N	N	Pending
10 C.C.R. 2505-5 Section 1.020 County Administrative Rules	Local Partnerships & Program Team	25.5-1-108, C.R.S.	August	Y	N	N	Pending
10 C.C.R. 2505-5 Section 1.200 All-Payers Claims Database	Local Partnerships & Program Team	25.5-1-204(9), C.R.S.	August	Y	N	N	Pending

Unplanned Rulemaking

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 21-11-03-A	Office of Community Living	New	Social Security Act Section 1135, Social Security Act 1115 (Pending), and Social Security Act 1915(c), Appendix K.	Revision to the Medical Assistance Act Rule concerning Novel Corona Virus Disease (COVID-19) Rules, Section 8.6000	November 2021	Individual's receiving services in community-based settings, provider-owned community-based residential settings, provider-owned facility settings, and case management	Adopted November 2021	
MSB 21-11-03-B	Fiscal Agent Operations Section	Revision	Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021)	Revision to the Medical Assistance Rule concerning Provider Enrollment, Sections 8.125.11, 8.125.12, 8.125.13	November 2021	Providers	Adopted November 2021	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 21-11-04-A	Benefits Section	Revision	Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021)	Revision to the Medical Assistance Act Rule concerning Emergency Medical Transportation, Sections 8.018.1.F. and 8.018.4.D.1	November 2021	Medicaid members, providers, and facilities	Adopted November 2021	
MSB 21-11-04-B	Benefits Section	Revision	Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021)	Revision to the Medical Assistance Act Rule concerning Non-Emergent Medical Transportation, Sections 8.014.1.N, 8.014.3.C.2, 8.014.3.D.1, 8.014.4.A, 8.014.6.A.3	November 2021	Medicaid members, providers, and facilities	Adopted November 2021	
MSB 21-11-05-B	Office of Community Living	Revision	Section 6008(b)(4) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136	Revision to the Medical Assistance Act Rule concerning Nursing Facility Immunization Administration, Sections 8.443 and 8.815	November 2021	nursing home facility residents	Adopted November 2021	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 21-11-07-A	Eligibility Policy Section	Revision	Families First Coronavirus Response Act (FFCRA), Public Law No. 116-127 and Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law No. 116-136 and the Affordable Care Act (ACA), which includes the Maintenance of Effort (MOE) provision.	Revision to the Medical Assistance Rule concerning Medical Assistance program rule updates, Sections 8.100.1,8100.3, 8.100.4, 8.100.5 and 8.100.6	November 2021	applicants and members who are applying or enrolled in a MAGI and Non-MAGI Medical Assistance program	Adopted November 2021	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 21-11-07-B	Eligibility Policy Section	Revision	Families First Coronavirus Response Act (FFCRA), Public Law No. 116-127 and Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law No. 116-136 and the Affordable Care Act (ACA), which includes the Maintenance of Effort (MOE) provision. updates, Sections 110,140, 310 and 320	Revision to the Medical Assistance Rule concerning Child Health Plan Plus program rule updates, Sections 110,140, 310 and 320	November 2021	members enrolled in the CHP+ programs	Adopted November 2021	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 21-10-28-A	Pharmacy Office	Revision	Section 25.5-1-108, C.R.S. (2021)	Revision to the Medical Assistance Act Rule Concerning Preferred Drug List (PDL) and New Drug Determinations, Section 8.800.16.B	November 2021	Medicaid members	Adopted November 2021	
MSB 21-10-22-A	Eligibility Policy Section	Revision	Social Security Act §1905(a)(2)(B) and §1902(bb)	Revision to the Medical Assistance Eligibility Rules concerning General and Citizenship Eligibility Requirements, Section 8.100.3.G	November 2021	applicants and members who are applying or enrolled in a MAGI and Non-MAGI Medical Assistance program	Adopted November 2021	
MSB 21-06-08-A	Office of Community Living	Revision	Sections 25.5-6-303, 25.5-6-307, C.R.S. (2021)	Revision to the Medical Assistance Long-Term Services and Supports HCBS Benefit Rule Concerning Expanding Electronic Monitoring to Include Remote Supports, to revise Section 8.488	November 2021	Home and Community-Based Services under the Elderly Blind and Disabled (EBD), Community Mental Health Supports (CMHS), Spinal Cord Injury (SCI), Brain Injury (BI), and Supported Living Services (SLS) waivers.	Adopted November 2021	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 21-07-07-A	Benefits Section	Revision	C.R.S. § 25.5-5-202(1)(w)(2020)	Revision to the Medical Assistance Act Rule concerning Adult Dental Annual Limit Maximum, Section 8.201.6	November 2021	adult dental members	Adopted November 2021	
MSB 21-07-20-B	Program Integrity Section	Revision	42 CFR § 431.17; 42 CFR § 431.20; 42 CFR § 455.400	Revision to the Medical Assistance Rule concerning Provider Participation, Section 8.130	November 2021	providers	Adopted November 2021	
MSB 21-02-09-A	Office of Community Living	Revision	§ 441.301(C)(4))	Revision to the Medical Assistance Rule concerning the Home and Community Based Services Final Settings Rule, Section 8.484	November 2021	all HCBS members	Adopted November 2021	
MSB 21-08-10-C	Office of Community Living	Revision	Sections 25.5-6 and Sections 25.5-10 C.R.S. and 25.5.-1-802 C.R.S.	Revision to the Medical Assistance Long-Term Services and Supports HCBS Benefit Rule Concerning Non-Medical Transportation, Sections 8.494 and 8.611	November 2021	members and providers	Adopted November 2021	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 21-08-05-B	Office of Community Living	Revision	Sections 25.5-6-404, C.R.S.	Revision to the Medical Assistance Long-Term Services and Supports HCBS Benefit Rule Concerning Service Plan Authorization Limits (SPAL) and the Exception Review Process, Section 8.500.102	November 2021	members who are enrolled on the HCBS – SLS waiver	Adopted November 2021	
MSB 21-11-30-A	Benefits Section	Revision	CRS § 25.5-5-202(1)(i) (2021)	Revision to the Medical Assistance Act Rule concerning Qualified Residential Treatment Programs, Section 8.765	December 2021	Members currently residing in Residential Child Care Facilities (RCCF), and RCCF providers	Adopted December 2021	
MSB 21-12-01-A	Benefits Section	Revision	C.R.S. 25.5-5-102(1)(a) (2019)	Revision to the Medical Assistance Act Rule concerning Subacute Care, Section 8.300	December 2021	Inpatient hospitals, and associated alternate care facilities	Adopted December 2021	
MSB 21-12-01-B	Benefits Section	Revision	CRS § 25.5-4-424 (2021)	Revision to the Medical Assistance Act Rule concerning Hospice Room and Board, Section 8.550.9.C	December 2021	Medicaid members in nursing facility care	Adopted December 2021	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 21-12-02-A	Benefits Section	Revision	Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021)	Revision to the Medical Assistance Act Rule concerning Pediatric Personal Care Minimum Wage, Section 8.535	December 2021	Direct Care Workers	Adopted December 2021	
MSB 21-08-05-A	Benefits & Services Management	Revision	Senate Bill 21-286 contained in 25.5-6-18 C.R.S. (2021)	Revision to the Medical Assistance Act Rule concerning Base Wage Requirement for Direct Care Workers, Section 8.511	December 2021	Direct Care Workers	Adopted December 2021	
MSB 21-11-08-A	Rates Division	Repeal	Section 25.5-102(1)(a), C.R.S. (2021)	Revision to the Medical Assistance Act Rule concerning Modification of Outpatient Hospital Payment Rates through EAPG Grouper Update, Section 8.300.6	December 2021	Health First Colorado members	Adopted December 2021	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 21-07-20-C	Rates Division	Revision	1902(bb) SSA	Revision to the Rural Health Center Rules Concerning Reimbursement, Section 8.740	December 2021	Health First Colorado members	Adopted December 2021	
MSB 21-08-04-B	Office of Community Living	Revision	21st Century Cures Act, 42 U.S.C. § 1396b(l)	Revision to the Medical Assistance Act Rule concerning Consumer Directed Attendant Support Services EVV Compliance, Section 8.510	December 2021	Medicaid members enrolled in Consumer Directed Attendant Support Services	Adopted December 2021	
MSB 21-06-09-A	Benefits and Services Management Section	Revision	25.5-6-1203, C.R.S. (2021)	Revision to the Medical Assistance Act Rule concerning In-Home Support Services, Section 8.552	December 2021	Members participants using In-Home Support Services	Adopted December 2021	
MSB 21-11-17-A	Office of Community Living	Revision	Section 25.5-10-209.5, C.R.S. (2021)	Revision to the Medical Assistance Rule concerning Qualifications of Case Managers, Sections 8.393.1.J.; 8.519.5. and 8.603.9	December 2021	Medicaid providers	Adopted December 2021	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 21-11-17-B	Benefits Section	Revision	Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021)	Revision to the Medical Assistance Act Rule concerning Long-Term Home Health and Private Duty Nursing Prior Authorization Requirements, Sections 8.520.8, 8.540.2 and 8.540.7	December 2021	Members receiving pediatric long-term home health and private duty nursing	Adopted December 2021	
MSB 21-09-09-A	Pharmacy Office	Revision	Section 25.5-5-511, C.R.S. (2020) & Section 25.5-5-512, C.R.S. (2020)	Revision to the Medical Assistance Act Rule concerning HB21-1275 Pharmacy Implementation, Section 8.800.5	January 2022	Pharmacists and pharmacies	Adopted January 2022	
MSB 21-10-01-A	Benefits Section	Revision	CRS § 25.5-5-511(2)(a) (2021)	Revision to the Medical Assistance Rule concerning Pharmacy Reimbursement, Section 8.200.2.B and C	January 2022	Pharmacists and members receiving pharmaceutical services	Adopted January 2022	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 21-01-07-A	Program Innovation Section	Revision	State Plan: Attachment 3.1-A 2.c. and Attachment 4.19-B & 25.5-5-102(1)(m), C.R.S.	Revision to the FQHC Rule Concerning Reimbursement for Antiviral Medication for COVID-19, Section 8.700.6.B	January 2022	Federally Qualified Health Centers	Adopted January 2022	
MSB 22-01-12-C	Health Policy Office	Revision	State Plan: Attachment 3.1-A 7.g. and Attachment 4.19-B & 25.5-4-416, C.R.S.	Revision to the DMEPOS Rule Concerning Pharmacists Prescribing COVID-19 at-home over-the-counter tests, Section 8.590	January 2022	Health First Colorado members	Adopted January 2022	
CHP 21-06-03-B	Eligibility Policy Section	Revision	C.R.S. § 25.5-8-104 (2021)	Revision to the Medical Assistance Rule concerning Changes to the Revision of the Renewal process for Sections 140 and 430	January 2022	applicants/members who have reached their redetermination period in MAGI and Non-MAGI Medical Assistance Programs	Adopted January 2022	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 19-08-21-B	Eligibility Policy Section	Revision	42 C.F.R §435.915, §435.916, §435.917, §435.948, §435.949, and §457.380	Revision to the Medical Assistance Rule concerning Changes to the renewal process for Sections 8.100.4.G, 8.100.3.K, and 8.100.3.P	January 2022	applicants/members who have reached their redetermination period in MAGI and Non-MAGI Medical Assistance Programs	Adopted January 2022	
MSB 22-01-19-B	Health Policy Office	Revision	C.R.S. § 25.5-4-415 (2021)	Revision to the Medical Assistance Rule concerning Abortion Services, Section 8.770	February 2022	Colorado Health First members	Adopted February 2022	
MSB 22-01-19-B	Health Policy Office	Revision	Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021)	Revision to the Medical Assistance Act Rule concerning Pediatric Long-Term Home Health Prior Authorization Exceptions, Section 8.520.8.C	February 2022	Members receiving pediatric long-term home health services	Adopted February 2022	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 21-10-19-A	Special Financing Division	Revision	Sections 25.5-4-402.4(4)(b), (g), C.R.S.	Revision to the Special Financing Rule concerning FFY 2021-22 Healthcare Affordability & Sustainability (HAS) Fees & Supplemental Payments Amendment, Section 8.3000	February 2022	Colorado hospitals	Adopted February 2022	
MSB 21-04-26-A	Pharmacy Office	Revision	Sections 25.5-4-401, 25.5-5-202(1)(a)(I), C.R.S.	Revision to the Medical Assistance Rule Concerning the Pharmacy Rate Methodology, Section 8.800	February 2022	Pharmacy providers	Adopted February 2022	
MSB 21-10-08-A	Eligibility Policy Section	Revision	Section 25.5-4-205, C.R.S. (2021)	Revision to the Medical Assistance Eligibility Rules Concerning Definitions at Section 8.100.1, General Eligibility Transferring Requirements at Section 8.100.3.C, and Long- Term Care Medical Assistance Requirements at Sections 8.100.7.A&B	February 2022	eligibility sites and case management agencies	Adopted February 2022	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 21-10-19-B	Health Policy Office	Revision	C.R.S. § 25.5-5-402(1)	Revision to the Medical Assistance Health Programs Office Rule Concerning Medicaid Statewide Managed Care System, Section 8.205, 8.209, 8.212 and 8.215	February 2022	Medicaid members	Adopted February 2022	
MSB 21-11-05-A	Special Financing Division	Revision	Sections 25.5-3-501 through 25.5-3-506, C.R.S. (2021); Sections 25.5-3-101 through 25.5-3-112	Revision to the Special Financing Division Colorado Indigent Care Program rules concerning HB21-1198 Implementation and CICP Alignment, Section 8.900	March 2022	low-income households	Adopted March 2022	
MSB 21-06-04-A	Office of Community Living	Revision	Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021);	Revision to the Medical Assistance Rule concerning CHCBS Cost Containment Rule Revision, Section 8.506	March 2022	Case managers and members	Adopted March 2022	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 22-02-16-A	Special Financing Division	Revision	25.5-4-402.4(4)(b), (g), C.R.S	Revision to the Medical Assistance Rules concerning Revision to the Medical Assistance Rules concerning Skilled Nursing Facility Enhanced Supplemental Payments, Section 8.443	April 2022	Nursing homes	Adopted April 2022	
MSB 22-01-06-B	Rates Division	Revision	C.R.S. & 25.5-4-402, C.R.S. (2021)	Revision to the Medical Assistance Rule concerning Update Inpatient Base Rates for fiscal year 22-23, Section 8.300.5	April 2022	Providers	Adopted April 2022	
MSB 22-01-10-A	Office of Community Living	Revision	Sections 25.5-6-11 and 25.5-6-12, C.R.S. (2021) C.R.S. & Section 25.5-6-1102 (2021)	Revisions to the Medical Assistance Rules concerning the Participant Directed Programs Rules, Sections 8.510 & 8.552	April 2022	Members receiving Consumer Directed Attendant Support Services (CDASS) and In-Home Support Services (IHSS)	Adopted April 2022	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 21-08-04-A	Office of Community Living	Revision	C.R.S. added 25.5-6-209 (2021), amended 25.5-6-201 and 25.5-6-202 (2021)	Medicaid Nursing Facilities Demonstration of Need with Technical Changes Revision to the Medical Assistance Program Requirements for Nursing Facilities, Section 8.400	April 2022	New nursing facilities	Adopted April 2022	
MSB 21-02-05-A	Office of Community Living	Revision	Sections 25.5-10 C.R.S.	Revision to the Medical Assistance Act Rule concerning Services for Individuals with Intellectual and Developmental Disabilities Sections 8.609.5 and 8.609.7	April 2022	Program Approved Service Agencies	Adopted April 2022	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 22-01-04-A	Health Policy Office	Revision	42 CFR §§ 447.51, .54(d)(2), 42 CFR 438.114(a)	Revision to the Medical Assistance Act Rule concerning Prudent Layperson Standard for Emergency Care Services, Sections 8.300.1, 8.320.1, 8.754.2, 8.754.5	May 2022	Members seeking emergency care services and hospitals	Adopted May 2022	
MSB 22-02-10-B	Health Policy Office	Revision	CRS § 25.5-5-202(1)(i) (2021)	Revision to the Medical Assistance Act Rule concerning Qualified Residential Treatment Programs and Residential Child Care Facilities, Sections 8.212.1, 8.765.8, and 8.765.13	May 2022	Members currently residing in Residential Child Care Facilities	Adopted May 2022	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 21-01-06-A	Eligibility Policy Section	Revision	25.5-5-101(1)(c) C.R.S. 25.5-5-201 (4.5), C.R.S 25.5-8-109	Revision to the Medical Assistance Rule Concerning Changes to Expand the Postpartum Period to 12 months for Sections 8.100.1, 8.100.4.G., 8.100.6.P, and 8.100.6.Q	May 2022	Members	Adopted May 2022	
CHP 21-01-06-B	Eligibility Policy Section	Revision	25.5-8-103(b)(I) C.R.S.	Revision to the CHP Plus Rule Concerning Changes to Expand the Postpartum Period to 12 months for Sections 110, 170, 310, and 430	May 2022	Members	Adopted May 2022	
MSB 22-01-12-B	Eligibility Policy Section	Revision	C.R.S 25.5-2-103, 25.5-5-102 (1)(h), & 25.5-1-201 (1)(f.5)	Revision to the Medical Assistance programs Rule Concerning updates to add Reproductive Health Care services for sections 8.100.3.G and 8.100.3.I	May 2022	Members	Adopted May 2022	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 22-01-10-B	Eligibility Policy Section	Revision	C.R.S. 25.5-6-1402(6), C.R.S. 25.5-6-1403(5), C.R.S. 25.5-6-1404, C.R.S. 25.5-6-1405 C.R.S.	Revision to the Medical Assistance Rule Concerning allowing individuals ages 65 and older to qualify for the Medicaid Buy-In Program for Working Adults with Disabilities, Section 8.100.6.P.1.a (	May 2022	members on the Medicaid Buy-In Program for Working Adults with Disabilities	Adopted May 2022	
MSB 21-10-28-B	Benefits & Management Section	Revision	25.5-6-1301 – 25.5-6-1304 C.R.S. (2021)	Revision to the HCBS Spinal Cord Injury Waiver Rules Concerning Statewide Expansion, Expanded Qualifying Diagnoses and Provider Definitions, Section 8.517	May 2022	HCBS members	Adopted May 2022	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 22-02-08-A	Benefits & Management Section	Revision	SB21-199; Effective July 1, 2022: Section 24-76.5-103, C.R.S. (2022)	Revision to the Medical Assistance Rule Concerning the Family Support Services Program, Sections 8.613.C	May 2022	persons enrolled in or eligible for FSSP funding, families of persons receiving funding, and Community Centered Boards	Adopted May 2022	
MSB 22-05-19-A	Benefits & Services Division	Revision	Sections 25.5-1-903, C.R.S. (2018)	Revision to Medical Assistance Act Rule concerning Base Wage regarding certain Home and Community Based Services, Section 8.511	June 2022	children and youth with intellectual and developmental disabilities and complex behavior support needs who are eligible for the CHRP waiver	Adopted June 2022	
MSB 22-05-31-B	Health Policy Office	Revision	Colorado House Bill 22-1329	Revision to the Medical Assistance Act Rule concerning Non-Emergent Emergency Department Services Cost Sharing, Section 8.754.2	June 2022	Members receiving non-emergent services in an emergency room/department	Adopted June 2022	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 22-05-31-A	Health Policy Office	Revision	Colorado House Bill 22-1329	Revision to the Medical Assistance Act Rule concerning Non-Invasive Prenatal Testing, Section 8.732.4.E	June 2022	Members receiving non-invasive prenatal testing	Adopted June 2022	
MSB 22-03-22-A	Special Financing Division	Revision	25.5-2-101, C.R.S. (2021) 25.5-3-404(4), C.R.S. (2021)	Revision to the Special Financing Division Colorado Dental Health Care Program for Low-Income Seniors and Old Age Pension Concerning SB21-199, Section 8.900	June 2022	participants in the Colorado Dental Health Care Program for Low-Income Seniors and the Old Age Pension Health Care Program	Adopted June 2022	
MSB 22-04-27-A	Rates Division	Revision	Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021)	Revision to the Medical Assistance Rule concerning Maternity Services Episode Based Payments, Section 8.733	June 2022	pregnant and birthing members and neonates	Adopted June 2022	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 22-06-14-A	Rates Division	Revision	HB 22-1326	Revision to the Medical Assistance Act Rule Concerning Outpatient Payment Rates for Opioid Antagonist, Section 8.300.6.A.4	July 2022	Health First Colorado patients at-risk for opioid overdoses	Adopted July 2022	
CHP 22-06-23-B	Health Policy Office	Revision	House Bill 22-1289	Revision to the Child Health Plan Plus Rule Concerning Waiving of Enrollment Fees, Sections 50.4 & 440.4	July 2022	members newly enrolled in the CHP+ programs and members being redetermined at renewal	Adopted July 2022	
MSB 22-06-30-A	Health Policy Office	Revision	Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021)	Revision to the Medical Assistance Act Rule concerning Long-Term Home Health Prior Authorization, Section 8.520.8.C	July 2022	Members receiving pediatric long-term home health services, and the providers of such services	Adopted July 2022	
MSB 22-01-20-A	Rates Division	Revision	Section § 25.5-5-408(1)(d), C.R.S. (2022)	Revision to the Federally Qualified Health Center Rule Concerning Reimbursement, Section 8.700.6	July 2022	Federally Qualified Health Centers	Adopted July 2022	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 22-02-22-A	Rates Division	Revision	Section 25.5-4-402, C.R.S. (2022)	Revision to the Medical Assistance Act Rule concerning Outpatient Payment Rates for Newly Enrolled and Out of State Hospitals, Sections 8.013 & 8.300.6	July 2022	New and out-of-state outpatient hospitals	Adopted July 2022	
MSB 22-07-26-A	Office of Community Living	Revision	Section § 25.5-5-303. (2022)	Revision to the Medical Assistance Act Rule concerning Private Duty Nursing Benefits, Section 8.540.2	August 2022	members who utilize Private Duty Nursing	Adopted August 2022	
MSB 22-07-21-A-	Special Financing Division	Revision	25.5-2-101, C.R.S. (2022) 25.5-3-404(4), C.R.S. (2022)	Revision to the Special Financing Division Colorado Dental Health Care Program for Low-Income Seniors Schedule A, Section 8.960	August 2022	seniors within the Low-income Seniors Dental program	Adopted August 2022	

Rule Number (CCR) and Title (or Description)	Division /Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Contemplated Schedule for Adoption	Stakeholders	Status	Comments
MSB 22-05-03-B	Health Policy Office	Revision	Section 12-245-404(4)(a) (2020)	Revision to the Medical Assistance Act Rule concerning Federally Qualified Health Center Clinical Social Worker, Section 8.700.1.B.1	August 2022	Federally Qualified Health Centers	Adopted August 2022	
MSB 22-05-03-A	Health Policy Office	Revision	C.R.S. 25.5-5-320(1) (2021)	Revision to the Medical Assistance Act Rule concerning Telemedicine Electronic-Health (e-Health) Entities, Sections 8.095, 8.200.3, 8.520.4.B, 8.700.1, 8.730.3.B, 8.740.1 & 8.750.3.B	September 2022	Health First Colorado members	Adopted September 2022	

Departmental Regulatory Agendas

Department

Department of Labor and Employment

2023

Regulatory Agenda

January 1, 2023-December 31, 2023

COLORADO
Department of
Labor and Employment

Overview

The Colorado Department of Labor and Employment submits the following 2023 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1, executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2023 (which are denoted as such in the "purpose" column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(III)(A).

The following constitutes the Department of Labor and Employment's Regulatory Agenda for 2023 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

Schedule **Anticipated Hearing or Adoption Date**	**Rule Number**	**Rule Title**	**New rule, revision, or repeal?**	**Statutory or other basis for adoption or change to rule**	**Purpose of Proposed Rule**	**Stakeholders** *Consider including high-level outreach bullets*
February 2023	7 CCR 1107-7	Retaliation and Interference	New	C.R.S. § 8-13.3-509(7)	Establish process for enforcing violations of CRS 8-13.3-509	Employers and employees covered by FAMLI
April 2023	TBD	State Apprenticeship Agency Regulations	New	C.R.S. § 8-15.7.101	Standards for the Registration of Apprenticeship Programs in Colorado	Current and propspective registered apprenticeship sponsors, apprentices
April 2023	7 CCR 1101-3	Surcharge	Amended	C.R.S. § 8-47-107	Mandatory annual review of surcharge rates	Insurers, self-insured employers
Spring 2023	7 CCR 1103	COUNTY COLLECTIVE BARGAINING RULES	New	C.R.S. § 8-3.3-101 et seq., C.R.S. § 24-4-103, C.R.S. §§ 24-50-1103, -1106(4), and C.R.S. §§ 8-3.3-106, -108, -109, -111, -114.	In response to SB 22-230, newly creating collective bargaining for counties, and chargign DLSS wth rulemaking.	Labor and union organizations, non-profit organizations, advocacy groups, Wage Theft Task Force, national and local law firms and bar associations, universities, business associations and organizations, internal state agencies

Spring 2023	7 CCR 1103-8	DIRECT INVESTIGATION RULES	Revison	C.R.S. §§ 8-1-103(3), 8-1-107(2), 8-1-111, 8-1-116, 8-1-117, 8-4-111(1)(a), 8-2-130, 8-5-103, 8-5-203, 8-6-107, 8-13.3-403(9), 8-13.3-407(6), 8-13.3-408(1)-(2), 8-13.3-410, 8-14.4-103(2), 8-14.4-105(4), and 8-14.4-108.	Update rules for the relatively new Direct Invstigation program to conform to program needs that have arisen in 2021-22.	Labor and union organizations, non-profit organizations, advocacy groups, Wage Theft Task Force, national and local law firms and bar associations, universities, business associations and organizations, internal state agencies
Spring 2023	7 CCR 1101-1; possible renumbering to 1103-16	RULES OF PROCEDURE TO THE COLORADO LABOR PEACE ACT AND INDUSTRIAL RELATIONS ACT	Revison	Labor Peace Act, Article 3 of C.R.S. Title 8.	Conform rules last written decades ago to modern practice and recent legislation expanding the scope of the Labor Peace Act.	Labor and union organizations, non-profit organizations, advocacy groups, Wage Theft Task Force, national and local law firms and bar associations, universities, business associations and organizations, internal state agencies
Fall 2023	7 CCR 1103-1	COLORADO OVERTIME AND MINIMUM PAY STANDARDS ORDER (COMPS ORDER) #39	Revison	Authority and relation to prior orders. Colorado Overtime and Minimum Pay Standards Order ("COMPS Order") #38 replaces COMPS Order #37 (2021) and prior orders, except that the provisions of prior orders still govern as to events occurring while they were in effect. The COMPS Order is issued under the authority of, and as enforcement of, C.R.S. Title 8, Articles 1, 4, 6, 12, 13.3, and 13.5 (2022), and is intended to be consistent with the requirements of the State Administrative Procedures Act, C.R.S. § 24-4-101, et seq.	Possible need to update based on evolving needs and suggestions; will decide by summer 2023 whether amendments are needed.	Labor and union organizations, non-profit organizations, advocacy groups, Wage Theft Task Force, national and local law firms and bar associations, universities, business associations and organizations, internal state agencies

Fall 2023	7 CCR 1103-7	WAGE PROTECTION RULES	Revison	These rules update the Wage Protection Rules, 7 CCR 1103-7, which implement the Colorado Wage Act ("CWA") as amended by the Wage Protection Act ("WPA"), C.R.S. § 8-4-101 et seq., the Healthy Families and Workplaces Act ("HFWA"), C.R.S. § 8-13.3-401 et seq., and the Agricultural Labor Rights and Responsibilities Act, codified in relevant part at C.R.S. §§ 8-6-101.5, 8-6-120, and 8-13.5-201 et seq.	Possible need to update based on evolving needs and suggestions; will decide by summer 2023 whether amendments are needed.	Labor and union organizations, non-profit organizations, advocacy groups, Wage Theft Task Force, national and local law firms and bar associations, universities, business associations and organizations, internal state agencies
Fall 2023	7 CCR 1103-14	2022 PUBLICATION AND YEARLY CALCULATION OF ADJUSTED LABOR COMPENSATION (2022 PAY CALC) ORDER	Revison	These Rules are issued under the authority, and as enforcement, of Section 15 of Article XVIII of the Colorado Constitution and Articles 1, 2, 4, 6, and 12 of C.R.S. Title 8 (2022), and are intended to be consistent with the State Administrative Procedures Act, C.R.S. § 24-4-101, et seq.	Annual increase of the minimum wage as mandated by the Colorado Constitution.	Labor and union organizations, non-profit organizations, advocacy groups, Wage Theft Task Force, national and local law firms and bar associations, universities, business associations and organizations, internal state agencies
September	7 CCR 1101-3	Fee schedule	Amended	C.R.S. § 8-47-107	Mandatory review of fee schedule	Insurers, self-insured employers, injured workers, medical providers
Undetermined	7 CCR 1101-3	DIME	Amended	C.R.S. § 8-47-107	Update DIME procedures	Insurers, self-insured employers, injured workers, medical providers

Undetermined	7 CCR 1101-4	Self-Insurance	Amended	C.R.S. § 8-47-107	Update procedures for self-insured employers	Self-insured employers.
Undetermined	7 CCR 1101-14	Petroleum Storage Tank Regulations	Amended	C.R.S. §§ 8-20-102, 820.5-202, 820.5-302	Simplify aboveground storage tank rules; adopt new codes and contamination standards for soil and groundwater.	Owners, operators, consultants and industry specialists
Undetermined	7 CCR 1101-2	Records	New and Amended	C.R.S. § 8-72-102	Empoyer service moderniation changes to make records a required part of MyUI+ and emplyoer submission of records to MyUI+	employers and employees covered by UI
Undetermined	7 CCR 1101-2	Employer Premiums	Amended	C.R.S. § 8-72-102	Empoyer service moderniation changes to make records a required part of MyUI+ and emplyoer	employers and employees covered by UI

					submission of records to MyUI+	
Undetermined	7 CCR 1101-2	Reports	Amended	C.R.S. § 8-72-102	Empoyer service moderniation changes to make records a required part of MyUI+ and emplyoer submission of records to MyUI+	employers and employees covered by UI
Undetermined	7 CCR 1101-2	Workshare	Amended	C.R.S. § 8-72-102	Changes to Workshare	employers and employees covered by UI
Undetermined	7 CCR 1101-2	Overpayments recovery	Amended	C.R.S. § 8-72-102	Changes to Overpaymwents due to SB 22-234	UI benificiaries

Departmental Regulatory Agendas

Department

Department of Corrections

2022

Regulatory Agenda Report

COLORADO
Department of Corrections

Overview

The Colorado Department of Corrections submits the following 2021-22 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colorado Revised Statute 2-7-203(4). Pursuant to state law, annually on November 1, executive branch agencies must file a Departmental Regulatory Agenda containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous Departmental Regulatory Agenda was filed.

The Departmental Regulatory Agenda also includes, pursuant to Colorado Revised Statute 24-4-103.3, rules to be reviewed as part of the Department "Regulatory Efficiency Reviews" during 2021-22 (which are denoted in the "purpose" column). The Departmental Regulatory Agenda is to be filed with the Legislative Council staff for distribution to Committee(s) of reference, posted on the department's website, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its Departmental Regulatory Agenda as a part of its "Smart Act" hearing and presentation pursuant to the Colorado Revised Statute 2-7-203(2)(a)(III)(A).

The following constitutes Colorado Department of Corrections Departmental Regulatory Agenda for 2021-22 and is provided in accordance with Colorado Revised Statute 24-7-203(2)(a)(IV):

Schedule Month, Year	Rule Number and Title	Division	New rule, revision, or repeal	Statutory or Other Basis	Purpose / Detail	Stakeholders
October 2022	**ARs:** **250-23**, Client Choice Treatment Provider, **250-46**, Sanctions in Lieu of Revocation / Regression, **700-20,** Alcohol and Drug Services Program – (**draft) 250-76,** Sure and Swift Program, **250-77**, Parole Complaint and Summons (**draft)**	Parole	Revisions	**HB 22-1257** Adoption Of 2022 Recommendations Of The Colorado Criminal Juvenile Justice Commission Regarding Sentencing Provisions For Offenses. **Statutes:** 16-11.5-10517-2-103	1. Departments shall develop testing programs and behavioral response systems. Any offender who tests positive for the use of alcohol or controlled substances subsequent to the initial test required by section 18-1.3-209 , shall be subjected to a system of structured and individualized behavioral responses. The Judicial Department, the Department of Corrections, the State Board of Parole, and the Division of Criminal Justice of the Department of Public Safety shall cooperate to develop and make public a range of structured and individualized behavioral responses for those people under the jurisdiction of each agency that are appropriate to the people supervised by each particular agency. 2. The same departments shall cooperate to develop and implement a range of incentives for offenders under the jurisdiction of each particular agency to motivate recovery from a substance use disorder and abstinence from harmful use of alcohol or controlled substances. 3. An intermediate sanction against a parolee can be confinement in any facility operated or approved by the department of corrections or in a county jail.	Offenders, Clinical Staff, Community, Behavioral Health, Division of Adult Parole

October 2022	None	Clinical	N/A	**SB 22-021** Treatment Of Persons With Behavioral Health Disorders In The Justice System. **Statute:** 18-1.9-104	DOC to appoint one member to represent the Department on the Task Force established concerning the treatment of persons with mental health disorders in the criminal and juvenile justice systems.	Clinical Dept
July 2022	**AR: 200-15,** Offender Court-Ordered Fines and Fees, Surcharges, Restitution and Child Support Withholding	Finance and Administration	Revised	**SB 22-043** Enhancing Restitution Services for Victims. **Statute:** 16-18.5-106	Requires the DOC to intercept government windfall payments before the payments are deposited in an inmate's bank account and send funds to the Judicial Department in an amount equal to any amount owed by the inmate. • The Department has updated the Administrative Regulations (ARs) impacted by SB 22-043, and the bill is currently implemented.	Offenders, Finance, Offender Banking
June 2022	**ARs:** **550-14**, Facility Re Entry, **450-10** Business Management, **850-03** Offender Assignment and Pay	Correctional Industries	Revised	**SB 22-050** Work Opportunities for Offenders in Department of Corrections. **Statutes:** 17-20-115. Rehabilitation and work programs for rehabilitation, reentry, and reintegration. 17-20-117. Inmate rehabilitation and work. 17-24-102. Legislative declaration. 17-24-103. Definitions. External Program, Internal Program 17-24-106. General powers	This legislation will provide for the reorganization and modernization of the Colorado Correctional Industries (CCi) program. SB-050 removes the requirement for CCi to make a profit, thereby allowing DOC to focus on work programs that benefit the reentry and reintegration of the incarcerated population, rather than focusing on programs that create revenue. As CCi is reorganized, integration of DOC's Take TWO (Transitional Work Opportunity) program is critical to the work life of the incarcerated population. The Take TWO model recruits private employers to hire incarcerated individuals to work. Some of these programs resemble a work release program, while others can be operationalized inside of DOC institutions. The model requires that inmates are paid at least state minimum wage and provides optional opportunities for employment after release. Removes profit promote successful rehabilitation, reentry, and	Offenders, Community members, Employers, Facility Operations, CI Business Office

				of the division. 17-24-110. Financial payment incentives. 17-24-122. Agreements for the employment of inmates by private entities. 17-29-105. Minimum security off-grounds work programs authorized.	reintegration into the community.	
October 2022	**ARs:** **250-23**, Client Choice Treatment Provider, **250-78** Medication Assisted Treatment, **700-03**, Mental Health Scope of Service, MAT Clinical Standard	Parole/Clinical	Revised & New	**SB 22-196** Supporting The Health Needs Of Persons Who May Be Involved With The Criminal Justice System. **Statutes:** 25.5-4-505 17-1-113.8	• Created MAT Clinical standard • Hired Chief of Community Behavioral Health and Peer Services. • Working on creating an AR to provide support, resources, and psychoeducation using Peer Specialist/Recovery Coaches for individuals that are either participating in the DOC MAT program or eligible for MAT services, substance use disorder, participating in SOTMP treatment, and for individuals placed in the mental health RTP program. • Chief of Community Behavioral Health and Peer Services and Parole Mental Health Coordinator writing clinical standards for parole mental health to prioritize services/referrals for individuals that have been identified as having a serious mental illness and/or significant functional impairment and those with co-occurring substance use disorders and mental illness. • Chief of Community Behavioral Health and Peer Services working with community stakeholders to develop wrap-around peer support for individuals that are currently participating in DOC MAT program or eligible for MAT services for individuals within 120 days of release from DOC. • Hiring a Behavioral Health case	Clinical, Behavioral Health, Pharmacy, Human Resources, Training, Offenders, Community.

					manager to identify high-needs high-risk individuals to work on transitional planning for complex cases 120 days prior to release. • Parole Mental Health is collaborating with Parole Restore case managers to identify MAT eligible offenders 120 days before release to start MAT medications. • Chief of Community Behavioral Health and Peer Services and the Drug and Alcohol Administrator developing a peer specialist led group curriculum for individuals enrolled in DOC MAT program.	

Departmental Regulatory Agendas

Department

Department of Regulatory Agencies

COLORADO
Department of
Regulatory Agencies
Executive Director's Office

November 1, 2022

The Honorable Members of the General Assembly
c/o the Staff of the Legislative Council
State Capitol Building
200 East Colfax Denver, CO 80203

Dear Members of the General Assembly:

I am pleased to submit the Department of Regulatory Agencies (DORA) 2023 Regulatory Agenda and the 2022 Regulatory Report, in compliance with §2-7-203, C.R.S. The Department's Regulatory Agenda has also been submitted to the Colorado Secretary of State for publication in the Colorado Register. The Regulatory Agenda and Regulatory Report are posted on our website at https://dora.colorado.gov/legislative-services.

The Agenda provides a summary of rules that will be considered for review, revision, repeal, or creation in the upcoming calendar year. The Report summarizes all permanent, temporary, and emergency rules that were or are being revised, created, or repealed and the results of the mandatory review of regulations per the Department's Rule Review Schedule in the current calendar year. As reflected in the Report, all permanent regulations adopted by the Department involved early stakeholder engagement, as outlined on the Department's website.

According to §2-7-203(2)(a)(II), C.R.S., the Department will be prepared to discuss our Agenda and Report with the Department's Joint Committee of Reference during our upcoming SMART Act presentation.

Sincerely,

Patty Salazar
Executive Director

1560 Broadway, Suite 110, Denver, CO 80202 P 303.894.7855 F 303.894.7885 www.colorado.gov/dora

Overview

The Colorado Department of Regulatory Agencies submits the following 2023 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo.Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA)containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year.
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- The contemplated schedule for adoption of the rules.
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
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The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2022 (which are denoted as such in the "purpose" column). The DRA is to be filed with the Legislative Council staff for distribution to the committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(II).

Note: For optimal printing, please ensure that "printer properties" and "page setup" are set up for letter-sized paper, "fit to page" and portrait.

2023

Regulatory Agenda

COLORADO
Department of
Regulatory Agencies

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR RULE CHANGE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
1	BAN	03/16/2023	3 CCR 701-10 (All Rules)	Financial Institution Administrative Rules - All Rules	Revision	§11-101-102, §11-102-104	Yes	Review and update all administrative rules.	Banking Board; State-Chartered Banks, Trust Companies; Licensed Money Transmitters; Eligible Public Depositories
2	BAN	06/15/2023	3 CCR 701-6 (All Rules)	Trust Companies - All Rules	Revision	§11-101-102, §11-102-104	Yes	Review and update all trust company rules.	Trust Companies
3	DOI	Ongoing through 2023	3 CCR 702 - 1	Record Retention	Revision	§ 10-1-109, C.R.S.	Yes	The purpose of this regulation is to clarify definitions and rules regarding retention, maintenance, access to and retrievability of records as required by the insurance statutes and regulations of the State of Colorado including, but not limited to, §§ 10-1-108 and 10-1-201, et seq.	All DOI stakeholders
4	DOI	Ongoing through 2023	3 CCR 702 - 1	Fees Charged by Producers	Revision	§§ 10-1-109 and 10-16-133 (5)(c), C.R.S.	Yes	The purpose of this regulation is to implement rules prohibiting producers from charging certain fees for which they are already compensated through commissions and to clarify which fees may be charged. This regulation replaces Colorado Emergency Insurance Regulation 18-E-02 that became effective on August 8, 2018 in its entirety.	Producers
5	DOI	Ongoing through 2023	3 CCR 702 - 1	Insurance Producer Appointment and Termination Requirements for Bail Insurance Companies and Credentials Required by § 10-2-418(2), C.R.S.	Revision	§10-1-109 and §10-2-104, C.R.S.	Yes	The purpose of this regulation is to establish the requirements for the appointment and termination of insurance producers by bail insurance companies authorized to do business in Colorado pursuant to the statutory provisions of §§ 10-2-415.5 and 10-2-415.7, C.R.S.	Producers, Bail insurance companies

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6	DOI	Ongoing through 2023	3 CCR 702 - 1	Standard Compensation Disclosure for Health Insurance Producers	Revision	§10-1-109, §10-16-133(5)(c), and §10-22-112(3)(b), C.R.S.	Yes	The purpose of this regulation is to establish that insurance producers who sell health care insurance shall disclose to the person purchasing the policy that the insurance producer will receive a commission; establish the required disclosure of the standard compensation schedule of the producer to the consumer; and to establish the conditions and notice that must be provided to a consumer if a producer intends to charge a fee for the sale or for providing assistance with renewal of an individual health benefit plan. This regulation replaces Colorado Insurance Emergency Regulation 18-E-03 that became effective on August 8, 2018, in its entirety.	Producers
7	DOI	Ongoing through 2023	3 CCR 702 - 2	Concerning Home or Regional Home Office Qualification for Colorado Licensed Insurers	Revision	§10-1-109(1), C.R.S.	Yes	The intent and purpose of §10-3-209(1)(b)(I)(B), C.R.S. is to provide a tax incentive for insurance companies to bring employment to the State of Colorado through the establishment of home or regional home offices (hereinafter referred to as RHO) in the state. It is not intended to furnish tax relief to companies that do not either perform the required level of the functions mandated by statute, or maintain significant direct insurance operations supported by functional operations pertinent to a line or lines of business written by the company. The purpose of this regulation is to provide filing requirements and standards that are applicable to companies making application for RHO qualification.	Domestic insurers
8	DOI	Ongoing through 2023	3 CCR 702 - 3	Proxies, Consents and Authorizations of Domestic Stock Insurers	Revision	§10-1-109, and §10-3-121(2), C.R.S.	Yes	The purpose of this regulation is to set forth rules and procedural requirements which the Commissioner deems necessary to carry out the provisions of Section 10-3-121, C.R.S., regarding domestic stock insurers that solicit proxies, consents or authorizations in respect to any class of equity securities.	Domestic stock insurers

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9	DOI	Ongoing through 2023	3 CCR 702 - 3	Insider Trading of Equity Securities of a Domestic Stock Insurance Company	Revision	§10-1-109, C.R.S.	Yes	The purpose of this regulation is to set forth rules and procedural requirements which the Commissioner deems necessary to carry out the provisions of Section 10-3-120, C.R.S., regarding the acquisition or disposition of equity securities of a domestic stock insurance company by a beneficial owner, director or officer.	Domestic stock insurers
10	DOI	Ongoing through 2023	3 CCR 702 - 4	Concerning the Disclosure Requirements for Life Insurance Illustrations	Revision	§10-1-109(1) and §10-3-1110(1), C.R.S.	Yes	The purpose of this regulation is to provide rules for life insurance policy illustrations that will protect consumers and foster consumer education. The regulation provides illustration formats, prescribes standards to be followed when illustrations are used, and specifies the disclosures that are required in connection with illustrations. The goals of this regulation are to ensure that illustrations do not mislead purchasers of life insurance and to make illustrations more understandable. Insurers will, as far as possible, eliminate the use of footnotes and caveats and define terms, used in the illustration, in language that would be understood by a typical person within the segment of the public to which the illustration is directed.	Life insurers, consumers
11	DOI	Ongoing through 2023	3 CCR 702 - 4	Concerning the Disclosure Requirements for Annuity Transactions	Revision	§10-1-109 and §10-3-1110 (1), C.R.S.	Yes	The purpose of this regulation is to provide standards for the disclosure of certain minimum information about annuity contracts to protect consumers and foster consumer education. The regulation specifies the minimum information which must be disclosed, the method for disclosing it and the use and content of illustrations, if used, in connection with the sale of annuity contracts. The goal of this regulation is to ensure that purchasers of annuity contracts understand certain basic features of annuity contracts.	Annuity insurers, consumers

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12	DOI	Ongoing through 2023	3 CCR 702 - 4	Preneed Life Insurance Minimum Mortality Standards for Determining Reserve Liabilities and Nonforfeiture Values	Revision	§10-1-109, and §10-7-313.7, C.R.S.	Yes	The purpose of this regulation is to establish, for preneed insurance products, minimum mortality standards for reserves and nonforfeiture values, and to require the use of the Commissioners' 1980 Standard Ordinary (CSO) Mortality Table for use in determining the minimum standard of valuation of reserves and the minimum standard nonforfeiture values for preneed insurance products. It is not the purpose of this regulation to change the minimum interest rate standards or the methods used in determining the minimum standards for reserves and nonforfeiture values for preneed insurance products.	Life insurers
13	DOI	Summer/2023	3 CCR 702 - 4	Preneed Funeral Contracts	New	§10-15-103, C.R.S.	No	Regulation to implement HB22-1228, Sunset continue regulate preneed funeral contracts, to establish annual renewal fees.	Funeral homes
14	DOI	Ongoing through 2023	3 CCR 702 - 4	Replacement of Individual Accident and Sickness Insurance	Revision	§10-1-109, §10-3-1110, and §10-16-109, C.R.S.	Yes	The purpose of this regulation is to reduce the opportunity for misrepresentation and other unfair practices and methods of competition in the business of insurance. The scope of this regulation includes persons covered by an individual health care coverage plan offered by a health maintenance organization and individual accident and sickness insurance policies or plans, who are considering replacement of their coverage.	Health insurers, HMOs
15	DOI	Ongoing through 2023	3 CCR 702 - 4	Procedure for Provider-Carrier Dispute Resolution	Revision	§10-1-109, §10-16-109, and §10-16-708, C.R.S.	Yes	The purpose of this regulation is to establish procedures for resolution of provider-carrier disputes, as required by § 10-16-705(13), C. R.S.	Health insurers, providers
16	DOI	Ongoing through 2023	3 CCR 702 - 4	Concerning Clean Claim Requirements for Health Carriers	Revision	§10-16-109 and §10-1-109, C.R.S.	Yes	This regulation outlines the requirements to determine whether or not a claim will be considered a clean claim, as well as the requirements for carriers processing each as required for a prompt payment of claims.	Health insurers

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17	DOI	Ongoing through 2023	3 CCR 702 - 4	Concerning the Payment of Early Intervention Services for Children Eligible for Benefits under Part C of the Federal Individuals with Disabilities Education Act	Revision	§10-1-109, §10-16-104(1.3) and §27-10.5-709(2), C.R.S.	Yes	The purpose of this regulation is to provide health carriers the guidance necessary to facilitate the payment of early intervention services by private insurance sources and to incorporate the changes made to those payments by House Bill 13-1266. This regulation replaces emergency regulation 13-E-12 in its entirety.	Health insurers
18	DOI	Ongoing through 2023	3 CCR 702 - 4	Standardized Electronic Identification and Communication Systems Guidelines for Health Benefit Plans	Revision	§10-1-109 and §10-16-135, C.R.S.	Yes	The purpose of this regulation is to define the standardized electronic identification and communication systems to be used by carriers and providers of health benefit plans in Colorado, as required by § 10-16-135, C.R. S.	Health insurers
19	DOI	Ongoing through 2023	3 CCR 702 - 4	Section Names and the Placement of those Sections in Policy Forms by Health Carriers	Revision	§10-1-109 and §10-16-137 (1), C.R.S.	Yes	The purpose of this regulation is to set forth the standardized format for section names and placement of those section names in policy forms issued by all carriers.	Health insurers
20	DOI	Ongoing through 2023	3 CCR 702 - 4	Required Information for Carriers to Provide on Explanation of Benefits Forms	Revision	§10-1-109 and §10-16-137 (2), C.R.S.	Yes	The purpose of this regulation is to set forth the minimum required information for carriers to provide on an explanation of benefits form sent to covered persons.	Health insurers, consumers
21	DOI	Ongoing through 2023	3 CCR 702 - 4	Concerning the Elements for Form Filings for Health Benefit Plans and Certain Dental Coverage Forms and Contracts	Revision	§10-1-109(1), §10-3-1110, §10-16-107.2(3), §10-16-107.3(1)(b), and §10-16-109, C.R.S.	Yes	The purpose of this regulation is to promulgate rules applicable to the form filing requirements for health benefit plans, ACA-compliant stand-alone dental plans, student health insurance coverage, and short- term limited duration health insurance policies.	Health insurers
22	DOI	Spring/2023	3 CCR 702 - 4	Enrollment Periods Relating to Individual and Group Health Benefit Plans	Revision	§10-1-109, 10-16-105(2)(b), §10-16-105.7(1)(e), §10-16-105.7(3)(a)(II)(G), §10-16-105.7(3)(b)(II)(F), §10-16-105.7(3)(c), §10-16-108.5 (8), and §10-16-109, C.R.S	No	The purpose of this regulation is to establish rules governing enrollment periods for individual and group health benefit plans in accordance with Article 16 of Title 10 of Colorado Revised Statutes and the Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, 124 Stat. 119 (2010), and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010), together referred to as the “Affordable Care Act” (ACA).	Health insurers, producers, consumers

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23	DOI	Ongoing through 2023	3 CCR 702 - 4	Concerning Grace Periods for Policyholders Receiving Advance Payment Tax Credits	Revision	§10-1-109, §10-16-106.5(8)(b), and §10-16-140(4), C.R.S.	Yes	The purpose of this regulation is to establish the requirements for grace periods for health benefit plans offered on the Exchange for policyholders that receive the federal Advance Payment Tax Credits (APTC), and where the policyholder of the plan is delinquent in the payment of monthly premiums.	Health insurers
24	DOI	Ongoing through 2023	3 CCR 702 - 4	Concerning Pediatric Dental Benefits	Revision	§10-1-109 and §10-16-103.4(7), C.R.S.	Yes	The purpose of this regulation is to establish a requirement that carriers cannot sell a health benefit plan in the individual or small group market inside or outside the Exchange that does not contain pediatric dental essential health benefit (EHB) coverage without obtaining reasonable assurance that such coverage has been purchased.	Dental insurers, health insurers
25	DOI	Ongoing through 2023	3 CCR 702 - 4	Network Adequacy Network Access Plans	Revision	§10-1-109(1), §10-16-109, §10-16-704(1.5), and §10-16-708, C.R.S.	Yes	The purpose of this regulation is to provide carriers offering ACA-compliant health benefit plans with standards and guidance on Colorado filing requirements for health benefit plan network access plan filings. These standards shall serve as the measurable requirements used by the Division to evaluate the adequacy of carrier network access plan filings.	Health insurers, Providers
26	DOI	Ongoing through 2023	3 CCR 702 - 4	Network Adequacy Provider Directories	Revision	§10-1-109(1), §10-16-109, §10-16-704(1.5), and §10-16-708, C.R.S.	Yes	The purpose of this regulation is to establish standards and requirements for carrier ACA-compliant health benefit plan provider directories. These standards shall serve as the measurable requirements used by the Division to evaluate the adequacy of carrier provider directories.	Health insurers, providers
27	DOI	Ongoing through 2023	3 CCR 702 - 4	Network Adequacy Continuity of Care	Revision	§10-1-109(1), §10-16-109, §10-16-704(1.5), and §10-16-708, C.R.S.	Yes	The purpose of this regulation is to provide carriers offering ACA-compliant health benefit plans with the continuity of care requirements for health benefit plans as they relate to network adequacy. These standards shall serve as the measurable requirements used by the Division to evaluate carrier compliance with network adequacy continuity of care requirements.	Health insurers

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28	DOI	Ongoing through 2023	3 CCR 702 - 4	Dental Network Adequacy	Revision	§10-1-109(1), §10-16-109, §10-16-704(1.5), and §10-16-708, C.R.S.	Yes	The purpose of this regulation is to provide carriers offering ACA-compliant stand-alone dental managed care plans with standards and guidance on Colorado filing requirements for managed care dental plan network adequacy filings. These standards shall serve as the measurable requirements used by the Division to evaluate the adequacy of carrier networks.	Dental insurers, health insurers
29	DOI	Ongoing through 2023	3 CCR 702 - 4	Concerning network adequacy filings for dental plans, vision plans, pharmacy plans, short-term limited duration health insurance policies and other non-Affordable Care Act managed care plans	Revision	§10-1-109, §10-16-109, and §10-16-704, C.R.S.	Yes	The purpose of this regulation is to provide the necessary guidance to carriers on network adequacy filing procedures for dental plans, vision plans, pharmacy plans, short-term limited duration health insurance policies, and other health coverage plans utilizing networks.	Short-term limited duration health insurers
30	DOI	Summer/2023	3 CCR 702 - 4	Health-Care Sharing Arrangements	New	§10-16-107.4, C.R.S.	No	Regulation to implement HB22-1269, Health-care sharing plan reporting requirements, regarding data reporting requirements.	Health care sharing ministries and similar arrangements; consumers; producers
31	DOI	Spring/2023	3 CCR 702 - 4	Primary Care Alternative Payment Models	New	§10-16-157, C.R.S.	No	Regulation to implement HB22-1325, Primary care alternative payment models, setting aligned alternative payment model parameters for primary care.	Health insurers; providers
32	DOI	Ongoing through 2023	3 CCR 702 - 4	Advertisements of medicare supplement insurance	Revision	§10-1-109 and §10-3-1110, C.R.S.	Yes	The purpose of this regulation is to establish minimum criteria to assure prospective purchasers have clear and unambiguous statements; to assure the clear and truthful disclosure of the benefits, limitations and exclusions of policies sold as Medicare supplemental insurance. Also, to recognize the difference between a Medicare supplement advertisement that is unfair, deceptive or misleading and an advertisement which is accurate and descriptive to the public, no matter how the advertising is presented, i.e. web based, print material or by an insurance producer, etc.	Health Insurers

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33	DOI	Ongoing through 2023	3 CCR 702 - 4	Group Coordination of Benefits	Revision	§10-1-109 and §10-16-109, C.R.S.	Yes	The purpose of this regulation is to: A. Permit, but not require, plans to include a coordination of benefits (COB) provision unless prohibited by federal law; B. Establish a uniform order-of-benefit determination under which plans pay claims; C. Provide authority for the orderly transfer of necessary information and funds between plans; D. Reduce duplication of benefits by permitting a reduction of the benefits to be paid by plans that, pursuant to rules established by this regulation, do not have to pay their benefits first; E. Reduce claims payment delays; F. Require that COB provisions be consistent with this regulation.	Health insurers
34	DOI	Ongoing through 2023	3 CCR 702 - 4	Standards for health maintenance organizations	Revision	§10-1-109, §10-16-402, and §10-16-416, C.R.S.	Yes	The purpose of this regulation is to establish standards to ensure that each health maintenance organization (HMO) licensed in Colorado is delivering quality health care services and each HMO seeking licensure in Colorado has an ongoing quality assurance program and procedures to compile, evaluate and report measures and statistics relating to the costs of its operation, pattern of utilization of services, the availability and accessibility of services, outcomes of care, and such other matters as may be reasonably required by the Commissioner of Insurance.	Health insurers, HMOs

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35	DOI	Ongoing through 2023	3 CCR 702 - 5	Exemptions from Rate and Form Filing Requirements for Insurers Providing Coverage to Exempt Commercial Policyholders	Revision	§10-1-109 and §10-4-1402, C.R.S.	Yes	The purpose of this regulation is to establish and implement rules concerning the definition and qualifications of an exempt commercial policyholder, the definition and qualifications of a risk manager, disclosure requirements for persons claiming status as exempt commercial policyholders, disclosure requirements for policies of Type II insurance issued to exempt commercial policyholders, and the data, documents, reports and other information to be maintained by insurers who are authorized to issue Type II insurance to exempt commercial policyholders. This regulation is made necessary by enactment into law of Colorado House Bill 99-1310, which requires the Commissioner to promulgate rules necessary to implement and administer § 10-4-1401 et. seq., C.R.S.	Property & casualty insurers
36	DOI	Ongoing through 2023	3 CCR 702 - 5	Prohibited Adverse Actions Applicable to the Victims of the 2013 Colorado Floods	Revision	§10-1-109 and §10-3-1110, C.R.S.	Yes	The 2013 floods that affected many Colorado counties caused significant losses and damages to Colorado consumers. The Division of Insurance (Division) is aware that property was and may still be inaccessible and unoccupied while roads, bridges, utilities and other infrastructure in Colorado communities was or is being repaired. The purpose of this regulation is to provide a rule to protect the affected consumers of the 2013 floods by prohibiting certain adverse actions during the recovery period. This regulation replaces and supersedes emergency regulation 13-E-14 in its entirety.	Property & casualty insurers
37	DOI	Ongoing through 2023	3 CCR 702 - 5	Concerning Consumer Protection for Vehicle Valuation and Rental Reimbursement	Revision	§10-1-109, §10-3-1110(2), §10-4-601.5 and §10-4-639 (3) and (4), C.R.S.	Yes	The purpose of this regulation is to establish standards for payment of claims for vehicle rental and collision damage waivers, and for valuation of total loss claims under private passenger auto insurance policies.	Auto insurers
38	DOI	Ongoing through 2023	3 CCR 702 - 5	Disclosure Requirements for Private Passenger Automobile Policies	Revision	§10-1-109, §10-4-111(5), §10-4-601.5, §10-4-636, and §10-4-641(1), C.R.S.	Yes	The purpose of this regulation is to interpret and implement the provisions of §§ 10-4-111 (1) and (5) and 10-4-636, of the Colorado Revised Statutes, to provide summary disclosure requirements and the summary disclosure form for private passenger automobile insurance.	Auto insurers

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39	DOI	Ongoing through 2023	3 CCR 702 - 5	Workers' Compensation Standards for Risk Management	Revision	§10-1-109 and §10-4-408, C.R.S.	Yes	The purpose of this regulation is to provide standards for risk management programs and services required to be offered by workers compensation insurers, licensed to conduct business in this state, including Pinnacol Assurance.	Worker compensation insurers
40	DOI	Ongoing through 2023	3 CCR 702 - 5	Concerning Workers Compensation Large Deductible Policies	Revision	§10-1-109(1) and (2), C.R.S.	Yes	The purpose of this regulation is to promulgate rules for payments to the Major Medical Insurance Fund created in § 8-46-202, C.R.S., the Subsequent Injury Fund created in § 8-46-101, C.R.S., the Workers' Compensation Cash Fund created in § 8-44-112 (7), C.R.S., and the Cost Containment Fund created in § 8-14.5-108, C.R.S., on workers' compensation insurance deductible policies in excess of the limit set forth in § 8-44-111(1), C.R.S., and to clarify the liability of insurers to employees under insurance contracts.	Worker compensation insurers
41	DOI	Ongoing through 2023	3 CCR 702 - 5	Concerning Standards for Not At -Fault Motor Vehicle Accidents Under Workers' Compensation, Loss Limitation in Calculating Experience Modifications and Distribution of Losses in Excess of the Loss Limitation	Revision	§10-1-109 and §10-4-408(5)(e), C.R.S.	Yes	The purpose of this regulation is to establish and implement final rules that provide standards for determining when a motor vehicle accident is not at fault, a loss limitation to be included in the calculation of workers' compensation insurance experience modifications, the loss distribution among workers' compensation classifications of any loss in excess of the loss limitation, when the use of a motor vehicle is an integral part of an employer's business.	Worker compensation insurers, auto insurers

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42	DOI	Ongoing through 2023	3 CCR 702 - 5	Workers' Compensation Deductible Reimbursement	Revision	§8-44-111 and §10-1-109, C.R.S.	Yes	Pursuant to § 8-44-111(3), C.R.S., Colorado is a net reporting state for workers' compensation insurance.This means that an employer's deductible up to the split point is subtracted from the amount of the loss per claim for the purpose of calculating the employer's experience modification factor. Many employers have not received the intended benefit of the deductible exclusion. Due to reporting requirements, insurers reported the full loss to the statistical agent because they had not actually received the deductible reimbursement from the employer. Frequently, insurers fail to correct their unit statistical reports to show the paid deductible amount, thereby depriving the employer of the benefit of the deduction. This rule eliminates the requirement of actual receipt of the deductible by insurers prior to reporting such deductible to the statistical agent for the purpose of calculating the experience modification factor.	Worker compensation insurers
43	DOI	Ongoing through 2023	3 CCR 702 - 6	Limiting Coverage	Revision	§10-1-109, C.R.S.	Yes	The purpose of this regulation is to establish rules for the conditions to be met by all life and health insurers and carriers issuing policies, riders, endorsements, and amendments which limit the coverage usually and normally afforded. It is the responsibility of all insurers and carriers to see that all purchasers of policies issued by them are fully informed as to the coverages provided in those policies, the specific premiums charged, and for any limitations, exceptions, or exclusions for which coverage is not provided.	Health insurers, life insurers
44	DOI	Ongoing through 2023	3 CCR 702 - 6	Concerning the Use of Independent Market Conduct Examiners and Appeal Process for Expenses	Revision	§10-1-109, §10-1-304, and §10-1-308, C.R.S.	Yes	The purpose of this regulation is to set forth requirements for the use of independent contract market conduct surveillance personnel and to provide a process for the appeal of fees and expenses charged by such surveillance personnel.	Insurers

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45	DOI	Ongoing through 2023	3 CCR 702 - 6	Privacy of Consumer Financial and Health Information	Revision	§10-1-108, §10-1-109, §10-5-117, §10-16-109, and §10-16-401(4)(o), C.R.S.	Yes	This regulation governs the treatment of nonpublic personal health information and nonpublic personal financial information about individuals by all licensees of the Colorado Division of Insurance. This regulation: A. Requires a licensee to provide notice to individuals about its privacy policies and practices; B. Describes the conditions under which a licensee may disclose nonpublic personal health information and nonpublic personal financial information about individuals to affiliates and nonaffiliated third parties; and C. Provides methods for individuals to prevent a licensee from disclosing that information.	Consumers, producers

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46	DOI	Ongoing through 2023	3 CCR 702 - 6	Standards for Safeguarding Customer Information	Revision	§10-1-109(1), and §10-16-109, C.R.S.	Yes	A. This regulation establishes standards for developing and implementing administrative, technical and physical safeguards to protect the security, confidentiality and integrity of customer information, pursuant to Sections 501, 505 (b), and 507 of the Gramm-Leach-Bliley Act, codified at 15 U.S.C. 6801, 6805(b) and 6807. B. Section 501(a) provides that it is the policy of the Congress that each financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers' nonpublic personal information. Section 501 (b) requires the state insurance regulatory authorities to establish appropriate standards relating to administrative, technical and physical safeguards: 1. To ensure the security and confidentiality of customer records and information; 2. To protect against any anticipated threats or hazards to the security or integrity of such records; and 3. To protect against unauthorized access to or use of records or information that could result in substantial harm or inconvenience to a customer. C. Section 505(b)(2) calls on state insurance regulatory authorities to implement the standard prescribed under Section 501(b) by regulation with respect to persons engaged in providing insurance. D. Section 507 provides, among other things, that a state regulation may afford persons greater privacy protections than those provided by subtitle A of Title V of the Gramm-Leach-Bliley Act. This regulation requires that the safeguards established pursuant to this regulation shall apply to nonpublic personal information, including nonpublic personal financial information and nonpublic personal health information.	Consumers

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47	DOI	Ongoing through 2023	3 CCR 702 - 8	Title Insurance - Fiduciary Duties	Revision	§10-1-108(7), §10-1-109, §10-2-104, §10-2-704, §10-2-801, §10-3-131, §10-3-1110, and §10-11-127(2),C.R.S.	Yes	The purposes of this regulation are to set forth the fiduciary duties of title entities and to create reporting requirements to assist the Division of Insurance (Division) with identifying and mitigating certain risk factors which may have an immediate and direct impact on the solvency of title insurance entities. Numerous defalcations have occurred in Colorado resulting in losses to Colorado consumers and insurers. As a result, the Commissioner finds that the provisions of this regulation are necessary in order to protect the title insurance industry, its policyholders and members of the general public that may not directly be title insurance policyholders.	Title insurers
48	DPO	10/12/2022	Colorado Combative Sports Commission 4 CCR 740-1 (Rule 1.12)	Requirements for Promoters	Revision	§ 12-20-204 § 12-110-107	No	The purpose of these proposed revisions is to update promotion and permit requirements to include Muay Thai, and to update the requirements regarding compliance bonds.	Licensees, professional associations, relevant state agencies, and other key stakeholders
49	DPO	10/12/2022	Colorado Combative Sports Commission 4 CCR 740-1 (Rule 1.13)	Guidelines for Contract, Financial Arrangements and Reporting Fraud	Revision	§ 12-20-204 § 12-110-107	No	The purpose of these proposed revisions is to update the requirments regarding purse amounts.	Licensees, professional associations, relevant state agencies, and other key stakeholders
50	DPO	10/12/2022	Colorado Combative Sports Commission 4 CCR 740-1 (Rule 1.14)	Personnel, Facility and Equipment Requirements	Revision	§ 12-20-204 § 12-110-107	No	The purpose of this proposed revision is to add Muay Thai in the rule regarding glove requirements.	Licensees, professional associations, relevant state agencies, and other key stakeholders
51	DPO	10/12/2022	Colorado Combative Sports Commission 4 CCR 740-1 (Rule 1.16)	Requirements for Elimination Bouts	Revision	§ 12-20-204 § 12-110-107	No	The purpose of these proposed revision is to update the rounds and length time of elimination bouts and to update incorporations by reference.	Licensees, professional associations, relevant state agencies, and other key stakeholders
52	DPO	10/12/2022	Colorado Combative Sports Commission 4 CCR 740-1 (Rule 1.17)	Requirements for Officials	Revision	§ 12-20-204 § 12-110-107	No	The purpose of this proposed revision is to update the number of judges.	Licensees, professional associations, relevant state agencies, and other key stakeholders
53	DPO	10/12/2022	Colorado Combative Sports Commission 4 CCR 740-1 (Rule 1.18)	Protecting Colorado's Workforce and Expanding Licensing Opportunities	New Rule	§ 12-20-204 § 12-110-107 Executive Order D 2022 034	No	The purpose of this proposed new rule is to implement Executive Order D 2022 034 (Protecting Colorado's Workforce and Expanding Licensing Opportunities) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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54	DPO	10/13/2022	State Physical Therapy Board 4 CCR 732-1 (Rule 1.8)	Provision of Reproductive Health Care In Colorado	New Rule	§ 12-20-204 § 12-285-106(2)(b) Executive Order D 2022 032	No	The purpose of this proposed new rule is to implement Executive Order D 2022 032 (Protections for Provision of Reproductive Health Care in Colorado) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders
55	DPO	10/13/2022	State Physical Therapy Board 4 CCR 732-1 (Rule 1.9)	Protecting Colorado's Workforce and Expanding Licensing	New Rule	§ 12-20-204 § 12-285-106(2)(b) Executive Order D 2022 034	No	The purpose of this proposed new rule is to implement Executive Order D 2022 034 (Protecting Colorado's Workforce and Expanding Licensing Opportunities) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders
56	DPO	10/13/2022	State Physical Therapy Board 4 CCR 732-1 (Rule 1.10)	Concerning Health Care Provider Disclosures to Consumers About the Potential Effects of Receiving Emergency or NonEmergency Services From and Out-of-Network Provider	New Rule	§ 12-20-204 § 12-285-106(2)(b) § 12-30-112	No	The purpose of this proposed new rule is to implement Colorado House Bill 22-1284 (Concerning updates to state surprise billing laws to facilitate the implementation of surprise billing protections, and, in connection therewith, aligning state law with the federal "No Surprises Act").	Licensees, professional associations, relevant state agencies, and other key stakeholders
57	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.2)	Scope and Purpose	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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58	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.3)	Applicability	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders
59	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.4)	Definitions	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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60	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.5)	Dentistry	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders
61	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.6)	Supervision	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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62	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.7)	Licensure by Examination	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders
63	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.8)	Licensure by Endorsement	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation) and to implement Colorado Senate Bill 22-116 (Concerning the ability of an individual to obtain an occupational credential through the occupational credential portability program).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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64	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.9)	Academic License	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation) and to address the discrepancy with the statute. Section 12-315-108 (3), C.R.S, states that Academic Veterinarians do not have to meet the requirements of 12-315-107, C.R.S. The current rule states that the applicant must meet the requirements of 1.7.(B) including sucessfully completed the NAVLE.	Licensees, professional associations, relevant state agencies, and other key stakeholders
65	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.10)	Education, Training, or Service Gained During Military Service and Military Spouses	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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66	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.11)	Inactive Status and Reactivation of a License	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders
67	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.12)	Reinstatement Requirements for Expired Licenses	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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68	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.13)	Revocation	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders
69	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.14)	Renewal Requirements	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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70	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.15)	Continuing Education Requirements	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders
71	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.16)	Substance Use Prevention Training for License Renewal, Reactiviation or Reinstatement	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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72	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.8)	Veterinary Technician Registration Requirements	New Rule	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed new rule is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders
73	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.17)	Licensee/Registrant Reporting Chane of Address, Telephone Number, or Name [PK1]	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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74	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.18)	Veterinary Medical Ethics Code of Conduct	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation) and to consider implemention of a recommendation made by a Board of Veterinary subcommittee in 2020. The current rule does not specify the type of records required to maintain standard of practice.	Licensees, professional associations, relevant state agencies, and other key stakeholders
75	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.11)	Recordkeeping Requirements	New Rule	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed new rule is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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76	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.19)	Transrectal Procedures, Embryo Transfer, Uterine Lavages, and Reproductive Procedures	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders
77	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.20)	WAIVER OF VETERINARIAN-CLIENT-PATIENT RELATIONSHIP FOR ADMINISTERING, DISTRIBUTING, DISPENSING, OR PRESCRIBING IN AN URGENT SITUATION ONLY	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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78	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.21)	FINING SCHEDULE FOR VIOLATIONS OF THE VETERINARY PRACTICE ACT AND BOARD RULES	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders
79	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.22)	DECLARATORY ORDERS	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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80	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.23)	REPORTING CONVICTIONS, JUDGMENTS, AND ADMINISTRATIVE PROCEEDINGS	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders
81	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.17)	CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE FOR PHYSICAL ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL OR MENTAL HEALTH DISORDER[PK1]	New Rule	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed new rule is to implement Colorado House Bill 22-1235 (Concerning the continuation of the regulation of veterinary practice by the State Board of Veterinary Medicine, and, in connection therewith, implementing the recommendations of the 2021 sunset report on the "Colorado Veterinary Practice Act" by the Department of Regulatory Agencies, adding registration requirements for veterinary technicians, adding veterinary technicians to the State Board of Veterinary Medicine, allowing certain unlicensed individuals to administer rabies vaccinations, and making an appropriation).	Licensees, professional associations, relevant state agencies, and other key stakeholders
82	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.26)	Rules Regarding the Use of Benzodiazepine[MD1]	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of these proposed revisions is to implement Colorado House Bill 22-1115 (Concerning the Prescription Drug Monitoring Program, and, in connection therewith, making an appropriation) and to address concerns raised by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders
83	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.21)	PROVISION OF REPRODUCTIVE HEALTH CARE IN COLORADO	New Rule	§ 12-20-204 § 12-315-106(5)(g) Executive Order D 2022 032	No	The purpose of this proposed new rule is to implement Executive Order D 2022 032 (Protections for Provision of Reproductive Health Care in Colorado) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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84	DPO	10/13/2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.22)	PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES	New Rule	§ 12-20-204 § 12-315-106(5)(g) Executive Order D 2022 034	No	The purpose of this proposed new rule is to implement Executive Order D 2022 034 (Protecting Colorado's Workforce and Expanding Licensing Opportunities) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders
85	DPO	10/14/2022	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (Rule 1.9)	PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES	New Rule	§ 12-20-204 § 12-120-104 § 12-120-104(1)(a) Executive Order D 2022 034	No	The purpose of this proposed new rule is to implement Executive Order D 2022 034 (Protecting Colorado's Workforce and Expanding Licensing Opportunities) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders
86	DPO	10/19/2022	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.1(F))	RULES AND REGULATIONS FOR THE LICENSURE OF PRACTICAL AND PROFESSIONAL NURSES - LICENSURE BY ENDORSEMENT	Revision	§ 12-20-204 § 12-255-107(1)(j) § 12-20-202(3)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 22-116 (Concerning the ability of an individual to obtain an occupational credential through the occupational credential portability program).	Licensees, professional associations, relevant state agencies, and other key stakeholders
87	DPO	10/19/2022	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.10 (E))	RULES AND REGULATIONS FOR CERTIFICATION AS A NURSE AIDE - CERTIFICATION BY ENDORSEMENT	Revision	§ 12-20-204 § 12-255-107(1)(j) § 12-20-202(3)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 22-116 (Concerning the ability of an individual to obtain an occupational credential through the occupational credential portability program).	Licensees, professional associations, relevant state agencies, and other key stakeholders
88	DPO	10/19/2022	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.14 (D))	RULES AND REGULATIONS TO REGISTER PROFESSIONAL NURSES QUALIFIED TO ENGAGE IN ADVANCED PRACTICE REGISTERED NURSING - REQUIREMENTS FOR INCLUSION ON THE ADVANCED PRACTICE REGISTRY	Revision	§ 12-20-204 § 12-255-107(1)(j) § 12-20-202(3)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 22-116 (Concerning the ability of an individual to obtain an occupational credential through the occupational credential portability program).	Licensees, professional associations, relevant state agencies, and other key stakeholders
89	DPO	10/19/2022	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.31)	RULES REGARDING THE USE OF BENZODIAZEPINES	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to implement Colorado House Bill 22-1115 (Concerning the Prescription Drug Monitoring Program, and, in connection therewith, making an appropriation) and to address concerns raised by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders
90	DPO	10/19/2022	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.32)	Concerning Health Care Provider Disclosures to Consumers about the Potential Effects of Receiving Emergency or Nonemergency Services from an Out-of-Network Provider	New Rule	§ 12-20-204 § 12-255-107(1)(j) § 12-30-112	No	The purpose of this proposed new rule is to implement Colorado House Bill 22-1284 (Concerning updates to state surprise billing laws to facilitate the implementation of surprise billing protections, and, in connection therewith, aligning state law with the federal "No Surprises Act").	Licensees, professional associations, relevant state agencies, and other key stakeholders

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91	DPO	10/19/2022	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.33)	PROVISION OF REPRODUCTIVE HEALTH CARE IN COLORADO	New Rule	§ 12-20-204 § 12-255-107(1)(j) Executive Order D 2022 032	No	The purpose of this proposed new rule is to implement Executive Order D 2022 032 (Protections for Provision of Reproductive Health Care in Colorado) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders
92	DPO	10/19/2022	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.34)	PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES	New Rule	§ 12-20-204 § 12-255-107(1)(j) Executive Order D 2022 034	No	The purpose of this proposed new rule is to implement Executive Order D 2022 034 (Protecting Colorado's Workforce and Expanding Licensing Opportunities) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders
93	DPO	10/21/2022	State Board of Unlicensed Psychotherapists 4 CCR 734-1 (Rule 1.17)	Concerning Health Care Provider Disclosures to Consumers about the Potential Effects of Receiving Emergency or Nonemergency Services from an Out-of-Network Provider	New Rule	§ 12-20-204 § 12-245-204(4)(a) § 12-30-112	No	The purpose of this proposed new rule is to implement Colorado House Bill 22-1284 (Concerning updates to state surprise billing laws to facilitate the implementation of surprise billing protections, and, in connection therewith, aligning state law with the federal "No Surprises Act").	Licensees, professional associations, relevant state agencies, and other key stakeholders
94	DPO	10/21/2022	State Board of Unlicensed Psychotherapists 4 CCR 734-1 (Rule 1.18)	PROVISION OF REPRODUCTIVE HEALTH CARE IN COLORADO	New Rule	§ 12-20-204 § 12-245-204(4)(a) Executive Order D 2022 032	No	The purpose of this proposed new rule is to implement Executive Order D 2022 032 (Protections for Provision of Reproductive Health Care in Colorado) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders
95	DPO	10/21/2022	State Board of Unlicensed Psychotherapists 4 CCR 734-1 (Rule 1.19)	PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES	New Rule	§ 12-20-204 § 12-245-204(4)(a) Executive Order D 2022 034	No	The purpose of this proposed new rule is to implement Executive Order D 2022 034 (Protecting Colorado's Workforce and Expanding Licensing Opportunities) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders
96	DPO	10/26/2022	State Plumbing Board 3 CCR 720-1 (Rule 1.10)	PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES	New Rule	§ 12-20-204 § 12-155-105(1)(f) Executive Order D 2022 034	No	The purpose of this proposed new rule is to implement Executive Order D 2022 034 (Protecting Colorado's Workforce and Expanding Licensing Opportunities) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders
97	DPO	10/28/2022	State Board of Marriage and Family Therapist Examiners 4-CCR 736-1 (Rule 1.23)	PROVISION OF REPRODUCTIVE HEALTH CARE IN COLORADO	New Rule	§ 12-20-204 § 12-245-204(4)(a) Executive Order D 2022 032	No	The purpose of this proposed new rule is to implement Executive Order D 2022 032 (Protections for Provision of Reproductive Health Care in Colorado) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders
98	DPO	10/28/2022	State Board of Marriage and Family Therapist Examiners 4-CCR 736-1 (Rule 1.24)	PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES	New Rule	§ 12-20-204 § 12-245-204(4)(a) Executive Order D 2022 034	No	The purpose of this proposed new rule is to implement Executive Order D 2022 034 (Protecting Colorado's Workforce and Expanding Licensing Opportunities) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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99	DPO	10/28/2022	State Board of Marriage and Family Therapist Examiners 4-CCR 736-1 (Rule 1.25)	Concerning Health Care Provider Disclosures to Consumers about the Potential Effects of Receiving Emergency or Nonemergency Services from an Out-of-Network Provider	New Rule	§ 12-20-204 § 12-245-204(4)(a) § 12-30-112	No	The purpose of this proposed new rule is to implement Colorado House Bill 22-1284 (Concerning updates to state surprise billing laws to facilitate the implementation of surprise billing protections, and, in connection therewith, aligning state law with the federal "No Surprises Act").	Licensees, professional associations, relevant state agencies, and other key stakeholders
100	DPO	11/2/2022	Passenger Tramway Safety Board 3 CCR 718-1	Multiple Rules	New Rule, Revision	§ 12-20-204 § 12-150-105(1)(a)	Yes	The purpose of these proposed new rules and revisins are to update ANSI incoporation in Section 4, revise Section 23 to expand the Board's authority over incidents that occur in loading and unloading zones, consider improvements after Committee work related to conveyor maintenance, documenting deficiencies and observations in inspection reports, maintenance personnel, minimum operating personnel, ropeway event and data recorder, and summer ramps.	Licensees, professional associations, relevant state agencies, and other key stakeholders
101	DPO	11/2/2022	Passenger Tramway Safety Board 3 CCR 718-1	All Rules	Rule, Revision, Re	§ 24-4-103.3 § 12-150-105(1)(a)	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	
102	DPO	11/3/2022	Colorado Dental Board 3 CCR 709-1 (Multiple Rules)	Multiple Rules	Revision	§ 12-20-204 § 12-220-105(3)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 22-219 (CONCERNING THE REGULATION OF DENTAL THERAPISTS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
103	DPO	11/3/2022	Colorado Dental Board 3 CCR 709-1 (Multiple Rules)	Multiple Rules	Revision	§ 12-20-204 § 12-220-105(3)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 22-058 (CONCERNING THE CREATION OF A PEER HEALTH ASSISTANCE PROGRAM FOR DENTAL HYGIENISTS).	Licensees, professional associations, relevant state agencies, and other key stakeholders
104	DPO	11/3/2022	Colorado Dental Board 3 CCR 709-1 (Rule 1.6 (C))	Licensure of Dentists, Dental Therapists and Dental Hygienists -Dentist Licensure by Endorsement through the Occupational Credential Portability Program	Revision	§ 12-20-204 § 12-220-105(3) § 12-20-202(3)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 22-116 (Concerning the ability of an individual to obtain an occupational credential through the occupational credential portability program).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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105	DPO	11/3/2022	Colorado Dental Board 3 CCR 709-1 (Rule 1.31)	RULES REGARDING THE USE OF BENZODIAZEPINES	Revision	§ 12-20-204 § 12-220-105(3)	No	The purpose of these proposed revisions is to implement Colorado House Bill 22-1115 (Concerning the Prescription Drug Monitoring Program, and, in connection therewith, making an appropriation) and to address concerns raised by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders
106	DPO	11/3/2022	Colorado Dental Board 3 CCR 709-1 (Rule 1.32)	PROVISION OF REPRODUCTIVE HEALTH CARE IN COLORADO	New Rule	§ 12-20-204 § 12-220-105(3) Executive Order D 2022 032	No	The purpose of this proposed new rule is to implement Executive Order D 2022 032 (Protections for Provision of Reproductive Health Care in Colorado) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders
107	DPO	11/3/2022	Colorado Dental Board 3 CCR 709-1 (Rule 1.33)	PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES	New Rule	§ 12-20-204 § 12-220-105(3) Executive Order D 2022 034	No	The purpose of this proposed new rule is to implement Executive Order D 2022 034 (Protecting Colorado's Workforce and Expanding Licensing Opportunities) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders
108	DPO	11/3/2022	Colorado Dental Board 3 CCR 709-1 (Rule 1.34)	Concerning Health Care Provider Disclosures to Consumers about the Potential Effects of Receiving Emergency or Nonemergency Services from an Out-of-Network Provider	New Rule	§ 12-20-204 § 12-220-105(3) § 12-30-112	No	The purpose of this proposed new rule is to implement Colorado House Bill 22-1284 (Concerning updates to state surprise billing laws to facilitate the implementation of surprise billing protections, and, in connection therewith, aligning state law with the federal "No Surprises Act").	Licensees, professional associations, relevant state agencies, and other key stakeholders
109	DPO	11/4/2022	State Board of Licensed Professional Counselor Examiners 4 CCR 737-1 (Rule 1.12)	OCCUPATIONAL CREDENTIAL PORTABILITY PROGRAM (C.R.S.§ § 12-245-207, 12-20-202(3))	Revision	§ 12-20-204 § 12-245-204(4)(a) § 12-20-202	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 22-116 (Concerning the ability of an individual to obtain an occupational credential through the occupational credential portability program).	Licensees, professional associations, relevant state agencies, and other key stakeholders
110	DPO	11/4/2022	State Board of Licensed Professional Counselor Examiners 4 CCR 737-1 (Rule 1.24)	PROVISION OF REPRODUCTIVE HEALTH CARE IN COLORADO	New Rule	§ 12-20-204 § 12-245-204(4)(a) Executive Order D 2022 032	No	The purpose of this proposed new rule is to implement Executive Order D 2022 032 (Protections for Provision of Reproductive Health Care in Colorado) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders
111	DPO	11/4/2022	State Board of Licensed Professional Counselor Examiners 4 CCR 737-1 (Rule 1.25)	PROTECTING COLORADO'S WORKFORCE AND EXPANDING LICENSING OPPORTUNITIES	New Rule	§ 12-20-204 § 12-245-204(4)(a) Executive Order D 2022 034	No	The purpose of this proposed new rule is to implement Executive Order D 2022 034 (Protecting Colorado's Workforce and Expanding Licensing Opportunities) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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112	DPO	11/4/2022	State Board of Licensed Professional Counselor Examiners 4 CCR 737-1 (Rule 1.26)	Concerning Health Care Provider Disclosures to Consumers about the Potential Effects of Receiving Emergency or Nonemergency Services from an Out-of-Network Provider	New Rule	§ 12-20-204 § 12-245-204(4)(a) § 12-30-112	No	The purpose of this proposed new rule is to implement Colorado House Bill 22-1284 (Concerning updates to state surprise billing laws to facilitate the implementation of surprise billing protections, and, in connection therewith, aligning state law with the federal "No Surprises Act").	Licensees, professional associations, relevant state agencies, and other key stakeholders
113	DPO	11/17/2022	Colorado Medical Board 3 CCR 713-50 (Rule TBD)	Concerning Health Care Provider Disclosures to Consumers about the Potential Effects of Receiving Emergency or Nonemergency Services from an Out-of-Network Provider	New Rule	§ 12-20-204 § 12-240-106(1)(a) § 12-30-112	No	The purpose of this proposed new rule is to implement Colorado House Bill 22-1284 (Concerning updates to state surprise billing laws to facilitate the implementation of surprise billing protections, and, in connection therewith, aligning state law with the federal "No Surprises Act").	Licensees, professional associations, relevant state agencies, and other key stakeholders
114	DPO	11/17/2022	Colorado Medical Board 3 CCR 713-49 (Rule 180)	Benzodiazepines	Revision	§ 12-20-204 § 12-240-106(1)(a)	No	The purpose of these proposed revisions is to implement Colorado House Bill 22-1115 (Concerning the Prescription Drug Monitoring Program, and, in connection therewith, making an appropriation) and to address concerns raised by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders
115	DPO	11/17/2022	Colorado Medical Board 3 CCR 713-22 (Rule 120)	Demonstration of Continued Competency by Physician Applicants for Licensure according to the Occupational Credential Portability Program, Reinstatement of an Expired License of Reactivation of a License	Revision	§ 12-20-204 § 12-240-106(1)(a) § 12-20-202	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 22-116 (Concerning the ability of an individual to obtain an occupational credential through the occupational credential portability program) and to address concerns raised by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders
116	DPO	11/17/2022	Colorado Medical Board 3 CCR 713-29 (Rule 410)	Demonstration od Continued Competency by Physician Assistant Applicants for Licensure, Licensure Pursuant to the Occupational Credentail Portability Program, Reinstatement of an Expired License, or Reactivation of a License	Revision	§ 12-20-204 § 12-240-106(1)(a) § 12-20-202	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 22-116 (Concerning the ability of an individual to obtain an occupational credential through the occupational credential portability program) and to address concerns raised by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders
117	DPO	11/17/2022	Colorado Medical Board 3 CCR 713-42 (Rule 520)	Demonstration of Continued Competency by Anesthesiologist Assistant Applicants for Licensure, Licensure Pursuant to the Occupational Credential Portability Program, Reinstatement of an Expired License, or Reactivation of a License	Revision	§ 12-20-204 § 12-240-106(1)(a) § 12-20-202	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 22-116 (Concerning the ability of an individual to obtain an occupational credential through the occupational credential portability program) and to address concerns raised by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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118	DPO	11/17/2022	Colorado Medical Board 3 CCR 713-51 (Rule TBD)	Provision of Reproductive Health Care in Colorado	New Rule	§ 12-20-204 § 12-240-106(1)(a) Executive Order D 2022 032	No	The purpose of this proposed new rule is to implement Executive Order D 2022 032 (Protections for Provision of Reproductive Health Care in Colorado) issued by Governor Jared Polis.	Licensees, professional associations, state agencies, and other key stakeholders
119	DPO	11/17/2022	Colorado Medical Board 3 CCR 713-52 (Rule TBD)	Protecting Colorado's Workforce and Expanding Licensing Opportunities	New Rule	§ 12-20-204 § 12-240-106(1)(a) Executive Order D 2022 034	No	The purpose of this proposed new rule is to implement Executive Order D 2022 034 (Protecting Colorado's Workforce and Expanding Licensing Opportunities) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders
120	DPO	11/17/2022	State Board of Optometric Examiners 4 CCR 728-1 (Multiple Rules)	Multiple Rules	Revision	§ 12-20-204 § 12-275-108(1)(b)	No	The purpose of these proposed revisions is to implement Colorado House Bill 22-1233 (CONCERNING THE CONTINUATION OF THE REGULATION OF OPTOMETRY BY THE STATE BOARD OF OPTOMETRY, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS IN THE 2021 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES).	Licensees, professional associations, relevant state agencies, and other key stakeholders
121	DPO	11/17/2022	State Board of Optometric Examiners 4 CCR 728-1 (Rule 1.28)	Concerning Health Care Provider Disclosures to Consumers about the Potential Effects of Receiving Emergency or Nonemergency Services from an Out-of-Network Provider	New Rule	§ 12-20-204 § 12-275-108(1)(b) § 12-30-112	No	The purpose of this proposed new rule is to implement Colorado House Bill 22-1284 (Concerning updates to state surprise billing laws to facilitate the implementation of surprise billing protections, and, in connection therewith, aligning state law with the federal "No Surprises Act").	Licensees, professional associations, relevant state agencies, and other key stakeholders
122	DPO	11/17/2022	State Board of Optometric Examiners 4 CCR 728-1 (Rule 1.33)	Benzodiazepines	Revision	§ 12-20-204 § 12-275-108(1)(b)	No	The purpose of these proposed revisions is to implement Colorado House Bill 22-1115 (Concerning the Prescription Drug Monitoring Program, and, in connection therewith, making an appropriation) and to address concerns raised by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders
123	DPO	11/17/2022	State Board of Optometric Examiners 4 CCR 728-1 (Rule 1.29)	Provision of Reproductive Health Care in Colorado	New Rule	§ 12-20-204 § 12-275-108(1)(b) Executive Order D 2022 032	No	The purpose of this proposed new rule is to implement Executive Order D 2022 032 (Protections for Provision of Reproductive Health Care in Colorado) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders
124	DPO	11/17/2022	State Board of Optometric Examiners 4 CCR 728-1 (Rule 1.30)	Protecting Colorado's Workforce and Expanding Licensing Opportunities	New Rule	§ 12-20-204 § 12-275-108(1)(b) Executive Order D 2022 034	No	The purpose of this proposed new rule is to implement Executive Order D 2022 034 (Protecting Colorado's Workforce and Expanding Licensing Opportunities) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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125	DPO	11/17/2022	State Board of Optometric Examiners 4 CCR 728-1 (Rule 1.14)	Licensure by Endorsement	Revision	§ 12-20-204 § 12-275-108(1)(b) § 12-20-202(3)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 22-116 (Concerning the ability of an individual to obtain an occupational credential through the occupational credential portability program).	Licensees, professional associations, relevant state agencies, and other key stakeholders
126	DPO	11/17/2022	State Board of Optometric Examiners 4 CCR 728-1 (Rule 1.11)	Professional Liability Insurance	New Rule	§ 12-20-204 § 12-275-108(1)(b)	No	The purpose of this new rule is to address concerns raised by stakeholders regarding professional liability insurance.	Licensees, professional associations, relevant state agencies, and other key stakeholders
127	DPO	11/18/2022	Landscape Architects Board 4 CCR 729-1 (Rule 1.7)	Protecting Colorado's Workforce and Expanding Licensing Opportunities	New Rule	§ 12-20-204 § 12-130-107(1)(a) Executive Order D 2022 034	No	The purpose of this proposed new rule is to implement Executive Order D 2022 034 (Protecting Colorado's Workforce and Expanding Licensing Opportunities) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders
128	DPO	12/2/2022	Colorado Podiatry Board 3 CCR 712-1 (Rule 1.6)	Podiatry Licensure	Revision	§ 12-20-204 § 12-290-106(1)(a) § 12-20-202(3)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 22-116 (Concerning the ability of an individual to obtain an occupational credential through the occupational credential portability program).	Licensees, professional associations, relevant state agencies, and other key stakeholders
129	DPO	12/2/2022	Colorado Podiatry Board 3 CCR 712-1 (Rule 1.11)	Supervision and Practice by Physician Assistants	Revision	§ 12-20-204 § 12-290-106(1)(a)	No	The purpose of this new rule is to address concerns raised by stakeholders regarding supervision of physician assistants.	Licensees, professional associations, relevant state agencies, and other key stakeholders
130	DPO	12/2/2022	Colorado Podiatry Board 3 CCR 712-1 (Rule 1.18)	Benzodiazepines	Revision	§ 12-20-204 § 12-290-106(1)(a)	No	The purpose of these proposed revisions is to implement Colorado House Bill 22-1115 (Concerning the Prescription Drug Monitoring Program, and, in connection therewith, making an appropriation) and to address concerns raised by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders
131	DPO	12/2/2022	Colorado Podiatry Board 3 CCR 712-1 (Rule 1.20)	Provision of Reproductive Health Care in Colorado	New Rule	§ 12-20-204 § 12-290-106(1)(a) Executive Order D 2022 032	No	The purpose of this proposed new rule is to implement Executive Order D 2022 032 (Protections for Provision of Reproductive Health Care in Colorado) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders
132	DPO	12/2/2022	Colorado Podiatry Board 3 CCR 712-1 (Rule 1.21)	Protecting Colorado's Workforce and Expanding Licensing Opportunities	New Rule	§ 12-20-204 § 12-290-106(1)(a) Executive Order D 2022 034	No	The purpose of this proposed new rule is to implement Executive Order D 2022 034 (Protecting Colorado's Workforce and Expanding Licensing Opportunities) issued by Governor Jared Polis.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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133	DPO	12/2/2022	Colorado Podiatry Board 3 CCR 712-1 (Rule 1.22)	Concerning Health Care Provider Disclosures to Consumers about the Potential Effects of Receiving Emergency or Nonemergency Services from an Out-of-Network Provider	New Rule	§ 12-20-204 § 12-290-106(1)(a) § 12-30-112	No	The purpose of this proposed new rule is to implement Colorado House Bill 22-1284 (Concerning updates to state surprise billing laws to facilitate the implementation of surprise billing protections, and, in connection therewith, aligning state law with the federal "No Surprises Act").	Licensees, professional associations, relevant state agencies, and other key stakeholders
134	DPO	Summer 2023	State Board of Examiners of Nursing Home Administrators 4 CCR 717-1 (TBD)	TBD	Rule, Revision, Re	§ 12-20-204 § 12-265-107(1)(a)	No	The Nursing Home Administrators Practice Act will be reviewed by the legislature in 2023 through the Sunset Review and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders
135	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (Rules 1.4)	TBD	Revision, Repeal	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of potential revision/repeal are to consider the Colo Rules related to education requirements against the NCEES Education Standard to determine any consistencies that may be gained without increasing Colo education requirements.	Licensees, professional associations, relevant state agencies, and other key stakeholders
136	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (Rules 1.4)	Rules of Administrative Procedure	Revision, Repeal	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of these proposed revisions and/or repeals are to repeal sections of the rule that may not be necessary because of direct testing for examinations, which requires candidates to take and pass all examinations before they can submit an application.	Licensees, professional associations, relevant state agencies, and other key stakeholders
137	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (Rule 1.4)	Rules of Administrative Procedure	Revision	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is to change to an updated reference to References and Verification for Qualifying Work Experience, specifically the experience portfolio.	Licensees, professional associations, relevant state agencies, and other key stakeholders
138	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	1.6 Rules of Professional Land Surveying Practice	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is for professional land surveyros to consider closure clause to address recent issues with failing to close corners that established where a survey line intersects a previously fixed boundary at a point between corners.	Licensees, professional associations, relevant state agencies, and other key stakeholders
139	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	1.6 Rules of Professional Land Surveying Practice	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is for professional land surveyros to solicit feedback from stakeholders whether rules are needed to address the Setting Corners versus Setting Witness Corners (legacy of setting witness corners).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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140	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	1.6 Rules of Professional Land Surveying Practice	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is for professional land surveyros to solicit feedback from stakeholders whether rules are needed to address the use of range boxes to protect monuments as many states have adopted such rules.	Licensees, professional associations, relevant state agencies, and other key stakeholders
141	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is regarding continuing education for architects and for the Board to consider whether to add service on a state licensing Board as a way of earning continuing education credit.	Licensees, professional associations, relevant state agencies, and other key stakeholders
142	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is to define "Plot Plans" that are used in construction and the work within these plans has expanded to engineering and land surveying and need to be defined to protect consumers by ensuring the work meets standards.	Licensees, professional associations, relevant state agencies, and other key stakeholders
143	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (Rule 1.4)	Rules of Administrative Procedure	Revision	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed revision is to align the rule with the statute as it relates to the experience requirement, specifically LSI.	Licensees, professional associations, relevant state agencies, and other key stakeholders
144	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is to explore inclusion of co-op experience (internships) for acceptable engineering and/or land surveying experience.	Licensees, professional associations, relevant state agencies, and other key stakeholders
145	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	TBD	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	At the 2021-22 Annual meeting of the National Council of Architect Registration Board, of which Colorado is a member, the membership will consider major revision to the NCARB model laws. Once adopted by the membership, Colorado, along with other states will consider these revisions against our rules to ensure improvements in licensure mobility and consistency in enforcement are gained where practiable.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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146	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	TBD	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	At the 2021-22 Annual meeting of the National Council of Examiners for Engineers and Surveyors, of which Colorado is a member, the membership consider revision to the NCEES model laws. Once adopted by the membership, Colorado, along with other states will consider these revisions against our rules to ensure improvements in licensure mobility and consistency in enforcement are gained where practiable.	Licensees, professional associations, relevant state agencies, and other key stakeholders
147	DPO	TBD	State Plumbing Board 3 CCR 720-1 (Rule 1.2)	Standards	Revision	§ 12-20-204 § 12-155-105(1)(e)	No	The purpose of this proposed revision to adopt and revise sections of the 2021 International Plumbing Code, the 2021 International Residentioan Code.	Licensees, professional associations, relevant state agencies, and other key stakeholders
148	DPO	TBD	State Plumbing Board 3 CCR 720-1 (Rules 1.3 and 1.4)	Apprentice Registration and Recordkeeping and Applications and Licensing	Rule, Revision, Re	§ 12-20-204 § 12-155-105(1)(e)	No	The purpose of these proposed revisions, new rules, or repeals are to clarify annual reporting requirements that will take effect July 1, 2022 and were adopted to implement Colorado Senate Bill 20-120.	Licensees, professional associations, relevant state agencies, and other key stakeholders
149	DPO	TBD	State Plumbing Board 3 CCR 720-1 (Rule 1.4)	Applications and Licensing	Revision	§ 12-20-204 § 12-155-105(1)(e)	No	The purpose of this proposed revision is to update and revise the remaining references regarding direct testing.	Licensees, professional associations, relevant state agencies, and other key stakeholders
150	DPO	TBD	State Plumbing Board 3 CCR 720-1 (Rule 1.4)	Applications and Licensing	Revision	§ 12-20-204 § 12-155-105(1)(e)	No	The purpose of this proposed revision is to change the reference to qualifying for examinations to qualifying for licensure regarding direct testing.	Licensees, professional associations, relevant state agencies, and other key stakeholders
151	DPO	TBD	State Plumbing Board 3 CCR 720-1 (Rule 1.4)	Applications and Licensing	Revision	§ 12-20-204 § 12-155-105(1)(e)	No	The purpose of this proposed revision is regarding notice of change of address and whether to revise "written requirement' to include notification through the online portal.	
152	DPO	TBD	State Plumbing Board 3 CCR 720-1 (Multiple Rules)	1.3 Apprentice Registration and Recordkeeping 1.7 Permits, Inspections, and Verification of License and Registrations 1.8 Enforcement	Rule, Revision, Re	§ 12-20-204 § 12-155-105(1)(e)	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with HB22-1346, 12-155-113, 119, 120 C.R.S. Occupational Credential Portability Program.	Licensees, professional associations, relevant state agencies, and other key stakeholders
153	DPO	TBD	State Plumbing Board 3 CCR 720-1 (Rule 1.5)	Examinations	Rule and/or Revis	§ 12-20-204 § 12-155-105(1)(e) § 12-155-110 (3)	No	The purpose of the proposed new/revision is to designate the Division as the Board's its authorized agent in order to manage the administration of examination(s).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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154	DPO	TBD	State Plumbing Board 3 CCR 720-1 (Rule 1.5)	Apprentice Registration and Recordkeeping	Rule, Revision, Re	§ 12-20-204 § 12-115-107(2)(a)	No	The purpose of the proposed new, revision, and or repeal is to consider: 1. Clarify that an Plumbing Contractors have 30 days OR LESS from EMPLOYMENT as a plumbing apprentice; and, 2. Clarify that the Plumbing Contractor shall maintain employment records for apprentices UNDER THEIR SUPERVISION	Licensees, professional associations, relevant state agencies, and other key stakeholders
155	DPO	TBD	State Board of Landscape Architects 4 CCR 729-1 (Rule 1.4)	Rules of Administrative Procedure	Rule, Revision, Re	§ 12-20-204 § 12-20-202(3)	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with SB22-116, 12-20-202(3), C.R.S. Occupational Credential Portability Program.	Licensees, professional associations, relevant state agencies, and other key stakeholders
156	DPO	TBD	State Electrical Board 3 CCR 710-1 (Multiple Rules)	1.3 Apprentice Registration and Recordkeeping (Rule 1.6, eff. 7/15) 1.7 Permits, Inspections, and Verification of License and Registrations (Rule 1.9, eff. 7/15) 1.8 Enforcement (Rule 1.10, eff. 7/15)	Rule, Revision, Re	§ 12-20-204 § 12-115-119(1) § 12-115-107(2)(a)	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with HB22-1346, 12-115-119, 120, 122, C.R.S. Occupational Credential Portability Program.	Licensees, professional associations, relevant state agencies, and other key stakeholders
157	DPO	January 2023	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.14)	Rules and Regulations to Register professional Nurses Qualified to Engage in Advanced Practice Registered Nursing	Revision	§ 12-20-204 § 12-255-112 (2) § 12-255-107(1)(j)	No	The purpose of this proposed revision is to update the population focuses to be in line with current certifications.	Licensees, professional associations, relevant state agencies, and other key stakeholders
158	DPO	January 2023	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.15)	Rules and Regulations for Prescriptive Authority for Advanced Practice Registered Nurses	Revision	§ 12-20-204 § 12-255-112 (2) § 12-255-107(1)(j)	No	The purpose of this proposed revision is to update the population focuses to be in line with current certifications.	Licensees, professional associations, relevant state agencies, and other key stakeholders
159	DPO	February 2023	Passenger Tramway Safety Board 3 CCR 718-1	Multiple Rules	Revision	§ 12-20-204 § 12-150-105(1)(a)	Yes	The purpose of these proposed revisions is to clarify the rules and not add additional requirements for existing lifts built prior to February 2, 2019.	Licensees, professional associations, relevant state agencies, and other key stakeholders
160	DPO	Spring/Summer 2023	State Board of Addiction Counselor Examiners 4 CCR 744-1 (TBD)	Multiple Rules	New Rule, Revision, Repeal	§ 12-20-204 § 12-245-204(4)(a) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S. Stakeholders are also requesting the Board review Rule 290 and possible revisions to the scope of practice of podiatrists.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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161	DPO	Spring/Summer 2023	State Board of Psychologist Examiners 4 CCR 721-1 (TBD)	Multiple Rules	New Rule, Revision, Repeal	§ 12-20-204 § 12-245-204(4)(a) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S. Stakeholders are also requesting the Board review Rule 290 and possible revisions to the scope of practice of podiatrists.	Licensees, professional associations, relevant state agencies, and other key stakeholders
162	DPO	Spring/Summer 2023	State Board of Licensed Professional Counselor Examiners 4 CCR 737-1 (TBD)	Multiple Rules	New Rule, Revision, Repeal	§ 12-20-204 § 12-245-204(4)(a) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S. Stakeholders are also requesting the Board review Rule 290 and possible revisions to the scope of practice of podiatrists.	Licensees, professional associations, relevant state agencies, and other key stakeholders
163	DPO	Spring/Summer 2023	State Board of Marriage and Family Therapist Examiners 4-CCR 736-1 (TBD)	Multiple Rules	New Rule, Revision, Repeal	§ 12-20-204 § 12-245-204(4)(a) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S. Stakeholders are also requesting the Board review Rule 290 and possible revisions to the scope of practice of podiatrists.	Licensees, professional associations, relevant state agencies, and other key stakeholders
164	DPO	Spring/Summer 2023	State Board of Social Work Examiners 4 CCR 726-1 (TBD)	Multiple Rules	New Rule, Revision, Repeal	§ 12-20-204 § 12-245-204(4)(a) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S. Stakeholders are also requesting the Board review Rule 290 and possible revisions to the scope of practice of podiatrists.	Licensees, professional associations, relevant state agencies, and other key stakeholders
165	DPO	Spring/Summer 2023	State Board of Unlicensed Psychotherapists 4 CCR 734-1 (TBD)	Multiple Rules	New Rule, Revision, Repeal	§ 12-20-204 § 12-245-204(4)(a) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S. Stakeholders are also requesting the Board review Rule 290 and possible revisions to the scope of practice of podiatrists.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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166	DPO	Spring/Summer 2023	AUDIOLOGY RULES AND REGULATIONS 3 CCR 711-2 (TBD)	Multiple Rules	New Rule, Revision, Repeal	§ 12-20-204 § 12-210-109(4) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S. Stakeholders are also requesting the Board review Rule 290 and possible revisions to the scope of practice of podiatrists.	Licensees, professional associations, relevant state agencies, and other key stakeholders
167	DPO	Spring/Summer 2023	Board of Chiropractic Examiners 3 CCR 707-1 (TBD)	Multiple Rules	New Rule, Revision, Repeal	§ 12-20-204 § 12-215-105(1)(a) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S. Stakeholders are also requesting the Board review Rule 290 and possible revisions to the scope of practice of podiatrists.	Licensees, professional associations, relevant state agencies, and other key stakeholders
168	DPO	Spring/Summer 2023	Board of Chiropractic Examiners 3 CCR 707-1 (Rule 1.17)	Acupuncture	Revision	§ 12-20-204 § 12-215-105(1)(a)	No	The purpose of these proposed revisions are to clarify the requirements to meet the requirements for acupuncture authority in rule, specifically online hours versus in person hours.	Licensees, professional associations, relevant state agencies, and other key stakeholders
169	DPO	Spring/Summer 2023	Board of Chiropractic Examiners 3 CCR 707-1 (Multiple Rules)	Record Keeping	Revision	§ 12-20-204 § 12-215-105(1)(a)	No	The purpose of these proposed revisions are to update the recordkeeping requirements.	Licensees, professional associations, relevant state agencies, and other key stakeholders
170	DPO	Spring/Summer 2023	HEARING AID PROVIDER RULES AND REGULATIONS 3 CCR 711-1 (TBD)	Multiple Rules	New Rule, Revision, Repeal	§ 12-20-204 § 12-230-301(3) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S. Stakeholders are also requesting the Board review Rule 290 and possible revisions to the scope of practice of podiatrists.	Licensees, professional associations, relevant state agencies, and other key stakeholders
171	DPO	Spring/Summer 2023	Office of Naturopathic Doctor Registration Program 4 CCR 749-1 (TBD)	Multiple Rules	New Rule, Revision, Repeal	§ 12-20-204 § 12-250-105(1)(a) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S. Stakeholders are also requesting the Board review Rule 290 and possible revisions to the scope of practice of podiatrists.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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172	DPO	Summer 2023	State Board of Examiners of Nursing Home Administrators 3 CCR 717-1 (TBD)	Multiple Rules	New Rule, Revision, Repeal	§ 12-20-204 § 12-265-107(1)(a)	No	The Nursing Home Administrators' Practice Act will be reviewed by the legislature in 2023 through the Sunset Review and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders
173	DPO	TBD	State Physical Therapy Board 4 CCR 732-1 (Rule 1.5(E))	Licensing of Foreign-Trained Physical Therapist Graduates of Non-Accredited Programs	Revision	§ 12-20-204 § 12-285-106(2)(b)	No	The purpose of these proposed revisions are to update licensing requirements for foreign-trained non-accredited applicants.	Licensees, professional associations, relevant state agencies, and other key stakeholders
174	DPO	TBD	Colorado Dental Board 3 CCR 709-1 (Rule 1.14	Anesthesia	Revision	§ 12-20-204 § 12-220-105(3)	No	The purpose of these proposed revisions are to clarify requirements for Anesthesia permits and contracted non-dentist providers.	Licensees, professional associations, relevant state agencies, and other key stakeholders
174	DPO	TBD	Office of Barber and Cosmetology Licensure 4 CCR 731-1 (Rule 1.4)	Licensure by Endorsement	Revision	§ 12-20-204 § 12-105-106(1)(a)	No	The purpose of this proposed revision is to correct an error in the rule regarding military spouses.	Licensees, professional associations, relevant state agencies, and other key stakeholders
175	DPO	TBD	Office of Barber and Cosmetology Licensure 4 CCR 731-1 (Rule 1.9(E))	Permanent of Semi-Permanents Makeup Requirements for Estheticiand and Cosmetologists	Revision	§ 12-20-204 § 12-105-106(1)(a)	No	The purpose of this proposed revision is to indicate that the certificate needs to contain the number of hours or dates of the course in Rule 1.9(E)(3)(e).	Licensees, professional associations, relevant state agencies, and other key stakeholders
176	DPO	TBD	Colorado Medical Board 3 CCR 713-1 (Rule TBD)	All rules	Revision	§ 12-20-204 § 12-240-106(1)(a)	No	The purpose of these proposed revisions is to consolidate all Colorado Medical Board rules into one CCR number as opposed to each rule having its own individual CCR number to be consistent with the rest of the DIvision's rules.	Licensees, professional associations, relevant state agencies, and other key stakeholders
177	DPO	TBD	Audiology and Hearing Aid Provider Licensure 3 CCR 711-2 (TBD)	Compact Rules	New Rules	§ 12-20-204 § 12-210-107(2)	No	The purpose of these proposed new rules is to implement Colorado Senate Bill 21-021 (CONCERNING THE ENACTMENT OF THE "AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT", AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
178	DPO	TBD	Office of Speech-Language Pathology Certification 4 CCR 748-1 (TBD)	Compact Rules	New Rules	§ 12-20-204(1) § 12-305-115	No	The purpose of these proposed new rules is to implement Colorado Senate Bill 21-021 (CONCERNING THE ENACTMENT OF THE "AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT", AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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179	DPO	TBD	Office of Occupational Therapy Licensure 3 CCR 715-1 (TBD)	Compact Rules	New Rules	§ 12-20-204 § 12-270-116	No	New rules may be necessary to implement the interstate licensure compact.	Licensees, professional associations, relevant state agencies, and other key stakeholders
180	DPO	TBD	State Board of Licensed Professional Counselor Examiners 4 CCR 737-1 (TBD)	Compact Rules	New Rules	§ 12-20-204 § 12-245-204(4)(a)	No	New rules may be necessary to implement the interstate licensure compact.	Licensees, professional associations, relevant state agencies, and other key stakeholders
181	DRE	on-going through 2023	4 CCR 725-1	Rules regarding Real Estate Brokers	Revision	§12-10-219(4), §12-10-220, C.R.S.	No	The purpose of this proposed rulemaking will be to amend, repeal and add new administrative rules as needed to clarify requirements for initial and continued licensure, address practice deficiencies and delineate regulations pertaining to real estate contracts.	The Division will work with the following stakeholders: 1) Colorado Association of Realtors; 2) Denver Metro Commercial Association of Realtors; 3) Institute of Real Estate Management; 4) Building Owners and Managers Association; 5) National Association of Residential Property Managers; 6) Colorado Bar Association; 7) National Association of Hispanic Real Estate Professionals; 8) Women's Council of Realtors; and 9) licensed practitioners.

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182	DRE	Fall and Winter of 2023	4 CCR 725-2	Colorado Board of Real Estate Appraisers	New	§12-10-604(1)(a)(I), C.R.S.	Yes	The purpose of the rulemaking will be to conduct a review to assess the continuing need for, appropriateness and cost effectiveness of the program's rules as mandated by SB 14-063. The assessment will determine whether the rules should be continued in their current form, modified or repealed. Additionally, the Board may conduct rulemaking to review and revise any licensing, education and practice standards as necessary to comply with any federal mandates.	The Division will work with the following stakeholders: 1) Colorado Coalition of Appraisers; 2) Colorado Association of Real Estate Appraisers (North & South Chapters); 3) Appraisal Institute; 4) Representatives of Appraisal Management Companies; 5) Real Estate Valuation Advocacy Association; 6) American Society of Farm Managers and Rurual Appraisers; 7) American Society of Appraisers; 8) Roayl Institution of Charted Surveyors; 9) Colorado Association of Tax Appraisers; 10) Colorarado Assessors' Association; 11) Dept. of Local Affairs; 12) Appraisal Sub-Committee; and 13) Licensed and Certified practitioners.

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183	DRE	on-going through 2023	4 CCR 725-3	Mortgage Loan Originator's	Revision	§12-10-703(2)(a), §12-10-711(11), §12-10-712(3), C.R.S.	No	The purpose of this potential rulemaking will be to amend, repeal and add new administrative rules as a result of any federal mandates. This will include reviewing the definitions, licensure requirements, application processes, education requirements, professional standards, declaratory orders and exceptions of initial decisions, and the nationwide multistate licensing system and registry as needed.	The Division will work with the following stakeholders: 1) Colorado Mortgage Lenders Association; 2) Colorado Association of Mortgage Professionals; 3) Rocky Mountain Home Association; 4) licensed practitioners; 5) mortgage company compliance managers; 6) Board of Mortgage Loan Originators; and 7) NMLS
184	DRE	Fall of 2023	4 CCR 725-5	HOA Information and Resource Center	New	§12-10-801(5), C.R.S.	No	The purpose of this proposed rulemaking will be to evaluate if there is a need to add new administrative rules to implement any new legislation signed into law regarding the HOA Information and Resource Center program. This would potentially include reviewing the duties of the HOA Information Officer, HOA registration requirements and any additional mandates derived from legislation.	The Division will work, if needed, with the following stakeholders: 1) Community Association Institute (Denver & Southern Chapters); 2) Colorado Legislative Action Committee; 3) Owner Association Attorneys 4) Education Providers; 5) Representatives from small & large management companies; 6) Homeowners living in HOAs; and 7) Board members of HOAs.

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185	DRE	on-going through 2023	4 CCR 725-6	Subdivisions and Timeshares	Revision	§12-10-506(5), §12-10-506 (6), C.R.S.	No	The purpose of this proposed rulemaking will be to amend, repeal and add new administrative rules as needed to clarify requirements for initial and continued registration and certification, and any deficiencies in professional standards.	The Division will work with the following stakeholders: 1) American Resort Development Association; 2) Colorado Association of Home Builders; 3) Fidelity National Timeshare; 4) Real Estate Attorneys; and 5) Timeshare Developers
186	PUC	1st Qtr 2023	4 CCR 723-3 and 4	Electric and Gas	Revision	HB22-1018; Sections 40-3-103.6 and 40-3-106, C.R.S.	no	To implment the changes to disconnection notices and times from HB22-1018	Gas and Electric Utilities and all of their customers
187	PUC	1st Qtr 2023	4 CCR 723-3 and 4	Electric and Gas	New	HB22-1104; Section 40-2-126, C.R.S.	No	To implement the changes from HB22-1104 incorporating powerline trails.	Electric utilities
188	PUC	1st Qtr 2023	4 CCR 723-6	Transportation - taxi	Revision	Petition for rulemaking from taxi carriers and direction of the Commission; 40-10.1-106, C.R.S.	No	To review the flat rate zone charges from DIA to set areas on the front range	Taxi carriers and their customers; also DIA and tourism boards
189	PUC	1st Qtr 2023	4 CCR 723-6	Transporation - Towing	New and Revision	HB22-1314; Sections 40-10.1-101, 40-10.1-111, 40-10.1-401, 40-10.1-403, 405 through 410, C.R.S.	No	To implement the changes from HB22-1314 related to nonconsentual tows	Towing carriers and their customers
190	PUC	3rd Qrt 2023	4 CCR 723-3	Electric	New and Revision	SB22-118; Sections 40-2-127.5, 40-2-129, 40-9.5-106, C.R.S.	No	To implement the changes from SB22-118 regarding communty geothermal gardens	Electric utilities
191	PUC	1st Qtr 2023	4 CCR 723-3 and 4	Electric and Gas	New and Revision	Best Value Employment Metrics Audit findings; 40-2-108, C.R.S.	No	To implement changes as a result of the recent BVEM audit	Electric and gas utilities; labor organizations
192	PUC	1st Qtr 2023	4 CCR 723-11	Pipeline Safety	New and Revision	SB21-108; Sections 40-2-115 and 40-7-117, C.R.S.	No	To implement changes from SB21-108 as well as business practice changes	Gas utilities, excavators
193	PUC	3rd Qrt 2023	4 CCR 723-3	Electric	New and Revision	HB21-1052 (Section 40-2-124, C.R.S.) and SB21-261 (Sections 40-1-102, 40-1-103, 40-1-103.5, 40-2-124, C.R.S.) and SB21-264 (Sections 40-3.2-108, C.R.S.)	No	To implement changes from HB21-1052 - Pumped Hydro; and changes to the renewable energy standard and net metering rules pursuant to SB21-261 and 264.	

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR RULE CHANGE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
194	PUC	2nd Qrt 2023	4 CCR 723-3	Electric	Revision	Rulemaking ordered by Commission in Proceeding No. 18M-0080E; 40-4-101, C.R.S.	No	To make changes to the transmission planning rules as a result of previous Commission proceedings.	Electric utilities
195	PUC	4th Qrt 2023	4 CCR 723-1; 4 CCR 723-3; 4 CCR 723-3	Practice and Procedure; Electric and Gas	New and Revision	SB21-272; Sections 40-2-108, 40-2-123, 40-2-124, 40-2-137, C.R.S.	No	To make changes from SB21-272 regarding equity, minimize impacts, and prioritize benefits to disproportionately impacted communities.	All regulated utilities and stakeholders
196	PUC	3rd Qrt 2023	4 CCR 723-3	Electric	Revision	Rulemaking ordered by the Commission in Proceeding No. 21A-0625EG; 40-4-101, C.R.S.	No	To make changes regarding community solar gardens interconnection	Electric utilities; consumers of community solar programs
197	PUC	4th Qrt 2023	4 CCR 723-2	Telecommunications	New	HB21-1201; Sections 17-42-103, 40-2-113 and 40-15-102 and 107, C.R.S.	No	To implement HB21-1201 regarding the transparancy of telecommunications at correctional facilities.	Telecommunications providers at penal institutions; inmates
198	PUC	3rd Qrt 2023	4 CCR 723-6	Transportation	Revision	Review and update to transportation rules; 40-10.1-106, C.R.S.	Yes	To review and revise rules for transportation passenger carriers - CPCNs, contracts, LMT, limited regulation as well as safety and enforcement rules for towing and HHG carriers. Last full review of rules was in 2017.	All transportation providers and their customers

2022

Regulatory Agenda Report

COLORADO

Department of
Regulatory Agencies

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1	BAN	2/17/2022	3 CCR 701-1 (CB101.49)	Scope of Directors' Examinations	Revision	§11-101-102, §11-102-104, §11-103-502	No	Reinstate a paragraph in section (D) that was removed once previous emergency rule language had expired. Additionally, updates to the Division of Banking's address and phone number were made.	Commercial Banks
2	BAN	2/17/2022	3 CCR 701-1 (CB101.61)	Appraisal of Other Real Estate	Revision	§11-101-102, §11-102-104, §11-105-401(1)(d)	No	Amend the appraisal requirement for property acquired to satisfy indebtedness. Additionally, updates to the Division of Banking's address and phone number were made.	Commercial Banks
3	BAN	2/17/2022	3 CCR 701-6 (TC11)	Scope of Directors' Examinations	Revision	§11-101-102, §11-102-104, §11-109-402	No	Reinstate TC11(D)(7) and a paragraph in section (D) that was removed once previous emergency rule language had expired. Additionally, updates to the Division of Banking's address and phone number were made.	Trust Companies
4	BAN	2/17/2022	3 CCR 701-7 (MO2)	Permissible Investments	Revision	§11-101-102, §11-102-104, §11-110-111	No	Reinstate a paragraph in section (E) that was removed once previous emergency rule language had expired. Additionally, an update to a statute citation was made.	Money Transmitters
5	BAN	8/18/2022	3 CCR 701-7 (MO0.5)	Definitions	New Rule	§11-101-102, §11-102-104, §11-110-116	Yes	Promulgate Rule 3 CCR 701-7 MO0.5 that contains definitions of terms used throughout Rule 3 CCR 701-7.	Money Transmitters
6	BAN	8/18/2022	3 CCR 701-7 (MO1)	Surety Bond	Revision	§11-101-102, §11-102-104, §11-110-108, §11-110-116	Yes	Add the statutory citation, make minor verbiage and grammar updates, and remove an incorporation by reference.	Money Transmitters
7	BAN	8/18/2022	3 CCR 701-7 (MO2)	Permissible Investments	Revision	§11-101-102, §11-102-104, §11-110-108, §11-110-116	Yes	Add the statutory citation, and remove definitions and reporting requirements as they will be addressed in other rules within Rule 3 CCR 701-7.	Money Transmitters
8	BAN	8/18/2022	3 CCR 701-7 (MO3)	Records	Revision	§11-101-102, §11-102-104, §11-110-111, §11-110-114, §11-110-116, §11-110-201	Yes	Update the statutory citation, update quarterly call report instructions, update record retention requirements, and remove three sections with definitions that will be addressed in the new rule, MO0.5.	Money Transmitters
9	BAN	8/18/2022	3 CCR 701-7 (MO4)	Qualification of License Applicant	Revision	§11-101-102, §11-102-104, §11-110-107, §11-110-116	Yes	Update the statutory citation, update application instructions, make minor verbiage updates, and remove a section that is no longer applicable.	Money Transmitters

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10	BAN	8/18/2022	3 CCR 701-7 (MO5)	Change of Control	Revision	§11-101-102, §11-102-104, §11-110-103, §11-110-112, §11-110-116	Yes	Update the statutory citation, clarify reporting requirements of a change of control, and add required information that is to be included with a change of control.	Money Transmitters
11	BAN	8/18/2022	3 CCR 701-7 (MO6)	Compliance with Federal Regulations	Revision	§11-101-102, §11-102-104, §11-110-113, §11-110-116	Yes	Update statutory citations.	Money Transmitters
12	BAN	8/18/2022	3 CCR 701-7 (MO7)	Customer Notice Section	Revision	§11-101-102, §11-102-104, §11-110-116, §11-110-120	Yes	Update the statutory citation and make minor verbiage updates.	Money Transmitters
13	BAN	8/18/2022	3 CCR 701-7 (MO8)	Employee Money Laundering Affirmation	Revision	§11-101-102, §11-102-104, §11-110-116, §11-110-203	Yes	Update statutory citations and remove a definition that will be addressed in the new rule, MO0.5.	Money Transmitters
14	DOI	6/1/2022	3 CCR 702 -1	Actuarial Qualifications	Revision	§10-1-108(8) and §10-1-109, C.R.S.	Yes	The purpose of this regulation is to assure that the consulting actuary, actuary or other person acting in the capacity of an actuary is properly qualified to perform the actuarial duties in a competent and professional manner by establishing qualifications for such persons. The actuarial opinion and other documents included in the scope of this regulation are relied upon for determinations of financial soundness and for the protection of the general public. For these reasons, the qualifications of the person signing the documents must be verified and periodically reevaluated.	Actuaries
15	DOI	2/1/2022	3 CCR 702 -1	Penalties and Timelines Concerning Division Inquires and Document Request	Revision	§10-1-109, §10-2-104, §10-3-109(3), and §10-16-109, C.R.S.	Yes	The purpose of this regulation is to prescribe the time period in which all persons and entities shall respond to Colorado Division of Insurance inquiries, including, but not limited to, document and information requests during market conduct and financial examinations, investigations of complaints, and any other formal or informal investigation or examination conducted for the purpose of determining compliance with Colorado insurance law. In addition, the purpose of this regulation is to prescribe the penalties for failure to respond to Division inquiries within the timeframes specified in this regulation.	Insurers

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16	DOI	11/1/2022	3 CCR 702 -1	Exceptions to Electronic Rate Filing	Revision	§10-1-109, §10-4-401(5) and §10-16-107(1), C.R.S.	Yes	The purpose of this regulation is to prescribe the format for electronic rate filings with the Division of Insurance (Division), and to set forth the circumstances that would be considered an emergency situation exempting insurers and carriers from making electronic rate filings.	Insurers
17	DOI	10/1/2022	3 CCR 702 -1	Concerning Managing General Agents	Revision	§10-1-109 and §10-2-1008, C.R.S.	Yes	The purpose of this regulation is to clarify standards and procedures contained in the Managing General Agents Act.	Managing general agents and insurers
18	DOI	10/1/2022	3 CCR 702 -1	Standards and Approval for Required Education Course for Producers to be Appointed by a Bail Insurance Company	Revision	§10-1-109, and §10-2-104, C.R.S.	Yes	The purpose of this regulation is to specify the requirements, procedures and standards necessary to implement the education requirements mandated by § 10-2-415.5(2)(c), C.R.S. including the certification and filing of courses in bail recovery pursuant to § 10-2-415.5(2)(c)(I)(B), C.R.S which comply with the Peace Officer Standards and Training Board (P.O.S.T.) curriculum established by P.O.S.T. pursuant to § 24-31-303(1)(h), C.R.S.	Producers
19	DOI	12/1/2022	3 CCR 702 -1	Cash-Bonding Agent and Professional Cash-Bail Agent Provisions for Release of Qualification Bond	Revision	§ 10-1-109, C.R.S.	Yes	Pursuant to § 12-7-103, C.R.S. as effective until July 1, 2012, Cash-Bonding Agents and Professional Cash-Bail Agents were required to post a cash qualification bond in the amount of $50,000 to secure payment of defaulted bonds and to pay any final, non-appealable judgment for failure to return collateral, including costs and attorney's fees, if awarded. This regulation sets forth the terms and conditions for release of the qualification bond for those Cash-Bonding Agents and Professional Cash-Bail Agents whose license expired, was cancelled, surrendered, revoked other otherwise inactivated prior to July 1, 2012.	Cash-Bonding Agents and Professional Cash-Bail Agents
20	DOI	2/1/2022	3 CCR 702 -2	Concerning Issuance of a Certificate of Authority	Revision	§10-1-109, §10-14-505, C.R.S.	Yes	The purpose of this regulation is to clarify the standards for issuing certificates of authority to transact insurance business in Colorado to insurers, fraternal benefit societies and interinsurance exchanges.	Property and casualty insurers

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22	DOI	10/1/2022	3 CCR 702 -2	Concerning Risk Retention Groups and Purchasing Groups	Revision	§10-1-109 and §10-3-1403, C.R.S.	Yes	The purpose of this regulation is to regulate the formation and/or operation of risk retention groups or purchasing groups in this state formed pursuant to the provisions of the federal Liability Risk Retention Act of 1986, 15 U.S.C. § 3901 et seq ("RRA 1986"), to the extent permitted by such law.	Insurers
23	DOI	6/1/2022	3 CCR 702 -2	Motor Vehicle Self-Insurance	Revision	§10-1-109, §10-4-601.5, §10-4-624, and §42-7-501, C.R.S.	Yes	Section 10-4-624 C.R.S., provides that any person in whose name more than twenty-five (25) motor vehicles are registered may qualify for self-insurance. This provision affords owners of fleets of motor vehicles a cost-effective method of complying with Colorado's motor vehicle financial responsibility requirements while affording coverage and protection to the general public. The purpose of this regulation is to set the filing requirements and standards for certification as a self-insurer under § 10-4-624, C.R.S. It is the opinion of the Commissioner that any owner of motor vehicles which must be registered should either obtain complying motor vehicle insurance or comply with this regulation.	Motor vehicle self-insurers
24	DOI	4/1/2022	3 CCR 702 -2	Concerning Public Entity Self-Insurance Pools	Revision	§10-1-109, C.R.S.	Yes	The purpose of this regulation is to clarify the requirements for the formation and operation of public entity self-insurance pools.	Public entities forming a self-insurance pool
25	DOI	4/1/2022	3 CCR 702 -2	Concerning Employers Workers' Compensation Self-Insurance Pools	Revision	§8-44-205(9), and §10-1-109, C.R.S.	Yes	The purpose of this regulation is to clarify the requirements for the formation and operation of employer's workers' compensation self-insurance pools.	Employers forming a self-insurance pool
26	DOI	2/1/2022	3 CCR 702 -2	Concerning the Formation and Operations of Captive Insurance Companies in Colorado	Revision	§10-1-109, and §10-6-129, C.R.S.	Yes	The purpose of this regulation is to set forth the formation, operation and reporting requirements for captive insurance companies formed pursuant to the Colorado Captive Insurance Company Act, Article 6 of Title 10, C.R.S., and to ensure that licensed captive insurance companies are financially sound.	Captive insurance companies

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27	DOI	3/22/2022	3 CCR 702 -2	Consumer Goods Service Contract Provider Registration	Revision	§10-1-109 and §10-4-1609 (5), C.R.S.	No	The purpose of this regulation is to establish the requirements for the registration of providers of service contracts pursuant to the requirements of § 10-4-1603(9)(b), C.R.S.	Insurers
28	DOI	8/1/2022	3 CCR 702 -3	Statutory Deposits Quarterly Reports on Market Value	Revision	§ 10-1-109 C.R.S.	Yes	The purpose of this regulation is to implement the market valuation requirement of § 10-3-235(4) C.R.S., by the establishment of regular reporting method.	Insurers
29	DOI	5/1/2022	3 CCR 702 -3	Regulation to Define Standards and Commissioner's Authority for Companies Deemed to be in Hazardous Financial Condition	Revision	§10-1-109, §10-3-201(1)(b), §10-6-129, §10-14-505, and §10-16-109, C.R.S.	Yes	The purpose of this regulation is to set forth the standards which the Commissioner of Insurance may use for identifying insurers found to be in such condition as to render the continuance of their business hazardous to their policyholders, creditors or the general public. This regulation shall not be interpreted to limit the powers granted the Commissioner by any laws or parts of laws of this state, nor shall this regulation be interpreted to supersede any laws or parts of laws of this state.	Insurers
30	DOI	11/1/2022	3 CCR 702 -3	Concerning Actuarial Opinions and Memorandums for Life Companies	Revision	§10-1-108(7), §10-1-109, §10-7-114, and §10-14-505, C.R.S.	Yes	The purpose of this regulation is to prescribe: A. Guidelines and standards for statements of actuarial opinion, which are to be submitted in accordance with §§10-7-114 and 10-14-602, C.R.S. and for memorandums submitted in support thereof; B. Rules applicable to the appointment of an appointed actuary; and C. Guidance as to the meaning of “adequacy of reserves.”	Life insurers and fraternal benefit societies
31	DOI	2/1/2022	3 CCR 702 -3	Minimum Reserve Standards for Individual and Group Health Insurance Contracts	Revision	§10-1-109, §10-16-109 and §10-16-220, C.R.S.	Yes	The purpose of this regulation is to set forth minimum standards for reserves of insurers providing individual and group health insurance.	Insurers

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32	DOI	8/1/2022	3 CCR 702 -3	Risk-Based Capital (RBC) for Insurers	Revision	§10-1-109, §10-3-201(1)(b), §10-6-129, and §10-14-604, C.R.S.	Yes	The purpose of this Regulation is to establish standards for the minimum capital and surplus to be maintained by insurers, captive insurers and fraternal benefit societies as provided by §§ 10-3-201(1)(b), 10-6-116, and 10-14-604, C.R.S. These standards provide for the early detection of a potentially hazardous or otherwise dangerous condition of an insurer in order to protect its insureds and the general public. This Regulation additionally provides for reporting, corrective measures, and enforcement actions available to the Commissioner.	Insurers
33	DOI	8/1/2022	3 CCR 702 -3	Risk-Based Capital (RBC) for Health Organizations	Revision	§10-16-310(3) and §10-16-411(2), C.R.S.	Yes	The purpose of this Regulation is to establish standards for the minimum capital and surplus to be maintained by health organizations as provided by §§ 10-16-310 and 10-16-411, C.R.S. These standards provide for the early detection of a potentially hazardous or otherwise dangerous condition of a health organization in order to protect its enrollees/members and the general public. This Regulation additionally provides for reporting, corrective measures, and enforcement actions available to the Commissioner.	Health organizations
34	DOI	10/1/2022	3 CCR 702 -3	Disclosure of Material Transactions	Revision	§10-1-109, §10-6-114, §10-6-129, §10-14-505, §10-16-109 C.R.S.	Yes	The purpose of this regulation is to establish filing requirements for certain domestic insurers for material transactions, which have the potential of creating a hazardous financial condition. It is necessary to monitor the financial condition and operation of an insurer so as to adequately protect its insureds and the public.	Insurers

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35	DOI	7/1/2022	3 CCR 702 -3	Alternative Mechanism for Carriers Entering into Contracts with Risk-bearing Entities	Revision	§10-1-109, §10-16-109 and §10-16-708 C.R.S.	Yes	The purpose for this regulation is to establish an acceptable alternative mechanism pursuant to §10-16-705(5)(b), C.R.S. This regulation establishes the terms of an alternative mechanism, which, if complied with, is deemed approved for purposes of §10-16-705(5)(b), C.R.S. Carriers are not limited to this one alternative mechanism. Other alternative mechanism plans can be submitted for consideration to the commissioner.	Insurers
36	DOI	4/1/2022	3 CCR 702 -3	Custodial Agreements and the Use of Clearing Corporations	Revision	§10-1-109, and §10-3-1203 (2), §10-6-129, §10-14-505 and §10-16-109, C.R.S.	Yes	The purpose of this regulation is to provide current criteria, procedures and clarification concerning the holding of securities or book-entry securities as investments or in meeting the statutory deposits or guaranty fund deposits pursuant to §§ 10-3-210, 10-6-116, 10-16-310, 10-16-412 and 10-16-505, C.R.S. Only custodial agreements complying with this regulation shall be acceptable to the Commissioner of Insurance.	Insurers
37	DOI	2/1/2022	3 CCR 702 -3	Title Insurer Assessment	Revision	§10-1-109 and §10-3-207, C.R.S.	Yes	The purpose of this regulation is to establish the standard to determine the amount each title insurer shall be assessed in accordance with § 10-3-207, C.R.S.	Title Insurers
38	DOI	7/1/2022	3 CCR 702 -4	Concerning Best Interest Obligations and Supervision in Annuity Transactions	Revision	§10-1-109(1) and §10-3-1110(1), C.R.S.	No	The purpose of this regulation is to require producers, as defined in this regulation, to act in the best interest of the consumer when making a recommendation of an annuity and to require insurers to establish and maintain a system to supervise recommendations so that the insurance needs and financial objectives of consumers at the time of the transaction are effectively addressed.	Annuity insurers
39	DOI	12/1/2022	3 CCR 702 -4	Hospital Indemnity and Disability Income Policies	Revision	§10-1-109 and §10-16-109, C.R.S.	Yes	This regulation prohibits insurers from refusing to pay benefits under certain contracts because of hospitalization in government hospitals.	Insurers

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40	DOI	2/1/2022	3 CCR 702 -4	Reporting Requirements for Multiple Employer Welfare Arrangements (MEWAS)	Revision	§10-1-109, C.R.S.	Yes	This regulation is intended to clarify the information to be filed under the provisions of § 10-3-903.5(7)(c), C.R.S., by Multiple Employer Welfare Arrangements (MEWAs) claiming exempt status from formal licensing requirements; and to clarify the responsibilities of licensed producers.	MEWAs
41	DOI	3/1/2022	3 CCR 702 -4	Procedures for Reasonable Modifications to Individual and Small Group Health Plans	Revision	§10-1-109, §10-16-109, and §10-16-105.1(6), C.R.S.	Yes	The purpose of this regulation is to establish procedures for the submission of reasonable modifications to grandfathered individual and small group health benefit plans, to non-grandfathered individual and small group health benefit plans, as outlined in § 10-16-105.1(5), C.R.S., and to pediatric stand alone dental plans.	Health insurers
42	DOI	12/1/2022	3 CCR 702 -4	The Rules for Complying with Mandated Coverage of Hearing Aids and Prosthetics	Revision	§10-1-109, C.R.S.	Yes	The purpose of this regulation is to provide health carriers the guidance necessary to comply with the requirement to provide coverage for prosthetics and hearing aids pursuant to §§10-16-104(14) and (19), C.R.S., respectively.	Health insurers
43	DOI	3/31/2022	3 CCR 702 -4	Elements of Certification for Certain Limited Benefit Health Plans, Credit Life and Health, Preneed Funeral Contracts, Excess/Stop-Loss Insurance Forms, Sickness and Accident Insurance, and Other Limited Benefit Plans	Revision	§10-1-109(1), §10-3-1110, §10-16-107.2(1),(2),(3), §10-16-107.3(4), and §10-16-109, C.R.S.	No	The purpose of this regulation is to promulgate rules applicable to the filing of new and/or revised policy forms, new policy form listings, annual reports of policy forms, and certifications of policy forms and contracts, other than health benefit plan forms.	Health insurers
43	DOI	3/1/2022	3 CCR 702 -4	Concerning Essential Health Benefits	Revision	§10-1-108(7), §10-1-109, §10-16-103.4 and §10-16-109, C.R.S.	No	The purpose of this regulation is to establish rules for the required inclusion of the essential health benefits in individual and small group health benefit plans in accordance with Article 16 of Title 10 of the Colorado Revised Statutes, and the Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111- 148, 124 Stat. 119 (2010) and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010), together referred to as the “Affordable Care Act” (ACA).	Health insurers

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44	DOI	3/22/2022	3 CCR 702 -4	Carrier Discontinuance of Market Exit of Health Benefit Plans or Student Health Insurance Coverage Policies	Revision	§10-1-109, §10-16-105.1(6)(a), and §10-16-109, C.R.S.	No	The purpose of this regulation is to establish standards for carriers in discontinuing health benefit plans or student health insurance coverage policies and for carriers exiting a Colorado market segment pursuant to the requirements of Colorado law.	Health insurers
45	DOI	3/22/2022	3 CCR 702 -4	Concerning Meaningful Difference Standards for Health Benefit Plans	Revision	§10-1-109(1), §10-16-108.5(8) and §10-16-109, C.R.S.	No	The purpose of this regulation is to establish requirements to ensure that there is meaningful difference between health benefit plans being offered by a carrier, which in turn promotes the fair marketing of health benefit plans and a competitive health insurance market.	Health insurers
46	DOI	8/31/2022	3 CCR 702 -4	Concerning Cost Sharing Reduction Enhancements	Revision	§10-1-108(7), §10-1-109(1), §10-16-1207(5), and §10-16-109, C.R.S.	No	The purpose of this regulation is to provide standards for including payments to carriers pursuant to C.R.S. § 10-16-1205(1)(b)(II) in rate filings for health benefit plans regulated by the Colorado Division of Insurance.	Health insurers
47	DOI	1/4/2022	3 CCR 702 -4	Concerning Network Adequacy Standards and Reporting Requirements for Colorado Option Standardized Health Benefit Plans	New	§10-1-109(1), §10-16-109, §10-16-1304(2)(c), and §10-16-1312, C.R.S.	No	The purpose of this regulation is to provide carriers offering the Colorado Option standardized bronze, silver, and gold health benefit plans with the requirements to offer a culturally responsive network of providers and the action plan elements if the network does not meet these standards as required by 10-16-1304(2), C.R.S.	Health insurers
48	DOI	1/18/2022	3 CCR 702 -4	Concerning Colorado Option Standardized Health Benefit Plan	New	§10-1-108(7), §10-1-109(1), §10-16-109, and §10-16-1312, C.R.S.	No	The purpose of this regulation is to establish rules for the required Colorado Option standardized bronze, silver, and gold health benefit plans to be offered by all carriers offering individual and small group health benefits plans issued or renewed on or after January 1, 2023.	Health insurers
49	DOI	3/22/2022	3 CCR 702 -4	Concerning Carrier Notices to Policyholders for Reasonable Modifications, Discontinuances, Market Exits and Carrier Renewal for Off-Exchange Plans	New	§10-1-109, §10-16-105.1(6)(a), §10-16-105.7(3)(c), and §10-16-109 C.R.S.	No	The purpose of this regulation is to provide carriers with the policyholder notice templates for plans that are being modified through the reasonable modifications process in accordance with Colorado Insurance Regulation 4-2-27, being discontinued in accordance with Colorado Insurance Regulation 4-2-51, or being continued without modification.	Health insurers

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50	DOI	3/31/2022	3 CCR 702 -4	Concerning Health Insurance Affordability Enterprise Premium Wrap and Cost Sharing Reductions Enhancements for Qualified Individuals	New	§10-1-108(7), §10-1-109(1), §10-16-1207(5), and §10-16-109, C.R.S.	No	The purpose of this regulation is to provide standards for including payments to carriers pursuant to C.R.S. § 10-16-1205(1)(b)(III) in rate filings for health benefit plans regulated by the Colorado Division of Insurance and guidelines for the Colorado Option Silver Enhanced Benefit Plan.	Health insurers
51	DOI	3/31/2022	3 CCR 702 -4	Concerning the Special Assessment on Hospitals for the Colorado Health Insurance Affordability Enterprise	New	§10-1-109(1), §10-16-109, §10-16-1205(5)(a) and §10-16-1207(5), C.R.S.	No	The purpose of this regulation is to establish the process by which the Colorado Health Insurance Affordability Enterprise (Enterprise) will assess and collect the special assessment on hospitals, pursuant to § 10-16-1205(1)(a)(II) and (5)(a), C.R.S.	Health insurers
52	DOI	3/31/2022	3 CCR 702 -4	Concerning the Methodology for Calculating Premium Rate Reductions for Colorado Option Standardized Health Benefit Plans	New	§10-1-108(7), §10-1-109(1), §10-16-109, §10-16-1304, §10-16-1305, §10-16-1306, §10-16-1312, C.R.S.	No	The purpose of this regulation is to establish rules for the required premium reduction methodology for the Colorado Option standardized bronze, silver and gold health benefits plans to be offered by all carriers offering individual and small group health benefits plans issued or renewed on or after January 1, 2023.	Health insurers
53	DOI	3/31/2022	3 CCR 702 -4	Concerning the Methodology for Calculating the Healthcare Coverage Cooperative Exemption for the Colorado Option Standardized Health Benefit Plans and Premium Rate Reduction Requirements	New	§10-1-108(7), §10-1-109(1), §10-16-109, §10-16-1304, §10-16-1305, §10-16-1306, §10-16-1312, C.R.S.	No	The purpose of this regulation is to establish rules for the required premium reduction methodology to determine whether a healthcare coverage cooperative, and a carrier offering health benefit plans under agreement with the healthcare coverage cooperative, have met the requirements of § 10-16-1306(9)(a), C.R.S.	Health insurers
54	DOI	2/1/2022	3 CCR 702 -4	Concerning Small Employer Group Health Benefit Plans	Revision	§10-1-109, §10-16-105.2(1)(a)(IV), §10-16-108.5(8), §10-16-109, and §10-16-708, C.R.S.	Yes	The purpose of this regulation is to establish rules for implementing Colorado's small group laws. This regulation concerns the applicability and scope of the small group provisions; carriers' obligations to provide coverage; employee eligibility requirements; the use of restrictive riders; rules relating to fair marketing; and carrier disclosure requirements.	Health insurers
55	DOI	2/1/2022	3 CCR 702 -4	Employee Leasing Companies and Health Care Coverage	Revision	§10-1-109, §10-3-1110 and §10-16-109, C.R.S.	Yes	The purpose of this regulation is to establish and implement rules for health carriers that issue and renew health plans to employee leasing companies and work-site employers.	Health insurers

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56	DOI	9/1/2022	3 CCR 702 -4	Mandatory Coverage of Mental Illness	Revision	§10-1-109 and §10-16-109, C.R.S.	Yes	The purpose of this regulation is to clarify the coordination of subsections (5) and (5.5) of § 10-16-104, C.R.S. (2012), concerning mental illness and biologically based mental illness (BBMI).	Insurers
57	DOI	10/1/2022	3 CCR 702 -4	Health Maintenance Organizations	Revision	§10-1-109, §10-16-109, §10-16-111, and §10-16-403(2)(b), C.R.S.	Yes	The purposes of this regulation are to provide the requirements for licensure as a health maintenance organization (HMO) and establish standards for HMO organization and operations.	Health Maintenance Organizations
58	DOI	2/1/2022	3 CCR 702 -4	Concerning the Laws Regulating Health Maintenance Organization Benefit Contracts and Services in Colorado	Revision	§10-16-109, C.R.S.	Yes	The purpose of this regulation is to provide reasonable standards for the terms and provisions contained in Health Maintenance Organizations' ("HMOs") benefit contracts and evidences of coverage.	Health Maintenance Organizations
59	DOI	5/3/2022	3 CCR 702 -4	Credit Insurance for Life, Accident and Health, and Property and Casualty	Revision	§10-1-109, §10-10-109(2.5)(c)(II) and (3), C.R.S.	No	The purpose of this regulation is to implement component rating and provide standards to enforce the provisions of Colorado Revised Statutes Article 10 of Title 10, regarding all forms of credit insurance.	Credit insurers
60	DOI	6/1/2022	3 CCR 702 -5	Mass Merchandising of Property and Liability Insurance	Revision	§10-1-109, C.R.S.	Yes	The purpose of this regulation is to prescribe rules to prevent abuses in connection with the sale of property and liability insurance in this state pursuant to mass marketing plans, while preserving for consumers the potential benefits of this form of marketing.	Property and liability insurers
61	DOI	7/1/2022	3 CCR 702 -5	Application and Binder Forms	Revision	§10-1-109 and §10-3-1110, C.R.S.	Yes	The purpose of this regulation is to implement rules that provide clear disclosure of the insurance company on the application form or on the binder. In addition, this regulation is designed to eliminate the unfair practice of providing false or misleading information by individuals who are not disclosing the name of the insurance company on an application form or a binder for insurance.	Property and casualty insurers
62	DOI	9/1/2022	3 CCR 702 -5	Nationwide Inland Marine Definition	Revision	§10-1-109, C.R.S.	Yes	The purpose of this regulation is to adopt a standard definition of "inland marine" insurance.	Property and casualty insurers

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63	DOI	7/1/2022	3 CCR 702 -5	Concerning Claims-made Insurance Policies	Revision	§10-1-109, C.R.S.	Yes	The purpose of this regulation is to establish standards for the training of all persons engaged in the sale or consultation of claims-made policies in compliance with §10-4-419 (2)(g) or in adjusting claims under such policies, and to provide minimum disclosure standards for claims-made insurance policies.	Casualty insurers
64	DOI	8/1/2022	3 CCR 702 -5	Regulation to Require Reporting of Financial and Statistical Data by Property and Casualty Insurance Companies	Revision	§§10-1-109, and 10-4-404 (1), C.R.S.	Yes	The purpose of this regulation is to set forth the manner of reporting data by insurers to statistical agents, to prescribe reports to be submitted by statistical agents to the commissioner, and to prescribe certain conduct in connection therewith. This regulation does not apply to data reported directly by insurers to the commissioner.	Property and casualty insurers
65	DOI	4/1/2022	3 CCR 702 -5	Warranties and Service Contracts	Revision	§10-1-108(8) and §10-1-109, C.R.S.	Yes	The purpose of this regulation is to establish a distinction between a written agreement that is an insurance contract pursuant to § 10-1-102(12), C.R.S. and a written agreement that meets the definition of a written warranty or service contract and is not subject to regulation by the Division of Insurance (Division). The Division has received numerous inquiries regarding contracts which may be insurance and are sold as warranties or service contracts. The definitions and rules contained herein set forth certain conditions which will cause a contract to be considered a contract of insurance, and thereby regulated by the Division, and warranty contracts and service contracts which may not be regulated unless specifically addressed in the Colorado statutes, rules and regulations.	Insurers
66	DOI	2/1/2022	3 CCR 702 -5	Penalties for Failure to Promptly Address Property and Casualty First Party Claims	Revision	§10-1-109 and §10-3-1110, C.R.S.	Yes	The purpose of this regulation is to describe the procedure and circumstances under which penalties will be imposed for failure to make timely decisions and/or payment on first party claims.	Property and casualty insurers

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67	DOI	1/1/2022	3 CCR 702 -5	Concerning Automobile Insurance Consumer Protections	Revision	§10-1-109, §10-4-601.5, §10-4-625 and §10-4-628 (4), C.R.S.	Yes	The purpose of this regulation is to interpret and implement the provisions of Part 6 of Article 4 of Title 10 of the Colorado Revised Statutes. In addition, this regulation provides rules governing the rejection of coverage, cancellation, nonrenewal, increase in premium, and reduction in coverage on complying policies of automobile insurance.	Auto insurers
68	DOI	11/1/2022	3 CCR 702 -6	Concerning the Reporting of Suspected Insurance Fraud	Revision	§10-1-109 and §10-4-1003 C.R.S.	Yes	The purpose of this regulation is to facilitate the reporting of suspected insurance fraud, to aid in the detection, investigation and ultimate prosecution of those who commit insurance fraud in this state and to deter future fraudulent acts by improving regulatory oversight of licensed persons who commit insurance fraud. This regulation describes the procedure and circumstances under which all insurers shall, and individuals may, report suspected insurance fraud for the purpose of investigating, and enforcing laws prohibiting insurance fraud.	Insurers, nonprofit hospital, medical-surgical, and health service corporations, health maintenance organization, and licensed insurance producers
69	DOI	7/1/2022	3 CCR 702 -6	Concerning Best Interest Obligations and Supervision in Annuity Transactions	Revision	§10-1-108(7), §10-1-109, §10-3-131, and §10-3-1110, C.R.S.	No	The purpose of this regulation is to ensure that consumers receive the benefits of competition in the area of title insurance and to ensure consumer protection.	Title Insurers
70	DOI	3/1/2022	3 CCR 702 -8	Title Insurance Agent Licensing	Revision	§10-1-108(7), §10-1-109, §10-2-104, §10-2-406, §10-11-116, and §10-11-119, C. R.S.	Yes	The purpose of this regulation is to set forth the title insurance agent licensing requirements.	Title insurers
71	DPO	7/9/21	State Board of Licensed Professional Counselor Examiners 4 CCR 737-1 (Rule 1.12)	OCCUPATIONAL CREDENTIAL PORTABILITY PROGRAM (C.R.S.§ § 12-245-207, 12-20-202(3))	Revision	§ 12-20-204 § 12-245-204(4)(a) § 12-245-207 § 12-20-202	No	The purpose of this revision is to correct language that conflicts with portions of the statutes in Colorado House Bill 20-1326.	Licensees, professional associations, relevant state agencies, and other key stakeholders
72	DPO	7/9/21	State Board of Licensed Professional Counselor Examiners 4 CCR 737-1 (Rule 1.23)	REQUIRED DISCLOSURE TO CLIENTS – CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT (§12-30-115 C.R.S.)	Revision	§ 12-20-204 § 12-245-204(4)(a) § 12-30-115	No	The purpose of this revision is to correct correct language that conflicts with portions of the statutes in Colorado Senate Bill 20-102.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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73	DPO	7/14/21	Colorado Dental Board 3 CCR 709-1 (Rule 1.25)	Placement of Interim Therapeutic Restorations by Dental Hygienists	Revision	§ 12-20-204 § 12-220-105(3) § 12-220-106 § 12-220-504(1)(d) § 12-220-505	No	The purpose of the proposed rule revision is to implement Colorado Senate Bill 21-102 (CONCERNING THE CONTINUATION OF SPECIFIC DENTAL HYGIENIST FUNCTIONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES).	Licensees, professional associations, relevant state agencies, and other key stakeholders
74	DPO	7/14/21	Colorado Dental Board 3 CCR 709-1 (Rule 1.26)	Application of Silver Diamine Fluoride by Dental Hygienists	Revision	§ 12-20-204 § 12-220-105(3) § 12-220-106 § 12-220-503 § 12-220-504(1)(e)	No	The purpose of the proposed rule revision is to implement Colorado Senate Bill 21-102 (CONCERNING THE CONTINUATION OF SPECIFIC DENTAL HYGIENIST FUNCTIONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES).	Licensees, professional associations, relevant state agencies, and other key stakeholders
75	DPO	8/12/21	State Physical Therapy Board 4 CCR 732-1 (Rule 1.1)	AUTHORITY	New rule	§ 24-4-103.3 § 12-20-204 § 12-285-106(2)(b)	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders
76	DPO	8/12/21	State Physical Therapy Board 4 CCR 732-1 (Rule 1.2)	SCOPE AND PURPOSE	New rule	§ 24-4-103.3 § 12-20-204 § 12-285-106(2)(b)	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders
77	DPO	8/12/21	State Physical Therapy Board 4 CCR 732-1 (Rule 1.3)	APPLICABILITY	New rule	§ 24-4-103.3 § 12-20-204 § 12-285-106(2)(b)	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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78	DPO	8/12/21	State Physical Therapy Board 4 CCR 732-1 (Rule 1.1)	GENERAL RULE PROVISIONS	Revision	§ 24-4-103.3 § 12-20-202 § 12-20-204 § 12-285-104(1) § 12-285-106(2)(b) § 12-285-116(1) § 12-285-108 § 12-285-110 § 12-285-112 § 12-285-113 § 12-285-115 § 12-285-117 § 12-285-120 § 12-285-123 § 12-285-124 § 12-285-205 § 12-285-206 § 12-285-207 § 12-285-211 § 12-285-213 § 12-285-214 § 12-285-215 § 24-4-105(11)	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders
79	DPO		State Physical Therapy Board 4 CCR 732-1 (Rule 1.2)	PHYSICAL THERAPIST LICENSURE RULES	Revision	§ 24-4-103.3 § 12-20-202 § 12-20-204 § 12-285-106(2)(b) § 12-285-107 § 12-285-111 § 12-285-116 § 12-285-117 § 12-285-204 § 12-285-110 § 12-285-112 § 12-285-113 § 12-285-114 § 12-285-115 § 12-285-119 § 12-285-203	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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80	DPO	8/12/21	State Physical Therapy Board 4 CCR 732-1 (Rule 1.3)	PHYSICAL THERAPIST ASSISTANT RULES	Revision	§ 24-4-103.3 § 12-20-202 § 12-20-204 § 12-285-106(2)(b) § 12-285-203 § 12-285-205§ 12-285-206§ 12-285-207 § 12-285-208 § 12-285-209	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders
81	DPO	8/27/21	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.1)	AUTHORITY	New rule	§ 12-20-204 § 12-310-103(4)	No	The purpose of this proposed new rule is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
82	DPO	8/27/21	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.2)	SCOPE AND PURPOSE	New rule	§ 12-20-204 § 12-310-103(4)	No	The purpose of this proposed new rule is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
83	DPO	8/27/21	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.3)	APPLICABILITY	New rule	§ 12-20-204 § 12-310-103(4)	No	The purpose of this proposed new rule is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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84	DPO	8/27/21	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.1)	CLARIFICATION OF WHO IS REQUIRED TO REGISTER AS AFOR THE SURGICAL ASSISTANT ORAND A SURGICAL TECHNOLOGIST REGISTRATION PROGRAM	Revision	§ 12-20-204 § 12-310-102 § 12-310-103(4)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
85	DPO	8/27/21	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.2)	DECLARATORY ORDERS	Revision	§ 12-20-204 § 12-310-102 § 24-4-105(11)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
86	DPO	8/27/21	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.3)	REPORTING CRIMINAL CONVICTIONS, JUDGMENTS, AND ADMINISTRATIVE PROCEEDINGS	Revision	§ 12-20-204 § 12-310-103	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
87	DPO	8/27/21	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.4)	REGARDING THE CONTINUING DUTY TO REPORT INFORMATION TO THE DIRECTOR'S OFFICE.	Revision	§ 12-20-204 § 12-310-103	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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88	DPO	8/27/21	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.8)	CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE FOR PHYSICALCONDITION OR DISABILITY, A BEHAVIORAL, MENTAL HEALTH OR SUBSTANCE USE DISORDER, OR AN INTELLECTURAL AND DEVELOPMENTAL DISABILITY	New rule	§ 12-20-204 § 12-30-108 § 12-310-103 § 12-310-108.5	No	The purpose of this proposed new rule is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
89	DPO	8/27/21	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.6)	CONCERNING HEALTH CARE PROVIDER DISCLOSURES TO CONSUMERS ABOUT THE POTENTIAL EFFECTS OF RECEIVING EMERGENCY OR NONEMERGENCY SERVICES FROM AN OUT-OF-NETWORK PROVIDER	Revision	§ 12-20-204 § 12-310-103 § 24-34-113	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
90	DPO	8/27/21	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.8)	REQUIRED DISCLOSURE TO PATIENTS – CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT	Revision	§ 12-20-204 § 12-30-115 § 12-310-103	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
91	DPO	9/13/21	Office of Outfitters Registration 4 CCR 733-1 (Rule 1.5)	REGISTRATION MAINTENANCE AND REPORTING CHANGES	Revision	§ 12-20-204(1) § 12-145-107(1)(a) § 24-34-107	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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92	DPO	9/20/21	Audiology and Hearing Aid Provider Licensure 3 CCR 711-2 (Rule 1.9)	Duty to Report Information	Revision	§ 12-20-204 § 12-210-107(2) § 24-34-107	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
93	DPO	9/20/21	Office of Hearing Aid Provider Licensure 3 CCR 711-1 (Rule 1.8)	Duty to Report Information	Revision	§ 12-20-204 § 12-230-301(3) § 24-34-107	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
94	DPO	9/13/21	Office of Respiratory Therapy Licensure 4 CCR 741-1 (Rule 1.7)	Duty to Report Information to the Director's Office	Revision	§ 12-20-204 § 12-300-115 § 24-34-107	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
95	DPO	9/20/21	Office of Direct-Entry Midwifery Registration 4 CCR 739-1 (Rule 1.2)	STANDARDS FOR EDUCATION	Revision	§ 12-20-204(1) § 12-225-104(5) § 12-225-108(1)(a)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-101 (CONCERNING THE CONTINUATION OF THE REGISTRATION OF DIRECT-ENTRY MIDWIVES, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES AND MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
96	DPO	9/20/21	Office of Direct-Entry Midwifery Registration 4 CCR 739-1 (Rule 1.17)	ADMINISTRATION OF MEDICATIONS	Revision	§ 12-20-204(1) § 12-225-104(5) § 12-225-108(1)(a)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-101 (CONCERNING THE CONTINUATION OF THE REGISTRATION OF DIRECT-ENTRY MIDWIVES, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES AND MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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97	DPO	9/8/21	Office of Funeral Home and Crematory Registration 4 CCR 742-1 (Rule 1.7)	Custody and Responsibility	Revision	§ 12-20-204 § 12-135-401	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-006 (CONCERNING THE CONVERSION OF HUMAN REMAINS TO BASIC ELEMENTS WITHIN A CONTAINER USING AN ACCELERATED PROCESS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
98	DPO	9/10/21	Colorado Podiatry Board 3 CCR 712-21	Rule 330 - Rules Regarding the Use of Benzodiazepine	New Rule	§ 12-20-204(1) § 12-30-109(6) § 12-290-106(1)(a)	No	The purpose of this proposed new rule is to implement Colorado House Bill 21-1276 (CONCERNING THE PREVENTION OF SUBSTANCE USE DISORDERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
99	DPO	9/10/21	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (Rule 1.4)	Rules of Administrative Procedure	Revision	§ 12-20-204(1) § 12-20-202(3)(a) § 12-120-104(1)(a) § 12-120-416 § 24-34-107	No	The purpose of this proposed revision is to implement Colorado House Bill 20-1326 (CONCERNING AN EXPANSION OF AN INDIVIDUAL'S ABILITY TO PRACTICE AN OCCUPATION IN COLORADO THROUGH CREATION OF AN OCCUPATIONAL CREDENTIAL PORTABILITY PROGRAM), to implement Colorado House Bill 21-1147 (CONCERNING SIMPLIFICATION OF THE REGULATORY REQUIREMENTS FOR CONTINUING EDUCATION OF PROFESSIONAL ARCHITECTS), and to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
100	DPO	9/10/21	State Board of Licensed Professional Counselor Examiners 4 CCR 737-1 (Rule 1.8)	REPORTING CHANGE OF ADDRESS, TELEPHONE NUMBER, OR NAME (C.R.S. §§ 12-20-204(1), 12-245-204, 12-245-206)	Revision	§ 12-20-204 § 12-245-204(4)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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101	DPO	9/15/21	State Board of Examiners of Nursing Home Administrators 3 CCR 717-1 (Rule 1.1)	GENERAL LICENSING PROVISIONS	Revision	§ 12-20-204 § 12-265-107(1)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
102	DPO	9/17/21	State Board of Social Work Examiners 4 CCR 726-1 (Rule 1.8)	REPORTING CHANGE OF ADDRESS, TELEPHONE NUMBER, OR NAME (C.R.S. §§ 12-20-204(1), 12-245-204, 12-245-206)	Revision	§ 12-20-204 § 12-245-204(4)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
103	DPO	9/22/21	State Board of Accountancy 3 CCR 705-1 (Rule 1.6)	CERTIFICATE REQUIREMENTS, DISCIPLINE, MAINTENANCE, AND STATUS CHANGES	Revision	§ 12-20-204 § 12-100-105(1)(b) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
104	DPO	9/29/21	State Electrical Board 3 CCR 710-1 (Rule 1.11)	RENEWAL AND REINSTATEMENT (Effective August 1, 2017 Replacing Rule 1.6 in its entirety, excepting Rule 1.11(C))	Revision	§ 12-20-204 § 12-105-106(1)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
105	DPO	9/30/21	State Board of Pharmacy 3 CCR 719-1 (Rule 1.00.18)	Patient Counseling	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rule 1.00.18 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
106	DPO	9/30/21	State Board of Pharmacy 3 CCR 719-1 (Rule 1.00.24)	Procurement of Drugs	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rule 1.00.24 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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107	DPO	9/30/21	State Board of Pharmacy 3 CCR 719-1 (Rule 2.01.10, 2.01.20)	Information to Appear on Each Order, Additional Information	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rules 2.01.10 and 2.01.20 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
108	DPO	9/30/21	State Board of Pharmacy 3 CCR 719-1 (Rule 3.00.21, 3.00.22)	Procuring, Prescribing and Dispensing Opiate Antagonists	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rules 3.00.21 and 3.00.22 to implement Colorado Senate Bills 21-011 and 21-122 concerning the expanded authority and utilization of opiate antagonists.	Licensees, professional associations, relevant state agencies, and other key stakeholders
109	DPO	9/30/21	State Board of Pharmacy 3 CCR 719-1 (Rule 3.01.22)	Filling of Automated Cassettes	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rules 3.01.22 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
110	DPO	9/30/21	State Board of Pharmacy 3 CCR 719-1 (Rule 5.00.01, 5.00.10, 5.00.17, 5.00.19, 5.00.40, 5.00.50, 5.00.55, 5.00.60)	Outlets - Registration requirement updates to outsourcing facilities including 503Bs and 3rd Party Logistics Providers	Revision, New Rule	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rules 5.00.01, 5.00.10, 5.00.40, 5.00.50, 5.00.55 and 5.00.60 and the new Board Rules 5.00.17 and 5.00.19 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
111	DPO	9/30/21	State Board of Pharmacy 3 CCR 719-1 (Rule 7.00.30)	Compliance of Outlet	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rule 7.00.30 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, state agencies, and other key stakeholders
112	DPO	9/30/21	State Board of Pharmacy 3 CCR 719-1 (Rule 9.00.10)	Legal Proceedings - Reporting	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rule 9.00.10 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
113	DPO	9/30/21	State Board of Pharmacy 3 CCR 719-1 (Rule 14.00.50, 14.00.80)	Eligibility for registration and Consultant pharmacists	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rules 14.00.05 and 14.00.80 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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114	DPO	9/30/21	State Board of Pharmacy 3 CCR 719-1 (Rule 15.01.00, 15.09.11, 15.09.12, 15.09.14, 15.10.10)	Wholesaler Drug Distributor requirements	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rules 15.01.00, 15.09.11, 15.09.12 and 15.10.10 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
115	DPO	9/30/21	State Board of Pharmacy 3 CCR 719-1 (Rule 17.00.10)	Definitions - Pharmaceutical Care	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rule 17.00.10 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
116	DPO	9/30/21	State Board of Pharmacy 3 CCR 719-1 (Rule 21.00.20, 21.11.10, 21.21.70)	Casual salesand labeling requirements	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rules 21.00.20, 21.11.10 and 21.21.70 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
117	DPO	9/30/21	State Board of Pharmacy 3 CCR 719-1 (Rule 2.01.20)	Chart	Repeal/Revision	§ 12-20-204 § 12-280-101 § 12-280-107(1) § 12-280-108(3)(b)	No	The purpose of these proposed revisions is to correct the error where the original basis and purpose was published into Rule.	Licensees, professional associations, relevant state agencies, and other key stakeholders
118	DPO	9/30/21	State Board of Pharmacy 3 CCR 719-1 (Rule 3.03.10)	MedPaks	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(1) § 12-280-108(3)(b)	No	The purpose of these proposed revisions is to correct and update how medpaks are required to be processed.	Licensees, professional associations, relevant state agencies, and other key stakeholders
119	DPO	9/30/21	State Board of Pharmacy 3 CCR 719-1 (Rule Board Rule - Appendix C)	Appendix C	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(1) § 12-280-108(3)(b)	No	The purpose of this proposed revision is to correct a typographical error.	Licensees, professional associations, relevant state agencies, and other key stakeholders
120	DPO	9/30/21	State Board of Pharmacy 3 CCR 719-1 (Rule 29.00.50)	Pharmacy Technicians	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b) § 12-280-115.5(3)(b)(1) and (II)	No	The purpose of this proposed revision to Board Rule 29.00.50 is to establish a process for a provisional certificant to apply for a hardship extension to extend the validity of the provisional certification beyond eighteen months.	Licensees, professional associations, relevant state agencies, and other key stakeholders
121	DPO	9/30/21	State Board of Pharmacy 3 CCR 719-1 (Rule 15.02.10)	Wholesalers	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of the proposed revision to Board Rule 15.02.10 is to implement Colorado Senate Bill 21-077 concerning the use of social security numbers for applicants.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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122	DPO	9/30/21	State Board of Pharmacy 3 CCR 719-1 (23.00.00)	Prescription Drug Monitoring Program	Revision and response to OSA recommendations	§ 12-20-204 § 12-280-107(1)	No	The purpose of the proposed revisions and additinos to Board Rule 23.00.00 is to resolve the Departments OSA PDMP Audit recommendations and our respective responses to improve the PDMP.	Licensees, professional associations, relevant state agencies, and other key stakeholders
123	DPO	10/1/21	State Board of Psychologist Examiners 4 CCR 721-1 (Rule 1.8)	REPORTING CHANGE OF ADDRESS, TELEPHONE NUMBER, OR NAME (C.R.S. §§ 12-20-204(1), 12-245-204, 12-245-206)	Revision	§ 12-20-204 § 12-245-204(4)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
124	DPO	10/5/21	State Board of Addiction Counselor Examiners 4 CCR 744-1 (Rule 1.8)	REPORTING CHANGE OF ADDRESS, TELEPHONE NUMBER, OR NAME (C.R.S. §§ 12-20-204(1), 12-245-204, and 12-245-206)	Revision	§ 12-20-204 § 12-245-204(4)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
125	DPO	10/12/21	Colorado Combative Sports Commission 4 CCR 740-1 (Rule 1.4)	GENERAL RULES	Revision	§ 12-110-102(3) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
126	DPO	10/14/21	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.17)	REPORTING CHANGE OF ADDRESS, TELEPHONE NUMBER, OR NAME	Revision	§ 12-20-204 § 12-315-106(5)(g) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
127	DPO	10/14/21	State Board of Veterinary Medicine 4 CCR 727-1 (Rule TBD)	Rules Regarding the Use of Benzodiazepine	New Rule	§ 12-20-204 § 12-315-106(5)(g) § 12-30-109(6)	No	The purpose of this proposed new rule is to implement Colorado House Bill 21-1276 (CONCERNING THE PREVENTION OF SUBSTANCE USE DISORDERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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128	DPO	10/15/21	State Board of Unlicensed Psychotherapists 4 CCR 734-1 (Rule 1.8)	REPORTING CHANGE OF ADDRESS, TELEPHONE NUMBER, OR NAME (C.R.S. §§ 12-245-204, 12-245-206)	Revision	§ 12-20-204 § 12-245-204(4)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
129	DPO	10/27/21	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.1)	RULES AND REGULATIONS FOR THE LICENSURE OF PRACTICAL AND PROFESSIONAL NURSES	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to clarify and update the rule for Reinstatement and Reactivation.	Licensees, professional associations, relevant state agencies, and other key stakeholders
130	DPO	10/27/21	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.2)	RULES AND REGULATIONS FOR APPROVAL OF NURSING EDUCATION PROGRAMS	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to clarify and update the rule for Establishing a Nursing Education Program and Withdrawa of Full Approval of a Nursing Education Program.	Licensees, professional associations, relevant state agencies, and other key stakeholders
131	DPO	10/27/21	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.5)	RULES AND REGULATIONS FOR LICENSURE OF PSYCHIATRIC TECHNICIANS	Revision	§ 12-20-202 § 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to implement Colorad House Bill 20-1326 (CONCERNING AN EXPANSION OF AN INDIVIDUAL'S ABILITY TO PRACTICE AN OCCUPATION IN COLORADO THROUGH CREATION OF AN OCCUPATIONAL CREDENTIAL PORTABILITY PROGRAM).	Licensees, professional associations, relevant state agencies, and other key stakeholders
132	DPO	10/27/21	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.10)	RULES AND REGULATIONS FOR CERTIFICATION AS A NURSE AIDE	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to correct incorrect statutory citations.	Licensees, professional associations, relevant state agencies, and other key stakeholders
133	DPO	10/27/21	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.13)	RULES AND REGULATIONS REGARDING THE DELEGATION OF NURSING TASKS	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-056 (CONCERNING EXPANSION OF THE OPPORTUNITIES TO ADMINISTER MEDICAL MARIJUANA AT SCHOOL TO A STUDENT WITH A VALID MEDICAL MARIJUANA RECOMMENDATION, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
134	DPO	10/27/21	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.14)	RULES AND REGULATIONS TO REGISTER PROFESSIONAL NURSES QUALIFIED TO ENGAGE IN ADVANCED PRACTICE REGISTERED NURSING	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to correct incorrect statutory citations.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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135	DPO	10/27/21	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.15)	RULES AND REGULATIONS FOR PRESCRIPTIVE AUTHORITY FOR ADVANCED PRACTICE REGISTERED NURSES	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to clarify and update the rule regarding the 750 mentorship for prescriptive authority for advanced practice nurses.	Licensees, professional associations, relevant state agencies, and other key stakeholders
136	DPO	10/27/21	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.16)	DUTY TO REPORT REQUIREMENTS	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of this proposed revision is to strike the requirement to only report felony convictions as it conflicts with statute.	Licensees, professional associations, relevant state agencies, and other key stakeholders
137	DPO	10/27/21	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (TBD)	Rules Regarding the Use of Benzodiazepine	New Rule	§ 12-20-204 § 12-255-107(1)(j) § 12-30-109(6)	No	The purpose of this proposed new rule is to implement Colorado House Bill 21-1276 (CONCERNING THE PREVENTION OF SUBSTANCE USE DISORDERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
138	DPO	10/27/21	State Plumbing Board 3 CCR 720-1 (Rule 1.4)	APPLICATIONS AND LICENSING	Revision	§ 12-20-204 § 12-155-105(1)(e) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
139	DPO	10/29/21	State Board of Marriage and Family Therapist Examiners 4-CCR 736-1 (Rule 1.8)	REPORTING CHANGE OF ADDRESS TELEPHONE NUMBER, OR NAME (C.R.S. §§ 12-20-204, 12-245-204, 12-245-206)	Revision	§ 12-20-204 § 12-245-204(4)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
140	DPO	11/4/21	Colorado Dental Board 3 CCR 709-1 (Rule 1.6)	Licensure of Dentists and Dental Hygienists	Revision	§ 12-20-204 § 12-220-105(3) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING) and to correct an error identified by the Office of Legislative Legal Services in the Rule.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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141	DPO	11/4/21	Colorado Dental Board 3 CCR 709-1 (TBD)	Rules Regarding the Use of Benzodiazepine	Revision	§ 12-20-204 § 12-220-105(3) § 12-30-109(6)	No	The purpose of this proposed new rule is to implement Colorado House Bill 21-1276 (CONCERNING THE PREVENTION OF SUBSTANCE USE DISORDERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
142	DPO	11/4/21	Colorado Dental Board 3 CCR 709-1 (Rule 1.13)	Limited Prescriptive Authority for Dental Hygienists	Revision	§ 12-20-204 § 12-220-105(3)	No	The purpose of this proposed revision is to correct a typographical error.	
143	DPO	11/4/21	Colorado Dental Board 3 CCR 709-1 (Rule 1.17)	Advertising	Revision	§ 12-20-204 § 12-220-105(3)	No	The purpose of this proposed revision is to correct an error identified by the Office of Legislative Legal Services in the Rule.	Licensees, professional associations, relevant state agencies, and other key stakeholders
144	DPO	11/4/21	Colorado Dental Board 3 CCR 709-1 (Rule 1.21)	Fining Schedule for Violations of the Dental Practice Act	Revision	§ 12-20-204 § 12-220-105(3)	No	The purpose of this proposed revision is to correct an error identified by the Office of Legislative Legal Services in the Rule.	Licensees, professional associations, relevant state agencies, and other key stakeholders
145	DPO	11/4/21	Colorado Dental Board 3 CCR 709-1 (Rule 1.29)	Confidential Agreements to Limit Practice of Physical or Mental Illness	Revision	§ 12-20-204 § 12-220-105(3)	No	The purpose of this proposed revision is to correct an error identified by the Office of Legislative Legal Services in the Rule.	Licensees, professional associations, relevant state agencies, and other key stakeholders
146	DPO	11/4/21	Colorado Dental Board 3 CCR 709-1 (Rule 1.30)	REQUIRED DISCLOSURE TO PATIENTS - CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT	Revision	§ 12-20-204 § 12-220-105(3)	No	The purpose of this proposed revision is to remove unnecessary language.	Licensees, professional associations, relevant state agencies, and other key stakeholders
147	DPO	11/10/21	State Board of Examiners of Nursing Home Administrators 3 CCR 717-1 (Rule 1.4)	CHANGE OF NAME AND ADDRESS	Revision	§ 12-20-204 § 12-265-107(1)(a)	No	The purpose of this proposed revision is to correct an error identified by the Office of Legislative Legal Services in the Rule.	Licensees, professional associations, relevant state agencies, and other key stakeholders
148	DPO	2/17/22	Colorado Medical Board 3 CCR 713-22 (Rule 120)	RULE 120 - DEMONSTRATION OF CONTINUED COMPETENCY BY PHYSICIAN APPLICANTS FOR LICENSURE PURSUANT TO THE OCCUPATIONAL CREDENTIAL PORTABILITY PROGRAM, REINSTATEMENT OF AN EXPIRED LICENSE, OR REACTIVATION OF A LICENSE	Revision	§ 12-20-204 § 12-240-106(1)(a) § 12-20-203(3)	No	The purpose of these proposed revisions is to implement Colorad House Bill 20-1326 (CONCERNING AN EXPANSION OF AN INDIVIDUAL'S ABILITY TO PRACTICE AN OCCUPATION IN COLORADO THROUGH CREATION OF AN OCCUPATIONAL CREDENTIAL PORTABILITY PROGRAM).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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149	DPO	11/18/21	Colorado Medical Board 3 CCR 713-22 (TBD)	Rules Regarding the Use of Benzodiazepine	New Rule	§ 12-20-204 § 12-240-106(1)(a) § 12-30-109(6)	No	The purpose of this proposed new rule is to implement Colorado House Bill 21-1276 (CONCERNING THE PREVENTION OF SUBSTANCE USE DISORDERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
150	DPO	11/18/21	State Board of Optometric Examiners 4 CCR 728-1 (TBD)	Rules Regarding the Use of Benzodiazepine	New Rule	§ 12-20-204 § 12-275-108(1)(b) § 12-30-109(6)	No	The purpose of this proposed new rule is to implement Colorado House Bill 21-1276 (CONCERNING THE PREVENTION OF SUBSTANCE USE DISORDERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
151	DPO		Office of Barber and Cosmetology Licensure 4 CCR 731-1 (Rule 1.4)	Licensure by Endorsement	Revision	§ 12-20-204 § 12-105-106 (1)(a)	No	The purpose of this proposed revision is to update the rule that currently conflicts with the statute regarding military spouses.	Licensees, professional associations, relevant state agencies, and other key stakeholders
152	DPO	11/17/21	Office of Private Investigator Licensing 4 CCR 750-1 (All rules)	Private Investigator Licensure Rules and Regulations	Repeal	§ 12-20-204 § 12-160-109(2)(a)	No	The Office of Private Investigator Licensing went through Sunset Review by the legislature in 2020 and the Governor vetoed Colorado House Bill 20-1207 (CONCERNING THE CONTINUATION OF THE REGULATION OF PRIVATE INVESTIGATORS), which requires the current rules to be repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders
153	DPO	11/10/21	Office of Private Investigator Voluntary Licensure 4 CCR 746-1 (All rules)	Rules and Regulations	Repeal	§ 12-20-204	No	The purpose of this proposed repeal is to remove rules that are no longer effective.	Licensees, professional associations, relevant state agencies, and other key stakeholders
154	DPO	2/8/22	State Board of Addiction Counselor Examiners 4 CCR 744-1 (TBD)	CONTINUING PROFESSIONAL COMPETENCE	Revision	§ 12-20-204 § 12-245-204(4)(a)	No	The purpose of this proposed new rule is to implement Colorado House Bill 21-1305 (CONCERNING THE PRACTICE OF MENTAL HEALTH PROFESSIONALS, AND, IN CONNECTION THEREWITH, CLARIFYING EDUCATION AND HOURS OF PRACTICE REQUIRED FOR LICENSURE OR CERTIFICATION AS AN ADDICTION COUNSELOR; AND ESTABLISHING SUPERVISION PRIVILEGES FOR CERTIFIED AND LICENSED ADDICTION COUNSELORS).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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155	DPO		Audiology and Hearing Aid Provider Licensure 3 CCR 711-2 (TBD)	Compact Rules	New Rules	§ 12-20-204 § 12-210-107(2)	No	The purpose of these proposed new rules is to implement Colorado Senate Bill 21-021 (CONCERNING THE ENACTMENT OF THE "AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT", AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
156	DPO		Office of Speech-Language Pathology Certification 4 CCR 748-1 (TBD)	Compact Rules	New Rules	§ 12-20-204(1) § 12-305-115	No	The purpose of these proposed new rules is to implement Colorado Senate Bill 21-021 (CONCERNING THE ENACTMENT OF THE "AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT", AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
157	DPO		Office of Speech-Language Pathology Certification 4 CCR 748-1 (TBD)	Rules and Regulations for Speech-Language Pathologists	Rule, Revision, Re	§ 12-20-204(1) § 12-305-115	No	The Speech-Language Pathology Practice Act will be reviewed by the legislature in 2022 through the Sunset Review and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders
158	DPO	6/30/22	Rules and Regulations Regarding Radon Professionals CCR TBD	TBD	New Rules	§ 12-20-204 § 12-165-105(1)(a)	No	The purpose of these proposed new rules will be to implement Colorado House Bill 21-1195 (CONCERNING THE REGULATION OF RADON PROFESSIONALS, AND, IN CONNECTION THEREWITH, REQUIRING LICENSURE TO PRACTICE AS A RADON MEASUREMENT PROFESSIONAL OR RADON MITIGATION PROFESSIONAL, AND MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
159	DPO	6/3/22	Colorado Podiatry Board 3 CCR 712-TBD	Multiple Rules	New Rule, Revision, Repeal	§ 12-20-204 § 12-290-106(1)(a) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S. Stakeholders are also requesting the Board review Rule 290 and possible revisions to the scope of practice of podiatrists.	Licensees, professional associations, relevant state agencies, and other key stakeholders
160	DPO	7/22/22	Landscape Architects Board 4 CCR 729-1	Bylaws and Rules of the State Board of Landscape Architects	New Rule, Revision, Repeal	§ 12-20-204 § 12-130-107(1)(a) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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161	DPO	7/22/22	Landscape Architects Board 4 CCR 729-1	Bylaws and Rules of the State Board of Landscape Architects	Revision	§ 12-20-204 § 12-130-107(1)(a) § 12-20-202	No	The purpose of this potential revision is to implement Colorado House Bill 20-1326 (Endorsements/Creation of an Occupational Credential Portability Program).	Licensees, professional associations, relevant state agencies, and other key stakeholders
162	DPO	5/25/22	c	State Electrical Board Rules and Regulations	New Rule, Revision, Repeal	§ 12-20-204 § 12-105-106(1)(a) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders
163	DPO	5/11/22	State Board of Accountancy 3 CCR 705-1 (TBD)	State Board of Accountancy Rules and Regulations	New Rule, Revision, Repeal	§ 12-20-204 § 12-100-105(1)(b) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders
164	DPO	5/11/22	State Board of Accountancy 3 CCR 705-1 (Rule 1.6)	CERTIFICATE REQUIREMENTS, DISCIPLINE, MAINTENANCE, AND STATUS CHANGES	Revision	§ 12-20-204 § 12-100-105	No	The purpose of this proposed revision is to eliminate confusion with applicants and licensees who are licensed in a different state and how that applicant or licensee can use titles within Colorado. Colorado is an outlier compared to other state boards of accountancy with this rule because Colorado requires CPAs from other states to add the name of its state or state certification when holding out, unless it is applying Rule 1.11 (Practice Privilege/Mobility).	Licensees, professional associations, relevant state agencies, and other key stakeholders
165	DPO		Director of Professions and Occupations - Professional Review Program 4 CCR 747-1	Registration Requirements for Governing Boards	New Rule, Revision, Repeal	§ 12-20-204 § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders
166	DPO		State Board of Veterinary Medicine 4 CCR 727-1 (Rule TBD)	State Board of Veterinary Medicine's Rules and Regulations	New Rule, Revision, Repeal	§ 12-20-204 § 12-315-106(5)(g)	No	The Veterinary Practice Act will be reviewed by the legislature in 2022 through the Sunset Review and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders
167	DPO		State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.18 (A)(9))	VETERINARY MEDICAL ETHICS AND CODE OF CONDUCT	Revision	§ 12-20-204 § 12-315-106(5)(g) § 12-315-119(3)(a)	No	The purpose of this proposed revision is to consider implemention of a recommendation made by a Board of Veterinary subcommittee in 2020. The current rule does not specify the type of records required to maintain standard of practice.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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168	DPO		State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.9)	ACADEMIC LICENSE	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to address the discrepancy with the statute. Section 12-315-108 (3), C.R.S, states that Academic Veterinarians do not have to meet the requirements of 12-315-107, C.R.S. The current rule states that the applicant must meet the requirements of 1.7.(B) including sucessfully completed the NAVLE.	Licensees, professional associations, relevant state agencies, and other key stakeholders
169	DPO		State Board of Optometric Examiners 4 CCR 728-1 (TBD)	State Board of Optometric Examienrs Rules and Regulations	Rule, Revision, Re	§ 12-20-204 § 12-275-108(1)(b)	No	The Optometry Practice Act will be reviewed by the legislature in 2022 through the Sunset Review and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders
170	DPO		State Board of Optometric Examiners 4 CCR 728-1 (TBD)	TBD	New Rule	§ 12-20-204 § 12-275-108(1)(b) § 12-275-128(2)(a)	No	The purpose of this proposed revision is to update the exemption for unemployed, retired, and certain other optometrists from the requirement to carry professional liability insurance. Such exemptions currently exist in the Rules for the Medical Board, Dental Board, Podiatry Board and Chiropractic Board.	Licensees, professional associations, relevant state agencies, and other key stakeholders
171	DPO		Massage Therapy Licensure 3 CCR 722-1 (TBD)	Massage Therapy Licensure Rules and Regulations	Rule, Revision, Re	§ 12-20-204 § 12-235-118	No	The Massage Therapy Practice Act will be reviewed by the legislature in 2022 through the Sunset Review and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders
172	DPO		Office of Acupuncture Licensure 4 CCR 738-1 (TBD)	Office of Acupuncture Licensure Rules and Regulations	Rule, Revision, Re	§ 12-20-204(1) § 12-200-106(3)	No	The Acupuncture Practice Act will be reviewed by the legislature in 2022 through the Sunset Review and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders
173	DPO		Colorado Dental Board 3 CCR 709-1 (Rule 1.14)	Anesthesia	Revision	§ 12-20-204 § 12-220-106(1)(a)(II-III), and (f) § 12-220-305(1)(p) and (q) § 12-220-306 § 12-220-504(1)(c) § 12-220-501(3)(a)(V) § 12-220-201(1)(cc) and (ll) § 12-220-411	No	The purpose of these proposed revisions are to review and update how anesthesia applications are received and approved by the Board.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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174	DPO	9/10/21	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (Rules 1.1 (A) and 1.3(A)(7))	Preamble and Rules of Conduct	Revision	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of these proposed revisions are to update the preamble of the rules to reflect the changes made to the structure of the statute during the recodification of Title 12.	Licensees, professional associations, relevant state agencies, and other key stakeholders
175	DPO	9/10/21	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (Rules 1.4)	Rules of Administrative Procedure	Revision, Repeal	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of these proposed revisions and/or repeals are to repeal sections of the rule that may not be necessary because of direct testing for examinations, which requires candidates to take and pass all examinations before they can submit an application.	Licensees, professional associations, relevant state agencies, and other key stakeholders
176	DPO	9/10/21	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (Rule 1.4)	Rules of Administrative Procedure	Revision	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is to change to an updated reference to References and Verification for Qualifying Work Experience, specifically the experience portfolio.	Licensees, professional associations, relevant state agencies, and other key stakeholders
177	DPO	9/10/21	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is for professional land surveyros to consider closure clause to address recent issues with failing to close corners that established where a survey line intersects a previously fixed boundary at a point between corners.	Licensees, professional associations, relevant state agencies, and other key stakeholders
178	DPO	9/10/21	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is for professional land surveyros to solicit feedback from stakeholders whether rules are needed to address the use of range boxes to protect monuments as many states have adopted such rules.	Licensees, professional associations, relevant state agencies, and other key stakeholders
179	DPO	9/10/21	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is regarding continuing education for architects and for the Board to consider whether to add service on a state licensing Board as a way of earning continuing education credit.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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180	DPO	9/10/21	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is to define "Plot Plans" that are used in construction and the work within these plans has expanded to engineering and land surveying and need to be defined to protect consumers by ensuring the work meets standards.	Licensees, professional associations, relevant state agencies, and other key stakeholders
181	DPO	9/10/21	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (Rule 1.4)	Rules of Administrative Procedure	Revision	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed revision is to align the rule with the statute as it relates to the experience requirement, specifically LSI.	Licensees, professional associations, relevant state agencies, and other key stakeholders
182	DPO	9/10/21	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is to define effective date for settlements and/or judgements to clarify reporting requirements.	Licensees, professional associations, relevant state agencies, and other key stakeholders
183	DPO	9/10/21	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is to explore inclusion of co-op experience (internships) for acceptable engineering and/or land surveying experience.	Licensees, professional associations, relevant state agencies, and other key stakeholders
184	DPO	9/10/21	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	TBD	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	At the 2021 Annual meeting of the National Council of Architect Registration Board, of which Colorado is a member, the membership will consider major revision to the NCARB model laws. Once adopted by the membership, Colorado, along with other states will consider these revisions against our rules to ensure improvements in licensure mobility and consistency in enforcement are gained where practiable.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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185	DPO	9/10/21	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	TBD	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	At the 2021 Annual meeting of the National Council of Examiners for Engineers and Surveyors, of which Colorado is a member, the membership consider revision to the NCEES model laws. Once adopted by the membership, Colorado, along with other states will consider these revisions against our rules to ensure improvements in licensure mobility and consistency in enforcement are gained where practiable.	Licensees, professional associations, relevant state agencies, and other key stakeholders
186	DPO		Passenger Tramway Safety Board 3 CCR 718-1	Multiple Rules	New Rule, Revision	§ 12-150-105(1)(a)	No	The purpose of these proposed new rules and revisins are to update ANSI incoporation in Section 4, revise Section 23 to expand the Board's authority over incidents that occur in loading and unloading zones, consider improvements after Committee work related to conveyor maintenance, documenting deficiencies and observations in inspection reports, maintenance personnel, minimum operating personnel, ropeway event and data recorder, and summer ramps.	Licensees, professional associations, relevant state agencies, and other key stakeholders
187	DPO		Passenger Tramway Safety Board 3 CCR 718-1	All Rules	Rule, Revision, Re	§ 24-4-103.3 § 12-150-105(1)(a)	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders
188	DPO	6/30/21	State Plumbing Board 3 CCR 720-1 (Rule 1.2)	Standards	Revision	§ 12-20-204 § 12-155-105(1)(f)	No	The purpose of this proposed revision is to reconsider the current reference to the five minute allowance as may not not sufficient for adequate supervision.	Licensees, professional associations, relevant state agencies, and other key stakeholders
189	DPO	6/30/21	State Plumbing Board 3 CCR 720-1 (Rule 1.2)	Standards	Revision	§ 12-20-204 § 12-155-105(1)(e)	No	The purpose of this proposed revision is to revise an incorrect incorporation by reference number from the International Residential Code.	Licensees, professional associations, relevant state agencies, and other key stakeholders
190	DPO	6/30/21	State Plumbing Board 3 CCR 720-1 (Rules 1.3 and 1.4)	Apprentice Registration and Recordkeeping and Applications and Licensing	Rule, Revision, Re	§ 12-20-204 § 12-155-105(1)(e)	No	The purpose of these proposed revisions, new rules, or repeals are to clarify annual reporting requirements that will take effect July 1, 2022 and were adopted to implement Colorado Senate Bill 20-120.	Licensees, professional associations, relevant state agencies, and other key stakeholders
191	DPO	6/30/21	State Plumbing Board 3 CCR 720-1 (Rule 1.4)	Applications and Licensing	Revision	§ 12-20-204 § 12-155-105(1)(e)	No	The purpose of this proposed revision is to update and revise the remaining references regarding direct testing.	Licensees, professional associations, relevant state agencies, and other key stakeholders

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192	DPO	6/30/21	State Plumbing Board 3 CCR 720-1 (Rule 1.4)	Applications and Licensing	Revision	§ 12-20-204 § 12-155-105(1)(e)	No	The purpose of this proposed revision is to change the reference to qualifying for examinations to qualifying for licensure regarding direct testing.	Licensees, professional associations, relevant state agencies, and other key stakeholders
193	DPO	6/30/21	State Plumbing Board 3 CCR 720-1 (Rule 1.4)	Applications and Licensing	Revision	§ 12-20-204 § 12-155-105(1)(e)	No	The purpose of this proposed revision is regarding notice of change of address and whether to revise "written requirement' to include notification through the online portal.	Licensees, professional associations, relevant state agencies, and other key stakeholders
194	DPO		Colorado Combative Sports Commission 4 CCR 740-1 (Rule 1.6(F)(6))	REQUIREMENTS	Revision	§ 12-110-107	No	The purpose of the proposed revision is to consider changes to the prohibited substances list.	Licensees, professional associations, relevant state agencies, and other key stakeholders
195	DPO		Colorado Combative Sports Commission 4 CCR 740-1 (Rule 1.16 (D)(1))	REQUIREMENTS FOR ELIMINATION BOUTS	Revision	§ 12-110-107	No	The purpose of the proposed revision is to consider changes to set the standard round length.	Licensees, professional associations, relevant state agencies, and other key stakeholders
196	DPO		Colorado Combative Sports Commission 4 CCR 740-1 (Rule 1.17 (U)	REQUIREMENTS FOR OFFICIALS	Revision	§ 12-110-107	No	The purpose of the proposed revision is to consider changes to set the minimum number of judges.	Licensees, professional associations, relevant state agencies, and other key stakeholders
197	DPO		State Board of Pharmacy 3 CCR 719-1 (Rule 23)	Prescription Drug Monitoring Program	New rule	§ 12-20-204 § 12-280-107(1) § 12-280-404(2)(b)	No	The purpose of the potential new section in Board Rule to Rule 23 is to implement Colorado House Bill 21-1012 (CONCERNING EXPANSION OF THE PRESCRIPTION DRUG MONITORING PROGRAM TO TRACK INFORMATION REGARDING ALL PRESCRIPTION DRUGS PRESCRIBED IN COLORADO, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION), which expands the Prescription Drug Monitoring Program to collect dispensation data on all prescription drugs (not just controlled substances).	Licensees, professional associations, relevant state agencies, and other key stakeholders

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198	DPO		State Board of Pharmacy 3 CCR 719-1 (Rule 23)	Prescription Drug Monitoring Program	New rule	§ 12-20-204 § 12-280-107(1) § 12-280-404(2)(b)(I)	No	The purpose of the potential new section in Board Rule to Rule 23 is to implement Colorado Senate Bill 21-098 (CONCERNING THE CONTINUATION OF THE PRESCRIPTION DRUG MONITORING PROGRAM), which expands the Prescription Drug Monitoring Program to collect dispensation data on some prescription drugs (not just controlled substances) as determined by the Board.	Licensees, professional associations, relevant state agencies, and other key stakeholders
199	DRE	Adopted 3/03/22 Effective 5/15/22	4-725-2 (5.1) Real Estate Appraiser Standards for Real Estate Appraisal Experience	Real Estate Appraiser Standards for Real Estate Appraisal Experience	Revision	§12-10-604(1)(a)(I), C.R.S.	No	The purpose of the revised rule was to clarify that an appraiser providing guidance for the purposes of an applicant to gain experience hours must be appropriately credentialled and in good standing with the Board of Real Estate Appraisers.	The Division worked with the following stakeholders: Colorado Coalition of Appraisers; Colorado Association of Real Estate Appraisers; Northern Colorado Association of Real Estate Appraisers; Division of Property Taxation within the Department of Local Affairs; Education providers of appraiser education; and real estate appraiser practitioners.

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200	DRE	Adopted 9/01/22 Effective 10/30/22	4-725-2 (1.10)	Real Estate Appraiser Defined Terms	Revision	§12-10-604(1)(a)(I), §12-10-606(7)(a) and (b), C.R.S.	No	The purpose of the revised rule was to reconcile the Board's rules with new statutory provisions found in the sunset bill of the program. USPAP was added to the practice act and incorporating the Uniformed Standards of Professional Appraisal Practice by reference in the rules was no longer needed.	The Division worked with the following stakeholders: Colorado Coalition of Appraisers; Colorado Association of Real Estate Appraisers; Northern Colorado Association of Real Estate Appraisers; Division of Property Taxation within the Department of Local Affairs; Education providers of appraiser education; and real estate appraiser practitioners.
201	DRE	Adopted 9/01/22 Effective 10/30/22	4-725-2 (1.62)	Real Estate Appraiser Defined Terms	New	§12-10-604(1)(a)(I), §12-10-606(7)(a) and (b), C.R.S.	No	The purpose of the new rule is to have a defined term relating to evaluations as found in new statutory provisions of the practice act.	The Division worked with the following stakeholders: 1) Colorado Coalition of Appraisers; 2) Colorado Association of Real Estate Appraisers; 3) Northern Colorado Association of Real Estate Appraisers; 4) Division of Property Taxation within the Department of Local Affairs; 5) Education providers of appraiser education; and 6) real estate appraiser practitioners.

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202	DRE	Adopted 9/01/22 Effective 10/30/22	4-725-2 (11.1)	Real Estate Appraiser Standards of Professional Appraisal Practice	Revision	§12-10-604(1)(a)(I), §12-10-606(7)(a) and (b), C.R.S.	No	The purpose of the revised rule was to reconcile the Board's rules with new statutory provisions found in the sunset bill of the program. USPAP was added to the practice act and incorporating the Uniformed Standards of Professional Appraisal Practice by reference in the rules was no longer needed.	The Division worked with the following stakeholders: Colorado Coalition of Appraisers; Colorado Association of Real Estate Appraisers; Northern Colorado Association of Real Estate Appraisers; Division of Property Taxation within the Department of Local Affairs; Education providers of appraiser education; and eal estate appraiser practitioners.
203	DRE	Adopted 9/01/22 Effective 10/30/22	4-725-2 (11.4)	Real Estate Appraiser Standards of Professional Appraisal Practice	New	§12-10-604(1)(a)(I), §12-10-606(7)(a) and (b), C.R.S.	No	The new rule was promulgated to incorporate requirements when a licensed or certified appraiser may perform evaluations	The Division worked with the following stakeholders: Colorado Coalition of Appraisers; Colorado Association of Real Estate Appraisers; Northern Colorado Association of Real Estate Appraisers; Division of Property Taxation within the Department of Local Affairs; Education providers of appraiser education; and real estate appraiser practitioners.

REFERENCE #	DIVISION	ADOPTION DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR RULE CHANGE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
204	DRE	Anticipated option 11/3/22 Effective 12/30/22	4-725-2 (11.1)	Real Estate Appraiser Standards of Professional Appraisal Practice	Revision	§12-10-604(1)(a)(I), §12-10-606(7)(a) and (b), C.R.S.	No	The purpose of the revised rule was to make a technical change to correct a previous drafting error. The modification has no significant impact on the meaning of the rule and is solely non-substantive.	The Division worked with the following stakeholders: Colorado Coalition of Appraisers; Colorado Association of Real Estate Appraisers; Northern Colorado Association of Real Estate Appraisers; Division of Property Taxation within the Department of Local Affairs; Education providers of appraiser education; and real estate appraiser practitioners.
205	PUC	1st Qtr 2023	4 CCR 723-3 and 4	Electric and Gas	Revision	HB22-1018	no	To implment the changes to disconnection notices and times from HB22-1018	Gas and Electric Utilities and all of their customers
206	PUC	1st Qtr 2023	4 CCR 723-3 and 4	Electric and Gas	New	HB22-1104	No	To implement the changes from HB22-1104 incorporating powerline trails.	Electric utilities
207	PUC	1st Qtr 2023	4 CCR 723-6	Transportation - taxi	Revision	Petition for rulemaking from taxi carriers and direction of the Commission	No	To review the flat rate zone charges from DIA to set areas on the front range	Taxi carriers and their customers; also DIA and tourism boards
208	PUC	1st Qtr 2023	4 CCR 723-6	Transporation - Towing	New and Revision	HB22-1314	No	To implement the changes from HB22-1314 related to nonconsentual tows	Towing carriers and their customers
209	PUC	3rd Qrt 2023	4 CCR 723-3	Electric	New and Revision	SB22-118	No	To implement the changes from SB22-118 regarding communty geothermal gardens	Electric utilities
210	PUC	1st Qtr 2023	4 CCR 723-3 and 4	Electric and Gas	New and Revision	Best Value Employment Metrics	No	To implement changes as a result of the recent BVEM audit	Electric and gas utilities; labor organizations
211	PUC	1st Qtr 2023	4 CCR 723-11	Pipeline Safety	New and Revision	SB21-108	No	To implement changes from SB21-108 as well as business practice changes	Gas utilities, excavators
212	PUC	3rd Qrt 2023	4 CCR 723-3	Electric	New and Revision	HB21-1052 and SB21-261 and SB21-264	No	To implement changes from HB21-1052 - Pumped Hydro; and changes to the renewable energy standard and net metering rules pursuant to SB21-261 and 264.	

REFERENCE #	DIVISION	ADOPTION DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR RULE CHANGE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
213	PUC	2nd Qrt 2023	4 CCR 723-3	Electric	Revision	Rulemaking ordered in 18M-0080E	No	To make changes to the transmission planning rules as a result of previous Commission proceedings.	Electric utilities
214	PUC	4th Qrt 2023	4 CCR 723-1; 4 CCR 723-3; 4 CCR 723-3	Practice and Procedure; Electric and Gas	New and Revision	SB21-272	No	To make changes from SB21-272 regarding equity, minimize impacts, and prioritize benefits to disproportionately impacted communities.	All regulated utilities and stakeholders
215	PUC	3rd Qrt 2023	4 CCR 723-3	Electric	Revision	Rulemaking ordered in 21A-0625EG	No	To make changes regarding community solar gardens interconnection	Electric utilities; consumers of community solar programs
216	PUC	4th Qrt 2023	4 CCR 723-2	Telecommunications	New	HB21-1201	No	To implement HB21-1201 regarding the transparancy of telecommunications at correctional facilities.	Telecommunications providers at penal institutions; inmates
217	PUC	3rd Qrt 2023	4 CCR 723-6	Transportation	Revision	Review and update to transportation rules	Yes	To review and revise rules for transportation passenger carriers - CPCNs, contracts, LMT, limited regulation as well as safety and enforcement rules for towing and HHG carriers. Last full review of rules was in 2017.	All transportation providers and their customers

Calendar of Hearings

Hearing Date/Time	Agency	Location
12/01/2022 10:00 AM	Taxation Division	Virtual Hearing See Comments
12/01/2022 10:00 AM	Taxation Division	Virtual Hearing See Comments
12/01/2022 10:00 AM	Taxation Division	Virtual Hearing See Comments
12/12/2022 11:30 AM	Public Utilities Commission	By video conference using Zoom at a link in the calendar of events on the Commissions website: https://puc.colorado.gov/
12/02/2022 10:00 AM	Peace Officer Standards and Training Board	Department of Law - Ralph L. Carr Judicial Center, 1300 Broadway, Denver, CO 80203
12/13/2022 10:00 AM	Division of Workers' Compensation	Virtual - see website to register
11/30/2022 09:00 AM	Animal Health Division	This hearing will be held via Zoom, links and call in information are in the hearing notice.
12/09/2022 08:30 AM	Income Maintenance (Volume 3)	1575 Sherman Street, Denver, CO 80203
12/09/2022 09:00 AM	Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)	303 East 17th Avenue, 11th Floor, Denver, CO 80203
12/09/2022 08:30 AM	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	1575 Sherman Street, Denver, CO 80203
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12/09/2022 08:30 AM	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	1575 Sherman Street, Denver, CO 80203