



COLORADO
Department of Revenue
Marijuana Enforcement Division

COLORADO DEPARTMENT OF REVENUE
MARIJUANA ENFORCEMENT DIVISION

Emergency Rule Adoption

Amended Rules, 1 CCR 212-3

- 1-115 - Definitions
- 2-205 - Fees
- 2-206 - Social Equity Fees
- 2-220 - Initial Application Requirements for Regulated Marijuana Businesses
- 2-225 - Renewal Application Requirements for All Licensees
- 2-230 - Disclosure of Financial Interests in a Regulated Marijuana Business
- 2-245 - Change of Controlling Beneficial Owner Application and Notification
- 2-255 - Change of Location of a Regulated Marijuana Business
- 2-260 - Changing, Altering, or Modifying Licensed Premises
- 2-265 - Owner and Employee License: License Requirements, Applications, Qualifications, and Privileges
- 2-275 - Temporary Appointee Registrations for Court Appointees
- 3-205 - Limited Access Area
- 3-210 - Possession of Licensed Premises
- 3-615 - Regulated Marijuana Delivery Permits
- 3-805 - Regulated Marijuana Businesses: Inventory Tracking System
- 3-810 - Minimum Tracking Requirements
- 3-905 - Business Records Required
- 3-1005 - Packaging and Labeling: Minimum Requirements Prior to Transfer to a Regulated Marijuana Business, except to a Regulated Marijuana Testing Facility
- 3-1015 - Additional Labeling Requirements Prior to Transfer to a Patient or Consumer

3-1105 - Accelerator Program Participation and Privileges
5-105 - Medical Marijuana Store: License Privileges
5-115 - Medical Marijuana Sales: General Limitations and Prohibited Acts
5-120 - Point of Sale: Restricted Access Area
5-125 - Patient Sale Requirements
5-205 - Medical Marijuana Cultivation Facility: License Privileges
5-240 - Medical Marijuana Cultivation Facility: Contingency Plan for Outdoor Cultivation
6-105 - Retail Marijuana Store: License Privileges
6-110 - Retail Marijuana Sales: General Limitations and Prohibited Acts
6-115 - Point of Sale: Restricted Access Area
6-205 - Retail Marijuana Cultivation Facility: License Privileges
6-235 - Retail Marijuana Cultivation Facility: Contingency Plan for Outdoor Cultivation
6-705 - Accelerator Cultivator: License Privileges
6-735 - Accelerator Cultivator: Contingency Plan for Outdoor Cultivation
6-920 - Retail Marijuana Hospitality and Sales Businesses Point of Sale: Restricted Access Area
6-925 - Retail Marijuana Hospitality and Sales Businesses: Additional License Privileges and Restrictions
6-940 - Marijuana Hospitality Business: Requirements for Mobile Premises
6-1105 - Accelerator Store: License Privileges
6-1110 - Accelerator Store: General Limitations or Prohibited Acts
6-1115 - Point of Sale: Restricted Access Area

Statement of Emergency Justification

Pursuant to sections 24-4-103 and 44-10-203, C.R.S., I, Heidi Humphreys, Executive Director/CEO of the Colorado Department of Revenue, State Licensing Authority, hereby adopt the amended rules listed above (Emergency Rules), attached hereto, to implement SB 24-076 and adjust application and license fees.

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

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

Statutory Authority

The State Licensing Authority promulgates these Emergency Rules pursuant to the authority granted in the Colorado Constitution, Article XVIII, Sec. 16, the Colorado Marijuana Code, sections 44-10-101 *et seq.*, C.R.S. (Code), and the state Administrative Procedure Act, section 24-4-103, C.R.S. The statutory authority for the Emergency Rules is identified in the statement of basis and purpose preceding the rules, which includes but is not limited to sections 44-10-103, 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(i) 44-10-203(1)(k), 44-10-203(2)(b), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(2)(o), 44-10-203(2)(q), 44-10-203(2)(r), 44-10-203(2)(s), 44-10-203(2)(w), 44-10-203(2)(dd)(XII), 44-10-203(2)(ff), 44-10-203(2)(gg), 44-10-303(2)(b), 44-10-310(7), 44-10-313, 44-10-401, 44-10-801, 44-10-802, 44-10-803, 44-10-1201, 44-10-1202, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(II).

Purpose for Emergency Rule

The purpose of this Emergency Rule is to: 1) amend Rules 1-115, 2-205, 2-206, 2-220, 2-225, 2-230, 2-245, 2-255, 2-260, 2-265, 2-275, 3-205, 3-210, 3-615, 3-805, 3-810, 3-905, 3-1005, 3-1015, 3-1105, 5-105, 5-115, 5-120, 5-125, 5-205, 5-240, 6-105, 6-110, 6-115, 6-205, 6-235, 6-705, 6-735, 6-920, 6-925, 6-940, 6-1105, 6-1110, and 6-1115 to implement SB 24-076, which was signed into law on June 5, 2024 and becomes effective August 7, 2024 by aligning the Colorado Marijuana Rules (Rules) with the Code; and 2) amend Rules 2-205 and 2-206, which currently contain all fees owed by applicants and licensees upon application to the Marijuana Enforcement Division (“the Division”) for a license, certificate, permit, or other privileges as authorized in the Code and Rules to reflect the direct and indirect costs of the administration and enforcement of the Code as required in section 44-10-801(3)(b), C.R.S.

The State Licensing Authority and Division are charged with implementing and enforcing the Colorado Marijuana Code as delegated and authorized by the General Assembly. SB 24-076 (*effective August 7, 2024*) made changes to several provisions throughout the Code, including several subject areas that must be revised on an emergency basis, including:

- Genetic material allowances and transfer privileges for Regulated Marijuana Cultivation Facilities;
- Removing requirements to apply for approval prior to modifying the licensed premises;
- Removing certain ID requirements if someone is not on the Licensed Premises (e.g. an owner licensee who lives out of state);

- Revising the existing pregnancy warning requirements to include that warnings must be posted at the point of sale;
- The physical attachment of the tangible educational resource to every sale of concentrate at a medical or retail store.
- Extending all license terms from one year to two years.

Many of these statutory changes require significant revisions in the Rules, including fee impacts. As contemplated in the final fiscal note on SB 24-076, because the license term for all Regulated Marijuana Businesses and Controlling Beneficial Owners will now be two years, rather than one, initial and renewal application and license fees are increased commensurate with the extended license term and the State Licensing Authority has aligned these rules with the Marijuana Code to allow for timely implementation of the bill.

As mentioned above, SB 24-076 made updates to licensing requirements and application processes, some of which were intended to provide efficiencies for applicants and licensees. However, the implementation of changes reflected in SB 24-076 does not in every case translate to a reduced workload for the Division. For this reason, all business and owner initial and renewal license application fees, as well as delivery permit initial and renewal application fees have been amended to reflect the changes.

Additionally, the Division's operations are primarily fee-funded, and fees collected by the State Licensing Authority are transmitted to the Marijuana Cash Fund established in section 44-10-801(1)(a), C.R.S. Further, section 44-10-801, C.R.S., requires that the amount of fees collected reflect the actual direct and indirect costs of the State Licensing Authority in the administration of the Colorado Marijuana Code, at sections 44-10-101, *et seq.*, C.R.S., and that the State Licensing Authority review fees at least annually, and if necessary, adjust fees to reflect the direct and indirect costs.

In 2023, the Division engaged in a comprehensive fee review and fee-setting initiative. This initiative was coupled with Division efforts to identify and implement process efficiencies and reduce operational expenditures. These measures include downsizing physical space, maintaining vacancies by operating with 30% fewer FTE than authorized, and other internal and external efficiencies work. Additionally, the Marijuana Cash Fund's negative fund balance in FY 2022-23 required a \$1.5 million loan from the Insolvency Cash Fund, which is subject to repayment beginning in FY 2025-26. Despite these ongoing initiatives, the Division continues to operate in a deficit for FY 2023-24 and FY 2024-25.

Therefore, to comply with the statutory mandate to evaluate fees on an annual basis, all fees will be subject to a 5% inflationary-based adjustment, separate from the rule changes required to implement SB 24-076. This is based on, and consistent with, data from the Office of State Planning and Budget which utilizes the Consumer Price Index for the Denver-Aurora-Lakewood area as measured by the Consumer Price Index for All Urban Consumers (CPI-U) and calculated by the U.S. Bureau of Labor Statistics.

To ensure the effective implementation of the bill on a permanent basis and consistent with the Division's practice, the permanent rulemaking process will provide opportunities for stakeholder engagement.

Effective date of Emergency Rules and Permanent Rulemaking

The attached Emergency Rules are effective **August 7, 2024**.

Pursuant to section 24-4-103(6), C.R.S., of the Colorado Administrative Procedure Act, the Emergency Rules remain in effect for 120 days from the date of adoption or until repealed by the State Licensing Authority upon filing of a notice of such with the Secretary of State.

The State Licensing Authority will initiate the permanent rulemaking process pursuant to the Colorado Administrative Procedure Act, section 24-4-103, C.R.S., by filing the Notice of Permanent Rulemaking with the Secretary of State. As part of that permanent rulemaking process, the Division and State Licensing Authority will facilitate a stakeholder work group meeting and the permanent rulemaking hearing to solicit and gather public comment, which will be part of the permanent rulemaking record. Additional information regarding the State Licensing Authority's permanent rulemaking session can be accessed on the [Division's website](#).

Statement of Adoption

Pursuant to the Colorado Administrative Procedure Act, Title 24, Article 4, of the Colorado Revised Statutes, I, Heidi Humphreys, CEO/Executive Director of the Colorado Department of Revenue, State Licensing Authority, promulgate the following rules to become effective on August 7, 2024.

Part 1 - GENERAL APPLICABILITY

1-115 - Definitions

Part 2 - APPLICATIONS AND LICENSES

2-205 - Fees

2-206 - Social Equity Fees

2-220 - Initial Application Requirements for Regulated Marijuana Businesses

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Part 3 - REGULATED MARIJUANA BUSINESS OPERATIONS

- 3-205 - Limited Access Area
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- 3-1105 - Accelerator Program Participation and Privileges

Part 5 - MEDICAL MARIJUANA BUSINESS LICENSE TYPES

- 5-105 - Medical Marijuana Store: License Privileges
- 5-115 - Medical Marijuana Sales: General Limitations and Prohibited Acts
- 5-120 - Point of Sale: Restricted Access Area
- 5-125 - Patient Sale Requirements
- 5-205 - Medical Marijuana Cultivation Facility: License Privileges
- 5-240 - Medical Marijuana Cultivation Facility: Contingency Plan for Outdoor Cultivation

Part 6 - RETAIL MARIJUANA BUSINESS LICENSE TYPES

- 6-105 - Retail Marijuana Store: License Privileges
- 6-110 - Retail Marijuana Sales: General Limitations and Prohibited Acts
- 6-115 - Point of Sale: Restricted Access Area
- 6-205 - Retail Marijuana Cultivation Facility: License Privileges
- 6-235 - Retail Marijuana Cultivation Facility: Contingency Plan for Outdoor Cultivation
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6-1110 - Accelerator Store: General Limitations or Prohibited Acts

6-1115 - Point of Sale: Restricted Access Area

Any other rules necessary to implement the Colorado Marijuana Code may be adopted.

Heidi Humphreys

Digitally signed by Heidi
Humphreys
Date: 2024.08.06 12:47:53 -06'00'

Heidi Humphreys
CEO/Executive Director
Colorado Department of Revenue
State Licensing Authority

Date