Colorado Department of Revenue

Marijuana Enforcement Division
1 CCR 212-2

DRAFT Permanent Rules Related to the Colorado Retail Marijuana Code

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R 100 Series – General Applicability

Basis and Purpose - R 102

The statutory authority for this rule is found at subsection 12-43.4-202(2)(b), C.R.S. The purpose of this rule is to clarify that each rule is independent of the others, so if one is found to be invalid, the remainder will stay in place. This will give the regulated community confidence in the rules even if one is challenged.

R 102 - Severability

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

Basis and Purpose - R 103

The statutory authority for this rule is found at subsection 12-43.4-202(2)(b), C.R.S. The purpose of this rule is to provide necessary definitions of terms used throughout the rules.

R 103 – Definitions

<u>Definitions</u>. The following definitions of terms, in addition to those set forth in section 12-43.4-103, C.R.S., shall apply to all rules and regulations promulgated pursuant to the Retail Code, unless the context requires otherwise:

"Advertising" means the act of providing consideration for the promotion of a Medical Marijuana Business, particular Medical Marijuana or a Medical Marijuana-Infused Product, by means of a positive statement or endorsement. Advertising includes marketing, but does not include packaging and labeling. Advertising is commercial speech.

"Alarm Installation Company" means a Person engaged in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing a Security Alarm System in a Licensed Premises.

"Applicant" means a Person that has submitted an application pursuant to these rules that was accepted by the Division for review but has not been approved or denied by the State Licensing Authority.

"Batch Number" means any distinct group of numbers, letters, or symbols, or any combination thereof, assigned by a Retail Marijuana Cultivation Facility to a specific Batch of Retail Marijuana.

"Batch" means a specifically identified quantity of processed Retail Marijuana that is uniform in strain and potency, cultivated utilizing the same herbicides, pesticides, and fungicides, and harvested during the same cultivation cycle.

"Cannabinoid" means any of the chemical compounds that are the active principles of marijuana.

"CBD" means cannabidiol.

"CBDA" means cannabidiol-acid.

"CBG" means cannabigerol.

"CBN" means cannabinol.

"Child-Resistant Packaging" means special packaging that is:

- a. Designed or constructed to be significantly difficult for children under 5 years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.20 and ASTM classification standard D3475-12, http://www.astm.org/Standards/D3475.htm. Note that the rule does not include any later amendments or editions to the Code of Federal Regulations or the ATSM classification standards. The Division has maintained a copy of the applicable federal regulation and ATSM classification standard, which are available to the public.
- b. Opaque so that the product cannot be seen from outside the packaging:
- c. Reclosable for any product intended for more than a single use or containing multiple servings, and
- d. Labeled properly as required by Rule R 1004 (B) (1) (h) (ii) or Rule R 1004 (D) (1) (g) (ii).

"Container" means the sealed package in which Retail Marijuana or a Retail Marijuana Product is placed for sale to a consumer and that has been labeled according to the requirements set forth in Rule R 1002 *et. seq.*

"Denied Applicant" means any Person whose application for licensure pursuant to the Retail Code has been denied.

"Department" means the Colorado Department of Revenue.

"Director" means the Director of the Marijuana Enforcement Division.

"Division" means the Marijuana Enforcement Division.

"Edible Retail Marijuana Product" means any Retail Marijuana Product which is intended to be consumed orally, including but not limited to, any type of food, drink, or pill.

"Executive Director" means the Executive Director of the Department of Revenue.

"Exit Package" means a sealed Container or package provided at the retail point of sale, in which any Retail Marijuana or Retail Marijuana Products already within a Container are placed, and is designed to ensure that the contents are secure and are child-resistant.

"Final Agency Order" means an Order of the State Licensing Authority issued in accordance with the Retail Code and the State Administrative Procedure Act.

"Good Cause" for purposes of denial (including denial of an initial, renewal, or reinstatement license application, license renewal, or license reinstatement) or for purposes of discipline of a license or certification means:

- 1. The Licensee or Applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of the Retail Code, any rules promulgated pursuant to the Retail Code, or any supplemental relevant state or local law, rule, or regulation;
- 2. The Licensee or Applicant has failed to comply with any special terms or conditions that were placed upon the license pursuant to an order of the State Licensing Authority or the relevant local jurisdiction; or
- 3. The Licensee's Licensed Premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

"Good Moral Character" means an individual with a personal history demonstrating honesty, fairness, and respect for the rights of others and for the law.

"Identity Statement" means the name of the business as it is commonly known and used in any advertising or marketing materials.

"Immature plant" means a nonflowering medical marijuana plant that is no taller than eight inches and no wider than eight inches produced from a cutting, clipping, or seedling and that is in a growing/cultivating container that is no larger than two inches wide and two inches tall that is sealed on the sides and bottom.

"Initial Decision" means a decision of a hearing officer in the Department following a licensing, disciplinary or other administrative hearing. Either party may file exceptions to the Initial Decision. The State Licensing Authority will review the Initial Decision and any exceptions filed thereto, and will issue a Final Agency Order.

"Label" or "Labeling" means all labels and other written, printed, or graphic matter upon a Container holding Retail Marijuana or a Retail Marijuana Product.

"License" means to grant a license or registration pursuant to the Retail Code and these rules.

"Licensed Premises" means the premises specified in an application for a license pursuant to the Retail Code that are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell, or test Retail Marijuana in accordance with the provisions of the Retail Code and these rules.

"Licensee" means any Person licensed or registered pursuant to the Retail Code.

"Limited Access Area" means a building, room, or other contiguous area upon the licensed premises where Retail Marijuana is grown, cultivated, stored, weighed, packaged, sold, or processed for sale, under control of the Licensee.

"LOD" or "Limit of Detection" means the lowest quantity of a substance that can be distinguished from the absence of that substance (a *blank value*) within a stated confidence limit (generally 1%).¹

"LOQ" or "Limit of Quantitation" means the lowest concentration at which the analyte can not only be reliably detected but at which some predefined goals for bias and imprecision are met.

"MITS" means Marijuana Inventory Tracking Solution.

"MITS Trained Administrator" means an Owner or an occupationally licensed employee of a Retail Marijuana Establishment who has attended and successfully completed MITS training and who has completed any additional training required by the Division.

"MITS User" means an Owner or occupationally licensed Retail Marijuana Establishment employee who is granted MITS User account access for the purposes of conducting inventory tracking functions in the MITS system, who has been successfully trained by MITS Trained Administrators in the proper and lawful use

"Medical Code" means the Colorado Medical Marijuana Code found at sections 12-43.3-101 et. seq., C.R.S.

"Medical Marijuana Business" means a Medical Marijuana Center, a Medical Marijuana-Infused Products Manufacturing Business, or an Optional Premises Cultivation Operation.

"Medical Marijuana Center" means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-402, C.R.S., and sells medical marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

"Medical Marijuana-Infused Products Manufacturing Business" means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-404, C.R.S.

"Monitoring Company" means a person in the business of providing Monitoring services for a Retail Marijuana Establishment Licensed Premises.

"Monitoring" means the continuous and uninterrupted attention to potential alarm signals that could be transmitted from a Security Alarm System located at a Retail Marijuana Establishment Licensed Premises, for the purpose of summoning a law enforcement officer to the premises during alarm conditions.

"Notice of Denial" means a written statement from the State Licensing Authority, articulating the reasons or basis for denial of a license application.

"Optional Premises Cultivation Operation" means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-403, C.R.S.

"Order to Show Cause" means a document from the State Licensing Authority alleging the grounds for imposing discipline against a Licensee's license.

"Owner" means the Person or Persons whose beneficial interest in the license is such that they bear risk of loss other than as an insurer, have an opportunity to gain profit from the operation or sale of the establishment, and have a controlling interest in a Retail Marijuana Establishment license.

"Person" means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof; except that "Person" does not include any governmental organization.

"Proficiency Testing Samples" means performing the same analyses on the same samples and comparing results to ensure the Samples are homogenous and stable, and also that the set of samples analyzed are appropriate to test and display similarities and differences in results

"RFID" means Radio Frequency Identification

"Respondent" means a Person who has filed a Petition for Declaratory Order or a Licensee who is subject to an Order to Show Cause.

"Restricted Access Area" means is an area where no one but certain people can enter.

"Retail Code" means the Colorado Retail Marijuana Code found at sections 12-43.4-101 et. seq., C.R.S.

"Retail Marijuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate, that is cultivated, manufactured, distributed, or sold by a licensed Retail Marijuana Establishment. "Retail Marijuana" does not include industrial hemp, nor does it include fiber produced from stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

"Retail Marijuana Cultivation Facility" means an entity licensed to cultivate, prepare, and package Retail Marijuana and sell Retail Marijuana to Retail Marijuana Stores, to Retail Marijuana Product Manufacturing Facilities, and to other Retail Marijuana Cultivation Facilities, but not to consumers.

"Retail Marijuana Establishment" means a Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturing Facility, or a Retail Marijuana Testing Facility.

"Retail Marijuana Establishment" means a Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturing Facility, or a Retail Marijuana Testing Facility.

"Retail Marijuana Product Manufacturing Facility" means an entity licensed to purchase Retail Marijuana; manufacture, prepare, and package Retail Marijuana Products; and sell Retail Marijuana and Retail Marijuana Products to other Retail Marijuana Product Manufacturing Facilities and to Retail Marijuana Stores, but not to consumers.

"Retail Marijuana Product" means concentrated Retail Marijuana Products and Retail Marijuana Products that are comprised of Retail Marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

"Retail Marijuana Store" means an entity licensed to purchase Retail Marijuana from a Retail Marijuana Cultivation Facility and to purchase Retail Marijuana Products from a Retail Marijuana Product Manufacturing Facility and to sell Retail Marijuana and Retail Marijuana Products to consumers.

"Retail Marijuana Testing Facility" means an entity licensed and certified to analyze and certify the safety and potency of Retail Marijuana.

"Sample" means any Retail Marijuana or Retail Marijuana Product provided <u>for testing or research</u> <u>purposes</u> to a Retail Marijuana Testing Facility <u>for Testing Purposes</u>.

"Security Alarm System" means a device or series of devices, intended to summon law enforcement personnel during, or as a result of, an alarm condition. Devices may include hard-wired systems and systems interconnected with a radio frequency method such as cellular or private radio signals that emit or

transmit a remote or local audible, visual, or electronic signal; motion detectors, pressure switches, duress alarms (a silent system signal generated by the entry of a designated code into the arming station to indicate that the user is disarming under duress); panic alarms (an audible system signal to indicate an emergency situation); and hold-up alarms (a silent system signal to indicate that a robbery is in progress).

"Shipping Container" means any container or wrapping used solely for the transportation of Retail Marijuana or Retail Marijuana Products in bulk, or in a quantity for other Retail Marijuana Establishments.

"Standardized Graphic Symbol" means a graphic image or small design adopted by a Licensee to identify its business.

"State Licensing Authority" means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of Medical Marijuana and Retail Marijuana in this state, pursuant to section 12-43.3-201, C.R.S.

"THC" means tetrahydrocannabinol.

"THCA" means tetrahydrocannabinolic acid.

"Universal Symbol" means the image established and made available to Licensees by the Division indicating Retail Marijuana or a Retail Marijuana product is within a Container.

"Unrecognizable" means not able to be recognized or identified.

R 104 – Declaratory Orders Concerning the Retail Code

- A. Who May Petition for Statement of Position. Any person, municipality, county, or city and county, may petition the Division for a statement of position concerning the applicability to the petitioner of any provision of the Retail Code, or any regulation of the State Licensing Authority. The Division shall respond with a written statement of position within 30 days of receiving a proper petition.
- B. <u>Petition for Declaratory Order</u>. Any person who has properly petitioned the Division for a statement of position, and who is dissatisfied with the statement of position or who has not received a response within 30 days, may petition the State Licensing Authority for a declaratory order pursuant to section 24-4-105(11), C.R.S. A petition shall set forth the following:
 - 1. The name and address of the petitioner.
 - 2. Whether the petitioner is licensed pursuant to the Retail Code, and if so, the type of license and address of the licensed premises.
 - 3. Whether the petitioner is involved in any pending Administrative hearings with the state or local licensing Authority.
 - 4. The statute, rule or order to which the petition relates.

- 5. A concise statement of all of the facts necessary to show the nature of the controversy or the uncertainty as to the applicability to the petitioner of the statue, rule or order to which the petition relates.
- A concise statement of the legal authorities, if any, and such other reasons upon which petitioner relies.
- 7. A concise statement of the declaratory order sought by the petitioner.
- C. <u>State Licensing Authority Retains Discretion Whether to Entertain Petition</u>. The State Licensing Authority will determine, in its discretion without prior notice to the petitioner, whether to entertain any petition. If the State Licensing Authority decides it will not entertain a petition, it shall promptly notify the petitioner in writing of its decision and the reasons for that decision. Any of the following grounds may be sufficient reason to refuse to entertain a petition:
 - 1. The petitioner failed to properly petition the Division for a statement of position, or if a statement of position was issued, the petition for declaratory order was filed with the State Licensing Authority more than 30 days after statement of position was issued.
 - 2. A ruling on the petition will not terminate the controversy nor remove uncertainties concerning the applicability to petitioner of the statute, rule or order in question.
 - 3. The petition involves a subject, question or issue which is currently involved in a pending hearing before the state or any local licensing authority, or which is involved in an on-going investigation conducted by the Division, or which is involved in a written complaint previously filed with the State Licensing Authority.
 - 4. The petition seeks a ruling on a moot or hypothetical question.
 - 5. Petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Colo. R. Civ. Pro. 57, which will terminate the controversy or remove any uncertainty concerning applicability of the statute, rule or order.
- D. <u>If State Licensing Authority Entertains Petition</u>. If the State Licensing Authority determines that it will entertain the petition for declaratory order, it shall notify the petitioner within 30 days, and the following procedures shall apply:
 - The State Licensing Authority may expedite the hearing, where the interests of the petitioner will not be substantially prejudiced thereby, by ruling on the basis of the facts and legal authority presented in the petition, or by requesting the petitioner or the Division to submit additional evidence and legal argument in writing.
 - 2. In the event the State Licensing Authority determines that an evidentiary hearing or legal argument is necessary to a ruling on the petition, a hearing shall be conducted in conformance with Rules R 1304 Administrative Hearings, R 1305 Administrative Subpoenas, and R 1306 Administrative Hearing Appeals. The petitioner will be identified as Respondent.

- 3. The parties to any proceeding pursuant to this rule shall be the Petitioner/Respondent and the Division. Any other interested person may seek leave of the State Licensing Authority to intervene in the proceeding and such leave may be granted if the licensing authority determines that such intervention will make unnecessary a separate petition for declaratory order by the interested person.
- 4. The declaratory order shall constitute agency action subject to judicial review pursuant to section 24-4-106, C.R.S.
- E. <u>Mailing Requirements</u>. A copy of any petition for a statement of position to the Division and of any petition for a declaratory order to the State Licensing Authority shall be mailed, on the same day that the petition is filed with the Division or authority, to the individual county or municipality within which the petitioner's licensed premises, or premises proposed to be licensed, are located. Any petition filed with the Division or authority shall contain a certification that the mailing requirements of this paragraph have been met.
- F. <u>Public Inspection</u>. Files of all petitions, requests, statements of position, and declaratory orders will be maintained by the Division. Except with respect to any material required by law to be kept confidential, such files shall be available for public inspection.
- G. <u>Posted on Website</u>. The Division shall post a copy of all statements of positions or declaratory orders constituting final agency action on the Division's web site.

R 200 Series - Licensing

Basis and Purpose - R 201

The statutory authority for this rule is found at subsections 12-43.4-104(2)(a), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(III), and 12-43.4-309(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(III). The purpose of this rule is to establish that only materially complete applications for licenses, accompanied withby all required fees, will be accepted and processed by the Division. The State Licensing Authority understands there may be instances where an application is materially complete, but further information is required before it can be fully processed. In such instances, the applicant must provide the additional requested information within the time frame given by the Division in order for the application to be acted on in a timely manner.

R 201 – Complete Applications Required: Retail Marijuana Establishments

A. General Requirements

- All applications for state licenses authorized pursuant to section 12-43.4-401, C.R.S., shall be made upon current forms prescribed by the Division. Applications submitted to the Division may include, but not be limited to, new business premises, individuals as Owners, transfers of ownership, change of locations, premise modification, and changes in trade name.
- 2. If required by the forms supplied by the Division, each application shall identify the relevant local jurisdiction.
- 3. Applicants must submit a complete application to the Division before it will be accepted or considered.
 - a. All applications must be complete in every material detail.
 - b. All applications must include all attachments or supplemental information required by the forms supplied by the Division.
 - c. All applications must be accompanied by a full remittance for the whole amount of the application, license, or other relevant fees.
- 4. The Division may refuse to accept an incomplete application.

B. Additional Information May Be Required

- Upon request by the Division, an Applicant shall provide any additional information required to
 process and fully investigate the application. The additional information must be provided to the
 Division no later than 14 days of the request unless otherwise specified by the Division. Each
 Applicant shall provide any additional information required that the Division may request to
 process and fully investigate the application.
- 2. An Applicant's failure to provide the requested evidence or information by the Division deadline may be grounds for denial.

- C. <u>Information Must Be Provided Truthfully</u>. All Applicants shall submit information to the Division in a full, faithful, truthful, and fair manner. The Division may recommend denial of an application where the Applicant made intentional misstatements, purposeful omissions, misrepresentations, or untruths in the application or in connection with the Applicant's background investigation. This type of conduct may be considered as the basis of additional administrative action against the Applicant and it may also be the basis for criminal charges against the Applicant.
- D. <u>Application Forms Accessible</u>. All application forms supplied by the Division and filed by an Applicant for a license, including attachments and any other documents associated with the investigation, shall be accessible by the State Licensing Authority, local jurisdictions and any law enforcement agent.

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(l), and 12-43.4-304(1), and sections 24-4-104 and 24-76.5-101 *et. seq.*, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(l). The purpose of this rule is to establish basic requirements for all Division applications for new Retail Marijuana Establishment licenses. It helps the regulated community understand the procedural licensing requirements.

R 202 – Process for Issuing a New License: Retail Marijuana Establishments

A. General Requirements

- 1. All applications for state licenses authorized pursuant to section 12-43.4-401, C.R.S., shall be made upon forms prescribed by the Division. Each application for a new license shall identify the relevant local jurisdiction.
- 2. All applications for new Retail Marijuana Establishments must include application and licensing fees for each premises. See Rules R 207 Schedule of Application Fees: Retail Marijuana Establishments and R 208 Schedule of Business License Fees: Retail Marijuana Establishments.
- 3. Each Applicant for a new license shall provide:
 - a. Suitable evidence of proof of lawful presence, residence, if applicable, and good character and reputation that the Division may request;
 - b. All requested information concerning financial and management associations and interests of other Persons in the business;
 - c. Department of Revenue tax payment information;
 - d. Proof of good and sufficient surety bond;
 - e. Accurate floor plans for the premises to be licensed; and

f. The deed, lease, contract, or other document governing the terms and conditions of occupancy of the premises licensed or proposed to be licensed.

Nothing in this section is intended to limit the Division's ability to request additional information it deems necessary <u>or</u> relevant to determining an Applicant's suitability for licensure.

- 4. Failure to provide such additional evidence by the requested deadline may result in denial of the application.
- 5. All applications to reinstate a license will be deemed applications for new licenses. Melanie's question.

B. Other Factors

- 1. The Division will either approve or deny a complete application within 45 to 90 days of its receipt.
- 2. The Division will send applications for a new Retail Marijuana Establishment and half the application fee to the relevant local jurisdiction within seven days of receiving the application.
- 3. If the Division grants a state license before the relevant local jurisdiction approves the application or grants a local license, the state license will be conditioned upon local approval. Such a condition will not be viewed as a denial pursuant to the Administrative Procedure Act. If the local jurisdiction fails to approve or denies the application, the state license will be revoked.
- 4. The Applicant has one year from the date of licensing by the State Licensing Authority to obtain approval or licensing through the relevant local jurisdiction. Should the Applicant fail to obtain local jurisdiction approval or licensing within the specified period, the State license shall expire and may not be renewed.
- 5. An Applicant is prohibited from operating a Retail Marijuana Establishment prior to obtaining all necessary licenses or approvals from both the State Licensing Authority and the relevant local jurisdiction.

Basis and Purpose - R 203

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(l), and section 12-43.4-310, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(l). The purpose of this rule is to establish how licenses can be renewed.

R 203 – Process for Renewing a License: Retail Marijuana Establishments

A. General Process for License Renewal

1. The Division will send a Notice for License Renewal 90 days prior to the expiration of an existing license by first class mail to the Licensee's mailing address of record.

- 2. A Licensee may apply for the renewal of an existing license no less than 30 days prior to the license's expiration date. If the Licensee files a renewal application within 30 days prior to expiration, the Licensee must provide a written explanation detailing the circumstances surrounding the late filing. If the Division accepts the application, then it may elect to administratively continue the license beyond the expiration date while it completes the renewal licensing process.
- 3. An application for renewal will only be accepted if it is accompanied by the requisite licensing fees. See Rule R 20911 Schedule of Business License Renewal Fees: Retail Marijuana Establishments.
- 4. The Division will send a copy of the Licensee's application for renewal of an existing license to the relevant local jurisdiction within seven days of receiving the application for renewal.
- B. <u>Failure to Receive a Notice for License Renewal</u>. Failure to receive a Notice for License Renewal does not relieve a Licensee of the obligation to renew all licenses.
- C. <u>If License Not Renewed Before Expiration</u>. A license is immediately invalid upon expiration if the Licensee has not filed a late renewal application and remitted all of the required fees.
 - 1. <u>In the event the license is not renewed prior to expiration, a Retail Marijuana Establishment may not operate.</u>
 - 2. If a late application is filed by the Licensee and the requisite fees are remitted to the Division within 90 days of expiration of the license, the Division may administratively continue the license from the date the late application is received until it can complete its renewal application process and investigate the extent to which the Licensee operated with an expired license.
 - 3. If a former licensee files a renewal application after 90 days from date of expiration, the application will be treated as a new license application.

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-312(1), C.R.S. The purpose of this rule is to clarify what elements the State Licensing Authority generally considers when determining who has a beneficial interest in a license to such an extent that one is considered an Owner. The State Licensing Authority will review whatever relevant information exists to determine who ultimately owns or controls, *i.e.*, is in charge of a business. This rule sets forth the general elements that will help the State Licensing Authority make the proper determination.

R 204 – Factors Considered When Evaluating Ownership of a License: Retail Marijuana Establishments

- A. <u>Licenses Held By Owners</u>. Each Retail Marijuana Establishment License must be held by the Owner or Owners of the licensed establishment. The Division may consider the following non-exhaustive list of elements when determining who is an Owner:
 - 1. Who bears risk of loss and opportunity for profit;
 - 2. Who is entitled to possession of the Licensed Premise or premise to be licensed;
 - 3. Who has final decision making authority over the operation of the licensed Retail Marijuana Establishment;
 - 4. Who guarantees the Retail Marijuana Establishment's debts or production levels;
 - 5. Who is a beneficiary under the Retail Marijuana Establishment's insurance policies;
 - 6. Who acknowledges liability for the Retail Marijuana Establishment's federal, state, or local taxes; or
 - 7. Who is an officer or director of a Retail Marijuana Establishment.
- B. <u>Management Companies</u>. Any Person contracted to manage the overall operation of a Licensed Premises shall be considered an Owner.
- C. <u>Role of Managers</u>. Owners may hire managers, and managers may be compensated on the basis of profits made, gross or net. A Retail Marijuana Establishment license may not be held in the name of the manager.
- D. <u>Spouses</u>. A spouse of a Licensee may hold a license in his or her own right if he or she is the Owner of the licensed establishment, regardless of whether the spouses file separate or joint income tax returns.
- E. <u>Entities</u>. A partnership interest, limited or general, a joint venture interest, a licensing agreement, ownership of a share or shares in a corporation or a limited liability company which is licensed, or having a secured interest in furniture, fixtures, equipment or inventory constitutes ownership and a direct financial interest. Unsecured notes or loans shall constitute an indirect financial interest. <u>I and it</u> shall be unlawful to fail to completely report all financial interests in each license issued.

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(III), 12-43.4-309(2), and sections 12-43.4-308 and 24-76.5-101 *et. seq.*,C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish protocol for ownership transfers.

R 205 – Transfer of Ownership and Changes in Licensed Entities: Retail Marijuana Establishments

A. General Requirements

- 1. All applications for transfers of ownership or changes in corporate entities by licensed Retail Marijuana Establishments authorized pursuant to section 12-43.4-401, C.R.S., shall be made upon current forms prescribed by the Division. Each application shall identify the relevant local jurisdiction.
- 2. All applications for transfers of ownerships and changes in licensed entities by Retail Marijuana Establishments must include application fees and be complete in every material detail.
- 3. Each Applicant for a transfer of ownership shall provide suitable evidence of a Person's proof of lawful presence, residence and good character and reputation that the Division may request. Each Applicant shall also provide all requested information concerning financial and management associations and interests of other Persons in the business, Department of Revenue tax payment information, proof of good and sufficient surety bond and the deed, lease, contract, or other document governing the terms and conditions of occupancy of the <u>Licensed Premisespremises licensed or proposed to be licensed</u>. Nothing in this section is intended to limit the Division's ability to request additional information it deems necessary relevant to determining an Applicant's suitability for licensure.
- 4. Failure to provide such additional evidence by the requested deadline specified by the Division may result in denial of the application.
- 5. The Division will send applications for a transfer of ownership to the relevant local jurisdiction within seven days of receiving the application. *See* Rule R 1401 Instructions for Local Jurisdictions and Law Enforcement Officers.
- 6. The Division will not approve a transfer of ownership application without first receiving written notification from the relevant local jurisdiction approving the transfer. If a local jurisdiction elects not to approve or deny a transfer of ownership application, the local jurisdiction must provide written notification acknowledging receipt of the application.

B. As It Relates to Corporations and Limited Liability Companies

- 1. If the Applicant for any license pursuant the Retail Code is a corporation or limited liability company, it shall submit with the application the names, mailing addresses, and Owner's background forms of all of its principal officers, directors, and Owners; a copy of its articles of incorporation or articles of organization; and evidence of its authorization to do business within this State. In addition, each Applicant shall submit the names, mailing addresses and Owner's background applications of all Persons owning any of the outstanding or issued capital stock, or of any Persons holding a membership interest.
- 2. Any proposed transfer of capital stock or any change in principal officers or directors of a corporation shall be reported and approved by the Division and the relevant local jurisdiction prior to such transfer or change.
- 3. Any proposed transfer of membership interest or any change in members of any limited liability company holding a license shall be reported and approved by the Division and the relevant local jurisdiction prior to such transfer or change.

C. As It Pertains Relates to Partnerships

- If the Applicant for any license pursuant to this section is a general partnership, limited partnership, limited liability partnership, or limited liability limited partnership, it shall submit with the application the names, mailing addresses, and Owner's background forms of all of its partners and a copy of its partnership agreement.
- 2. Any proposed transfer of partnership interest or any change in general or managing partners of any partnership holding a license shall be reported and approved by the Division and relevant local jurisdiction prior to such transfer or change.
- D. As It Relates to Entity Conversions. Any Licensee that qualifies for an entity conversion pursuant to sections 7-90-201, C.R.S., et. seq., shall not be required to file a transfer of ownership application pursuant to section 12-43.4-308, C.R.S., upon statutory conversion, but shall submit a report containing suitable evidence of its intent to convert at least 30 days prior to such conversion. Such evidence shall include, but not be limited to, any conversion documents or agreements for conversion at least ten days prior to the date of recognition of conversion by the Colorado Secretary of State. In addition, prior to the date of the conversion, the Licensee shall submit to the Division the names, mailing addresses, and Owner's background forms of any new officers, directors, general or managing partners, and all Persons having an ownership interest.
- E. <u>Approval Required</u>. No change shall be effective as it pertains to any Licensee, until and unless the proposed transfer of ownership has been approved by the Division and relevant local jurisdiction.
- F. <u>Applications for Reinstatement Deemed New Applications</u>. All applications for a transfer of ownership for a license requiring reinstatement will be deemed applications for new licenses pursuant to section 12-43.4-304, C.R.S. *See* Rule R 202 Process for Issuing a New License: Retail Marijuana Establishments.

Basis and Purpose - R 206

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(e), and 12-43.4-202(3)(a)(I), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to clarify the application process for changing location of a Licensed Premises.

R 206 – Changing Location of Licensed Premises: Retail Marijuana Establishments

A. Application Required to Change Location of Licensed Premises

- 1. An authorized representative of a licensed-Retail Marijuana Establishment must make application to the Division for permission to change location of its Licensed Premise.
- 2. Such application shall:
 - a. Be made upon current forms prescribed by the Division;
 - b. Be complete in every material detail and include remittance of all applicable fees;

- c. Explain the reason for requesting such change;
- d. Be supported by evidence that the application complies with the relevant local jurisdiction requirements; and
- e. Contain a report of the relevant local jurisdiction(s) in which the Retail Marijuana Establishment is to be situated, which report shall demonstrate the approval of the local jurisdiction(s) with respect to the new location. If the relevant local jurisdiction elects not to approve or deny a change of location of Licensed Premises application, the local jurisdiction must provide written notification acknowledging receipt of the application.

B. Permit Required Before Changing Location

- 1. No change of location shall be permitted until after the Division considers the application, and such additional information as it may require, and issues to the Applicant a permit for such change.
- 2. The permit shall be effective on the date of issuance, and the Licensee shall, within 120 days, change the location of its business to the place specified therein and at the same time cease to operate a Retail Marijuana Establishment at the former location. For Ggood CGause shown, the 120 day deadline may be extended for an additional 90 days.
- 3. The permit shall be conspicuously displayed at the new location, immediately adjacent to the license to which it pertains.

C. General Requirements

- An application for change of location to a different local jurisdiction shall follow the same procedures as an application for a new Retail Marijuana Establishment license, except that licensing fees will not be assessed until the license is renewed. See Rule R 202 - Process for Issuing a New License: Retail Marijuana Establishments.
- 2. An Applicant for change of location within the same local jurisdiction shall file a change of location application with the Division and pay the requisite change of location fee. See Rule R 207 Schedule of Application Fees: Retail Marijuana Establishments.

Basis and Purpose - R 207

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-104(1)(a)(I), and 12-43.4-202(3)(a)(II), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(II). The purpose of this rule is to clarify the schedules of application fees for new retail business Licensees.

R 207 – Schedule of Application Fees: Retail Marijuana Establishments

A. Application Fee for Existing Medical Marijuana Licensees in Good Standing and Qualified Applications

- 1. A Person licensed pursuant to the Medical Code, section 12-43.3-401, C.R.S., shall pay a \$500 application fee, for each application submitted, to operate a Retail Marijuana Establishment if the following are met:
 - a. The Licensee is operating; and
 - b. The Licensee's license is in good standing. A license in good standing has complied consistently with Article XVIII, Section 14 of the Colorado Constitution, the provisions of the Medical Code, and regulations adopted thereto.
- 2. A Person who had a pending application with the State Licensing Authority for a license pursuant to the Medical Code prior to December 10, 2012, shall pay a \$500 application fee to operate a Retail Marijuana Establishment if the following are met:
 - a. The Applicant is operating in compliance with the Medical Code and regulations adopted thereto:
 - b. The application has not been denied; and
 - c. The Person has paid all applicable application and licensing fees prior to December 10, 2012.
- B. <u>Application Fee for New Applicants</u>. Applicants that do not meet the criteria in Part A. of this rule are required to pay a \$5000 application fee that must be submitted with each application before it will be considered.
- C. <u>Transfer of Ownership Fee (New Owner Applicants)</u>. The transfer of Ownership fee is \$2500 if any new Owner is applying plus any additional applicable fees.
- D. <u>Transfer of Ownership Fee (Reallocation of Ownership Among Current Owners)</u>. The transfer of Ownership fee is \$1000 per application.
- E. Change of Location of License Premises Fee
 - 1. If an Applicant is changing the location of a Licensed Premises within the same <u>Licensed Jiurisdiction</u>, the Applicant must pay a \$1000 fee.
 - 2. An application to change the location of a Licensed Premises to a different local jurisdiction will be treated as a new application. See Rule R 202 Process for Issuing a New Application: Retail Marijuana Establishments. An Application to change the location of a Licensed Premises to a different local jurisdiction must be accompanied by a \$5000 fee, and the Division will forward one half of the fee and a copy of the application to the relevant local jurisdiction within seven days. No new state license fees will be assessed unless otherwise required for a License to be renewed.
- F. When Application Fees Are Due. All application fees are due at the time an application is submitted. An Applicant must follow Division policies regarding payment to local jurisdictions.

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(II), and section 24-4-104, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(II). The purpose of this rule is to establish basic requirements for all Division applications and help the regulated community understand procedural licensing requirements.

R 208 – Schedule of Business License Fees: Retail Marijuana Establishments

- A. <u>License Fees</u>. The State Licensing Authority intends to revisit the fee structure prior to July 1, 2014. Initially, Licensee fees will be set at:
 - 1. Medical Marijuana Center 1 Applying For A Retail Marijuana Store License \$3,750.00
 - 2. Medical Marijuana Center 2 Applying For A Retail Marijuana Store License \$8,750.00
 - 3. Medical Marijuana Center 3 Applying For A Retail Marijuana Store License \$14,000.00
 - 4. Retail Marijuana Cultivation Facility License \$2,750.00
 - 5. Retail Marijuana Products Manufacturing License \$2,750.00
 - 6. Retail Marijuana Testing Facility License \$2,750.00
- B. When License Fees Are Due. All license fees are due at the time an application is submitted.
- C. <u>If Application is Denied</u>. If an application is denied, an Applicant may request that the State Licensing Authority refund the license fee after the denial appeal period has lapsed or after the completion of the denial appeal process, whichever is later.

Basis and Purpose - R 209

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), and 12-43.4-202(3)(a)(II), and 12-43.4-304(1), and sections 12-43.4-304(1) and 24-4-104, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(II). The purpose of this rule is to establish basic requirements for all Division applications and help the regulated community understand procedural licensing requirements.

R 209 – Schedule of Business License Renewal Fees: Retail Marijuana Establishments

- A. <u>License Renewal Fees</u>. The State Licensing Authority intends to revisit the fee structure prior to July 1, 2014. Initially, the License fees will be set at:
 - 1. Medical Marijuana Center 1 Applying For A Retail Marijuana Store License \$3,750.00
 - 2. Medical Marijuana Center 2 Applying For A Retail Marijuana Store License \$8,750.00

- 3. Medical Marijuana Center 3 Applying For A Retail Marijuana Store License \$14,000.00
- 4. Retail Marijuana Cultivation Facility License \$2,750.00
- 5. Retail Marijuana Products Manufacturing License \$2,750.00
- 6. Retail Marijuana Testing Facility License \$2,750.00
- B. When License Fees Are Due. License renewal fees are due at the time the renewal application is submitted.
- C. <u>If Renewal Application is Denied</u>. If an application for renewal is denied, an Applicant may request that the State Licensing Authority refund the license fee after the denial appeal period has lapsed or after the completion of the denial appeal process, whichever is later.

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), and 12-43.4-202(3)(a)(II), and12-43.4-304(1), and sections 12-43.4-304(1) and 24-4-104, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(II). The purpose of this rule is to establish basic requirements for all Division applications and help the regulated community understand procedural licensing requirements.

R 210 – Schedule of Administrative Service Fees: All Licensees

- A. <u>Administrative Service Fees</u>. The State Licensing Authority intends to revisit this fee structure prior to July 1, 2014. Initially, administrative service fees will be set at:
 - 1. Entity Conversion \$1000
 - 2. Change of Trade Name \$50
 - 3. Modification of License Premises \$150
 - 4. Duplicate Business License or Certificate of Application \$50
 - 5. Duplicate Occupational License \$10
- B. <u>When Administrative Service Fees Are Due.</u> All administrative service fees are due at the time each applicable request is made.

Basis and Purpose - R 211

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.3-202(3)(a), and 12-43.4-202(4)(b)(I)(a), and section 12-43.4-104, C.R.S. The purpose of this rule is to clarify that existing Medical Marijuana Businesses may apply to convert a Medical Marijuana Business License to a Retail Marijuana Establishment License or may apply to obtain one Retail Marijuana Establishment License, whether it converts the Medical Business License or obtains a Retail Marijuana Establishment License, for each valid Medical Marijuana Business License it holds. In order to ensure all Retail Marijuana and Retail Marijuana Products are tracked in MITS and as a condition of licensure, a Medical Marijuana Business Licensee is required to declare in MITS all Medical Marijuana and Medical Marijuana Infused-Products that are converted for sale as Retail Marijuana or Retail Marijuana Products prior to initiating or allowing any sales. This declaration may be made only once.

R 211 – Conversion - Medical Marijuana Business to Retail Marijuana Establishment

A. Medical Marijuana Licensees Applying for Retail Marijuana Establishments. A Medical Marijuana Business Licensee in good standing or who had a pending application as of December 10, 2012 that has not yet been denied, and who has paid all applicable fees may apply for a Retail Marijuana Establishment license in accordance with the Retail Code and these rules on or after October 1, 2013. A Medical Marijuana Business meeting these conditions may apply to convert a Medical Marijuana Business license to a Retail Marijuana Establishment license or may apply for a single Retail Marijuana Establishment of the requisite class of license in the Medical Marijuana Code for each Medical Marijuana Business License not converted.

B. Retail Marijuana Establishment Licenses Conditioned

- 1. It shall be unlawful for a Retail Marijuana Establishment to operate without being issued a Retail Marijuana Establishment license by the State Licensing Authority and receiving all relevant local approvals. Each Retail Marijuana Establishment license issued shall be conditioned on the Licensee's receipt of all required local approvals and licensing, if required.
- 2. Each Retail Marijuana Establishment license issued shall be conditioned on the Medical Marijuana Business Licensee's declaration of the amount of Medical Marijuana or Medical Marijuana-Infused Products it intends to transfer from the requisite Medical Marijuana Business for sale as Retail Marijuana or Retail Marijuana Products. A Retail Marijuana Establishment shall not exercise any of the rights or privileges of a Retail Marijuana Establishment Licensee until such time as all such Medical Marijuana and Medical Marijuana-Infused Products are fully transferred and declared in the MITS system. See also, Rule R 309 Marijuana Inventory Tracking Solution (MITS).
- C. <u>One-Time Transfer</u>. Once a Retail Marijuana Establishment has declared Medical Marijuana inventory as Retail Marijuana or Retail Marijuana Product and begun exercising the rights and privileges of the license, no additional Medical Marijuana can be transferred from the Medical Marijuana Business to the relevant Retail Marijuana Establishment at any time.

Basis and Purpose - R 230

The statutory authority for this rule is found at subsections 12-43.4-104(2)(a), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(III), and 12-43.4-309(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(III). The purpose of this rule is to establish that only materially complete applications for licenses, accompanied with all required fees, will be accepted and processed by the Division. The State Licensing

Authority understands there may be instances where an application is materially complete, but further information is required before it can be fully processed. In such instances, the applicant must provide the additional requested information within the time frame given by the Division in order for the application to be acted on in a timely manner.

R 230 – Complete Applications Required: Individuals

A. General Requirements

- 1. All applications for state licenses authorized pursuant to subsection 12-43.4-401(1)(e), C.R.S., shall be made upon forms prescribed by the Division. Applications submitted to the Division may include, but not be limited to, individuals as Owners and transfers of ownership.
- A license issued by the Division to Owners and occupational Licensees constitutes a revocable privilege. The burden of proving an Applicant's qualifications for licensure rests at all times with the Applicant.
- Applicants must submit a complete current application to the Division before it will be accepted or considered.
 - a. All applications must be complete in every material detail.
 - All applications must include all attachments or supplemental information required by the forms supplied by the Division.
 - c. All applications must be accompanied by a full remittance for the whole amount of the application, license, or other relevant fees.
- 4. The Division may refuse to accept an incomplete application.

B. Additional Information May Be Required

- 1. Each Applicant shall provide any additional information required that the Division may request to process and fully investigate the application.
- An Applicant's failure to provide the requested evidence or information by the Division deadline
 may be grounds for denial. The additional information must be provided to the Division no later
 than 14 days of the request unless otherwise specified by the Division. Each Applicant shall
 provide any additional information required that the Division may request to process and fully
 investigate the application.
- C. <u>Information Must Be Provided Truthfully</u>. All Applicants shall submit information to the Division in a full, faithful, truthful, and fair manner. The Division may recommend denial of an application where the Applicant made intentional misstatements, purposeful omissions, misrepresentations, or untruths in the

application or in connection with the Applicant's background investigation. This type of conduct may be considered as the basis of additional administrative action against the Applicant and it may also be the basis for criminal charges against the Applicant.

D. <u>Application Forms Accessible</u>. All application forms supplied by the Division and filed by an Applicant for a license, including attachments and any other documents associated with the investigation, shall be accessible by the State Licensing Authority, local jurisdictions and any law enforcement agent.

Basis and Purpose - R 231

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(III), and sections 12-43.4-306, and section—24-76.5-101 et. seq., C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(III). The purpose of this rule is to clarify the qualifications for licensure, including, but not limited to, the requirement for a fingerprint-based criminal history record check for all Owners, officers managers, contractors, employees, and other support staff of licensed entities.

R 231 – Qualifications for Licensure: Individuals

A. General Requirements

- 1. All Applicants shall submit information to the Division in a full, faithful, truthful, and fair manner. The Division may recommend denial of an application where the Applicant made intentional misstatements, purposeful omissions, misrepresentations, or untruths in the application or in connection with the Applicant's background investigation. This type of conduct may be considered as the basis of additional administrative action against the Applicant and it may also be the basis for criminal charges against the Applicant.
- 2. The Division may deny the application of an Applicant who fails to provide the requested evidence or information by the Division deadline.

B. Other Licensing Requirements

1. Fingerprints Required

- a. All Applicants for initial licensure shall be fingerprinted for a fingerprint-based criminal history record check.
- b. A renewal Applicant shall be fingerprinted at the Director's discretion.
- c. An Applicant shall also be fingerprinted if the Director has required the Applicant to submit a new application. The Director may require a new application for the following non-exhaustive list of reasons:

- i. An Applicant is re-applying after more than one year since the expiration of his or her most recent license;
- If an Applicant's previous license was denied or revoked by the State Licensing Authority; or
- iii. When the Division needs additional information in order to proceed with a background investigation.
- 2. Other Documents May Be Required. Any Applicant may be required to establish his or her identity and age by any document required certified birth certificate and other valid identification containing a photograph as required for a determination of lawful presence.
- 3. Maintaining Ongoing Suitability For Licensing: Duty to Report Offenses. An Applicant or Licensee shall notify the Division in writing of any felony criminal charge and felony conviction against such person within ten days of such person's arrest, felony summons, and within ten days of the disposition of any arrest or summons. Failure to make proper notification to the Division may be grounds for disciplinary action. Licensees shall cooperate in any investigation conducted by the Division. This duty to report includes, but is not limited to, deferred sentences or judgments that are not sealed. If the Division lawfully finds a disqualifying event and an Applicant asserts that the record was sealed, the Division may require the Applicant to provide proof from a court evidencing the sealing of the case.
- 4. <u>Application Forms Accessible to Law Enforcement and Licensing Authorities</u>. All application forms supplied by the Division and filed by an Applicant for license shall be accessible by the State Licensing Authority, local jurisdictions, and any state or local law enforcement agent.
- C. Owners. An Owner Applicant must meet the following criteria before receiving a license:
 - 1. The Applicant must pay the annual application and licensing fees:
 - 2. The Applicant's criminal history must indicate that he or she is of Good Moral Character;
 - 3. The Applicant is not employing, or financed in whole or in party by any other Person whose criminal history indicates that he or she is not of Good Moral Character;
 - 4. The Applicant is at least 21 years of age;
 - The Applicant has paid all taxes, interest, or penalties due the Department of Revenue relating to a Retail Marijuana Establishment;
 - 6. The Applicant can prove that he or she has not discharged a sentence for a conviction of a felony in the five years immediately preceding his or her application date;

- 7. The Applicant can prove that he or she has not discharged a sentence for a conviction of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance in the ten years immediately preceding his or her application date or five years from May 27, 2013, whichever is longer, except that the State Licensing Authority may grant a license to a Person if the Person has a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the Person were convicted of the offense on the date he or she applied for a license;
- 8. The Applicant can establish that he or she does not employ another person who does not have a valid occupational license issued pursuant to either the Retail Code or the Medical Code.
- 9. The Applicant can establish that he or she is not a sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the State Licensing Authority or a local licensing authority;
- The Applicant can establish that it is not currently licensed as a retail food establishment or wholesale food registrant;
- 11. The Applicant has been a resident of Colorado for at least two years prior to the date of the Application. See Rule R 232 Factors Considered When Determining Residency: Individuals.
- D. <u>Occupational Licenses</u>. An occupational license Applicant must meet the following criteria before receiving a license:
 - 1. The Applicant must pay the annual application and licensing fees;
 - The Applicant's criminal history must indicate that he or she is of Good Moral Character;
 - 3. The Applicant is at least 21 years of age;
 - 4. An Applicant can establish that he or she is currently a resident of Colorado.
 - 5. The Applicant can prove that he or she has not discharged a sentence for a conviction of a felony in the five years immediately preceding his or her application date;
 - 6. The Applicant can prove that he or she has not discharged a sentence for a conviction of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance in the ten years immediately preceding his or her application date or five years from May 27, 2013, whichever is longer, except that the State Licensing Authority may grant a license to a Person if the Person has a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the Person were convicted of the offense on the date he or she applied for a license;

7. The Applicant can establish that he or she is not a sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the State Licensing Authority or a local licensing authority;

E. <u>Current Medical Marijuana Occupational Licensees</u>

- An individual that who holds a current, valid occupational license issued pursuant to the Medical Code may also work in a Retail Marijuana Establishment; no separate occupational license is required.
- 2. An individual that-who holds a current, valid occupational license issued pursuant to the Retail Code and these rules shall not work at a Medical Marijuana Business unless he or she also holds a current, valid occupational license issued pursuant to the Medical Code.

Basis and Purpose - R 232

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-306(1)(k), and 12-43.4-309(5), C.R.S. The purpose of this rule is to interpret residency requirements set forth in the Retail Code.

R 232 – Factors Considered When Determining Residency: Individuals

This rule applies to individual Applicants who are trying to obtain licenses issued pursuant to the Retail Code. This rule does not apply to patrons of Retail Marijuana Stores. When the State Licensing Authority determines whether an Applicant is a resident, the following factors will be considered:

- A. <u>Primary Home Defined</u>. The location of an Applicant's principal or primary home or place of abode ("primary home") may establish Colorado residency. An Applicant's primary home is that home or place in which a <u>Pperson</u>'s habitation is fixed and to which the <u>Pperson</u>, whenever absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of such absence. A primary home is a permanent building or part of a building and may include, by way of example, a house, condominium, apartment, room in a house, or manufactured housing. No rental property, vacant lot, vacant house or cabin, or other premises used solely for business purposes shall be considered a primary home.
- B. <u>Reliable Indicators That an Applicant's Primary Home is in Colorado</u>. The State Licensing Authority considers the following types of evidence to be generally reliable indicators that a Person's primary home is in Colorado.
 - 1. Evidence of business pursuits, place of employment, income sources, residence for income or other tax purposes, age, residence of parents, spouse, and children, if any, leaseholds, situs of Ppersonal and real property, existence of any other residences outside of Colorado and the amount of time spent at each such residence, and any motor vehicle or vessel registration;

- Duly authenticated copies of the following documents may be taken into account: A current driver's license with address, recent property tax receipts, copies of recent income tax returns where a Colorado mailing address is listed as the primary address, current voter registration cards, current motor vehicle or vessel registrations, and other public records evidencing place of abode or employment; and
- 3. Other types of reliable evidence.
- C. <u>Totality of the Evidence</u>. The State Licensing Authority will review the totality of the evidence, and any single piece of evidence regarding the location of a person's primary home will not necessarily be determinative.
- D. <u>Other Considerations for Residency</u>. The State Licensing Authority may consider the following circumstances:
 - Members of the armed services of the United States or any nation allied with the United States who
 are on active duty in this state under permanent orders and their spouses;
 - 2. Personnel in the diplomatic service of any nation recognized by the United States who are assigned to duty in Colorado and their spouses; and
 - 3. Full-time students who are enrolled in any accredited trade school, college, or university in Colorado. The temporary absence of such student from Colorado, while the student is still enrolled at any such trade school, college, or university, shall not be deemed to terminate their residency. A student shall be deemed "full-time" if considered full-time under the rules or policy of the educational institution he or she is attending.
- E. <u>Entering Armed Forces Does Not Terminate Residency</u>. An individual who is a Colorado resident pursuant to this rule does not terminate Colorado residency upon entering the armed services of the United States. A member of the armed services on active duty who resided in Colorado at the time the Person entered military service and the person's spouse are presumed to retain their status as residents of Colorado throughout the member's active duty in the service, regardless of where stationed or for how long.

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-401(1)(e), C.R.S. The purpose of this rule is to clarify when an individual must be licensed or registered with the Division before commencing any work activity at a licensed Retail Marijuana Establishment. The rule also sets forth the process for obtaining a license or registration and explains what information may be required before obtaining such license or registration.

R 233 – Medical Code or Retail Code Occupational Licenses Required

A. <u>Medical Code or Retail Code Occupational Licenses and Identification Badges</u>

- Any person within a Restricted Access Area, Limited Access Area or who possesses, cultivates, manufactures, dispenses, sells, serves, transports or delivers Retail Marijuana or Retail Marijuana Products as permitted by privileges granted under a Retail Marijuana Establishment License must either have a valid occupational license or valid identification badge or be escorted at all times by a person who holds a valid Owner or occupational license.
- 2. Any person who has the authority to access or input data into MITS or a Retail Marijuana Establishment point of sale system must have a valid occupational license.
- 3. Failure by a Retail Marijuana Establishment to continuously escort a person who does not have a valid occupational license at all times while that person is engaged in any of the activities listed above shall be considered a license violation affecting the public safety. See Rule R 901 Business Records Required.
- B. <u>Occupational Licensees Commencing Employment</u>. Any person required to be licensed pursuant to this rule shall obtain all Division approvals and obtain a Division-issued identification badge before commencing activities permitted by the Retail Code or Medical Code occupational license. *See also* Rule R 231 Qualifications for Licensure: Individuals.
- C. <u>Identification Badges Are Property of State Licensing Authority</u>. All identification badges shall remain the property of the State Licensing Authority, and all identification badges shall be returned to the Division upon demand of the State Licensing Authority or the Division.

Basis and Purpose - R 250

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 24-4-105(2), and 12-43.4-601(2), C.R.S. The purpose of this rule is to clarify that a Licensee must keep its mailing address current with the Division.

R 250 – Licensee Required to Keep Mailing Address Current with the Division: All Licensees

- A. <u>Timing of Notification</u>. A Licensee shall inform the Division in writing of any change to its mailing address within 30 days of the change. The Division will not change a Licensee's information without explicit written notification provided by the Licensee or its authorized agent.
- B. <u>Division Communications</u>. Division communications are sent to the last mailing address furnished by an <u>Applicant or Licensee</u> to the Division.
- C. <u>Failure to Change Address Does Not Relieve Licensee's or Applicant's Obligation</u>. Failure to notify the Division of a change of mailing address does not relieve a Licensee of the obligation to respond to a Division communication.
- D. <u>Disciplinary Communications</u>. The State Licensing Authority will send any disciplinary or sanction communication, as well as any notice of hearing, to the mailing address contained in the license and, if different, to the last mailing address furnished to the Division by the Licensee.

The -statutory -authority -for -this -rule -is -found- at -subsections -12-43.4-202(2)(b), -12-43.4-202(3)(a)(XV), -and 12-43.4-202(3)(a)(XVI), and sections 24-4-104 and 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(I). The purpose of this rule is to establish what factors the State Licensing Authority will consider when denying an application for licensure.

R 251 – Application Denial and Voluntary Withdrawal: All Licensees

A. Applicant Bears Burden of Proving It Meets Licensing Requirements

- 1. At all times during the application process, an Applicant must be capable of establishing that it is qualified to hold a license.
- 2. An Applicant that does not cooperate with the Division during the application phase may be denied as a result. For example, if the Division requests additional evidence of suitability and the Applicant does not furnish such evidence by the date requested, the Applicant's application may be denied.

B. Applicants Must Provide Accurate Information

- 1. An Applicant must provide accurate information to the Division during the entire Application process.
- 2. If an Applicant provides inaccurate information to the Division, the Applicant's application may be denied.

C. Grounds for Denial

- 1. The State Licensing Authority will deny an application from an Applicant that forms a business or nonprofit, including but not limited to a sole proprietorship, corporation, or other business enterprise, with the purpose or intent, in whole or in part, of transporting, cultivating, processing, transferring, or distributing Retail Marijuana or Retail Marijuana Products without receiving prior approval from all relevant licensing authorities.
- 2. The State Licensing Authority will deny an application for Good Cause, as defined in subsection 12-43.4-305(1), C.R.S., of the Retail Code.
- 3. The State Licensing Authority will deny an Applicant's application that is statutorily disqualified from holding a license.

D. Voluntary Withdrawal of Application

- 1. The Division and Applicant may mutually agree to allow the voluntary withdrawal of an application for licensing in lieu of a denial proceeding.
- 2. Applicants must first submit a notice to the Division requesting the voluntary withdrawal of the application. Applicants will submit the notice with the understanding that they were not obligated to

request the voluntary withdrawal and that any right to a hearing in the matter is waived once the voluntary withdrawal is approved.

- 3. The Division will consider the request along with any circumstances at issue with the application in making a decision to accept the voluntary withdrawal. The Division may at its discretion grant the request with or without prejudice or deny the request.
- 4. The Division will notify the Applicant and relevant local jurisdiction of its acceptance of the voluntary withdrawal and the terms thereof.
- 5. If the Applicant agrees to a voluntary withdrawal granted with prejudice, then the Applicant is not eligible to apply again for licensing or approval until after expiration of one year from the date of such voluntary withdrawal.

E. An Applicant May Appeal a Denial

- 1. An Applicant may appeal an application denial pursuant to the Administrative Procedure Act.
- 2. *See also* Rules R 1304 Administrative Hearings, R 1305 Administrative Subpoenas, and R 1306 Administrative Hearing Appeals.

Basis and Purpose - R 252

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-309(5), C.R.S. The purpose of this rule is to clarify that all licenses, whether for a Retail Marijuana Establishment or individual, are valid for one year.

R 252 - License Must Be Renewed Each Year: All Licensees

- A. <u>All Retail Code Licenses</u>. All Licenses issued pursuant to the Retail Code and these rules are valid for one year.
- B. <u>License May Be Valid for Less Than One Year</u>. A License may be valid for less than one year if revoked, suspended, or otherwise disciplined.

R 300 Series - The Licensed Premises

Basis and Purpose - R 301

The statutory authority for this rule is found at subsection 12-43.4-202(2)(b) and section 12-43.4-105, C.R.S. The purpose of this rule is to establish Limited Access Areas for Licensed Premises under the control of the Licensee to only Persons licensed by the State Licensing Authority.

R 301 - Limited Access Areas

A. <u>Proper Display of License Badge</u>. All persons in a Limited Access Area as provided for in section 12-43.4-105, C.R.S., shall be required to hold and properly display a current license badge issued by the Division at all times. Proper display of the license badge shall consist of wearing the badge in a plainly visible manner, at or above the waist, and with the photo of the Licensee visible. The Licensee shall not alter, obscure, damage, or deface the badge in any manner.

B. <u>Visitors in Limited Access Areas</u>.

- 1. Prior to entering a Limited Access Area, all <u>visitors</u>, <u>including</u> outside vendors, contractors or <u>visitors others</u> must obtain a visitor identification badge from management personnel of the Licensee that shall remain visible while in the Limited Access Area.
- 2. Visitors shall be escorted by Licensee personnel at all times. No more than five visitors may be escorted by a single employee.
- 3. The Licensee shall maintain a log of all visitor activity, for any purpose, within the Limited Access Area and shall make such logs available for inspection by the Division or relevant local jurisdiction .
- 4. All visitors must provide proof of age and must be at least 21 years of age. See Rule R 404 Acceptable Forms of Identification.
- 5. The Licensee shall check the identification for all visitors to verify that the name on the identification matches the name in the visitor log.
- 6. A Licensee may not receive consideration or compensation for permitting a visitor to enter a Limited Access Area.
- C. <u>Required Signage</u>. All areas of ingress and egress to Limited Access Areas on the Licensed Premise shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Do Not Enter Limited Access Area Access Limited to Licensed Personnel and Escorted Visitors."
- D. <u>Diagram for Licensed Premises</u>. All Limited Access Areas shall be clearly identified to the Division or relevant local jurisdiction and described in a diagram of the <u>L</u>licensed <u>pP</u>remises <u>matching the same filed</u> <u>with the State Licensing Authority</u> reflecting walls, partitions, counters and all areas of ingress and egress. The diagram shall also reflect all propagation, cultivation, manufacturing, and retail sales areas. *See* Rule R 901 Business Records Required.

- E. <u>Modification of Limited Access Area.</u> A Licensee's proposed modification of designated Limited Access Areas must be approved by the Division and, if required, the relevant local jurisdiction prior to any modifications being made. *See* Rule R 303 Changing, Altering, or Modifying Licensed Premises.
- F. <u>Law Enforcement Personnel Authorized</u>. Notwithstanding the requirements of subsection A of this rule, nothing shall prohibit investigators and employees of the Division, authorities from relevant local jurisdiction or law enforcement from entering a Limited Access Area upon presentation of official credentials identifying them as such.

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-307(1)(b), C.R.S. The purpose of this rule is to establish and clarify the means by which the Licensee has lawful possession of the Licensed Premises.

R 302 – Possession of Licensed Premises

- A. <u>Evidence of Lawful Possession</u>. Persons licensed pursuant to sections 12-43.4-402, 12-43.4-403, 12-43.4-404, or 12-43.4-405, C.R.S., or those making application for such licenses, must demonstrate proof of lawful possession of the Licensed Premises. Evidence of lawful possession consists of properly executed deeds of trust, leases, or other written documents acceptable to licensing authorities.
- B. Relocation Prohibited. The Licensed Premises shall only be those geographical areas that are specifically and accurately described in executed documents verifying lawful possession. Licensees are not authorized to relocate to other areas or units within a building structure without first filing a change of location application and obtaining approval from the Division and local jurisdiction. Licensees shall not add additional contiguous units or areas, thereby altering the initially-approved premises, without filing an Application and receiving approval to modify the Licensed Premises on current forms prepared by the Division, including any applicable processing fee. See Rule R 303 Changing, Altering, or Modifying Licensed Premises
- C. <u>Subletting Not Authorized</u>. Licensees are not authorized to sublet any portion of Licensed Premises for any purpose, unless all necessary applications to modify the existing Licensed Premises to accomplish any subletting have been approved by the Division and <u>Local</u> <u>Jurisdiction</u>.

Basis and Purpose - R 303

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-309(2), C.R.S. The purpose of this rule is to establish guidelines for changing, altering or modifying the Licensed Premises.

R 303 – Changing, Altering, or Modifying Licensed Premises

A. <u>Application Required to Change, Alter, or Modify Licensed Premises</u>. After obtaining a License, the Licensee shall make no physical change, alteration, or modification of the Licensed Premises that materially or substantially alters the Licensed Premises or the usage of the Licensed Premises from the plans

originally approved, without the Division's prior written approval and, if required, written approval of the relevant local jurisdiction. The Licensee whose premises are to be materially or substantially changed is responsible for filing an application for approval on current forms provided by the Division.

- B. <u>What Constitutes a Material Change</u>. Material or substantial changes, alterations, or modifications requiring approval include, but are not limited to, the following:
 - 1. Any increase or decrease in the total physical size or capacity of the Licensed Premises;
 - 2. The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway or passage alters or changes Limited Access Areas, such as the cultivation, harvesting, manufacturing, or sale of Retail Marijuana or Retail Marijuana Products within the Licensed Premises;
 - 3. Within a Retail Marijuana Store, the permanent addition of a separate sales counter that creates an additional point-of-sale location, and the permanent addition of a display case, all of which would require the installation of additional video surveillance cameras. See Rule R 306 Video Surveillance.
 - 4. The installation or replacement of electric fixtures or equipment for purposes of increasing production, the lowering of a ceiling, or electrical modifications made for the purpose of increasing power usage to enhance cultivation activities; or
 - 4.5. the addition or deletion of a Retail Cultivation Facility Licenses that will be, or have been, combined with other commonly owned cultivation licenses in a common area for the purpose of growing and cultivating Retail Marijuana.
- C. <u>Attachments to Application</u>. The Division and relevant local jurisdiction may grant approval for the types of changes, alterations, or modifications described herein upon the filing of an application by the Licensee and payment of any applicable fee. The Licensee must submit all information requested by the Division, including but not limited to, documents that verify the following:
 - 1. The Licensee will continue to have possession of the premises, as changed, by ownership, lease, or rental agreement; and
 - 2. That the proposed change conforms to any local restrictions related to the time, manner, and place of Retail Marijuana Establishment regulation.
 - 3. If permission to change, alter, or modify the Licensed Premises is denied, the State Licensing Authority shall give notice in writing and shall state grounds upon which the application was denied. See Rule R 1304 Administrative Hearings.
 - 4. The Licensee shall be entitled to a hearing on the denial if a request in writing is made to the State Licensing Authority within 60 days after the date of notice. See Rule R 1304 – Administrative Hearings.

The statutory authority for this rule is found at subsections 12-43.4-104(1)(a)(V), -12-43.4-202(2)(b), 12-43.4-401(2), and 12-43.4-404(2), C.R.S. The purpose of this rule is to establish guidelines for the manner in which a medical marijuana Licensee may share its existing Licensed Premises with a Licensed Retail Marijuana Establishment, and to ensure the proper separation of a medical marijuana operation from Retail Marijuana Establishment operation.

R 304 – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation

A. Licensed Premises – General Requirements

- 1. A Medical Marijuana Business licensed pursuant to the Medical Code may, in compliance with these rules, share its existing Licensed Premises with a licensed Retail Marijuana Establishment, if the relevant local jurisdiction permits a dual operation at the same location.
- 2. An Optional Premises Cultivation Operation and a Retail Marijuana Cultivation Facility may share their Licensed Premises in order to operate a dual cultivation business operation, if the relevant local jurisdiction permits a dual operation at the same location.
- 3. A Medical Marijuana-Infused Products Manufacturing Business Licensee may also apply to also hold a Retail Marijuana Product Manufacturing Facility License and operate a dual manufacturing business on the same Licensed Premises, if the relevant local jurisdiction permits a dual operation at the same location.
- 4. A Medical Marijuana Center that does not authorize patients under the age of 21 years to be on the premises, may also hold a Retail Marijuana Store license and operate a dual retail business operation on the same licensed premises, if the relevant local jurisdiction permits a dual operation at the same location.
- 5. A Medical Marijuana Center that authorizes medical marijuana patients under the age of 21 years to be on the premises is prohibited from sharing its Licensed Premises with a Retail Marijuana Establishment. The two shall not be co-located in this instance and shall maintain distinctly separate Licensed Premises; including, but not limited to, separate retail and storage areas, separate entrances and exits, separate inventories, separate point-of-sale operations, and separate record-keeping.

B. Separation of Co-located Licensed Operations

 <u>Cultivation Operations</u>. Persons operating Optional Premises Cultivation Facility and a Retail Marijuana Cultivation Facility shall maintain either physical or virtual separation of the facilities, marijuana plants, and marijuana inventory. Record keeping for the business operations and Labeling of products must allow the Division and relevant local jurisdictions to clearly distinguish the inventories and business transactions of Medical Marijuana Business from the Retail Marijuana Establishment.

- 2. Manufacturing Operations. Persons operating Medical Marijuana-Infused Products Manufacturing Business and Retail Marijuana Products Manufacturing Facility shall maintain either physical or virtual separation of the facilities, product ingredients, product manufacturing, and final product inventory. Record keeping for the business operations and Labeling of products must allow the Division and Local Jurisdictions/Local Licensing Authorities to clearly distinguish the inventories and business transactions of Medical Marijuana-Infused Products from Retail Marijuana Products.
- 3. Retail Store and Medical Center Operations: No Patients Under The Age of 21 Years. Persons operating a Medical Marijuana Center that specifically prohibits the admittance of patients under the age of 21 years and a Retail Marijuana Store may share their Licensed Premises. Such a Medical Marijuana Center Licensee must post signage that clearly conveys that Persons under the age of 21 years may not enter. Under these circumstances and upon approval of the State Licensing Authority, the Medical Marijuana Center and the Retail Marijuana Store may share the same entrances and exits. Also under these circumstances, Medical Marijuana and Retail Marijuana Products must be separately displayed on the same sale floor. Record keeping for the business operations of both must allow the Division and relevant local jurisdictions to clearly distinguish the inventories and business transactions of Medical Marijuana and Medical Marijuana-Infused Products from Retail Marijuana and Retail Marijuana Products. Violation of the restrictions in this rule by co-located Medical Marijuana Centers and Retail Marijuana Stores shall be considered a license violation affecting public safety.
- 4. Retail Stores and Medical Marijuana Centers: Patients Under The Age of 21 Years. A co-located Medical Marijuana Center and Retail Marijuana Store shall maintain separate Licensed Premises, including entrances and exits, inventory, point of sale operations, and record keeping if the Medical Marijuana Center serves patients under the age of 21 years or permits admission of patients under the age of 21 years on its Licensed Premises.
- 5. <u>Clear Separation of Inventory</u>. A Person who operates both a Medical Marijuana Business and Retail Marijuana Establishment within one location is required to maintain separate and distinct inventory tracking processes for Medical <u>mMarijuana</u> and Retail Marijuana inventories. The inventories must be clearly tagged or <u>L</u>labeled so that the products can be reconciled to a particular Medical Marijuana Center or designated for retail sale <u>under the Retail Code and related rules</u>.

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(V), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(IV). The purpose of this rule is to ensure adequate control of the Licensed Premises and Retail Marijuana and Retail Marijuana Products contained therein. This rule also establishes the minimum guidelines for security requirements for alarm systems, and commercial locking mechanisms for maintaining adequate security.

R 305 – Security Alarm Systems and Lock Standards

A. Security Alarm Systems – Minimum Requirements

- Each Licensed Premises shall have a Security Alarm System, installed by an Alarm Installation Company, on all perimeter entry points and perimeter windows. The Security Alarm Systems and lock standards contained in this rule shall apply to all <u>licensed</u>-Retail Marijuana Establishments where Retail Marijuana is possessed, stored, grown, harvested, cultivated, cured, manufactured, packaged, sold, or where laboratory analysis is performed.
- 2. Each Licensee must ensure that all of its Licensed Premises are continuously monitored. Licensees may engage the services of a Monitoring Company to fulfill this requirement
- See also Rule R 301 Limited Access Area.
- 4. The Licensees shall maintain up-to-date and current records and existing contracts on the Licensed Premises that describe the location and operation of each Security Alarm System, a schematic of security zones, the name of the Alarm Installation Company, and the name of any Monitoring Company. See Rule R 901 Business Records Required.
- 5. Upon request, Licensees shall make available to agents of the Division or relevant local jurisdiction or state or local law enforcement agency all information related to Security Alarm Systems, Monitoring, and alarm activity.
- 6. Any outdoor Retail Marijuana Cultivation Facility, or greenhouse cultivation, is a Limited Access Area and must meet all of the requirements for Security Alarm Systems described in this rule. Outdoor or greenhouse Retail Marijuana Cultivation Facility must provide sufficient security measures to demonstrate that outdoor areas are not readily accessible by unauthorized individual. This shall include, at a minimum, perimeter fencing designed to prevent the general public from entering the Limited Access Areas. It shall be the responsibility of the licensee to maintain physical security in a manner similar to a Retail Marijuana Cultivation Facility located in an indoor Licensed Premises so it can be fully secured and alarmed.

B. <u>Lock Standards – Minimum Requirement</u>

- 1. At all points of ingress and egress, the Licensee shall ensure the use of a commercial-grade, non-residential door lock.
- 2. Any outdoor retail cultivation facility premises, or greenhouse cultivation, must meet all of the requirements for the lock standards described in this rule.

Basis and Purpose - R 306

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b),12-43.4-202(2)(d), and 12-43.4-202(3)(a)(V), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure adequate control of the Licensed Premises and Retail Marijuana and Retail Marijuana Products contained therein. This rule also establishes the minimum guidelines for security requirements for video surveillance systems for maintaining adequate security.

R 306 - Video Surveillance

A. Minimum Requirements-

- The video surveillance requirements contained in this rule shall apply to all licensed—Retail Marijuana Establishments where Retail Marijuana or Retail Marijuana Products are possessed, stored, grown, harvested, cultivated, cured, manufactured, packaged, sold, or where laboratory analysis is performed.
- 2. Prior to the issuance of any state license, Applicants must install fully operational video surveillance and camera recording system. The recording system must record in digital format and meet the requirements outlined in this section.
- 3. All video surveillance records and recordings must be stored in a secure area that is only accessible to Licensee's management staff.
- 4. Video surveillance records and recordings must be made available upon request to the Division, the relevant local jurisdiction, or any other state or local law enforcement agency for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose.
- 5. Video surveillance records and recordings of point-of-sale areas shall be held in confidence by all employees and representatives of the Division, except that the Division may provide such records and recordings to the relevant local jurisdiction, or any other state or local law enforcement agency for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose.

B. Video Surveillance Equipment

- 1. Video surveillance equipment shall, at a minimum, consist of digital or network video recorders, cameras capable of meeting the recording requirements described in this rule, video monitors, digital archiving devices, and a color printer capable of delivering still photos.
- 2. All video surveillance must be equipped with a failure notification system that provides prompt notification to the Licensee of any prolonged surveillance interruption and/or the complete failure of the surveillance system.
- 3. Licensees are responsible for ensuring that all surveillance equipment is properly functioning and maintained, so that the playback quality is suitable for viewing and the surveillance equipment is capturing the identity of all individuals and activities in the monitored areas.
- 4. All video surveillance equipment shall have sufficient battery backup to support a minimum of four hours of recording in the event of a power outage. Licensee must notify the Division of any loss of video surveillance capabilities that extend beyond four hours.

C. Placement of Cameras and Required Camera Coverage

- Camera coverage is required for all Limited Access Areas, point-of-sale areas, security rooms, all
 points of ingress and egress to Limited Access Areas, and all points of ingress and egress to the
 exterior of the Licensed Premises.
- 2. Camera placement shall be capable of identifying activity occurring within 20 feet of all points of ingress and egress and shall allow for the clear and certain identification of any individual and activities on the Licensed Premises.

- 3. At each point-of-sale location, camera coverage must enable recording of the customer(s) and employee(s) facial features with sufficient clarity to determine identity.
- 4. All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points.
- 5. The system shall be capable of recording all pre-determined surveillance areas in any lighting conditions. If the Licensed Premises have a Retail Marijuana cultivation area, a rotating schedule of lighted conditions and zero-illumination can occur as long as ingress and egress points to flowering areas remain constantly illuminated for recording purposes.
- Areas where Retail Marijuana is grown, cured, manufactured or stored shall have camera
 placement in the room facing the primary entry door at a height which will provide a clear
 unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other
 equipment.
- 7. Cameras shall also be placed at each location where weighing, packaging, transportation preparation, processing or tagging activities occur.
- 8. At least one camera must be dedicated to record the access points to the secured surveillance recording area.
- 9. All outdoor cultivation areas must meet the same video surveillance requirements for any other indoor Limited Access Areas.

D. Location and Maintenance of Surveillance Equipment

- 1. The surveillance room or surveillance area is a Limited Access Area.
- 2. Surveillance recording equipment must be housed in a designated, locked and secured room or other enclosure with access limited to authorized employees, agents of the Division and relevant Local Jurisdiction, state or local law enforcement agencies, and service Personnel or contractors.
- 3. Licensees must keep a current list of all authorized employees and service Personnel who have access to the surveillance system and/or room on the Licensed Premises. Licensees must keep a surveillance equipment maintenance activity log on the Licensed Premises to record all service activity including the identity of the individual(s) performing the service, the service date and time and the reason for service to the surveillance system.
- 4. Off-site Monitoring and video recording storage of the Licensed Premises by the Licensee or an independent third-party is authorized as long as standards exercised at the remote location meets or exceeds all standards for on-site Monitoring.
- 5. Each Retail Marijuana Licensed Premises located in a common or shared building must have a separate surveillance room/area that is dedicated to that specific Licensed Premises. Commonly-owned Retail Marijuana Establishments located in the same local jurisdiction may have one central surveillance room located at one of the commonly owned Licensed Premises which simultaneously serves all of the commonly-owned retail facilities. The facility that does not house the central surveillance room is required to have a review station, printer, and map of camera placement on

- the premises. All minimum requirements for equipment and security standards as set forth in the section apply to the review station.
- 6. Licensed Premises that combine both a Medical Marijuana Business and a Retail Marijuana Establishment may have one central surveillance room located at the shared Licensed Premises. See Rule R 304 Medical Marijuana Business and Retail Marijuana Establishment: Shared Licensed Premises and Operational Separation.

E. Video Recording and Retention Requirements

- All camera views of all Limited Access Areas must be continuously recorded 24 hours a day. The
 use of motion detection is authorized when a Licensee can demonstrate that monitored activities
 are adequately recorded.
- 2. All surveillance recordings must be kept for a minimum of 40 days and be in a format that can easily be accessed for viewing by state and local licensing authorities and law enforcement. Video recordings must be archived in a format that ensures authentication of the recording as legitimately-captured video and guarantees that no alteration of the recorded image has taken place.
- 3. The Licensee's surveillance system or equipment must have the capabilities to produce, upon request, a color still photograph from any camera image, live or recorded, of the Licensed Premises.
- 4. The date and time must be embedded on all surveillance recordings without significantly obscuring the picture.
- 5. Time is to be measured in accordance with the official United States time established by the National Institute of Standards and Technology and the U.S. Naval Observatory at: http://www.time.gov/timezone.cgi?Mountain/d/-7/java
- 6. Only after the 40 day surveillance video retention schedule has lapsed, surveillance video recordings must be erased or destroyed prior to disposal, sale or transfer of the facility or business to another Licensee or manufacturer, or if discarded for any other purpose. Surveillance video recordings may not be destroyed if the Licensee knows or should have known of a pending criminal, civil or administrative investigation or any other proceeding for which the recording may contain relevant information.
- 7. Surveillance recordings and color still photos must be made available to the state or relevant local jurisdiction, or any local law enforcement agency acting on behalf of the relevant local jurisdiction, upon request and without unreasonable delay.

F. Other Records

 All records applicable to the surveillance system shall be maintained on the Licensed Premises. At minimum, Licensees shall maintain a map of the camera locations, direction of coverage, camera numbers, surveillance equipment maintenance activity log, user authorization list and operating instructions for the surveillance equipment. 2. A chronological point-of-sale transaction log must be made available to be used in conjunction with recorded video of those transactions.

Basis and Purpose – R 307

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(XI), C.R.S. The purpose of this rule is to establish sanitary requirements for Retail Marijuana Establishments. The State Licensing Authority modeled this rule after the rules adopted in the Colorado Department of Revenue's Medical Marijuana Rules.

R 307 – Waste Disposal

- A. <u>All Applicable Laws Apply</u>. Retail Marijuana and Retail Marijuana Product waste must be stored, secured, locked, and managed in accordance with all applicable federal, state and local statutes, regulations, ordinances or other requirements.
- B. <u>Liquid Waste</u>. Liquid waste from Retail Marijuana Establishments shall be disposed of in compliance with the applicable Water Quality Control Division statutes and regulations.
- C. <u>Waste Must Be Made Unusable and Unrecognizable</u>. Retail Marijuana and Retail Marijuana Product waste must be made unusable and Unrecognizable as marijuana prior to leaving the Licensed Premises.
- D. <u>Methods to Make Waste Unusable and Unrecognizable</u>. Retail Marijuana and Retail Marijuana Product waste shall be rendered unusable and Unrecognizable as marijuana through one of the following methods:
 - 1. Grinding and incorporating the marijuana waste with non-consumable, solid wastes listed below such that the resulting mixture is at least 50 percent non-marijuana waste:
 - a. Paper waste;
 - b. Plastic waste:
 - c. Cardboard waste:
 - d. Food waste:
 - e. Grease or other compostable oil waste;
 - f. Bokashi, or other compost activators;
 - g. Other wastes approved by the Division that will render the Retail Marijuana waste unusable and Unrecognizable as marijuana; and
 - h. Soil.

- 2. Incorporating the Retail Marijuana waste with non-consumable, recyclable solid wastes listed below:
 - a. Grease or other compostable oil waste;
 - b. Bokashi, or other compost activators; and
 - c. Other wastes approved by the State Licensing Authority that will make the Retail Marijuana waste unusable and Unrecognizable as marijuana.
- E. <u>After Waste is Made Unusable and Unrecognizable</u>. Licensees shall not dispose of Retail Marijuana waste in an unsecured waste receptacle not in possession and control of the Licensee. After the Retail Marijuana waste is made unusable and Unrecognizable as marijuana, then the rendered waste shall be:
 - 1. Disposed of at a solid waste site and disposal facility that has a Certificate of Designation from the local governing body;
 - 2. Deposited at a compost facility that has a Certificate of Designation from the Department of Public Health and Environment; or
 - Composted on-site at a facility owned by the generator of the waste and operated in compliance with the Regulations Pertaining to Solid Waste Sites and Facilities (6 CCR 1007-2, Part 1) in the Department of Public Health and Environment.

F. Inventory Tracking Requirements

- In addition to all other tracking requirements set forth in these rules, Licensees shall utilize MITS
 tracking methods to ensure its waste materials are identified, weighed and tracked while on the
 Licensed Premises until it is disposed of.
- 2. All Retail Marijuana waste must be weighed before leaving any Retail Marijuana Establishment. See Rule R. 309(G)(2) Retail Marijuana Establishments: Marijuana Inventory Tracking Solution (MITS).
- Licensee is required to maintain accurate and comprehensive records regarding its waste material that accounts for, reconciles, and evidences all waste activity related to the disposal of Marijuana. See Rule R₋ 901(C) – Business Records Required.

Basis and Purpose – R 308

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-301(2) C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(f). The purpose of this rule is to establish hours of operation requirements for Retail Marijuana Establishments. The State Licensing Authority modeled this rule after the rules adopted in the Colorado Department of Revenue's Medical Marijuana Rules.

R 308 – Selling, Serving, Distributing and Transporting Retail Marijuana and Retail Marijuana Products - Hours of Operation

- A. <u>Hours of Operation</u>. Retail Marijuana Establishments shall not sell, serve, distribute, or transport Retail Marijuana or Retail Marijuana products at any time other than between the hours of 8:00 am and 12:00 am, Mountain Standard Time, Monday through Sunday.
- B. <u>Local Jurisdictions May Further Restrict Hours</u>. Nothing in this rule shall prohibit a Local Jurisdiction from further restricting hours of operation.

The statutory authority for this rule is found at subsections 12-43.4-201(1), 12-43.4-202(2)(b), 12-43.4-402(1)(e), 12-43.4-402(4), and 12-43.4-404(1)(b) The purpose of this rule is to establish a seed-to-sale tracking system, Marijuana Inventory Tracking Solutions, MITS, which will allow the Division, through the use of radio frequency identification, RFID, to track all Retail Marijuana and Retail Marijuana Product inventory from either seed or immature plant stage until the Retail Marijuana or Retail Marijuana Product is sold to the customer or disposed of. The intent of the MITS is to eliminate diversion and to ensure that all marijuana grown, processed, sold and disposed of in the regulated Retail Marijuana market is transparently accounted for by Licensees and monitored by the Division.

R 309 – Retail Marijuana Establishments: Marijuana Inventory Tracking Solution (MITS)

- A. Inventory Tracking System. The Division has developed a seed-to-sale tracking system, MITS, which will allow the Division, through the use of RFID, to track all Retail Marijuana and Retail Marijuana Products inventory from either seed or immature plant stage until the Retail Marijuana or Retail Marijuana Product is sold to the customer or disposed of. The intent of the MITS is to ensure that all marijuana grown, processed, and sold in the regulated Retail Marijuana market is transparently accounted for by Licensees and monitored by the Division.
- B. <u>MITS Required</u>. A Retail Marijuana Establishment <u>Licensee</u> is required to use MITS as the primary inventory tracking system of record. A Retail Marijuana Establishment must have a MITS account activated and functional prior to operating or exercising any privileges of a license. Medical Marijuana Businesses converting to or adding a Retail Marijuana Establishment must follow the inventory transfer guidelines detailed in Rule R 309-(<u>FE</u>) below.

C. MITS Access -- MITS Administrator

- 1. <u>.</u>MITS Administrator Required. A Retail Marijuana Establishment must have at least one individual Owner who is a MITS Administrator. A Retail Marijuana Establishment may also designate additional Owners and occupationally licensed employees to obtain MITS Administrator accounts.
- Training for MITS Administrator Account. In order to obtain a MITS Administrator account, a person
 must attend and successfully complete all required MITS training. The Division may also require
 additional ongoing, continuing education for an individual to retain his or her MITS Administrator
 account.
- D. <u>MITS Access MITS User Accounts</u>. A Retail Marijuana Establishment may designate licensed Owners and employees who hold a valid occupational license as a MITS User. A Retail Marijuana Establishment shall ensure that all Owners and Occupational Licensees who are granted MITS User account access for the purposes of conducting inventory tracking functions in the system are trained by MITS Administrators in the proper and lawful use of MITS.

- E. <u>Medical Marijuana Business License Conversions- Declaring Inventory Prior to Exercising Licensed</u>
 Privileges as a Retail Marijuana Establishment
 - Medical Marijuana Inventory Transfer to Retail Marijuana Establishments. Each Medical Marijuana
 Business Licensee that is either converting to or adding a Retail Marijuana Establishment license
 must create a Retail Marijuana MITS account for each license it is converting or adding. A Medical
 Marijuana Business Licensee must transfer all relevant Medical Marijuana inventory into the Retail
 Marijuana Establishment's MITS accounts and affirmatively declare those items as Retail
 Marijuana and Retail Marijuana Products.
 - 2. <u>No Further Transfer Allowed</u>. Once a Licensee has declared any portion of its Medical Marijuana inventory as Retail Marijuana, no further transfers of inventory from Medical Marijuana to Retail Marijuana shall be allowed.

F. RFID Tags Required

- Authorized Tags Required and Costs. Licensees are required to use RFID tags issued by a
 Division-approved vendor that is authorized to provision RFID tags for MITS. Each licensee is
 responsible for the cost of all RFID tags and any associated vendor fees.
- Use of RFID Tags Required. Licensees are responsible to ensure its inventories are properly tagged where MITS requires RFID tag use. A Retail Marijuana Establishment Licensee must ensure it has an adequate supply of RFID tags to properly tag Retail Marijuana and Retail Marijuana Products.

G. General MITS Use

1. <u>Reconciliation with Inventory.</u> All inventory tracking activities at a Retail Marijuana Establishment must be tracked through use of MITS. A Licensee must reconcile all on-premises and in-transit Retail Marijuana and Retail Marijuana Product inventories each day in MITS at the close of business.

2. Common Weights and Measures.

- a. A Retail Marijuana Establishment must utilize a standard of measurement that is supported by MITS to track all Retail Marijuana and Retail Marijuana Products.
- b. A scale used to weigh products prior to entry into the MITS system shall be certified in accordance with measurement standards established in Article 14 of Title 35, C.R.S.

3. MITS Administrator and User Accounts – Security and Record

a. A Retail Marijuana Establishment shall maintain an accurate and complete list of all MITS <u>Administrators and</u> Users for each Licensed Premises. A Retail Marijuana Establishment shall update this list when a new MITS User is trained. A Retail Marijuana Establishment Licensee must train and authorize any new MITS Users before those Owners or employees may access MITS or input, modify, or delete any information in MITS.

- b. A Retail Marijuana Establishment Licensee—must prohibit any MITS Administrators and MITS Users from associated MITS accounts once any such individual no longer employed by the Licensee or at the Licensed Premises.
- c. A Retail Marijuana Establishment Licensee-is accountable for all actions employees take while logged into MITS or otherwise conducting Retail Marijuana or Retail Marijuana Products inventory tracking activities.

4. Secondary Software Systems Allowed

- a. Nothing in this rule prohibits a Retail Marijuana Establishment Licensee from using separate software applications to collect information to be used by the business as a secondary inventory tracking or point of sale systems.
- A Licensee must ensure that all relevant MITS data is accurately transferred to and from MITS for the purposes of reconciliations with any secondary applications.
- c. A Retail Marijuana establishment must preserve original MITS data when transferred to and from a secondary application(s). Secondary software applications must use MITS data as the primary source of data and must be compatible with updating to MITS.

H. Conduct While Using MITS

- Misstatements or Omissions Prohibited. A Retail Marijuana Establishment Licensee—and its designated MITS Administrator(s) and MITS User(s) shall enter data into MITS that fully and transparently accounts for all inventory tracking activities. A Retail Marijuana Establishment Licensee—is responsible for the accuracy of all information enter into MITS. Any misstatements or omissions may be considered a violation affecting public safety.
- 2. <u>Use of Another User's Login Prohibited.</u> Individuals entering data into the MITS system shall only use that individual's MITS account.
- 3. Loss of System Access. If at any point a Retail Marijuana Establishment Licensee-loses access to MITS for any reason, the Retail Marijuana Establishment Licensee must keep and maintain comprehensive records detailing all Retail Marijuana and Retail Marijuana Products tracking inventory activities that were conducted during the loss of access. See Rule R 901 Business Records Required. Once access is restored, all Retail Marijuana and Retail Marijuana Products inventory tracking activities that occurred during the loss of access must be entered into MITS. A Retail Marijuana Establishment Licensee-must document when access to the system was lost and when it was restored. A Retail Marijuana Establishment Licensee-shall not transport any Retail Marijuana or Retail Marijuana Products to another Retail Marijuana Establishment until such time as access is restored and all information is recorded into MITS.

I. System Notifications

 Compliance Notifications. A Retail Marijuana Establishment Licensee must monitor all compliance notifications from MITS. The Licensee must resolve the issues detailed in the compliance notification. Compliance notifications shall not be dismissed in MITS until the Retail Marijuana Establishment Licensee resolves the compliance issues detailed in the notification.

- 2. <u>Informational Notifications</u>. A Retail Marijuana Establishment must take appropriate action in response to informational notifications received through MITS, including but not limited to notifications related to RFID billing, enforcement alerts, and other pertinent information.
- J. <u>Lawful Activity Required</u>. Proper use of MITS does not relieve a Licensee of its responsibility to maintain compliance with all laws, rules, and other requirements at all times.

R 400 Series – Retail Marijuana Store

Basis and Purpose - R 401

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-402(1)(a), 12-43.4-402(1)(d), 12-43.4-402(3)(a), 12-43.4-402(3)(b), 12-43.4-402(4), 12-43.4-402(5), 12-43.4-309(7)(a), and 12-43.4-901(4)(f), C.R.S. The purpose of this rule is to establish that it is unlawful for a Retail Marijuana Store to exercise any privileges other than those granted by the State Licensing Authority, and to clarify the license privileges.

R 401 – Retail Marijuana Store: License Privileges

- A. <u>Privileges Granted</u>. A Retail Marijuana Store <u>Licensee</u>-shall only exercise those privileges granted to it by the State Licensing Authority.
- B. <u>Licensed Premises</u>. To the extent authorized by Rule R 304 Medical Marijuana Business and Retail Marijuana Establishment Shared Licensed Premises and Operational Separation, a Retail Marijuana Cultivation Facility may share a location with a commonly-owned Optional Premises Cultivation Operation. However, a separate license is required for each specific business or business entity, regardless of geographical location.
- C. <u>Authorized Sources of Retail Marijuana Inventory</u>. A Retail Marijuana Store <u>Licensee</u> may only sell Retail Marijuana that it has purchased from any Retail Marijuana Products Cultivation <u>Licensee</u> or that the retailer has cultivated itself, after first obtaining a Retail Marijuana Cultivation Facility License. *See* Rule R 501 Retail Marijuana Cultivation Facility: License Privileges.
- D. <u>Authorized Sources of Retail Marijuana Products Inventory</u>. A Retail Marijuana Store <u>Licensee</u> may only sell Retail Marijuana Products that it has purchased from a Person holding a Retail Marijuana Products manufacturing license, so long as such products are pre-packaged and Labeled upon purchase from the manufacturer.
- E. <u>Samples Provided for Testing</u>. A Retail Marijuana Store Licensee may provide samples of its products for testing and research purposes to a Person holding a Retail Marijuana Testing Facility license for testing purposes. The Retail Marijuana Store shall maintain the testing results as part of its business books and records.
- F. <u>Authorized On-Premises Storage.</u> A Retail Marijuana Store is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premises must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.

Basis and Purpose - R 402

The statutory authority for this rule is found at subsections 12-43.4-105, 12-43.4-202(2)(b), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(X), 12-43.4-402(1)(c)(I), 12-43.4-402(1)(c)(I), 12-43.4-402(1)(c)(I), 12-43.4-402(1)(c)(I), 12-43.4-402(1)(c), 12-43.4-402

16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a licensed Retail Marijuana Store. This rule also clarifies the scope of the penalty when a Licensee knew or should have known that he has sold marijuana or marijuana product over the amount allowed under the law or these rules to one customer.

R 402 – Retail Marijuana Sales: General Limitations or Prohibited Acts

- A. <u>Temporary Wholesale Sales and Purchase Limitation</u>. From January 1, 2014 to September 30, 2014, a Retail Marijuana Store <u>Licensee</u>-shall only sell Retail Marijuana that was grown in its commonly-owned Retail Marijuana Cultivation Facility and subsequently purchased or transferred from the cultivation, with the following exceptions:
 - 1. <u>Purchase Restriction</u>. A Retail Marijuana Store <u>Licensee</u> may purchase not more than 30% of its total on-hand Retail Marijuana inventory, in aggregate, from other Retail Marijuana Establishments with which it does not share common ownership. Licensees shall calculate the percentage limitation using the total weight of its on-hand inventory at the end of the month preceding the purchase.
 - 2. <u>Sales Restriction</u>. A Retail Marijuana Store Licensee may sell not more than 30% of its total onhand Retail Marijuana inventory, in aggregate, to other Retail Marijuana Establishments with which it does not share common ownership. Licensees shall calculate the percentage limitation using the total weight of its on-hand inventory at the end of the month preceding the sale.
 - 3. On the occasion where a Licensee experiences a catastrophic event, the Licensee may petition the Director for a waiver to exceed the limits mandated in this section.
- B. <u>Sales to Persons Under 21 Years</u>. A Retail Marijuana Store <u>Licensee</u> or its employees are prohibited from selling, giving, or distributing Retail Marijuana or Retail Marijuana Products to persons under 21 years of age
- C. <u>Age Verification</u>. Prior to initiating the sale of Retail Marijuana or Retail Marijuana Products, a Licensee must verify that the purchaser has a valid government-issued proof of picture identification showing that the purchaser is 21 years of age or older.
- D. <u>Quantity Limitations On Sales</u>. A Retail Marijuana Store <u>Licensee</u> and its employees are prohibited from selling more than one ounce of marijuana or its equivalent in Retail Marijuana Products during a single sales transaction to a Colorado resident. A Retail Marijuana Store <u>Licensee</u> and its employees are prohibited from selling more than a quarter ounce of Retail Marijuana or its equivalent in Retail Marijuana Products during a single sales transaction to a <u>Person person</u> who does not have a valid government issued picture identification card showing that the Person is a resident of the state of Colorado.
- E. <u>Licensees May Refuse Sales</u>. Nothing in these rules prohibits a Retail Marijuana Store <u>Licensee</u> from refusing to sell Retail Marijuana or Retail Marijuana Products to a customer.
- F. <u>Sales over the Internet</u>. A Retail Marijuana Store <u>Licensee</u> is prohibited from selling Retail Marijuana or Retail Marijuana Products over the internet. All sales and transfers of possession of Retail Marijuana and Retail Marijuana Products must occur within the Retail Marijuana Store's Licensed Premises.

- G. <u>Purchases Only Within Restricted Access Area</u>. A customer must be physically present within the Restricted Access Area of the Retail Marijuana Store's Licensed Premises to purchase Retail Marijuana or Retail Marijuana Products.
- H. Evidence of Excise Tax Paid. If an excise tax on Retail Marijuana is approved by voters in the 2013 general election a Retail Marijuana Store Licensee is prohibited from accepting Retail Marijuana from licensed Retail Marijuana Cultivation Facility or Retail Marijuana Manufacturing Facility unless the Retail Marijuana Store Licensee has received evidence that any applicable excise tax due pursuant to Article 28.8 of Title 39, C.R.S. was paid.
- I. <u>Prohibited Items</u>. A Retail Marijuana Store <u>Licensee</u> is prohibited from selling or giving away any consumable product that is not a Retail Marijuana Product including, but not limited to, cigarettes or tobacco products, alcohol beverages, and food products or non-alcohol beverages that are not Retail Marijuana Products.
- J. <u>Free Product Prohibited</u>. A Retail Marijuana Store Licensee may not give away Retail Marijuana or Retail Marijuana Product to a consumer for any reason.
- K. <u>Nicotine or Alcohol Prohibited</u>. A Retail Marijuana Store <u>Licensee</u> is prohibited from selling Retail Marijuana or Retail Marijuana Products that contain nicotine or alcohol, if the sale of the alcohol would require a license pursuant to Article 46 or 47 of Title 12, C.R.S.
- L. <u>Consumption Prohibited</u>. A Retail Marijuana Store Licensee and its employees shall not permit the consumption of Retail Marijuana or Retail Marijuana Products on the Licensed Premises.
- M. <u>Storage and Display Limitations</u>. A Retail Marijuana Store <u>Licensee</u>-shall not display Retail Marijuana and Retail Marijuana Products outside of a designated Restricted Access Area. Storage of Retail Marijuana and Retail Marijuana Products shall otherwise be maintained in Limited Access Areas.

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(VI), and 12-43.4-202(3)(a)(IX), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and 16(5)(a)(VIII). The purpose of this rule is to establish that a licensed Retail Marijuana Store must control and safeguard access to certain areas where marijuana and marijuana products will be sold to the general public and prevent the diversion of marijuana and marijuana products to people under 21 years of age.

R 403 - Point of Sale: Restricted Access Area

- A. <u>Identification of Restricted Access Area.</u> All areas where Retail Marijuana or Retail Marijuana Products are sold, possessed for sale, displayed or dispensed for sale shall be identified as a Restricted Access Area and shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Restricted Access Area No One Under 21 Years of Age Allowed."
- B. <u>Customers in Restricted Access Area</u>. The Restricted Access Area must be supervised by an Owner or licensed employee at all times when customers are present to ensure that only persons who are 21 years of

age or older are permitted to enter. When allowing a customer access to a Restricted Access Area, Owners and licensed employees shall make reasonable efforts to limit the number of customers compared to the number of Owners or employees in the Restricted Access Area.

C. <u>Display of Retail Marijuana</u>. The display of Retail Marijuana and Retail Marijuana Products for sale is allowed only in Restricted Access Areas. Any product displays that are readily accessible to the customer must be supervised by the Licensee or licensed employees at all times when customers are present.

Basis and Purpose - R 404

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(e), 12-43.4-202(3)(b)(VII) and 12-43.4-402(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V). The purpose of this rule is to establish guidelines for the acceptable forms of identification for verifying the lawful sale of Retail mMarijuana or Retail Marijuana Pmarijuana products.

R 404 – Acceptable Forms of Identification for Retail Sales

- A. <u>Valid Identification to Verify Age Only</u>. Licensees shall refuse the sale of Retail Marijuana or Retail Marijuana Products to anyone, unless such Person can produce a form of valid identification of 21 years of age. As long as it contains a picture and date of birth, the kind and type of identification deemed adequate shall be limited to the following identification, so long as such identification is valid and not expired:
 - 1. An operator's, chauffeur's or similar type driver's license, issued by any state within the United States, any U.S. Territory;
 - 2. An identification card, issued by any state for the purpose of proof of age using requirements similar to those in sections 42-2-302 and 42-2-303, C.R.S.;
 - 3. A United States military identification card;
 - 4. A passport; or
 - 5. Enrollment card issued by the governing authority of a federally recognized Indian tribe located in the state of Colorado, if the enrollment card incorporates proof of age requirements similar to sections 42-2-302 and 42-2-303, C.R.S.
 - 6. See paragraph C of this rule for valid identification to verify Colorado residency.
- B. <u>Affirmative Defense and Licensee's Burden</u>. It shall be an affirmative defense to any administrative action brought against a Licensee for alleged sale to a minor if the minor presented fraudulent identification of the type established in paragraph A above and the Licensee possessed an identification book issued within the past three years, which contained a sample of the specific kind of identification presented for compliance purposes. As an affirmative defense, the burden of proof is on the Licensee to establish by a preponderance of the evidence that the minor presented fraudulent identification.
- C. <u>Valid Identification to Verify Colorado Residency</u>. Licensees shall refuse the sale of more than one quarter of an ounce of Retail Marijuana or its equivalent in Retail Marijuana Products to anyone, unless such Person

can produce a form of valid identification of Colorado residency. As long as it contains a picture and date of birth, the kind and type of identification deemed adequate to establish Colorado residency for purchase shall be limited to the following:

- 1. Valid state of Colorado driver's license;
- 2. Valid state of Colorado identification card; or
- 3. Any other valid government-issued picture identification that demonstrates that the holder of the identification is a Colorado resident.
- 4. No combination of identification or documents may be used to establish residency.

Basis and Purpose - R 405

The statutory authority for this rule is found at subsections 12-43.4-202(1), 12-43.4-202(2)(b), and 12-43.4-402(1)(e), C.R.S. The purpose of this rule is to establish the a Retail Marijuana Store's Licensees' obligation to account for and track all inventories on the Licensed Premises from the point they are transferred from a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility to the point of sale. A Licensees must comply with the final implementation of a "seed-to-sale" tracking system to be developed by the State Licensing Authority. The State Licensing Authority anticipates additional rulemaking in the future to establish additional inventory tracking system requirements including, but not limited to, the use of any peripheral components, such as RFID that are developed and maintained by the State Licensing Authority. Reporting requirements may include the entry of purchases of Retail Marijuana and Retail Marijuana Products, inventory levels, and point-of-sale data that is not specific to individual consumers.

R 405 – Retail Marijuana Store: Marijuana Inventory Tracking System

<u>Minimum Tracking Requirement</u>. Retail Marijuana Stores must use MITS to ensure its inventories are identified and tracked from the point they are transferred from a Retail Marijuana Cultivation Facility or Retail Marijuana Product Manufacturer through the point of sale. *See also* Rule R 309 – MITS. Retail Marijuana Establishment: Marijuana Inventory Tracking Solutions. The Retail Marijuana Store must have the ability to reconcile its inventory records with MITS and the associated transaction history and sale receipts. *See also* Rule R 901 – Business Records Required.

- 1. A Retail Marijuana Store is prohibited from accepting any Retail Marijuana or Retail Marijuana Products from a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility without receiving a valid transportation manifest generated from MITS.
- 2. A Retail Marijuana Store must immediately input all Retail Marijuana and Retail Marijuana Products delivered to the Licensed Premises, accounting for all RFID tags, into MITS at the time of delivery from a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility.
- 3. A Retail Marijuana Store must reconcile transactions from their point of sale processes and on-hand inventory to MITS at the close of business each day.

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(X), C.R.S. The purpose of this rule is to establish minimum health and safety regulation for Retail Marijuana Stores. The State Licensing Authority intends this rule to help maintain the integrity of Colorado's Retail Marijuana Establishments.

R 406 - Health and Safety Regulations: Retail Marijuana Store

- A. <u>Local Safety Inspections</u>. Licensees may be subject to inspection of the Retail Marijuana Store by the local fire department, building inspector, or code enforcement officer to confirm that no health or safety concerns are present. The inspection could result in additional specific standards to meet local jurisdiction restrictions related to Retail Marijuana. An annual fire safety inspection may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety.
- B. <u>Sanitary Conditions</u>. The Licensee shall take all reasonable measures and precautions to ensure the following:
 - That any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with Retail Marijuana and Retail Marijuana Products shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected;
 - 2. That all persons working in direct contact with Retail Marijuana or Retail Marijuana Products shall conform to hygienic practices while on duty, including but not limited to:
 - a. Maintaining adequate personal cleanliness;
 - b. Washing hands thoroughly in an adequate hand-washing area(s) before starting work and at any other time when the hands may have become soiled or contaminated;
 - c. Hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the Licensed Premises and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices; and
 - d. Refraining from having direct contact with Retail Marijuana or Retail Marijuana Products if the person has or may have an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected.
 - That litter and waste are properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Retail Marijuana or Retail Marijuana Products are exposed;

- 4. That floors, walls, and ceilings are constructed in such a manner that they may be adequately cleaned and kept clean and kept in good repair;
- 5. That there is adequate lighting in all areas where Retail Marijuana or Retail Marijuana Products are stored or sold, and where equipment or utensils are cleaned;
- 6. That the Licensee provides adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests;
- 7. That any buildings, fixtures, and other facilities are maintained in a sanitary condition;
- 8. That toxic cleaning compounds, sanitizing agents, and pesticide chemicals shall be identified, held, and stored in a manner that protects against contamination of Retail Marijuana or Retail Marijuana Products;
- 9. That each Retail Marijuana Store shall provide its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and
- 10. That Retail Marijuana or Retail Marijuana Products that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.

R 500 Series - Retail Marijuana Cultivation Facilities

Basis and Purpose - R 501

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-403(1), and 12-43.4-403(5), C.R.S. The purpose of this rule is to establish that it is unlawful for a Retail Marijuana Cultivation Facility Licensee to exercise any privileges other than those granted by the State Licensing Authority and to clarify the license privileges.

R 501 - Retail Marijuana Cultivation Facility: License Privileges

- A. <u>Privileges Granted</u>. A Retail Marijuana Cultivation Facility shall only exercise those privileges granted to it by the State Licensing Authority.
- B. <u>Licensed Premises</u>. To the extent authorized by Rule R 304 Medical Marijuana Business and Retail Marijuana Establishment Shared Licensed Premises and Operational Separation, a Retail Marijuana Cultivation Facility may share a location with a commonly-owned Optional Premises Cultivation Operation. However, a separate license is required for each specific business or business entity, regardless of geographical location.
- C. <u>Cultivation of Retail Marijuana Authorized</u>. A Retail Marijuana Cultivation Facility may propagate, cultivate, harvest, prepare, cure, package, store, and label Retail Marijuana, whether in concentrated form or otherwise.
- D. <u>Authorized Sales</u>. A Retail Marijuana Cultivation Facility <u>Licensee</u> may only sell Retail Marijuana to a Retail Marijuana Store <u>Licensee</u>, Retail Marijuana Products Manufacturing Facility <u>Licensees</u>, and other Retail Marijuana Cultivation Facility(<u>-ies</u>) <u>Licensees</u>, subject to the temporary limitations set forth in Rules R 402 Retail Marijuana Sales: General Limitations or Prohibited Acts and R 502 Retail Marijuana Cultivation Facilities: General Limitations or Prohibited Acts.
- E. <u>Authorized On-Premises Storage</u>. A Retail Marijuana Cultivation Facility is authorized to store inventory on the Licensed Premises. All inventory stored on the Licensed Premise must be secured in a Limited Access Area and tracked consistently with the inventory tracking rules.

Basis and Purpose – R 502

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(e), 12-43.4-202(3)(a)(VI), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(X), 12-43.4-403(2)(a), 12-43.4-403(2)(b), 12-43.4-403(2)(c), 12-43.4-403(3), 12-43.4-403(6), and 12-43.3-901(2)(a), and section 12-43.4-404, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(V). The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a licensed Retail Marijuana Cultivation Facility.

R 502 - Retail Marijuana Cultivation Facility: General Limitations or Prohibited Acts

A. Temporary Limitations

- Issuance of Cultivation Licenses. From January 1, 2014 to September 30, 2014, a Retail Marijuana Cultivation Facility license shall only be issued to a Person who has been issued a Retail Marijuana Store license or a Retail Marijuana Products manufacturing Manufacturing Ffacility license.
- 2. <u>Temporary Sales Limitation</u>. From January 1, 2014 to September 30, 2014, any Retail Marijuana that is grown in a licensed Retail Marijuana Cultivation Facility must be sold or transferred to its commonly-owned Retail Marijuana Store or Retail Marijuana Products manufacturing facility, or another of its commonly-owned Retail Marijuana Cultivation Facilities. Except that, a Retail Marijuana Cultivation Facility <u>Licensee</u> may sell not more than 30% of its processed and finished Retail Marijuana inventory to other Retail Marijuana Establishments with which it does not share common ownership. Licensees shall calculate the percentage limitation using the total weight of its on-hand inventory at the end of the month preceding the purchase.
- B. <u>Packaging and Labeling Standards Required</u>. A <u>Person licensed as a Retail Marijuana Cultivation Facility is prohibited from selling Retail Marijuana that is not packaged and Labeled in accordance with these rules. See Rules R 1001 – Packaging Requirements: General Requirements and R 1002 – Labeling Requirements: General Requirements.</u>
- C. <u>Sale to Consumer Prohibited</u>. A Retail Marijuana Cultivation Facility <u>Licensee</u> is prohibited from selling Retail Marijuana to a consumer.
- D. <u>Consumption Prohibited</u>. A Retail Marijuana Cultivation Facility <u>Licensee</u> shall not permit the consumption of Retail Marijuana or Retail Marijuana Products on its Licensed Premises.
- E. Excise Tax Paid. If an excise tax on Retail Marijuana is approved by voters in the 2013 general election, a Retail Marijuana Cultivation Facility shall remit any applicable excise tax due pursuant to Article 28.8 of Title 39, C.R.S. and shall provide verification to purchasers of the Retail Marijuana that any required excise tax was paid.

Basis and Purpose - R 503

The statutory authority for this rule is found at subsections 12-43.4-202(1), 12-43.4-202(2)(b), and 12-43.4-403(4), C.R.S. The purpose of this rule is to establish the a Retail Marijuana Cultivation Facility'sies Licensees' obligation to account for and track all inventories on the Licensed Premises from seed or cutting to transfer or sale to other Retail Marijuana Establishments. Licensees must comply with the final implementation of a "seed-to-sale" tracking system to be developed by the State Licensing Authority.

The State Licensing Authority anticipates additional rulemaking in the future to establish additional inventory tracking system requirements including, but not limited to, the use of any peripheral components, such as RFID that are developed and maintained by the State Licensing Authority. Reporting requirements may include the entry of purchases of Retail Marijuana and Retail Marijuana Products, inventory levels, and point-of-sale data that is not specific to individual consumers.

R 503 – Retail Marijuana Cultivation Facility: Marijuana Inventory Tracking System (MITS)

- A. <u>Minimum Tracking Requirement</u>. A <u>Licensed-Retail Marijuana</u> Cultivation Facility must use MITS to ensure its inventories are identified and tracked from the point Retail Marijuana is propagated from seed or cutting to the point when it is delivered to a Retail Marijuana Establishment. *See also* Rule R 309 <u>Marijuana Inventory Tracking Solution (MITS)</u>. A Retail Marijuana Cultivation Facility must have the ability to reconcile its inventory records with MITS and the associated transaction history and sale receipts. *See also* Rule R 901 Business Records Required.
- B. A Retail Marijuana Cultivation Facility Licensee—is prohibited from accepting any Retail Marijuana from another Retail Marijuana Cultivation Facility without receiving a valid transportation manifest generated from MITS.
- C. A Retail Marijuana Cultivation Facility Licensee-must immediately input all Retail Marijuana delivered to its Licensed Premises, accounting for all RFID tags, into MITS at the time of delivery from another Retail Marijuana Cultivation Facility.
- D. A Retail Marijuana Cultivation Facility Licensee must reconcile its transaction history and on-hand inventory to MITS at the close of business each day.

Basis and Purpose - R 504

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(VIII), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish minimum health and safety regulation for Retail Marijuana Cultivation Facilities

R 504 – Retail Marijuana Cultivation Facility: Health and Safety Regulations

- A. <u>Local Safety Inspections</u>. A Retail Marijuana Cultivation Facility <u>Licensee</u> may be subject to inspection of its Licensed Premises by the local fire department, building inspector, or code enforcement officer to confirm that no health or safety concerns are present. The inspection could result in additional specific standards to meet local jurisdiction restrictions related to Retail Marijuana. An annual fire safety inspection may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety.
- B. <u>General Sanitary Requirements</u>. A Retail Marijuana Cultivation Facility <u>Licensee</u>-shall take all reasonable measures and precautions to ensure the following:
 - That any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with Retail Marijuana shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected;
 - 2. That all persons working in direct contact with Retail Marijuana shall conform to hygienic practices while on duty, including but not limited to:

- a. Maintaining adequate personal cleanliness;
- Washing hands thoroughly in an adequate hand-washing area(s) before starting work and at any other time when the hands may have become soiled or contaminated;
- c. Hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the Licensed Premises and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices; and
- d. Refraining from having direct contact with Retail Marijuana if the person has or may have an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected.
- 3. That litter and waste are properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Retail Marijuana is exposed;
- 4. That floors, walls, and ceilings are constructed in such a manner that they may be adequately cleaned and kept clean and kept in good repair;
- 5. That there is adequate lighting in all areas where Retail Marijuana are stored or sold, and where equipment or utensils are cleaned;
- 6. That the Licensee provides adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests;
- 7. That any buildings, fixtures, and other facilities are maintained in a sanitary condition;
- 8. That toxic cleaning compounds, sanitizing agents, and pesticide chemicals shall be identified, held, and stored in a manner that protects against contamination of Retail Marijuana;
- That each Retail Marijuana Cultivation Facility Licensee shall provide its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and
- 10. That Retail Marijuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
- C. Sanitary Requirements for Concentrate Production. If a Retail Marijuana Cultivation Facility Licensee produces Retail Marijuana concentrates, all areas in which those concentrates are produced shall be subject to all of sanitary requirements for a Retail Marijuana Manufacturing Facility. See Rule R 605 Sanitary Requirements.
- D. Prohibited Chemicals. The following chemicals shall not be used in Medical Marijuana cultivation. Possession of chemicals and/or containers from these chemicals upon the Licensed Premises shall be a violation of this rule. Prohibited chemicals are:

Chemical Name CAS Registry Number (or EDF Substance ID) <u>ALDRIN</u> 309-00-2 **ARSENIC OXIDE (3)** <u>1327-53-3</u> **ASBESTOS (FRIABLE)** 1332-21-4 **AZODRIN** 6923-22-4 1,4-BENZOQUINONE, 2,3,5,6-TETRACHLORO-<u>118-75-2</u> **BINAPACRYL** 485-31-4 2,3,4,5-BIS (2-BUTENYLENE) TETRAHYDROFURFURAL <u>126-15-8</u> **BROMOXYNIL BUTYRATE** EDF-186 **CADMIUM COMPOUNDS CAE750** CALCIUM ARSENATE [2ASH3O4.2CA] 7778-44-1 **CAMPHECHLOR** 8001-35-2 **CAPTAFOL** <u>2425-06-1</u>

CARBOFURAN
<u>1563-66-2</u>
<u>CARBON TETRACHLORIDE</u>
<u>56-23-5</u>
CHLORDANE
<u>57-74-9</u>
CHLORDECONE (KEPONE)
<u>143-50-0</u>
CHLORDIMEFORM
<u>6164-98-3</u>
CHLOROBENZILATE
<u>510-15-6</u>
CHLOROMETHOXYPROPYLMERCURIC ACETATE [CPMA] EDF- 183
<u>COPPER ARSENATE</u>
<u>10103-61-4</u>
2,4-D, ISOOCTYL ESTER
<u>25168-26-7</u>
<u>DAMINOZIDE</u>
<u>1596-84-5</u>
<u>DDD</u>
<u>72-54-8</u>
<u>DDT</u>
<u>50-29-3</u>
DI(PHENYLMERCURY)DODECENYLSUCCINATE [PMDS] EDF-
<u>187</u>
1,2-DIBROMO-3-CHLOROPROPANE (DBCP)

<u>96-12-8</u> 1,2-DIBROMOETHANE 106-93-4 1,2-DICHLOROETHANE 107-06-2 **DIELDRIN** <u>60-57-1</u> 4,6-DINITRO-O-CRESOL <u>534-52-1</u> **DINITROBUTYL PHENOL** <u>88-85-7</u> **ENDRIN** 72-20-8 **EPN** 2104-64-5 **ETHYLENE OXIDE** <u>75-21-8</u> **FLUOROACETAMIDE** 640-19-7 **GAMMA-LINDANE** <u>58-89-9</u> **HEPTACHLOR** <u>76-44-8</u> **HEXACHLOROBENZENE** <u>118-74-1</u> 1,2,3,4,5,6-HEXACHLOROCYCLOHEXANE (MIXTURE OF ISOMERS)

1,3-HEXANEDIOL, 2-ETHYL-94-96-2 **LEAD ARSENATE** 7784-40-9 **LEPTOPHOS** 21609-90-5 **MERCURY** 7439-97-6 **METHAMIDOPHOS** 10265-92-6 **METHYL PARATHION** <u>298-00-0</u> **MEVINPHOS** 7786-34-7 **MIREX** 2385-85-5 **NITROFEN** <u>1836-75-5</u> **OCTAMETHYLDIPHOSPHORAMIDE** <u>152-16-9</u> **PARATHION** 56-38-2 **PENTACHLOROPHENOL** 87-86-5 PHENYLMERCURIC OLEATE [PMO]

608-73-1

5	<u>SAFROLE</u>
9	<u>94-59-7</u>
2	SODIUM ARSENATE
1	<u>13464-38-5</u>
<u> </u>	SODIUM ARSENITE
<u> </u>	<u>7784-46-5</u>
2	<u>2,4,5-T</u>
2	<u>93-76-5</u>
]	TERPENE POLYCHLORINATES (STROBANE6)
8	<u>3001-50-1</u>
]	THALLIUM(I) SULFATE
<u> </u>	<u>7446-18-6</u>
2	2,4,5-TP ACID (SILVEX)
9	<u>93-72-1</u>
1	TRIBUTYLTIN COMPOUNDS
<u>E</u>	EDF-184
2	2,4,5-TRICHLOROPHENOL
9	<u>95-95-4</u>
7	VINYL CHLORIDE
-	<u>75-01-4</u>

EDF-185

- F. That all sanitary requirements shall also apply to any person making hashish on the Licensed Premises of an Optional Premises Cultivation Operation.
- G. Production of water based hashish may only be made in an area so designated clearly on the current diagram of the Licensed Premises. See Rule R 901- Business Records Required. All other methods of extraction shall meet these standards and only be produced in a facility licensed to manufacture.



The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-403(5), C.R.S. The purpose of this rule is to establish that Retail Marijuana Cultivation Facilities may provide samples for testing and research purposes. The State Licensing Authority intends to promulgate rules requiring Retail Marijuana Cultivation Facilities to test all Retail Marijuana it cultivates for (1) molds, mildew and filth, (2) microbials, (3) herbicides, pesticides and fungicides, (4) harmful chemicals, and (5) potency. Additionally, Retail Marijuana Cultivation Facilities will be required to test all Retail Marijuana concentrates that it produces for (1) residual solvents, poisons or toxins and (2) potency. Specifically, additional information is required about sampling procedures, acceptable variances, permissible levels of harmful contaminants, and the particular contaminants that testing should examine.

R 505 – Retail Marijuana Cultivation Facilities: Testing Requirements

<u>Samples Provided for Testing</u>. A Retail Marijuana Cultivation Facility may provide Samples of its Retail Marijuana to a Retail Marijuana Testing Facility <u>Licensee</u> for testing and research purposes. The Retail Marijuana Cultivation Facility shall maintain the testing results as part of its business books and records. *See* Rule R 901 – Business Records Required.

R 600 Series - Retail Marijuana Products Manufacturing Facilities

Basis and Purpose - R 601

The statutory authority for this rule is found at subsections 12-43.4-306(1)(j), 12-43.4-309(7)(a), 12-43.4-404(1)(a), 12-43.4-404(1)(b), and 12-43.4-404(6), C.R.S. The purpose of this rule is to establish that it is unlawful for a Retail Marijuana Products Manufacturing Facility Licensee to exercise any privileges other than those granted by the State Licensing Authority and to clarify the license privileges.

R 601 – Retail Marijuana Products Manufacturing Facility: License Privileges

- A. <u>Privileges Granted</u>. A Retail Marijuana Products Manufacturing Facility shall only exercise those privileges granted to it by the State Licensing Authority.
- B. <u>Licensed Premises</u>. A separate license is required for each specific business or business entity and geographical location.
- C. <u>Licensees Authorized for Sale</u>. A Retail Marijuana Products Manufacturing Facility <u>Licensee</u> may only sell Retail Marijuana Products of its own manufacture to Retail Marijuana Stores <u>Licensees</u> and to other Retail Marijuana Products Manufacturing Facilities.
- D. <u>Manufacture of Retail Marijuana Products Authorized</u>. A Retail Marijuana Products Manufacturing Facility may manufacture, prepare, package, store, and label Retail Marijuana Products, whether in concentrated form or that are comprised of marijuana and other ingredients intended for use or consumption, such as edible products, ointments, or tinctures.
- E. <u>Location Prohibited</u>. A Retail Marijuana Products Manufacturing Facility may not manufacture, prepare, package, store, or label Retail Marijuana Products in a location that is operating as a retail food establishment or a wholesale food registrant.
- F. <u>Samples Provided for Testing</u>. A Retail Marijuana Products Manufacturing Facility may provide samples of its Retail Marijuana Products to a <u>Person holding a</u> Retail Marijuana Testing Facility <u>license</u> for testing and research purposes. The Retail Marijuana Products Manufacturing Facility shall maintain the testing results as part of its business books and records.

Basis and Purpose - R 602

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(e), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(A), 12-43.4-202(A), 12-43.4-202(A)

R 602 – Retail Marijuana Products Manufacturing: General Limitations or Prohibited Acts

- A. <u>Temporary Sales Limitation</u>. From January 1, 2014 to September 30, 2014, a Retail Marijuana Products Manufacturing Facility shall not sell any of the Retail Marijuana that was cultivated in its commonly-owned Retail Marijuana Cultivation Facility to any other Retail Marijuana Establishment. Such Retail Marijuana shall be used solely in Retail Marijuana Products produced by the manufacturer.
- B. <u>Packaging and Labeling Standards Required</u>. A Retail Marijuana Products Manufacturing Facility is prohibited from selling Retail Marijuana Products that are not properly sealed and Labeled. See R 1000 Series Labeling, Packaging, and Product Safety.
- C. <u>THC Content Container Restriction</u>. Each individually packaged Edible Retail Marijuana Product, even if comprised of multiple servings, may include no more than a total of 100 milligrams of active THC. *See* Rule R 1004 Labeling Requirements: Specific Requirements, Edible Retail Marijuana Products.
- D. <u>Sale to Consumer Prohibited</u>. A Retail Marijuana Products Manufacturing Facility is prohibited from selling Retail Marijuana or Retail Marijuana Products to a consumer.
- E. <u>Consumption Prohibited</u>. A Retail Marijuana Products Manufacturing Facility shall not permit the consumption of Retail Marijuana or Retail Marijuana Products on the premises of a Retail Marijuana Product manufacturing facility.
- F. Evidence of Excise Tax Paid. If an excise tax on Retail Marijuana is approved by voters in the 2013 general election, a Retail Marijuana Products Manufacturing Facility is prohibited from accepting Retail Marijuana from a Retail Marijuana Cultivation Facility or Retail Marijuana Manufacturing Facility Licensee unless the manufacturer has received evidence that any applicable excise tax due pursuant to Article 28.8 of Title 39, C.R.S., was paid.
- G. <u>Adequate Care of Perishable Products</u>. A Retail Marijuana Products Manufacturing Facility must provide adequate refrigeration for perishable Retail Marijuana Products that will be consumed and shall utilize adequate storage facilities and transportation methods.

The statutory authority for this rule is found at subsections 12-43.4-202(1), 12-43.4-202(2)(b), and 12-43.4-404 (1)(b), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish the Retail Marijuana Product Manufacturing Facilities Licensees' obligation to account for and track all inventories from the point it is either transferred from the Retail Marijuana Cultivation Facility or the point when it is delivered to the Retail Marijuana Products manufacturer from a licensed-Retail Marijuana Cultivation Facility to the point of transfer to a licensed Retail Marijuana Store. Licensees must comply with the final implementation of a "seed-to-sale" tracking system to be developed by the State Licensing Authority.

R 603 – Retail Marijuana Products Manufacturer: Marijuana Inventory Tracking Solution (MITS)

<u>Minimum Tracking Requirement.</u> A Retail Marijuana Products Manufacturing Facility must use MITS to ensure its inventories are identified and tracked from the point they are transferred from a Retail Marijuana Cultivation Facility or Retail Marijuana Product Manufacturing Facility through wholesale, transfer, or transaction. *See also* Rule R 309 – Marijuana Inventory Tracking Solution (MITS). A Retail Marijuana

Products Manufacturing Facility must have the ability to reconcile its inventory records with MITS and the associated transaction history and sale receipts. *See also* Rule R 901 – Business Records Required.

- A Retail Marijuana Products Manufacturing Facility is prohibited from accepting any Retail Marijuana or Retail Marijuana Products from a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility without receiving a valid transportation manifest generated from MITS.
- 2. A Retail Marijuana Products Manufacturing Facility must immediately input all Retail Marijuana and Retail Marijuana Products delivered to the Licensed Premises, accounting for all RFID tags, into MITS at the time of delivery from a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility.
- 3. A Retail Marijuana Products Manufacturing Facility must reconcile transactions to MITS at the close of business each day.

Basis and Purpose - R 604

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(VIII), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish minimum health and safety regulation for the product manufacturing facilities of Retail Marijuana. The State Licensing Authority intends this rule to help maintain the integrity of Colorado's Retail Marijuana businesses and the safety of the public.

R 604 – Health and Safety Regulations: Retail Marijuana Products Manufacturing Facility

- A. <u>General Standards</u>. A Retail Marijuana Products Manufacturing Facility that manufacturers Edible Retail Marijuana Products shall comply with all kitchen-related health and safety standards of the relevant local jurisdiction and, to the extent applicable, with all Colorado Department of Public Health and Environment health and safety regulations applicable to retail food establishments, as set forth in 6 CCR 1010-2.
- B. <u>Annual Inspection</u>: If the relevant local jurisdiction does not conduct at least an annual health and safety inspection meeting the standards outlined above, the Retail Marijuana Products Manufacturing Facility that manufacturers Edible Retail Marijuana Products must retain a private entity to perform such inspection. Licensee shall maintain a copy of the current annual inspection on the Licensed Premises. *See* Rule R 901 Business Records Required.

Basis and Purpose - R 605

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(XI), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). This rule sets forth basic sanitary requirements for Retail Marijuana Products manufacturing facilities. It covers the physical premises where the products are made as well as the individuals handling the products. The State Licensing Authority intends for this rule to reduce any product contamination, which will benefit both the Licensees and customers. The State Licensing Authority modeled this rule after those adopted by the Colorado Department Revenue related to Medical Marijuana and those adopted by the Colorado Department of Public Health and Environment.

R 605 - Sanitary Requirements

<u>General Requirements</u>. The Licensee shall take all reasonable measures and precautions to ensure the following:

- That any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with preparation surfaces for Retail Marijuana or Retail Marijuana Products shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected;
- 2. That all persons working in direct contact with preparation of Retail Marijuana or Retail Marijuana Products shall conform to hygienic practices while on duty, including but not limited to:
 - a. Maintaining adequate personal cleanliness;
 - b. Washing hands thoroughly in an adequate hand-washing area(s) before starting work and at any other time when the hands may have become soiled or contaminated;
 - c. Hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the facility and/or in Retail Marijuana Products preparation areas and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective handcleaning and sanitizing preparations and sanitary towel service or suitable drying devices; and
 - d. Refraining from having direct contact with preparation of Retail Marijuana or Retail Marijuana Products if the person has or may have an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected.
- 3. That there is sufficient space for placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations for production of Retail Marijuana or Retail Marijuana Products:
- 4. That litter and waste are properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Retail Marijuana or Retail Marijuana Products are exposed;
- That floors, walls, and ceilings are constructed in such a manner that they may be adequately cleaned and kept clean and kept in good repair;
- 6. That there is adequate safety-type lighting in all areas where Retail Marijuana or Retail Marijuana Products are processed or stored and where equipment or utensils are cleaned;
- 7. That the facility provides adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests;

- 8. That any buildings, fixtures, and other facilities are maintained in a sanitary condition;
- 9. That all contact surfaces, including utensils and equipment used for the preparation of Retail Marijuana or Retail Marijuana Products, shall be cleaned and sanitized as frequently as necessary to protect against contamination. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable, and shall be properly maintained. Only sanitizing agents registered with the Environmental Protection Agency shall be used in Retail Marijuana Products manufacturing facilities and used in accordance with labeled instructions;
- That toxic cleaning compounds, sanitizing agents, and pesticide chemicals shall be identified, held, and stored in a manner that protects against contamination of Retail Marijuana or Retail Marijuana Products;
- 11. That the water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the facility's needs;
- 12. That plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the plant and that shall properly convey sewage and liquid disposable waste from the facility. There shall be no cross-connections between the potable and waste water lines;
- 13. That each Retail Marijuana Products Manufacturing Facility shall provide its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair;
- 14. That all operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of Retail Marijuana or Retail Marijuana Products shall be conducted in accordance with adequate sanitation principles;
- 15. That Retail Marijuana or Retail Marijuana Products that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms; and
- 16. That storage and transportation of finished Retail Marijuana Products shall be under conditions that will protect products against physical, chemical, and microbial contamination as well as against deterioration of any container.

R 700 Series – Retail Marijuana Testing Facilities

Basis and Purpose - R 701

The statutory authority for this rule is found at subsections 12-43.3-402(6), 12-43.3-402(10), 12-12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-309(7)(a), 12-43.4-402(4), 12-43.4-403(5), and 12-43.4-404(6) and section 12-43.4-405, C.R.S. The purpose of this rule is to establish that it is unlawful for a Retail Marijuana Testing Facility Licensee to exercise any privileges other than those granted by the State Licensing Authority and to clarify the license privileges. The State Licensing Authority intends to promulgate rules requiring Retail Marijuana Establishments to test for (1) molds, mildew and filth, (2) microbials, (3) herbicides, pesticides and fungicides, (4) harmful chemicals, (5) residual solvents, poisons or toxins and (6) potency. Specifically, additional information is required about sampling procedures, acceptable variances, permissible levels of harmful contaminants, and the particular contaminants that testing should examine.

R 701 - Retail Marijuana Testing Facilities: License Privileges

- A. <u>Privileges Granted</u>. A Retail Marijuana Testing Facility shall only exercise those privileges granted to it by the State Licensing Authority.
- B. <u>Licensed Premises</u>. A separate License is required for each specific Retail Marijuana Testing Facility and only those privileges granted by the Retail Code and rules promulgated pursuant to it may be exercised on the Licensed Premises.
- C. <u>Testing of Retail Marijuana and Retail Marijuana Products Authorized</u>. A Retail Marijuana Testing Facility may accept samples of Retail Marijuana or Retail Marijuana Products from Retail Marijuana Establishments for testing and research purposes only. The Division may require a Licensee to submit a sample of Retail Marijuana or Retail Marijuana Products to a Retail Marijuana Testing Facility upon demand.
- D. <u>Product Development Authorized</u>. A Retail Marijuana Testing Facility may develop Retail Marijuana Products, but is not authorized to engage in the manufacturing privileges described in section 12-43.4-404, C.R.S. and Rule R 601 Retail Marijuana Manufacturing Facilities: License Privileges.
- E. <u>Medical Marijuana Occupational License for Testing and Research</u>. A Retail Marijuana Testing Facility that has applied for and obtained a Medical Marijuana Occupational License for Testing and Research may accept samples of Medical Marijuana or Medical Marijuana-Infused Products from Medical Marijuana Businesses for testing and research purposes only.
- F. Sending Samples to Other Licensed and Certified Retail Marijuana Testing Facility. A Retail Marijuana Testing Facility may send samples of Retail Marijuana and Retail Marijuana Products to another licensed and certified Retail Marijuana Testing Facility for testing. All laboratory reports provided to a Retail Marijuana Establishment must indicate the Retail Marijuana Testing Facility that actually conducted the test.

Basis and Purpose - R 702

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-405(3), and 12-43.3-901(2)(a), C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a licensed Retail Marijuana Testing Facility.

R 702 – Retail Marijuana Testing Facility: General Limitations or Prohibited Acts

- A. <u>Prohibited Financial Interest</u>. A Person who is an Owner of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility, a Retail Marijuana Store, or a Medical Marijuana Business shall not be an Owner of a Retail Marijuana Testing Facility.
- B. <u>Sale of Retail Marijuana Prohibited</u>. A <u>Person licensed as a Retail Marijuana Testing Facility is prohibited from selling, distributing, or transferring Retail Marijuana or Retail Marijuana Products to another Retail Marijuana Establishment, a Medical Marijuana Business or a consumer, except that a Retail Marijuana Testing Facility may transfer a Sample to another licensed and certified Retail Marijuana Testing Facility.</u>
- C. <u>Destruction of Received Retail Marijuana</u>. A Retail Marijuana Testing Facility shall properly dispose of all Samples it receives, that are not transferred to another certified and licensed. Retail Marijuana Testing Facility, after all necessary tests have been conducted and any required period of storage. See Rule R 307 Waste Disposal.
- D. <u>Consumption Prohibited</u>. A Retail Marijuana Testing Facility <u>Licensee</u>-shall not permit the consumption of Retail Marijuana or Retail Marijuana Products on its Licensed Premises.
- E. <u>Sample Rejection</u>. A Retail Marijuana Testing Facility <u>Licensee</u>-shall reject any Sample where the condition of the Sample at receipt indicates that that the sample may have been tampered with.
- F. <u>Retail Marijuana Establishment Requirements Applicable.</u> Retail Marijuana Testing Facilities shall be considered Licensed Premises. Retail Marijuana Testing Facilities shall be subject to all requirements applicable to Retail Marijuana Establishments, including but not limited to requirements for Licensed Premises, MITS, transport of Retail Marijuana and recordkeeping.

Basis and Purpose - R 703

The statutory authority for this rule is found at subsection 12-43.4-202(3)(a)(IV) and section 12-43.4-405, C.R.S. The purpose of this rule is to establish a frame work for certification for Retail Marijuana Testing Facilities. The purpose of this rule is to establish certification requirements for Retail Marijuana Testing Facilities.

R 703 - Retail Marijuana Testing Facilities: Certification Requirements

- A. <u>Certification Types</u>. A Retail Marijuana Testing Facility may only perform tests on Samples that the Retail Marijuana Testing Facility is certified by the Division to perform. A Retail Marijuana Testing Facility may only perform those tests on Retail Marijuana or Retail Marijuana Products that it is certified to conduct.
 - 1. Residual solvents:
 - 2. Poisons or Toxins:
 - 3. Harmful Chemicals:
 - 4. Dangerous Molds, Mildew or Filth;
 - 5. Harmful Microbials, such as E. Coli or Salmonella and Pesticides; and
 - 6. THC and other Cannabinoid potency.

- B. <u>Certification Procedures</u>. Certification of a Retail Marijuana Testing Facility certification program is contingent upon successful on-site inspection, successful participation in proficiency testing, and ongoing compliance with the applicable requirements in this rule.
 - 1. <u>Certification Inspection</u>. A Retail Marijuana Testing Facility must be inspected prior to initial certification and annually thereafter by an inspector approved by the Division.
 - Standards for Certification. A Retail Marijuana Testing Facility must meet standards of performance, as established by these rules, in order to obtain and maintain certification. Standards of performance include but are not limited to: personnel qualifications, standard operating procedure manual, analytical processes, proficiency testing, quality control, quality assurance, security, chain of custody, specimen retention, space, records, and results reporting.

3. Personnel Qualifications.

- a. <u>Laboratory Director</u>. A Retail Marijuana Testing Facility must employ, at a minimum, a Laboratory Director with sufficient education and experience- in order to obtain and maintain certification. *See* Rule R 704 Retail Marijuana Testing Facilities: Personnel.
- b. <u>Employee Competency</u>. A Retail Marijuana Testing Facility must have a written and documented system to evaluate and document the competency in performing authorized tests for employees. Prior to independently analyzing samples, testing personnel must demonstrate acceptable performance on precision, accuracy, specificity, reportable ranges, blanks, and unknown challenge samples (proficiency samples or internally generated quality controls).
- 4. <u>Standard Operating Procedure Manual</u>. A Retail Marijuana Testing Facility must have a written procedure manual meeting the minimum standards set forth in these rules detailing the performance of all methods employed by the facility used to test the analytes it reports and made available for testing analysts to follow at all times.
 - a. The current Laboratory Director must approve, sign and date each procedure. If any modifications are made to those procedures, the Laboratory Director must approve, sign and date the revised version prior to use.
 - A Retail Marijuana Testing Facility must maintain a copy of all Standard Operating
 Procedures to include any revised copies for a minimum of three years. See Rule R 901
 Business Records Required.
- Analytical Processes. A Retail Marijuana Testing Facility must maintain a listing of all analytical methods used and all analytes tested and reported. The Retail Marijuana Testing Facility must provide this listing to the Division upon request.
- 6. <u>Proficiency Testing</u>. A Retail Marijuana Testing Facility must successfully participate in a Division approved proficiency testing program in order to obtain and maintain certification.
- 7. <u>Quality Assurance and Quality Control</u>. A Retail Marijuana Testing Facility must establish and follow a quality assurance and quality control program to ensure sufficient monitoring of laboratory processes and quality of results reported.
- 8. <u>Security</u>. A Retail Marijuana Testing Facility must be located in a secure setting as to prevent unauthorized persons from gaining access to the accessioning, testing and storage areas of the laboratory.

- 9. <u>Chain of Custody</u>. A Retail Marijuana Testing Facility must establish a system to document the complete chain of custody for samples from receipt through disposal.
- 10. <u>Space</u>. A Retail Marijuana Testing Facility must be located in a fixed structure that provides adequate infrastructure to perform analysis in a safe and compliant manner consistent with federal, state and local requirements.
- 11. <u>Records</u>. A Retail Marijuana Testing Facility must establish a system to retain and maintain records for a period not less than three years.
- 12. <u>Results Reporting</u>. A Retail Marijuana Testing Facility must establish processes to ensure results are reported in a timely and accurate manner.

Basis and Purpose - R 704

The statutory authority for this rule is found at subsection 12-43.4-202(3)(a)(IV) and section 12-43.4-405, C.R.S. The purpose of this rule is to establish personnel standards for operation of a Retail Marijuana Testing Facility.

R 704 – Retail Marijuana Testing Facilities: Personnel

- A. <u>Laboratory Director</u>. The Laboratory Director is responsible for the overall analytical operation and quality of the results reported by the Retail Marijuana Testing Facility, including the employment of personnel who are competent to perform test procedures, and record and report test results promptly, accurately, and proficiently and for assuring compliance with the standards set forth in this rule.
 - 1. The Laboratory Director may also serve as a Supervisory Analyst or Testing Analyst, or both, for a Retail Marijuana Testing Facility.
 - 2. The Laboratory Director for a Retail Marijuana Testing Facility must meet one of the following qualification requirements:
 - a. The Laboratory Director must have received currently valid board certification in clinical pathology by the American Board of Pathology,
 - b. The Laboratory Director must be certified as a diplomat by the American Board of Forensic Toxicology ,
 - c. The Laboratory Director must hold a doctoral degree in one of the natural sciences and at least three years of full-time laboratory experience in toxicology, analytical chemistry or diagnostic laboratory testing, or
 - d. The Laboratory Director must hold a master's degree in one of the natural sciences and at least five years of full-time laboratory experience in toxicology, analytical chemistry or diagnostic laboratory testing.
- B. What the Laboratory Director May Delegate. The Laboratory Director may delegate the responsibilities assigned under this rule to a qualified Supervisory Analyst, provided that such delegation is made in writing and a record of the delegation is maintained. See Rule R 901 Business Records Required. Despite the

designation of a responsibility, the Laboratory Director remains responsible for ensuring that all duties are properly performed.

C. <u>Responsibilities of the Laboratory Director</u>. The Laboratory Director must:

- 1. Ensure that the Retail Marijuana Testing Facility has adequate space, equipment, materials, and controls available to perform the tests reported;
- 2. Establish and adhere to a written Standard Operating Procedure used to perform the tests reported;
- Ensure that testing systems developed and used for each of the tests performed in the laboratory
 provide quality laboratory services for all aspects of test performance, which includes the
 preanalytic, analytic, and postanalytic phases of testing;
- 4. Ensure that the physical location and environmental conditions of the laboratory are appropriate for the testing performed and provide a safe environment in which employees are protected from physical, chemical, and biological hazards;
- 5. Ensure that the test methodologies selected have the capability of providing the quality of results required for the level of testing the laboratory is certified to perform;
- 6. Ensure that validation and verification test methods used are adequate to determine the accuracy, precision, and other pertinent performance characteristics of the method;
- 7. Ensure that testing analysts perform the test methods as required for accurate and reliable results;
- 8. Ensure that the laboratory is enrolled in a Division approved proficiency testing program;
- 9. Ensure that the quality control and quality assessment programs are established and maintained to assure the quality of laboratory services provided and to identify failures in quality as they occur;
- 10. Ensure the establishment and maintenance of acceptable levels of analytical performance for each test system;
- 11. Ensure that all necessary remedial actions are taken and documented whenever significant deviations from the laboratory's established performance specifications are identified, and that test results are reported only when the system is functioning properly;
- 12. Ensure that reports of test results include pertinent information required for interpretation;
- 13. Ensure that consultation is available to the laboratory's clients on matters relating to the quality of the test results reported and their interpretation of said results;
- 14. Employ a sufficient number of laboratory personnel who meet the qualification requirements and provide appropriate consultation, properly supervise, and ensure accurate performance of tests and reporting of test results;
- 15. Ensure that prior to testing any samples, all testing analysts receive the appropriate training for the type and complexity of tests performed, and have demonstrated and documented that they can perform all testing operations reliably to provide and report accurate results;
- 16. Ensure that policies and procedures are established for monitoring individuals who conduct preanalytical, analytical, and postanalytical phases of testing to assure that they are competent and

maintain their competency to process specimens, perform test procedures and report test results promptly and proficiently, and whenever necessary, identify needs for remedial training or continuing education to improve skills;

- 17. Ensure that an approved standard operating procedure manual is available to all personnel responsible for any aspect of the testing process; and
- 18. Specify, in writing, the responsibilities and duties of each person engaged in the performance of the preanalytic, analytic, and postanalytic phases of testing, that identifies which examinations and procedures each individual is authorized to perform, whether supervision is required for specimen processing, test performance or results reporting, and whether consultant or Laboratory Director review is required prior to reporting test results.
- D. <u>Supervisory Analyst.</u> Supervisory Analysts must meet one of the qualifications for a Laboratory Director or have at least a bachelor's degree in one of the natural sciences and three years of full-time experience performing toxicology, analytical chemistry, or diagnostic laboratory testing.

E. <u>Laboratory Testing Analyst</u>.

- 1. <u>Educational Requirements</u>. An individual designated as a Testing Analyst must meet one of the qualifications for a Laboratory Director or Supervisory Analyst or have at least a bachelor's degree in one of the natural sciences and one year of full-time experience in laboratory testing.
- 2. <u>Responsibilities</u>. In order to independently perform any test for a Retail Marijuana Testing Facility, an individual must at least meet the educational requirements for a Testing Analyst.

R 705 - Basis and Purpose

The statutory authority for this rule is found at subsection 12-43.4-202(3)(a)(IV) and section 12-43.4-405, C.R.S. The purpose of this rule is to establish Standard Operating Procedure Manual standards for operation of a Retail Marijuana Testing Facility.

R 705 - Retail Marijuana Testing Facilities: Standard Operating Procedure Manual

Standard Operating Procedure Manual must include, but need not be limited to, procedures for:

- 1. Specimen receiving;
- 2. Specimen accessioning;
- 3. Specimen storage;
- 4. Identifying and rejecting unacceptable specimens;
- 5. Recording and reporting discrepancies;

- 6. Security of specimens, aliquots and extracts and records;
- Validating a new or revised method prior to testing specimens to include: accuracy, precision, analytical sensitivity, analytical specificity (interferences), limit of detection ("LOD"), limit of quantitation ("LOQ") and verification of the reportable range;
- 8. Aliquoting specimens to avoid contamination and carry-over;
- 9. Sample retention to assure stability for one year;
- 10. Disposal of specimens;
- 11. The theory and principles behind each assay;
- 12. Preparation and identification of reagents, standards, calibrators and controls and ensure all standards are traceable to National Institute of Standards of Technology ("NIST");
- 13. Special requirements and safety precautions involved in performing assays;
- 14. Frequency and number of control and calibration materials;
- 15. Recording and reporting assay results;
- 16. Protocol and criteria for accepting or rejecting analytical Procedure to verify the accuracy of the final report;
- 17. Pertinent literature references for each method:
- 18. Current step-by-step instructions with sufficient detail to perform the assay to include equipment operation and any abbreviated versions used by a testing analyst;
- Acceptability criteria for the results of calibration standards and controls as well as between two aliquots or columns;
- 20. A documented system for reviewing the results of testing calibrators, controls, standards, and subject tests results, as well as reviewing for clerical errors, analytical errors and any unusual analytical results? Are corrective actions implemented and documented, and does the laboratory contact the requesting entity; and
- 21. Policies and procedures to follow when specimens are requested for referral and testing by another certified laboratory.

R 706 – Basis and Purpose

The statutory authority for this rule is found at subsection 12-43.4-202(3)(a)(IV) and section 12-43.4-405, C.R.S. The purpose of this rule is to establish analytical processes standards for operation of a Retail Marijuana Testing Facility.

R 706 – Retail Marijuana Testing Facilities: Analytical Processes

- A. Gas Chromatography ("GC"). A Retail Marijuana Testing Facility using GC must:
 - Document the conditions of the gas chromatograph, including the detector response;

- 2. Perform and document preventive maintenance as required by the manufacturer;
- 3. Ensure that records are maintained and readily available to the staff operating the equipment;
- 4. Document the performance of new columns before use;
- 5. Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified;
- 6. Establish criteria of acceptability for variances between different aliquots and different columns; and
- 7. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.
- B. <u>Gas Chromatography Mass Spectrometry ("GC/MS")</u>. A Retail Marijuana Testing Facility using GC/MS must:
 - 1. Perform and document preventive maintenance as required by the manufacturer;
 - 2. Document the changes of septa as specified in the Standard Operating Procedure;
 - 3. Document liners being cleaned or replaced as specified in the Standard Operating Procedure;
 - 4. Ensure that records are maintained and readily available to the staff operating the equipment;
 - 5. Maintain records of mass spectrometric tuning;
 - 6. Establish written criteria for an acceptable mass-spectrometric tune;
 - 7. Document corrective actions if a mass-spectrometric tune is unacceptable;
 - 8. Monitor analytic analyses to check for contamination and carry-over;
 - 9. Use selected ion monitoring within each run to assure that the laboratory compare ion ratios and retention times between calibrators, controls and specimens for identification of an analyte;
 - Use an internal standard for qualitative and quantitative analysis that has similar chemical and
 physical properties to that of the compound identified and is isotopically labeled when available or
 appropriate for the assay;
 - 11. Document the monitoring of the response (area or peak height) for the internal standard to ensure consistency overtime of the analytical system;
 - 12. Define the criteria for designating qualitative results as positive;
 - 13. When a library is used to qualitatively match an analyte, the relative retention time and mass spectra from a known standard or control must be run on the same system before reporting the results; and
 - 14. Evaluate the performance of the instrument after routine and preventive maintenance (e.g. clipping or replacing the column or cleaning the source) prior to analyzing subject samples.
- C. <u>Immunoassays</u>. A Retail Marijuana Testing Facility using Immunoassays must:

- 1. Perform and document preventive maintenance as required by the manufacturer;
- 2. Ensure that records are maintained and readily available to the staff operating the equipment;
- 3. Validate any changes or modifications to a manufacturer's approved assays or testing methods when a sample is not included within the types of samples approved by the manufacturer; and
- 4. Define acceptable separation or measurement units (absorbance intensity or counts per minute) for each assay, which must be consistent with manufacturer's instructions.

D. Thin Layer Chromatography ("TLC"). A Retail Marijuana Testing Facility using TLC must:

- 1. Apply unextracted standards to each thin layer chromatographic plate;
- 2. Include in their written procedure the preparation of mixed solvent systems, spray reagents and designation of lifetime;
- 3. Include in their written procedure the storage of unused thin layer chromatographic plates;
- 4. Evaluate, establish, and document acceptable performance for new thin layer chromatographic plates before placing them into service;
- Verify that the spotting technique used precludes the possibility of contamination and carry-over;
- 6. Measure all appropriate RF values for qualitative identification purposes;
- 7. Use and record sequential color reactions, when applicable;
- 8. Maintain records of thin layer chromatographic plates; and
- 9. Analyze an appropriate matrix blank with each batch of specimens analyzed.

E. High Pressure Liquid Chromatography ("HPLC"). A Retail Marijuana Testing Facility using HPLC must:

- 1. Perform and document preventive maintenance as required by the manufacturer;
- Ensure that records are maintained and readily available to the staff operating the equipment;
- 3. Monitor and document the performance of the HPLC instrument each day of testing;
- 4. Evaluate the performance of new columns before use;
- 5. Create written standards for acceptability when eluting solvents are recycled;
- Use an internal standard for each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified when available or appropriate for the assay; and
- 7. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system.

F. <u>Liquid Chromatography Mass Spectroscopy ("LC/MS").</u> A Retail Marijuana Testing Facility using LC/MS must:

1. Perform and document preventive maintenance as required by the manufacturer;

- 2. Ensure that records are maintained and readily available to the staff operating the equipment;
- 3. Maintain records of mass spectrometric tuning;
- 4. Document corrective actions if a mass-spectrometric tune is unacceptable;
- 5. Use an internal standard with each qualitative and quantitative analysis that has similar chemical and physical properties to that of the compound identified and is isotopically labeled when available or appropriate for the assay;
- 6. Document the monitoring of the response (area or peak height) of the internal standard to ensure consistency overtime of the analytical system;
- 7. Compare two transitions and retention times between calibrators, controls and specimens within each run;
- 8. Document and maintain records when changes in source, source conditions, eluent, or column are made to the instrument; and
- 9. Evaluate the performance of the instrument when changes in: source, source conditions, eluent, or column are made prior to reporting test results.

R 707 – Basis and Purpose

The statutory authority for this rule is found at subsection 12-43.4-202(3)(a)(IV) and section 12-43.4-405, C.R.S. The purpose of this rule is to establish a proficiency testing program for Retail Marijuana Testing Facilities.

R 707 – Retail Marijuana Testing Facilities: Proficiency Testing

- A. <u>Proficiency Testing Required.</u> A Retail Marijuana Testing Facility must participate in a Proficiency Testing program for each approved category in which it seeks certification.
 - B. <u>Participation in Designated Proficiency Testing Event</u>. If required by the Division as part of certification, the Retail Marijuana Testing Facility must have successfully participated in a Proficiency Test in the category for which it seeks certification, within the preceding 12 months.
 - C. <u>Continued Certification</u>. To maintain continued certification, a Retail Marijuana Testing Facility must participate in the designated Proficiency Testing program with continued satisfactory performance as determined by the Division as part of certification.
 - D. <u>Analyzing Proficiency Testing Samples</u>. A Retail Marijuana Testing Facility must analyze Proficiency Test Samples using the same procedures with the same number of replicate analyses, standards, Testing Analysts and equipment as used for product testing.
 - E. <u>Proficiency Testing Challenge Attestation</u>. The Laboratory Director and all Testing Analysts that participated in a Proficiency Test must sign corresponding attestation statements.
 - F. <u>Laboratory Director Must Review Results</u>. The Laboratory Director must review and evaluate all Proficiency Test results.
 - G. When Remedial Action Required. A Retail Marijuana Testing Facility must take and document remedial action when a score of less than 100% is achieved during a Proficiency Test. Remedial action

- documentation must include a review of Samples tested and results reported since the last successful Proficiency Testing challenge.
- H. What Constitutes Successful or Unsatisfactory Participation in Proficiency Testing Event. Successful participation is the positive identification of 80% of the target analytes that the Retail Marijuana Testing Facility reports to include quantitative results when applicable. Any false positive results reported will be considered an Unsatisfactory score for the Proficiency Testing event.
- I. <u>Consequence of Unsuccessful Participation in Proficiency Testing Event</u>. Unsuccessful participation in a Proficiency Test may result in limitation, suspension or revocation of certification.

R 708 - Basis and Purpose

The statutory authority for this rule is found at subsection 12-43.4-202(3)(a)(IV) and section 12-43.4-405, C.R.S. The purpose of this rule is to establish quality assurance and quality assurance standards for a Retail Marijuana Testing Facility.

R 708 - Retail Marijuana Testing Facilities: Quality Assurance and Quality Control

- A. A Retail Marijuana Testing Facility must establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory preanalytic, analytic and postanalytic systems when they occur and must include, but is not limited to:
 - 1. Review of instrument preventive maintenance, repair, troubleshooting and corrective actions documentation must be performed by the Laboratory Director or designated Supervisory Analyst on an ongoing basis to ensure the effectiveness of actions taken over time;
 - 2. Review by the Laboratory Director or designated Supervisory Analyst of all ongoing quality assurance; and
 - Review of the performance of validated methods used by the Retail Marijuana Testing Facility
 to include calibration standards, controls and the Standard Operating Procedures used for
 analysis on an ongoing basis to ensure quality improvements are made when problems are
 identified or as needed.
- B. A Retail Marijuana Testing Facility must establish, monitor and document on an ongoing basis the quality control measures taken by the laboratory to ensure the proper functioning of equipment, validity of standard operating procedures and accuracy of results reported. Such quality control measures must include, but shall not be limited to:
 - 1. Documentation of instrument preventive maintenance, repair, troubleshooting and corrective actions taken when performance does not meet established levels of quality;
 - 2. Review and documentation of the accuracy of automatic and adjustable pipettes and other measuring devices when placed into service and annually thereafter;
 - 3. Cleaning, maintaining and calibrating as needed the analytical balances and in addition, verifying the performance of the balance annually using certified weights to include three or more weights bracketing the ranges of measurement used by the laboratory;
 - 4. Annually verifying and documenting the accuracy of thermometers using a NIST traceable reference thermometer:

- 5. Recording temperatures on all equipment when in use where temperature control is specified in the standard operating procedures manual, such as water baths, heating blocks, incubators, ovens, refrigerators, and freezers;
- 6. Properly labeling reagents as to the identity, the concentration, date of preparation, storage conditions, lot number tracking, expiration date and the identity of the preparer;
- Avoiding mixing different lots of reagents in the same analytical run;
- 8. Performing and documenting a calibration curve with each analysis using at minimum three calibrators throughout the reporting range;
- 9. For qualitative analyses, analyzing, at minimum, a negative and a positive control with each batch of samples analyzed;
- 10. For quantitative analyses, analyzing, at minimum, a negative and two levels of controls that challenge the linearity of the entire curve;
- 11. Using a control material or materials that differ in either source or, lot number, or concentration from the calibration material used with each analytical run;
- 12. For multi-analyte assays, performing and documenting calibration curves and controls specific to each analyte, or at minimum, one with similar chemical properties as reported in the analytical run;
- 13. Analyzing an appropriate matrix blank and control with each analytical run, when available;
- 14. Analyzing calibrators and controls in the same manner as unknowns;
- 15. Documenting the performance of calibration standards and controls for each analytical run to ensure the acceptability criteria as defined in the Standard Operating Procedure is met;
- Documenting all corrective actions taken when unacceptable calibration, control, and standard or instrument performance does not meet acceptability criteria as defined in the Standard Operating Procedure;
- 17. Maintaining records of validation data for any new or modified methods to include; accuracy, precision, analytical specificity (interferences), LOD, LOQ, and verification of the linear range; and
- 18. Performing testing analysts that follow the current Standard Operating Procedures Manual for the test or tests to be performed.

R 709 – Basis and Purpose

The statutory authority for this rule is found at subsection 12-43.4-202(3)(a)(IV) and section 12-43.4-405, C.R.S. The purpose of this rule is to establish chain of custody standards for a Retail Marijuana Testing Facility. In addition, it establishes the Inventory Tracking rules for a Retail Marijuana Testing Facility.

R 709 – Retail Marijuana Testing Facilities: Chain of Custody

<u>General Requirements</u>. A Retail Marijuana Testing Facility must establish an adequate chain of custody and Sample requirement instructions that must include, but not be limited to:

- 1. Issue instructions for the minimum Sample requirements and storage requirements;
- 2. Document the condition of the external package and integrity seals utilized to prevent contamination of, or tampering with, the Sample;
- 3. Document the condition and amount of Sample provided at the time of receipt;
- 4. Document all persons handling the original Samples, aliquots, and extracts;
- 5. Document all transfers of Samples, aliquots, and extracts referred to another certified Retail Marijuana Testing Facility Licensee for additional testing or whenever requested by a client;
- 6. Maintain a current list of authorized personnel and restrict entry to the laboratory to only those authorized;
- 7. Secure the Laboratory during non-working hours;
- Secure short and long-term storage areas when not in use;
- 9. Utilize a secured area to log-in and aliquot Samples;
- 10. Ensure Samples are stored appropriately; and
- 11. Document the disposal of Samples, aliquots, and extracts.

Basis and Purpose - R 710

The statutory authority for this rule is found at subsection 12-43.4-202(3)(a)(IV) and section 12-43.4-405, C.R.S. The purpose of this rule is to establish records retention standards for a Retail Marijuana Testing Facility.

R 710 – Retail Marijuana Testing Facilities: Records Retention

- A. <u>General Requirement</u>. A Retail Marijuana Testing Facility must maintain all required business records. *See* Rule R 901 Business Records Required.
- B. <u>Specific Business Records Required: Three Year Retention</u>. A Retail Marijuana Testing Facility must establish processes to preserve records for a minimum of three years that includes, but is not limited to:
 - Test Results:
 - 2. Quality Control and Quality Assurance Records;
 - 3. Standard Operating Procedures;
 - 4. Personnel Records:
 - 5. Chain of Custody Records;

- 6. Proficiency Testing Records; and
- 7. Analytical Data to include printouts generated by the instrumentation.

C. Specific Business Records Required: Five Year Retention

A Retail Marijuana Testing Facility must establish processes to preserve records for a minimum of five years of testing to include, accession numbers, specimen type, raw data of calibration standards and curves, controls and subject results, final and amended reports, acceptable reference range parameters, and identification of analyst and date of analysis.

Basis and Purpose - R 711

The statutory authority for this rule is found at subsection 12-43.4-202(3)(a)(IV) and section 12-43.4-405, C.R.S. The purpose of this rule is to establish reporting standards for a Retail Marijuana Testing Facility.

R 711 -Reporting

<u>Required Procedures</u>. A Retail Marijuana Testing Facility must establish procedures to ensure that results are accurate, precise and scientifically valid prior to reporting that include the following processes;

- 1. Report quantitative results that are only above the lowest concentration of calibrator or standard used in the analytical run;
- Verify results that are below the lowest concentration of calibrator or standard and above the LOQ by using a blank and a standard that falls below the expected value of the analyte in the sample in duplicate prior to reporting a quantitative result;
- 3. Qualitatively report results below the lowest concentration of calibrator or standard and above the LOD as either trace or using a non-specific numerical designation;
- 4. Adequately document the available external chain of custody information;
- 5. Ensure all final reports contain the name and location of the Retail Marijuana Testing Facility Licensee, name and unique identifier of sample, submitting client, sample received date, date of report, type of specimen tested, test result, units of measure, and any other information or qualifiers needed for interpretation when applicable to the test method and results being reported, to include any identified and documented discrepancies;
- 6. Provide the final report to the submitting client in a timely manner; and
- 7. Provide copies of final reports to the Division when results of tested samples exceed maximum levels of allowable contamination within 72 hours of obtaining the final result.

R 800 Series – Transportation and Storage

Basis and Purpose - R 801

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(c)(IV), 12-43.4-202(3)(a)(X), 12-43.4-309(4), 12-43.3-310(5), and 12-43.4-401(1), C.R.S. The purpose of the rule is to provide clarity as to the requirements associated with the delivery of Retail Marijuana and Retail Marijuana Products between Licensed Premises. It also prescribes the manner in which licensed entities will track inventory in the transport process to prevent diversionary practices.

R 801 – Transportation of Retail Marijuana and Retail Marijuana Products

- A. <u>Transportation Authorized</u>. This rule provides for the manner in which Retail Marijuana and Retail Marijuana Products shall be transported between locations that are licensed pursuant to the Retail Code. Nothing herein authorizes the delivery of Retail Marijuana or Retail Marijuana Products to or from locations not so licensed, but shall not preclude delivery to a location that also holds a license pursuant to the Medical Code, so long as such delivery does not contravene any section within the Medical Code or the Retail Code or any rules promulgated thereto, and inventories are properly separated and tracked.
- B. <u>Persons Authorized to Transport</u>. The only Persons authorized to transport Retail Marijuana or Retail Marijuana Products are those licensed by the State Licensing Authority pursuant to sections 12-43.3-401 (when applicable) and 12-43.4-401, C.R.S.; including those holding Owner and occupational licenses. No individual who does not possess a current and valid Owner or occupational license from the State Licensing Authority may transport Retail Marijuana or Retail Marijuana Products between Licensed Premises.
- C. <u>Transport Between Licensed Premises</u>. Retail Marijuana and Retail Marijuana Products shall only be transported between Licensed Premises and between Licensed Premises and a permitted off-premises storage facility. Licensees transporting Retail Marijuana and Retail Marijuana Products are responsible for ensuring that the product is secured at all times during transport.
- D. <u>MITS-Generated Transportation Manifest Required</u>. Transport of Retail Marijuana or Retail Marijuana Products shall be accompanied by a MITS-generated manifest that contains information required by this rule and shall be in the format prepared by the State Licensing Authority. A transport from an originating location may have multiple destination locations so long as the manifest reflects the specific inventory destined for specific licensed locations.
- E. <u>Motor Vehicle Required</u>. Transport of Retail Marijuana and Retail Marijuana Products shall be conducted by a motor vehicle that is properly registered in the state of Colorado pursuant to motor vehicle laws, but need not be registered in the name of the Licensee.
- F. <u>Documents Required During Transport.</u> Transportation of Retail Marijuana or Retail Marijuana Products shall be accompanied by a copy of the originating Licensee's business license, the driver's valid occupational license or registration, the driver's valid motor vehicle operator's license, and all required vehicle registration information.
- G. <u>Use of Colorado Roadways</u>. State law does not prohibit the transportation of Retail Marijuana and Retail Marijuana Products on any public road within the state of Colorado as authorized in this Rule. However,

nothing herein authorizes a Licensee to violate specific local ordinances or resolutions enacted by any city, town, city and county, or county related to the transportation of Retail Marijuana or Retail Marijuana Products.

H. <u>Preparation of Retail Marijuana and Retail Marijuana Products for Transport</u>

- Final Weighing and Packaging. Each Licensee shall comply with the specific rules associated with
 the final weighing and packaging of Retail Marijuana inventory and Retail Marijuana Products
 inventory before such items are prepared for transport pursuant to this rule. The scale used to
 weigh product to be transported shall be certified in accordance with measurement standards
 established in Article 14 of Title 35, C.R.S.
- Preparation in Limited Access Area. Retail Marijuana and Retail Marijuana Products shall be prepared for transport in a Limited Access Area, including the packing and Labeling of Shipping Containers.
- 3. <u>Shipping Containers</u>. Sealed packages or Containers may be placed in larger Shipping Containers, so long as such Shipping Containers are labeled with type and amount of Retail Marijuana or Retail Marijuana Products contained therein. The contents of Shipping Containers shall be easily accessed and inspected by the State Licensing Authority, local jurisdictions, and state and local law enforcement officials when necessary.

I. Creation of Records and Inventory Tracking.

- <u>Use of MITS-Generated Manifest</u>. Licensees who transport Retail Marijuana or Retail Marijuana Products shall create a MITS-generated transportation manifest to reflect inventory that leaves the Licensed Premises for destinations to other licensed locations. The manifest may either reflect all deliveries for multiple locations within a single trip, or may reflect each single delivery. In either case, no inventory shall be transported without a MITS-generated manifest.
- 2. <u>Copy of Manifest to Receiver</u>. Licensees shall provide a copy of the manifest to each Licensee receiving the inventory described in the manifest. In order to maintain transaction confidentiality, the originating Licensee may prepare a separate MITS-generated manifest for each receiving Licensee.
- 3. The MITS-generated transportation manifest shall include the following:
 - a. Departure date and approximate time of departure;
 - Name, location address, and license number of the originating Licensee;
 - c. Name, location address, and license number of the destination Licensee(s);
 - d. Product name and quantities (by weight or unit) of each product to be delivered to each specific destination location(s);
 - e. Arrival date and estimated time of arrival;
 - f. Delivery vehicle make and model and license plate number; and

- g. Name, occupational license number, and signature of the Licensee transporting.
- J. <u>Inventory Tracking</u>. In addition to all the other tracking requirements set forth in these rules, Licensees shall be responsible for the procedures associated with the tracking of inventory that is transported between Licensed Premises. See Rule R 901 Business Records Required.
 - Responsibilities of Originating Licensee. Prior to departure, the originating Licensee shall adjust its
 inventory records to reflect the removal of Retail Marijuana or Retail Marijuana Products. The scale
 used to weigh product to be transported shall be certified in accordance with measurement
 standards established in Article 14 of Title 35, C.R.S. Entries to the inventory records shall note
 the MITS-generated travel manifest and shall be easily reconciled, by product name and quantity,
 with the applicable manifest.
 - 2. Responsibilities of Receiving Licensee. Upon receipt, the receiving Licensee shall ensure that the Retail Marijuana or Retail Marijuana Products received are as described in the transportation manifest and shall immediately adjust its inventory records to reflect the receipt of inventory. The scale used to weigh product being received shall be certified in accordance with measurement standards established in Article 14 of Title 35, C.R.S. Entries to the inventory records shall note the MITS-generated travel manifest and shall be easily reconciled, by product name and quantity, with the applicable manifest.
 - 3. <u>Discrepancies</u>. Receiving Licensees shall separately document any differences between the quantity specified in the manifest and the quantities received. Such documentation shall be made in MITS and in any relevant business records.
- K. <u>Adequate Care of Perishable Retail Marijuana Products</u>. A Retail Marijuana Establishment must provide adequate refrigeration for perishable Retail Marijuana Products during transport.

Basis and Purpose - R 802

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(X), 12-43.4-701(2), C.R.S. The purpose of this rule is to establish that Retail Marijuana or Retail Marijuana Products may not be stored outside of Licensed Premises unless the Licensee obtains an off-premises Storage Permit.

R 802 – Off-Premises Storage of Retail Marijuana and Retail Marijuana Products

- A. <u>Off-Premises Storage Permit Authorized</u>. A Licensee may only store Retail Marijuana or Retail Marijuana Products in its Licensed Premises or in its one permitted off-premises storage facility.
- B. <u>Permitting</u>. To obtain a permit for an off-premises storage facility, a Retail Marijuana Establishment must apply on current Division forms and pay any applicable fees. A permitted off-premises storage facility shall constitute an extension of the Retail Marijuana Establishment's Licensed Premises, subject to all applicable Retail Marijuana regulations.
- C. <u>Limited Access Area</u>. A permitted off-premises storage facility shall be considered a Limited Access Area. R 301.
- D. <u>Limitation on Inventory to be Stored</u>. The Licensee may only have upon the permitted off-premises storage facility Retail Marijuana or Retail Marijuana Products that are part of its finished goods inventory. The

Licensee may not share the premises with other Licensees nor store inventory belonging to other Licensees.

- E. <u>Restrictions</u>. The permitted off-premises storage facility may be utilized for storage only. A Licensee may not sell, cultivate, manufacture, process or consume any Retail Marijuana or Retail Marijuana Products within the premises of the permitted off-premises storage facility.
- F. <u>Display of Off-premises Storage Permit</u>. The off-premises storage facility permit must be displayed in a prominent place within the permitted off-premises storage facility.
- G. Retail Marijuana Notice to Local Jurisdiction and Local Jurisdiction Approval.
 - 1. Within seven days of receipt of an off-premises storage facility permit from the Division, the receiving Licensee must provide a copy to the relevant local jurisdiction designated by the location where the permitted off-premises storage facility is situated.
 - 2. No Retail Marijuana may be stored within a permitted storage facility until the relevant local jurisdiction has been provided a copy of the off-premises storage facility permit.
 - 3. Any off-premises storage permit issued by the Division shall be conditioned upon the Retail Marijuana Establishment's receipt of all required local approvals.
- H. <u>Security in Storage Facility</u>. A permitted off-premises storage facility must meet all video and security requirements applicable to Licensed Premises.
- I. <u>Transport to or from a Permitted Off-premises Storage Facility</u>. Licensees must comply with the provisions of Rule R801 when transporting any Retail Marijuana to a permitted off-premises storage facility.
- J. <u>Inventory Tracking</u>. In addition to all the other tracking requirements set forth in these rules, Licensees shall establish tracking methods to ensure their inventories are identified and tracked from the point of transfer from the Licensed Premises to the point of delivery to a permitted off-premises storage facility. See Rule R 901 Business Records Required.
- K. <u>Adequate Care of Perishable Retail Marijuana Products</u>. A Retail Marijuana Establishment must provide adequate refrigeration for perishable Retail Marijuana Products and shall utilize adequate storage facilities and transportation methods.

R 900 Series - Business Records

Basis and Purpose - R 901

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(XII), and 12-43.4-701(1), and section 12-43.4-310, C.R.S. This rule explains what business records a Licensee must maintain. It also clarifies that such records must be made available on demand to the Division. The State Licensing Authority shall require that Licensees maintain their own business records and make them available upon request by the Division.

R 901 - Business Records Required

A. <u>General Requirements</u>

- 1. A Retail Marijuana Establishment Licensee must maintain the information required in this rule in a format that is readily understood by a reasonably prudent business person.
- 2. Each Licensee shall retain all books and records necessary to show fully the business transactions of such Licensee for the current year and three preceding calendar years.
 - a. On premises records: The Retail Marijuana Establishment's books and records for the preceding six months (or complete copies of such records) must be maintained on the Licensed Premises at all times.
 - b. On- or off-premises records: books and records associated with older periods may be archived on or off of the Licensed Premises, but must be available for review without unreasonable delay when requested by the State Licensing Authority.
- The books and records must fully show the transactions of the business and must include, but shall not be limited to:
 - a. Current Employee List This list must provide the full name and occupational license number of each employee an allincluding non-employee Owners, who work at a Retail Marijuana Establishment.
 - Secure Facility Information For each business location, a Licensee must maintain the business contact information for vendors that maintain video surveillance systems and Security Alarm Systems.
 - c. Advertising Records All records related to advertising and marketing, including, but not limited to, audience composition data.
 - d. Licensed Premises Diagram of all approved Limited Access Areas.
 - e. Visitor Log List of all visitors entering Limited Access Areas or Restricted Access Areas.
 - f. All records normally retained for tax purposes.

- B. <u>Loss of Records and Data</u>. Any loss of electronically-maintained records shall not be considered a mitigating factor for violations of this rule. Licensees are required to exercise due diligence in preserving and maintaining all required records.
- C. <u>Violation Affecting Public Safety</u>. Violation of this rule shall constitute a license violation affecting public safety.
- D. <u>Records Related to Inventory Tracking</u>. <u>A</u> Retail Marijuana Establishment <u>Licensees</u> must maintain accurate and comprehensive inventory tracking records that account for, reconcile and evidence all inventory activity for Retail Marijuana from either seed or immature plant stage until the Retail Marijuana or Retail Marijuana Product is sold to a customer.

E. Records Related to Transportation.

- 1. <u>A Retail Marijuana Establishment Licensees</u>—must maintain adequate records of all transport activities related to Retail Marijuana and Retail Marijuana Products.
- 2. A hard copy of the transportation manifest shall be carried at all times with the Retail Marijuana and Retail Marijuana Products being transported.
- 3. See also Rule R 801 Transportation of Retail Marijuana and Retail Marijuana Products.
- F. Provision of Result of Failure to Provide Any Requested Record to the Division On Demand. A Retail Marijuana Establishment Licensee, and any of its agents and employees, must provide on-demand access to on-premises records following a request from the Division during normal business hours or hours of apparent operation, and must provide access to off-premises records within three business days following a request from the Division.

Basis and Purpose - R 902

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(XIII), C.R.S. All Retail Marijuana Establishment Licensees—must collect and remit sales tax on all retail sales made pursuant to the licensing activities. The purpose of this rule is to clarify when such taxes must be remitted to the Colorado Department of Revenue.

R 902 – Reporting and Transmittal of Taxes

- A. <u>Sales and Use Tax Returns Required</u>. All state and state-collected sales and use tax returns must be filed, and all taxes must be remitted to the Department of Revenue, on or before the 20th day of the month following the reporting month. For example, a January return and remittance will be due to the Department of Revenue by February 20th. If the due date (20th of the month) falls on a weekend or holiday, the next business day is considered the due date for the return and remittance.
- B. <u>Excise and Retail Marijuana Sales Tax Returns Required</u>. If an excise and an additional sales tax on Retail Marijuana are approved by voters in the 2013 general election, a Retail

- Marijuana Establishment shall submit and remit any applicable tax returns and payments due pursuant to Article 28.8 of Title 39, C.R.S.
- C. <u>Proof of Tax Remitted Required</u>. If an excise and an additional sales tax on Retail Marijuana are approved by voters in the 2013 general election, all state tax payments shall require proof of submittal with the State Licensing Authority. A Retail Marijuana Cultivation Facility must maintain records evidencing the payment of all required excise taxes. Proof of retail sales taxes shall be identified in required tax records, tracking systems, and sales receipts provide to consumers.

Basis and Purpose - R 903

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(XII), and 12-43.4-701(1), C.R.S. The Retail Code mandates that Licensees must pay for an audit when the State Licensing Authority deems an audit necessary. This rule explains when an audit may be deemed necessary and sets forth possible consequences of a Licensee's refusal to cooperate or pay for the audit.

R 903 – Independent Audit May Be Required

- A. State Licensing Authority May Require Independent Audit
 - The State Licensing Authority may require a Retail Marijuana Establishment Licensee to undergo an audit by an accountant that is independent of the Licensee, when it deems an audit necessary. The audit scope may include, but not be limited to financial transactions, inventory control measures, or other agreed upon procedures.
 - 2. In such instances, the Division and the Licensee may attempt to mutually agree upon the selection of the independent accountant. However, if a mutual agreement cannot be reached, the Division shall select the independent accountant. The independent accountant shall be a certified public accountant licensed by and in good standing with the Colorado State Board of Accountancy.
 - 3. The Licensee will be responsible for all direct costs associated with the independent audit.
- B. <u>When Independent Audit Is Necessary</u>. The State Licensing Authority has discretion to determine when an audit by an independent accountant is necessary. The following is a non-exhaustive list of examples that may justify an independent audit:
 - 1. A Licensee does not provide requested records to the Division;
 - 2. The Division has reason to believe that the Licensee does not properly maintain its business records;
 - 3. A Licensee has a prior violation related to recordkeeping or inventory control;
 - 4. A Licensee has a prior violation related to diversion.

- 5. As determined by the Division, the scope of an audit conducted by the Division would be so extensive as to jeopardize the regular duties and responsibilities of the Division's audit or enforcement staff.
- C. <u>Compliance Required</u>. A Licensee must pay for and <u>timely</u> cooperate with the State Licensing Authority's requirement that it undergo and audit in accordance with this rules.

Basis and Purpose - R 904

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(b)(IX), and 12-43.4-309(11), C.R.S. The State Licensing Authority must be able to immediately access information regarding a retail marijuana establishment's managing individual. Accordingly, this rule reiterates the statutory mandate that Licensees provide any management change to the Division within seven days of any change, and also clarifies that a Licensee must save a copy of any management change report to the Division, and clarifies that failure to follow this rule can result in discipline.

R 904 – Manager Change Must Be Reported

- A. <u>When Required</u>. A <u>retail Retail mM</u>arijuana <u>eE</u>stablishment <u>licensee</u>-shall provide the Division a written report within seven days after any change in manager occurs.
- B. <u>Licensee Must Maintain Record of Reported Change</u>. The <u>Licensee must also maintain a copy of this written report with its business records.</u>
- C. <u>Consequence of Failure to Report</u>. Failure to report a change in a timely manner may result in discipline.

R 1000 Series – Labeling, Packaging, and Products Safety

Basis and Purpose – R 1001

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.3-202(3)(c)(III), C.R.S. Extensive Labeling and secure packaging of Retail Marijuana and Retail Marijuana Products is of statewide concern. The purpose of this rule, and the rules in this series, is to ensure that all Retail Marijuana and Retail Marijuana Products are sold and delivered to lawful consumers is in packaging that is not easily opened by children.

R 1001 - Packaging Requirements: General Applicability

- A. <u>Ship Product Ready for Sale</u>. A Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility may individually package smaller quantities of Retail Marijuana, Retail Marijuana concentrates, and Retail Marijuana Products in a Shipping Container for transportation in compliance with MITS. See Rule R 309 Marijuana Inventory Tracking Solution (MITS) and Rule R 801 Transportation of Retail Marijuana and Retail Marijuana Products.
- B. <u>Inventory Tracking Compliance</u>. A Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must place an RFID tag on every package containing Retail Marijuana, Retail Marijuana concentrates, or Retail Marijuana Products prior to transport or transfer of possession to another Retail Marijuana Establishment. *See* Rule R 309 Marijuana Inventory Tracking Solution (MITS).

Basis and Purpose - R 1002

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(VII), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure that the Labeling on each package of Retail Marijuana or Retail Marijuana concentrates includes necessary and relevant information for the receiving Retail Marijuana Establishment. In addition, this rule clarifies basic packaging requirements.

R 1002 – Packaging and Labeling Requirements for Retail Marijuana Cultivation Facilities

- A. <u>Packaging of Retail Marijuana by a Retail Marijuana Cultivation Facility</u>. A Retail Marijuana Cultivation Facility must place all Retail Marijuana within a sealed, tamper-proof package that contains no more than one pound of Retail Marijuana prior to transporting any Retail Marijuana or transferring possession of any Retail Marijuana to another Retail Marijuana Establishment.
- B. <u>Labeling of Retail Marijuana Packages by Retail Marijuana Cultivation Facilities</u>. A Retail Marijuana Cultivation Facility must affix a Label to every package containing Retail Marijuana that includes all of the information required by this rule prior to transporting any Retail Marijuana or transferring possession of any Retail Marijuana to another Retail Marijuana Establishment.
 - 1. <u>Required Information</u>. A Retail Marijuana Cultivation Facility must include the following information on every package:

- a. The license number of the Retail Marijuana Cultivation Facility where the Retail Marijuana within the package was grown.
- b. The Harvest Batch Number(s) assigned by the Retail Marijuana Cultivation Facility to the Retail Marijuana contained within the package.
- The net weight, using a standard of measure compatible with MITS, of the Retail Marijuana prior to its placement in the package.
- d. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana contained within the package.
- 2. Permissive Statement When Certain Tests are Performed. If a Retail Marijuana Testing Facility conducted a test(s) on the Harvest Batch of Retail Marijuana from which the Retail Marijuana contained within the package was derived, a Retail Marijuana Cultivation Facility may label the package with the results of that test. The type of information that may be labeled shall be limited to the following:
 - a. A cannabinoid potency profile expressed as a range that extends from the lowest percentage to highest percentage of concentration of potency for each cannabinoid listed from every test conducted on that strain of Retail Marijuana cultivated by the same Retail Marijuana Cultivation Facility within the last three months.
 - b. A statement that the product was tested for contaminants, provided that the Retail Marijuana was tested for (1) molds, mildew and filth; (2) microbials; (3) herbicides, pesticides, and fungicides, and (4) harmful chemicals.
- 3. Required Statement When Potency Tests Are Not Performed. If a Retail Marijuana Testing Facility does not test the Harvest Batch from which the Retail Marijuana within the package was derived from potency, a Retail Marijuana Cultivation Facility must affix label to the package containing the statement "The retail marijuana contained within this package has not been tested for potency."
- 4. Required Statement When Contaminant Tests Are Not Performed. If a Retail Marijuana Testing Facility does not test the Harvest Batch from which the Retail Marijuana within the package was derived for (1) molds, mildew and filth; (2) microbials, (3) herbicides, pesticides, and fungicides, and (4) harmful chemicals, a Retail Marijuana Cultivation Facility must affix label to package with the statement "The retail marijuana contained within this package has not been tested for contaminants."
- C. Packaging Retail Marijuana Concentrates by a Retail Marijuana Cultivation Facility. Prior to transporting or transferring any Retail Marijuana concentrate(s) to another Retail Marijuana Establishment, a Retail Marijuana Manufacturing Facility must place all Retail Marijuana concentrate(s) within a sealed, tamper-proof package that contains no more than one pound of Retail Marijuana concentrate.
- D. <u>Labeling Retail Marijuana Concentrate Packages by Retail Marijuana Cultivation Facilities</u>. Prior to transporting or transferring any Retail Marijuana concentrate(s) to another Retail Marijuana Establishment, a Retail Marijuana Cultivation Facility must affix a label to every package containing Retail Marijuana concentrate(s) that includes all of the information required by this rule.
 - 1. <u>Required Statements.</u> A Retail Marijuana Cultivation Facility must include the following information on every package:

- a. The license number of the Retail Marijuana Cultivation Facility(-ies) where the Retail Marijuana used to produce the Retail Marijuana concentrate within the package was grown.
- b. The license number of the Retail Marijuana Cultivation Facility(-ies) that produced the Retail Marijuana Concentrate within the package was grown.
- c. The Production Batch Number assigned by the Retail Marijuana Cultivation Facility to the Retail Marijuana concentrate.
- d. The net weights, using a standard of measure compatible with MITS, of the Retail Marijuana concentrate prior to its placement in the package.
- e. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana used to produce the Retail Marijuana concentrate contained within the package.
- f. A complete list of solvents and chemicals used to create any Retail Marijuana concentrate.
- 2. <u>Permissive Statement When Contaminant Tests are Performed</u>. A Retail Marijuana Cultivation Facility Store <u>may</u> affix a Label to a package in which a Retail Marijuana concentrate is placed that contains a statement asserting that the Retail Marijuana concentrate contained within was tested for contaminants if:
 - a. The Retail Marijuana Cultivation Facility that grew the Retail Marijuana used to produce the Retail Marijuana concentrate had the Harvest Batch(es) from which that Retail Marijuana was derived tested by a Retail Marijuana Testing Facility for (1) molds, mildew and filth; (2) microbials; (3) herbicides, pesticides and fungicides, (4) and harmful chemicals; and
 - b. The Retail Marijuana Cultivation Facility that produced the Retail Marijuana concentrate had the Production Batch tested by a Retail Marijuana Testing Facility for residual solvents, poisons, or toxins.
- 3. <u>Permissive Statement When Potency Testing is Performed</u>. If the Retail Marijuana Cultivation Facility that produced the Retail Marijuana concentrate had the Production Batch for that concentrate tested by a Retail Marijuana Testing Facility for potency, a Retail Marijuana Cultivation Facility may label the package with a cannabinoid potency profile expressed as a percentage.
- 4. Required Statement When Contaminant Tests Are Not Performed. If all of the testing performed pursuant to Rule R 1002–(D)–(2) was not performed by a Retail Marijuana Testing Facility on a Production Batch of Retail Marijuana concentrate, a Retail Marijuana Cultivation Facility must affix a label to all packages containing that Retail Marijuana concentrate with the statement "The retail marijuana concentrate contained within this package has not been tested for contaminants."
- 5. Required Statement When Potency Testing Is Not Performed. If a Retail Marijuana Testing Facility does not test for potency on the Production Batch of the Retail Marijuana Concentrate, a Retail Marijuana Cultivation Facility must affix a label to all packages containing that Retail Marijuana concentrate with the statement "The retail marijuana contained within this package has not been tested for potency."

Basis and Purpose – R 1003

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), and 12-43.4-202(3)(a)(VII), and section 12-43.4-404, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure that the Labeling on each Container of Retail Marijuana or a Retail Marijuana Product includes necessary and relevant information for consumers does not include health and physical benefit claims, is easily accessible to consumers, and is clear and noticeable. In addition, this rule clarifies basic packaging requirements.

R 1003 – Packaging and Labeling Requirements for Retail Marijuana Manufacturing Facilities

- A. Packaging of Retail Marijuana Products by a Retail Marijuana Manufacturing Facility
 - 1. Prior to transporting or transferring any Retail Marijuana Products to another Retail Marijuana Establishment, a Retail Marijuana Manufacturing Facility must individually package all Retail Marijuana Products.
 - 2. A Retail Marijuana Products Manufacturer may place individually packaged Retail Marijuana Products within a Shipping Container.
- B. <u>Labeling of Retail Marijuana Products Individually Packaged by Retail Marijuana Product Manufacturing Facility.</u> Prior to transporting or transferring any Retail Marijuana Products to another Retail Marijuana Establishment, a Retail Marijuana Manufacturing Products Facility must affix a label to every individually packaged Retail Marijuana Product that includes all of the information required by this rule.
 - 1. <u>Required Information</u>. A Retail Marijuana Products Manufacturing Facility must include the following information on every package:
 - a. Either:
 - The license number of the Retail Marijuana Cultivation Facility(-ies) where the Retail Marijuana used to manufacture the Retail Marijuana Product within the package was grown; or
 - ii. If a Retail Marijuana concentrate was used to make the Retail Marijuana Product, the license number of the Retail Marijuana Cultivation Facility(-ies) or Retail Marijuana Products Manufacturing Facility(-ies) that produced the Retail Marijuana concentrate.
 - b. The Production Batch Number assigned by the Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility to the Retail Marijuana concentrate used to produce the Retail Marijuana Product.
 - c. A statement about whether an individual package is Child-Resistant.
 - d. The number of units within a Shipping Container.
 - e. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana used to produce the Retail Marijuana Product contained within the package. This rule shall apply whether the Retail Marijuana was first made into a concentrate prior to infusion.

- f. A complete list of solvents and chemicals used in the creation of any Retail Marijuana Concentrate that was used in the manufacturing of the Retail Marijuana Products.
- 2. <u>Permissive Statement When Certain Tests are Performed.</u> A Retail Marijuana Products Manufacturing Facility may affix a label to an individually packaged Retail Marijuana Product that contains a statement asserting that the Retail Marijuana Product contained within was tested for containments, provided that:
 - a. A Retail Marijuana Testing Facility tested the Batch of Retail Marijuana that was used to produce the Retail Marijuana Product within the package for (1) molds, mildew and filth;
 (2) microbials, (3) herbicides, pesticides, and fungicides, and (4) harmful chemicals;
 - A Retail Marijuana Testing Facility tested the Production Batch of any Retail Marijuana Concentrate used to produce the Retail Marijuana Product within the package for residual solvents, poisons or toxins; and
 - c. A Retail Marijuana Testing Facility tested the Production Batch of the Retail Marijuana Product for microbials, molds, mildew and filth.
- 3. <u>Permissive Statement if Cannabinoid Potency is Tested.</u> If Retail Marijuana Testing Facility tested the potency of the Production Batch of the Retail Marijuana Product contained within the package, a Retail Marijuana Products Manufacturing Facility may affix a label to any package containing that Retail Marijuana Product with a potency profile expressed milligrams.
- 4. Required Statement When No Containment Testing is Completed. If all of the testing performed pursuant to Rule R 1003-(D)-(i), (ii) and (iii) was not conducted by a Retail Marijuana Testing Facility on the Production Batch of a Retail Marijuana Product then the Retail Marijuana Products Manufacturing Facility must affix a label to each individually wrapped Retail Marijuana Product from that Production Batch with the statement "The retail marijuana contained within this package has not been tested for Contaminants."
- 5. Required Statement When No Potency Testing Completed. If a Retail Marijuana Testing Facility did not test for potency on the Production Batch of a Retail Marijuana Product, the Retail Marijuana Products Manufacturing Facility must affix a label to each individually wrapped Retail Marijuana Product from that Production Batch with the a statement "The retail marijuana contained within this package has not been tested for potency."
- C. <u>Labeling Retail Marijuana Products Shipping Container by Retail Marijuana Product Manufacturing Facility.</u>
 Prior to transporting or transferring any Retail Marijuana Products to another Retail Marijuana Establishment, a Retail Marijuana Manufacturing Products Facility must affix a label to every individually packaged Retail Marijuana Product that includes all of the information required by this rule. A Retail Marijuana Products Manufacturing Facility must include the following information on every Shipping Container:
 - 1. The number of individually packaged Retail Marijuana Products within the Shipping Container.
 - 2. The license number of the Retail Marijuana Manufacturing Facility(-ies) that produced the Retail Marijuana Products within the Shipping Container.
 - 3. For purposes of compliance with Rule R 1001-(B), an RFID tag must be placed upon the Shipping Container but need not be placed upon each individual package.

- D. <u>Retail Marijuana Manufacturing Facility Packaging Retail Marijuana Concentrates</u>. Prior to transporting or transferring any Retail Marijuana concentrate(s) to another Retail Marijuana Establishment, a Retail Marijuana Manufacturing Facility must place all Retail Marijuana concentrates within a sealed, tamper-proof package that contains no more than one pound of Retail Marijuana concentrate(s).
- E. <u>Retail Marijuana Manufacturing Facility Labeling Retail Marijuana Concentrate Packages.</u> Prior to transporting any Retail Marijuana concentrates or transferring possession to another Retail Marijuana Establishment, a Retail Marijuana Manufacturing Facility must affix a label to every package containing a Retail Marijuana concentrate(s) that includes all of the information required by this rule.
 - 1. <u>Required Information</u>. A Retail Marijuana Manufacturing Facility must include the following information on every package:
 - The license number of the Retail Marijuana Cultivation Facility(-ies) where the Retail Marijuana used to produce the Retail Marijuana concentrate within the package was grown;
 - b. The license number of the Retail Marijuana Cultivation Facility or Retail Marijuana Manufacturing Facility that produced the Retail Marijuana concentrate within the package;
 - c. The Batch Number assigned by the Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility that produced the Retail Marijuana concentrate.
 - d. The net weight, using a standard of measure compatible with MITS, of the Retail Marijuana concentrate prior to its placement in the package.
 - e. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana used to produce the Retail Marijuana concentrate contained within the package.
 - f. A complete list of solvents and chemicals used in the creation of any Retail Marijuana concentrate.
 - 2. <u>Permissive Statement When Certain Tests are Performed.</u> A Retail Marijuana Products Manufacturing Facility may affix a label to a package in which a Retail Marijuana concentrate is placed that contains a statement asserting that the Retail Marijuana Product contained within was tested for contaminants provided that:
 - a. A Retail Marijuana Testing Facility tested the Harvest Batch of Retail Marijuana that was used to produce the Retail Marijuana concentrate within the container for (1) molds, mildew and filth; (2) microbials, (3) herbicides, pesticides and fungicides, and (4) harmful chemicals; and
 - b. A Retail Marijuana Testing Facility tested the Production Batch of the Retail Marijuana concentrate within the package for residual solvents, poisons, or toxins.
 - 3. <u>Permissive Statement if Cannabinoid Potency is Tested.</u> If a Retail Marijuana Testing Facility tested the potency of the Production Batch of the Retail Marijuana concentrate contained within the package, a Retail Marijuana Cultivation Facility may label the package with a cannabinoid potency profile expressed as a percentage.
 - 4. Required Statement When No Contaminant Testing is Completed. If all of the testing performed pursuant to Rule R 1003–(E)–(2)–(a) and (b) was not conducted by a Retail Marijuana Testing

- Facility, a Retail Marijuana Products Manufacturing Facility must affix a label to the package with the statement "The retail marijuana contained within this package has not been tested for contaminants."
- 5. Required Statement When No Potency Testing is Completed. If a Retail Marijuana Testing Facility did not test for potency on the Production Batch of the Retail Marijuana concentrate within the package, a Retail Marijuana Products Manufacturing Facility must affix a label to the package with the statement "The Retail Marijuana contained within this package has not been tested for potency."
- F. Packaging of Retail Marijuana by a Retail Marijuana Manufacturing Facility. Prior to transporting any Retail Marijuana or transferring possession of any Retail Marijuana to another Retail Marijuana Establishment, a Retail Marijuana Manufacturing Facility must place all Retail Marijuana within a sealed, tamper-proof package that contains no more than one pound of Retail Marijuana.
- G. <u>Labeling of Retail Marijuana Packages by Retail Marijuana Product Manufacturing Facilities.</u> Prior to transporting or transferring possession of any Retail Marijuana to another Retail Marijuana Establishment, a Retail Marijuana Manufacturing Facility must affix a label to every package containing Retail Marijuana that includes all of the information required by this rule.
 - 1. <u>Required Information</u>. A Retail Marijuana Products Manufacturing Facility must include the following information on every package:
 - a. The license number of the Retail Marijuana Cultivation Facility where the Retail Marijuana within the package was grown.
 - b. The Harvest Batch Number(s) assigned by the Retail Marijuana Cultivation Facility to the Retail Marijuana contained within the package.
 - c. The net weight, using a standard of measure compatible with MITS, of the Retail Marijuana prior to its placement in the package.
 - d. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana contained within the package.
 - 2. Permissive Statement When Certain Tests are Performed. If a Retail Marijuana Testing Facility conducted a test(s) on the Harvest Batch of Retail Marijuana from which the Retail Marijuana contained within the package was derived, a Retail Marijuana Products Manufacturing Facility may label the package with the results of that test. The type of information that may be labeled shall be limited to the following:
 - a. A cannabinoid potency profile expressed as a range that extends from the lowest percentage to highest percentage of concentration of potency for each cannabinoid listed from every test conducted on that strain of Retail Marijuana cultivated by the same Retail Marijuana Cultivation Facility within the last three months.
 - b. A statement that the product was tested for contaminants, provided that the Retail Marijuana was tested for (1) molds, mildew and filth; (2) microbials; (3) herbicides, pesticides, and fungicides, and (4) harmful chemicals.
 - Required Statement When Potency Tests Are Not Performed. If a Retail Marijuana Testing Facility
 does not test the Harvest Batch from which the Retail Marijuana within the package was derived
 from potency, a Retail Marijuana Manufacturing Facility must ensure that a label is affixed to the

- package containing the statement "The retail marijuana contained within this package has not been tested for potency."
- 4. Required Statement When Contaminant Tests Are Not Performed. If Retail Marijuana Testing Facility does not the Harvest Batch from which the Retail Marijuana within the package was derived for (1) molds, mildew and filth; (2) microbials, (3) herbicides, pesticides, and fungicides, and (4) harmful chemicals, a Retail Marijuana Manufacturing Facility must ensure that a label is affixed to the package containing the statement "The retail marijuana contained within this package has not been tested for contaminants."

Basis and Purpose - R 1004

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), and 12-43.4-202(3)(a)(VII), and section 12-43.4-402, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure that the Labeling on each Container of Retail Marijuana or a Retail Marijuana Product includes necessary and relevant information for consumers does not include health and physical benefit claims, is easily accessible to consumers, and is clear and noticeable. In addition, this rule clarifies basic packaging requirements.

R 1004 – Packaging and Labeling Requirements for Retail Marijuana Stores Facilities

- A. <u>Packaging of Retail Marijuana by a Retail Marijuana Store</u>. The sale of Retail Marijuana is prohibited unless previously placed within a Container by a Retail Marijuana Store. If a Licensee does not place the Container within an Exit Package, the Container must be designed to ensure that the contents are secure and Child-Resistant.
- B. <u>Labeling of Retail Marijuana by a Retail Marijuana Store</u>. A Retail Marijuana Store must affix all of the information required by this rule to every Container in which Retail Marijuana is placed prior to sale to a consumer:
 - 1. A Retail Marijuana Store must include the following information on every Container:
 - a. The license number of the Retail Marijuana Cultivation Facility(-ies) where the Retail Marijuana within the package was grown;
 - b. The license number of the Retail Marijuana Store that sold the Retail Marijuana to the consumer;'
 - c. The Identity Statement and Standardized Graphic Symbol of the Retail Marijuana Store that sold the Retail Marijuana to the consumer. A Licensee may elect to have its Identity Statement also serve as its Standardized Graphic Symbol for purposes of complying with this rule. The Licensee shall maintain a record of its Identity Statement and Standardized Graphic Symbol and make such information available to the State Licensing Authority upon request;

- d. The Batch Number(s) assigned by the Retail Marijuana Cultivation Facility that to the marijuana plant or plants from which the Retail Marijuana contained within the package was harvested:
- e. The date of sale to the consumer;
- f. The net weight, using a standard of measure compatible with MITS, of the Retail Marijuana prior to its placement in the Container;
- g. A Universal Symbol, indicating that the Container holds marijuana, which must be no smaller than ¼ of an inch by ¼ of an inch;
- h. The following warning statements:
 - i. "There may be health risks associated with the consumption of this product."
 - ii. "This product is intended for use by adults 21 years and older. Keep out of the reach of children."
 - iii. "This product is unlawful outside the State of Colorado."
 - iv. "There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant."
 - v. "Do not drive or operate heavy machinery while using marijuana."
- i. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana contained within the package.
- 2. If a Retail Marijuana Testing Facility conducts tests on the Harvest Batch of Retail Marijuana from which the Retail Marijuana contained within the package was derived, a Retail Marijuana store may label the Container within the results of that test. The type of information that may be labeled shall be limited to the following:
 - a. A cannabinoid potency profile expressed as a range that extends from the lowest percentage to highest percentage of concentration of potency for each cannabinoid listed from every test conducted on that strain of Retail Marijuana cultivated by the same Retail Marijuana Cultivation Facility within the last three months.
 - b. A statement that the product was tested for contaminants, provided that the Retail Marijuana was tested for (1) molds, mildew and filth; (2) microbials, (3) herbicides, pesticides, and fungicides, and (4) harmful chemicals by a Retail Marijuana Testing Facility.
- 3. If testing for potency is not conducted by a Retail Marijuana Testing Facility on the Harvest Batch of Retail Marijuana from which the Retail Marijuana contained within the package was derived from, a Retail Marijuana Store must ensure that a label is affixed to the Container with the statement "The retail marijuana contained within this package has not been tested for potency."
- 4. If testing for (1) molds, mildew and filth; (2) microbials; (3) herbicides, pesticides, and fungicides; and (4) harmful chemicals is not conducted by a Retail Marijuana Testing Facility on the Harvest Batch of Retail Marijuana from which the Retail Marijuana within the Container was derived, a

Retail Marijuana Store must ensure a label is affixed to the Container with the statement "The Retail Marijuana contained within this package has not been tested for contaminants."

- C. <u>Packaging of Retail Marijuana Products by a Retail Marijuana Store</u>. The sale of Retail Marijuana Products is prohibited unless previously placed within a Container by a Retail Marijuana Store. If a Licensee does not place the Container within an Exit Package, the Container must be designed to ensure that the contents are secure and Child-Resistant.
- D. <u>Labeling of Retail Marijuana Products by a Retail Marijuana Store</u>. A Retail Marijuana Store must ensure that all of the information required by this rule is affixed to every Container in which Retail Marijuana Product is placed prior to sale to a consumer:
 - 1. A Retail Marijuana Store must include the following information on every Container:
 - a. The license number of the Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility that produced the Retail Marijuana Concentrate used to produce the Retail Marijuana Product within the container.
 - b. The license number of the Retail Marijuana Products manufacturer that manufactured the Retail Marijuana Product;
 - c. The Production Batch Number assigned by the Retail Marijuana Products Manufacturing Facility that produced the Retail Marijuana Product within the container.
 - d. A statement about whether the Container is Child-Resistant.
 - e. The Identity Statement and Standardized Graphic Symbol of the Retail Marijuana Store that sold the Retail Marijuana Product to the consumer. A Licensee may elect to have its Identity Statement also serve as its Standardized Graphic Symbol for purposes of complying with this rule. The Licensee shall maintain a record of its Identity Statement and Standardized Graphic Symbol and make such information available to the State Licensing Authority upon request;
 - The date of sale to the consumer;
 - g. The following warning statements:
 - i. "There may be health risks associated with the consumption of this product."
 - ii. "This product is intended for use by adults 21 years and older. Keep out of the reach of children."
 - iii. "This product is unlawful outside the State of Colorado."
 - iv. "This product is infused with retail marijuana."
 - v. "This product was produced without regulatory oversight for health, safety, or efficacy."
 - vi. "The intoxicating effects of this product may be delayed by two or more hours."
 - vii. "There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant."

- viii. "Do not drive or operate heavy machinery while using marijuana."
- h. A Universal Symbol, indicating that the Container holds marijuana, which must be no smaller than ¼ of an inch by ¼ of an inch;
- A clear set of instructions for proper usage;
- j. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana used to manufacture the Retail Marijuana Product contained within the Container; and
- k. A complete list of solvents and chemicals used in the creation of any Retail Marijuana concentrate used in the manufacture of the Retail Marijuana Product.
- 2. A Retail Marijuana Store may affix a Label to a Container in which a Retail Marijuana Product is placed that contains a statement asserting that the Retail Marijuana Product contained within was tested for contaminants provided that:
 - a. The Harvest Batch of Retail Marijuana used to produce the Retail Marijuana Product within the Container was tested for (1) molds, mildew and filth; (2) microbials, (3) herbicides, pesticides and fungicides, and (4) harmful chemicals by a Retail Marijuana Testing Facility;
 - The Production Batch of the Retail Marijuana concentrate used to produce the Retail Marijuana Product within the Container was tested for residual solvents, poisons or toxins, by a Retail Marijuana Testing Facility; and
 - c. The Production Batch of the Retail Marijuana Product was tested for microbials, molds, mildew and filth by a Retail Marijuana Testing Facility.
- 3. If potency testing is conducted by a Retail Marijuana Testing Facility on the Production Batch of the Retail Marijuana Product contained within the package, a Retail Marijuana Store may label the Container with a cannabinoid potency profile expressed milligrams.
- 4. If all of the testing performed pursuant to Rule R 1004 (D)-(2)-(a), (b) and (c) was not conducted by a Retail Marijuana Testing Facility, a Retail Marijuana Store must ensure that a label is affixed to the Container with the statement "The Retail Marijuana contained within this package has not been tested for contaminants."
- 5. If testing for potency was not conducted by a Retail Marijuana Testing Facility on the Production Batch of a Retail Marijuana Product, a Retail Marijuana Store must ensure that a label is affixed to the Container with the statement "The Retail Marijuana contained within this package has not been tested for potency."
- E. Additional Labeling Requirements for Edible Retail Marijuana Products by a Retail Marijuana Store
 - 1. All Edible Retail Marijuana Products sold, transferred, or dispensed by a Retail Marijuana Store to a consumer must include the following information:
 - a. <u>Ingredient List</u>. A list of all ingredients used to manufacture the Edible Retail Marijuana Product; which may include a list of any potential allergens contained within, or used in the manufacture of, the Retail Marijuana Product.

- b. <u>Statement Regarding Refrigeration</u>. A statement that the Retail Marijuana Product, if perishable, must be refrigerated.
- c. <u>Statement of Expiration Date</u>. A product expiration date, for perishable Retail Marijuana Products, upon which the product will no longer be fit for consumption, or a use-by-date, upon which the product will no longer be optimally fresh. Once a Label with a use-by or expiration date has been affixed to a Container of a Retail Marijuana Product, a Licensee shall not alter that date or affix a new Label with a later use-by or expiration date.
- 2. All Edible Retail Marijuana Products sold, transferred, or dispensed by a Retail Marijuana Store to a consumer may also include the following information:
 - a. THC Information Statement. The following consumer information statement: "The standardized serving size amount for this product is ten milligrams of active THC. This Container includes _____ servings."
 - b. A statement regarding the Retail Marijuana Product's compatibility with dietary restrictions; and
 - c. A nutritional fact panel that, if included, must be based on the number of THC servings within the Container.
- F. <u>Packaging of Retail Marijuana Concentrates by a Retail Marijuana Cultivation Facility</u>. The sale of Retail Marijuana concentrates is prohibited unless previously placed within a Container by a Retail Marijuana Store. If a Licensee does not place the Container within an Exit Package, the Container must be designed to ensure that the contents are secure and Child-Resistant.
- G. <u>Labeling of Retail Marijuana Concentrate Packages by Retail Marijuana Stores</u>. A Retail Marijuana Store must ensure that all of the information required by this rule is affixed to every Container in which Retail Marijuana concentrate is placed prior to sale to a consumer:
 - 1. A Retail Marijuana Cultivation Facility must include the following information on every package:
 - a. The license number of the Retail Marijuana Cultivation Facility(-ies) where the Retail Marijuana used to produce the Retail Marijuana concentrate within the package was grown.
 - b. The license number of the Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility that produced the Retail Marijuana concentrate.
 - c. The Production Batch Number assigned by the Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility that produced the Retail Marijuana Concentrate
 - d. The net weight, using a standard of measure compatible with MITS, of the Retail Marijuana concentrate prior to its placement in the package;
 - e. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana used to produce the Retail Marijuana concentrate contained within the package; and
 - f. A complete list of solvents and chemicals used in the creation of any Retail Marijuana Concentrate.

- 2. A Retail Marijuana Store may affix a Label to a Container in which a Retail Marijuana concentrate is placed that contains a statement asserting that the Retail Marijuana concentrate contained within was tested for contaminants provided that:
 - a. The Batch of Retail Marijuana that was used to produce the Retail Marijuana Concentrate within the container was tested for (1) molds, mildew and filth; (2) microbials, (3) herbicides, pesticides, and fungicides, and (4) harmful chemicals by a Retail Marijuana Testing Facility; and
 - b. The Production Batch of any Retail Marijuana concentrate used to produce the Retail Marijuana concentrates within the Container was tested for residual solvents, poisons or toxins by a Retail Marijuana Testing Facility.
- 3. If a Retail Marijuana Testing Facility tests the potency of the Production Batch of the Retail Marijuana concentrate contained within the Container, a Retail Marijuana Store may label the Container with a cannabinoid potency profile expressed as a percentage.
- 4. If all of the testing performed pursuant to Rule R 1004-(G)-(2)-(a) and (b) was not conducted by a Retail Marijuana Testing Facility, a Retail Marijuana Store must ensure that a label is affixed to the Container with the a statement "The retail marijuana contained within this package has not been tested for contaminants."
- 5. If testing for potency was not conducted by a Retail Marijuana Testing Facility on the Production Batch of the Retail Marijuana concentrate within the Container, a Retail Marijuana Store must ensure that a label is affixed to the Container with the a statement "The retail marijuana contained within this package has not been tested for potency."

R 1100 Series – Signage and Advertising

Basis and Purpose – R 1102

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(c)(l), and 12-43.4-901(4)(b), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clearly delineate that Licensees are not permitted to make deceptive, false, or misleading statements in advertising materials or on any product or document provided to a consumer.

R 1102 – Advertising General Requirement: No Deceptive, False or Misleading Statements

A Licensee shall not make any deceptive, false, or misleading statements in any Advertising materials, nor make any deceptive, false, or misleading statements on any product or document provided to a consumer.

Basis and Purpose R 1103

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(c)(I), and 12-43.4-901(4)(b), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the definition of the term "minor" as used in the Retail Code.

R 1103 – The Term "Minor" as Used in the Retail Code and These Rules

The term "minor" as used in the Retail Code and the 1100 Series of these rules means an individual under the age of 21.

Basis and Purpose - R 1104

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(l), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to television advertising. This draft rule contains two potential versions of the rule for consideration. As with all draft rules, the State Licensing Authority will determine appropriate language for the rule following review of the complete rulemaking record.

R 1104 – Advertising: Television

- A. <u>Television Advertising defined</u>. As used in this rule, the term "television" means a system for transmitting visual images and sound that are reproduced on screens, chiefly used to broadcast programs for entertainment and includes broadcast programming, cable, on-demand, satellite, or internet. This includes any video programming downloaded or streamed via the internet.
- B. <u>Television Advertising [version one]</u>. A Retail Marijuana Establishment shall not utilize television Advertising.
- C. <u>Television Advertising [version two]</u>. A Retail Marijuana Establishment shall not utilize television Advertising unless it has documentary evidence that the audience for the program airing during the time the

Advertisement is to be run is comprised of no more than 10% individuals under the age of 21, and no more than 3% individuals under the age of ten.

Basis and Purpose - R 1105

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(l), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to radio advertising. This draft rule contains two potential versions of the rule for consideration. As with all draft rules, the State Licensing Authority will determine appropriate language for the rule following review of the complete rulemaking record.

R 1105 - Advertising: Radio

- A. <u>Radio Advertising defined</u>. As used in this rule, the term "radio" means the transmission and reception of electromagnetic waves of radio frequency, especially those carrying sound messages, and includes programming transmitted via broadcast, cable, on-demand, satellite, or internet. This includes any audio programming downloaded or streamed via the internet.
- B. Radio Advertising [version one]. A Retail Marijuana Establishment shall not engage in radio Advertising.
- C. <u>Radio Advertising [version two]</u>. A Retail Marijuana Establishment shall not engage in radio Advertising unless it has documentary evidence that the audience for the program airing during the time the Advertisement is to be run is comprised of no more than 10% individuals under the age of 21, and no more than 3% individuals under the age of ten.

Basis and Purpose - R 1106

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(I), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to advertising in print media.

R 1106 -Advertising: Print Media

A Retail Marijuana Establishment shall not engage in Advertising in a print publication whose primary target audience consists of individuals under the age of 21.

Basis and Purpose – R 1107

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b)_and 12-43.4-202(3)(c)(I), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to advertising on the internet.

R 1107 –Advertising: Internet

A Retail Marijuana Establishment shall only engage in Advertising on those internet websites that require the user to verify that he or she is at least 21 years of age. This restriction applies to all internet Advertising, including but not limited to pop-up Advertising. See also Rule R 1114 – Pop-Up Advertising.

Basis and Purpose – R 1108

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(I), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to advertising in a medium designed to target out-of-state residents.

R 1108 – Advertising: Targeting out-of-state Persons Prohibited.

A Retail Marijuana Establishment shall not target Advertising to Persons who are not residents of Colorado. This restriction applies to Advertising in any medium.

Basis and Purpose – R 1109

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(I), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to safety claims that are by nature misleading, deceptive, or false.

R 1109 - Signage, Marketing, and Advertising: No Safety Claims Because Regulated by State Licensing Authority

No Retail Marijuana Establishment Licensee may engage in Advertising or utilize signage that asserts its products are safe because they are regulated by the State Licensing Authority.

Basis and Purpose - R 1110

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(I), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to safety claims that are by nature misleading, deceptive, or false.

R 1110- Signage, Marketing, and Advertising: No Safety Claims Because Tested by a Retail Marijuana Testing Facility

A Retail Marijuana Establishment Licensee may Advertise that its products have been tested by a Retail Marijuana Testing Facility, but shall not engage in Advertising that asserts its products are safe because they are tested by a Retail Marijuana Testing Facility.

Basis and Purpose - R 1111

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(I), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to outdoor Advertising and signage.

R 1111- Signage, Marketing, and Advertising: Outdoor Advertising

- A. <u>Local Ordinances</u>. A Retail Marijuana Establishment shall comply with any applicable local ordinances regulating signs and Advertising.
- B. <u>Outdoor Advertising Generally Prohibited</u>. Except as otherwise provided in this rule, it shall be unlawful for any Retail Marijuana Establishment to engage in Advertising that is visible to members of the public from any street, sidewalk, park or other public place, including Advertising utilizing any of the following media: any billboard or other outdoor general advertising device; any sign mounted on a vehicle, any hand-held or other portable sign; or any handbill, leaflet or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property without the consent of the property owner.
- C. <u>Exception</u>. The prohibitions set forth in this rule shall not apply to any sign that is located on the same zone lot as a Retail Marijuana Store and that exists solely for the purpose of identifying the location of the retail marijuana store and otherwise complies with any applicable local ordinances.

Basis and Purpose – R 1112

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(I), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to prohibit signage and Advertising that has a high likelihood of reaching individuals under the age of 21.

R 1112– Signage and Advertising: No Content That Appeals to Minors

A Retail Marijuana Establishment shall not use cartoon characters, images, or other content that was known or should have been known to appeal to an individual under the age of 21 in any form of Advertising or signage.

Basis and Purpose – R 1113

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(I)(F), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to marketing directed toward location-based devices.

R 1113 – Advertising: Advertising via Marketing Directed Toward Location-Based Devices

A Retail Marijuana Establishment shall not engage in Advertising via marketing directed towards location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 year of age or older and includes a permanent and easy opt-out feature.

Basis and Purpose - R 1114

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(I)(C), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to pop-up Advertising.

R 1114 – Pop-Up Advertising

A Retail Marijuana Establishment shall not engage in Advertising via unsolicited pop-up Advertising on the internet.

Basis and Purpose - R 1115

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b) and 12-43.4-202(3)(c)(I), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to event sponsorship.

R 1115 – Advertising: Event Sponsorship

A Retail Marijuana Establishment may sponsor an event, but a Retail Marijuana Establishment shall not engage in Advertising at an event where there is a high likelihood that individuals under the age of 21 will be exposed to such Advertising. This rule is not intended to prohibit donor acknowledgement by the recipient in a format that is not highly likely to reach individuals under the age of 21.

Basis and Purpose - R 1201

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(b)(I), and 12-43.4-202(3)(b)(III), and sections 12-43.3-601, 12-43.4-701, 16-2.5-101, 16-2.5-120, and 16-2.5-124.5, C.R.S. The purpose of this rule is to allow for officers and employees of the Division to investigate all aspects of the marijuana Licensees to ensure the fair, impartial, stringent, and comprehensive administration of the Colorado-Retail Marijuana Code and related regulations.

R 1201 – Duties of Officers and Employees of the State Licensing Authority

A. Duties of Director

- 1. The State Licensing Authority may delegate an act required to be performed by the State Licensing Authority related to the day-to-day operation of the Division to the Director.
- 2. The Director may authorize investigators and employees of the Division to perform tasks delegated from the State Licensing Authority.
- B. <u>Duties of Division Investigators</u>. The State Licensing Authority, the Department's Senior Director of Enforcement, the Director, and Division investigators shall have all the powers of any peace officer to:
 - 1. Investigate violations or suspected violations of the Retail Code and rules promulgated pursuant to it:
 - Make arrests, with or without warrant, for any violation of the Retail Code, rules promulgated
 pursuant to it, Article 18 of Title 18, C.R.S., any other laws or regulations pertaining to Retail
 Marijuana in this state, or any criminal law of this state, if, during an officer's exercise of powers or
 performance of duties under the Retail Code, probable cause exists that a crime related to such
 laws has been or is being committed;
 - 3. Serve all warrants, summonses, subpoenas, administrative citations, notices or other processes relating to the enforcement of laws regulating Retail Marijuana and Retail Marijuana-Infused Products:
 - 4. Assist or aid any law enforcement officer in the performance of his or her duties upon such law enforcement officer's request or the request of other local officials having jurisdiction;
 - 5. Inspect, examine, or investigate any Licensed Premises where Retail Marijuana or Retail Marijuana Products are grown, stored, cultivated, manufactured, distributed, or sold, and any books and records in any way connected with any licensed or unlicensed? activity;
 - Require any Licensee, upon demand, to permit an inspection of Licensed Premises during business hours or at any time of apparent operation, marijuana equipment, and marijuana accessories, or books and records; and, to permit the testing of or examination of Retail Marijuana

or Retail Marijuana Products;

- 7. Require Applicants to submit complete applications and fees and other information the Division deems necessary to make licensing decisions and approve material changes made by the Applicant or Licensee;
- Conduct investigations into the character, criminal history, and all other relevant factors related to suitability of all Licensees and Applicants for Retail Marijuana licenses and such other Persons with a direct or indirect interest in an Applicant or Licensee, as the State Licensing Authority may require; and
- 9. Exercise any other power or duty authorized by law.

Basis and Purpose – R 1202

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(b)(II), and 12-43.4-202(3)(b)(III), and section 12-43.4-602, C.R.S. This rule explains that Licensees must cooperate with Division employees when they <u>are</u> acting within the normal scope of their duties and that failure to do so may result in sanctions. It also explains the process for forfeiture of unauthorized marijuana.

R 1202 – Requirement for Inspections and Investigations, Searches, Administrative Holds, and Such Additional Activities as May Become Necessary from Time to Time

A. Applicants and Licensees Shall Cooperate with Division Employees

- Applicants and Licensees must cooperate with employees and investigators of the Division who
 are conducting inspections or investigations relevant to the enforcement of laws and regulations
 related to the Retail Code.
- 2. No Applicant or Licensee shall by any means interfere with, obstruct or impede the State Licensing Authority or employee or investigator of the Division from exercising their duties under the provisions of the Retail; Code and all regulations promulgated thereunder. This would include, but is not limited to:
 - a. Threatening force or violence against an employee or investigator of the Division, or otherwise endeavoring to intimidate, obstruct, or impede employees or investigator of the Division, their supervisors, or any peace officers from exercising their duties. The term "threatening force" includes the threat of bodily harm to such individual or to a member of his or her family;
 - b. Denying employees or investigators of the Division access to a Licensed Premises during business hours or times of apparent activity;
 - c. Providing false or misleading statements;
 - d. Providing false or misleading -documents and records;

- e. Failing to timely produce requested books and records required to be maintained by the Licensee: or
- f. Failing to timely respond to any other request for information made by a Division employee or investigator in connection with an investigation of the qualifications, conduct or compliance of an Applicant or Licensee.

B. Administrative Hold

- To prevent destruction of evidence, diversion or other threats to public safety, while permitting a Licensee to retain its inventory pending further investigation, a Division investigator may order an administrative hold -of Retail Marijuana and Retail Marijuana Products pursuant to the following procedure:
 - a. As part of an investigation or inspection of a Licensee, a Division investigator may
 develop reasonable grounds to believe certain Retail Marijuana and Retail Marijuana
 Products constitute evidence of acts in violation of the Retail Code or these regulations,
 or otherwise constitute a threat to the public safety.
 - b. The Division investigator may issue a notice of administrative hold of any such Retail Marijuana and Retail Marijuana Products. The notice of administrative hold shall provide a documented description of the Retail Marijuana to be subject to the administrative hold.
 - c. Following the issuance of a notice of administrative hold, the Division will identify the Retail Marijuana and Retail Marijuana Products subject to the administrative hold in MITS. The Licensee shall continue to comply with all tracking requirements. See Rule R 309 - Retail Marijuana Establishments: Marijuana Inventory Tracking Solution (MITS).
 - d. The Licensee shall completely and physically segregate the Retail Marijuana and Retail Marijuana Products subject to the administrative hold in a Limited Access Area of the Licensed Premises under investigation, where it shall be safeguarded by the Licensee. Pending the outcome of the investigation and any related disciplinary proceeding, the Licensee is prohibited from selling, giving away, transferring, transporting, or destroying the Retail Marijuana and Retail Marijuana Products subject to the administrative hold.
 - e. Nothing herein shall prevent a Licensee from the continued cultivation or harvesting of the Retail Marijuana subject to the administrative hold. All Retail Marijuana and Retail Marijuana Products subject to an administrative hold must be separately Batched.
 - f. Following <u>an investigation</u>, the Division may lift the administrative hold, or the Division may order the continuation of the administrative hold.

C. <u>Voluntary Ssurrender of Retail Marijuana and Retail Marijuana Products</u>

1. A Licensee, prior to a Final Agency Order and upon mutual agreement with the Division, may elect to waive a right to a hearing and associated rights, and voluntarily surrender any Retail Marijuana and Retail Marijuana Products to the Division. Such voluntary surrender may require destruction of any Retail Marijuana and Retail Marijuana Products in the presence of a Division investigator.

2. The individual signing on behalf of the Licensee must certify that the individual has authority to represent and bind the Licensee.

Basis and Purpose - R 1203

The statutory authority for this rule is found at subsections 12-43.4-202(1)(b)(l) and 12-43.4-602, C.R.S. The purpose of this rule is to provide guidance following either an agency decision or under any circumstances where the Licensee is ordered to surrender and/or destroy Retail Marijuana or Retail Marijuana products. This rule also provides guidance as to the need to preserve evidence during agency investigations or subject to agency order.

R 1203 – Disposition of Unauthorized Retail Marijuana

- A. <u>After Final Agency Order Orders Destruction of Marijuana</u>. If the State Licensing Authority issues a Final Agency Order pursuant to section 12-43.4-602, C.R.S., that orders the destruction of some or all of the Licensee's unauthorized Retail Marijuana or unauthorized Retail Marijuana Products, the Licensee may:
 - 1. <u>Voluntarily Surrender</u>. The Licensee may voluntarily surrender to the Division all of its unauthorized Retail Marijuana and unauthorized Retail Marijuana Products that are described in the Final Agency Order. If the Licensee chooses to voluntarily surrender its plants and products:
 - a. The Licensee must complete and return the Division's voluntary surrender form within 15 calendar days of the date of the Final Agency Order.
 - b. The individual signing on behalf of the Licensee must affirm that the individual has authority to represent and bind the Licensee.
 - 2. <u>Seek A Stay</u>. File a petition for stay of the Final Agency Order with the Denver district court within 15 days of the date of the Final Agency Order.
 - 3. Take No Action. If the Licensee does not either (1) voluntarily surrender its uulnauthorized Retail Marijuana as set forth in section A(1)(a) of this rule; or (2) properly seeks a stay of the Final Agency Order as set forth in section A(2) of this rule, the Division will enter upon the Licensed Premises and seize and destroy the marijuana plants and/or marijuana products that are the subject of the Final Agency Order. The Division will only take such action if a district attorney for the judicial district in which the unauthorized Retail Marijuana or unauthorized Retail Marijuana Products are located has not notified the Division that the unauthorized Retail Marijuana or unauthorized Retail Marijuana Products constitute evidence in a criminal proceeding and that it should not be destroyed.
- B. General Requirements Applicable To All Licensees Following Final Agency Order To Destroy Unauthorized Retail Marijuana and Unauthorized Retail Marijuana Products. The following requirements apply regardless of whether the Licensee voluntarily surrenders its unauthorized Retail Marijuana or unauthorized Retail Marijuana Products seeks a stay of agency action, or takes no action:
 - 1. The 15 day period set forth in section 12-43.3-602(5), C.R.S., and this rule shall include holidays and weekends.

- 2. During the period of time between the issuance of the Final Agency Order and the destruction of the unauthorized Retail Marijuana or unauthorized Retail Marijuana Products the Licensee shall not sell, destroy, or otherwise let any unauthorized Retail Marijuana or unauthorized Retail Marijuana Products that are subject to the Final Agency Order leave the Licensed Premises, unless specifically authorized by the State Licensing Authority or Court order.
- 3. Unless the State Licensing Authority otherwise orders, the Licensee may cultivate, water, or otherwise care for any unauthorized Retail Marijuana or unauthorized Retail Marijuana Products that are subject to the Final Agency Order during the period of time between the issuance of the Final Agency order and the destruction of the unauthorized Retail Marijuana or unauthorized Retail Marijuana Products.
- 4. If a district attorney notifies the Division that some or all of the unauthorized Retail Marijuana or unauthorized Retail Marijuana Products are involved in an investigation, the Division shall not destroy the unauthorized Retail Marijuana or unauthorized Retail Marijuana Products until approved by the district attorney.

R 1300 Series - Discipline

Basis and Purpose – R 1301

The statutory authority for this rule is found at sections 24-4-105 and 12-43.4-601 and subsections 12-43.4-202(2)(b) and 12-43.4-202(2)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(l). The purpose of this rule is to clarify how the disciplinary process for non-summary license suspensions and license revocations is initiated.

R 1301 – Disciplinary Process: Non-Summary Suspensions

A. How a Disciplinary Action is Initiated

- If the State Licensing Authority, on its own initiative or based on a complaint, has reasonable
 cause to believe that a Licensee has violated the Retail Code, any rule or regulation
 promulgated pursuant to it, or any of its orders, the State Licensing Authority shall issue and
 serve upon the Licensee an Order to Show Case (administrative citation) as to why its license
 should not be suspended or revoked.
- The Order to Show Cause shall identify the statute, rule, regulation, or order allegedly violated, and the facts alleged to constitute the violation. The order shall also provide an advisement that the license could be suspended or revoked should the charges contained in the notice be sustained upon final hearing.
- B. <u>Disciplinary Hearings</u>. Disciplinary hearings will be conducted in accordance with Rule R 1304 Administrative Hearings.

Basis and Purpose – R 1302

The statutory authority for this rule is found at sections 24-4-105 and 12-43.4-601 and subsections 12-43.4-202(2)(b) and 12-43.4-202(2)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to set forth the process for summary suspensions when the State Licensing Authority has cause to immediately revoke a license prior to a hearing. Such an occasion will occur when the State Licensing Authority has reason to believe and finds that a Licensee has been guilty of a deliberate and willful violation of any applicable law or regulation, or has committed an infraction of such magnitude that it is imperative its license be revoked to protect the public safety and welfare. The rule ensures proper due process for Licensees when their licenses are temporarily or summarily suspended by requiring prompt initiation of disciplinary proceedings after such suspensions.

R 1302 – Disciplinary Process: Summary Suspensions

A. How a Summary Suspension Action is Initiated

- 1. When the State Licensing Authority has reasonable grounds to believe and finds that a Licensee has been guilty of a deliberate and willful violation of any applicable law or regulation or that the public health, safety, or welfare imperatively requires emergency action it shall serve upon the Licensee a Summary Suspension Order that temporarily or summarily suspends the License.
- 2. The Summary Suspension Order shall identify the nature of the State Licensing Authority's basis for the summary suspension. The Summary Suspension Order shall also provide an advisement that the License may be subject to further discipline or revocation should the charges contained in the notice be sustained following a hearing.
- 3. Proceedings for suspension or revocation shall be promptly instituted and determined after the Summary Suspension Order is issued.
- B. <u>Summary Suspension Hearings</u>. Summary suspension hearings will be expedited to the extent practicable and will be conducted in accordance with Rule R 1304 Administrative Hearings.

Basis and Purpose – R 1303

The statutory authority for this rule is found at sections 24-4-105, 12.43.4-601, and 12-43.4-602 and subsections 12-43.4-202(2)(b), and 12-43.4-202(2)(c), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The State Licensing Authority recognizes that if Licensees are not able to care for their products during a period of active suspension, then their plants could die, their edible products could deteriorate, and their on-hand inventory may not be properly maintained. Accordingly, this rule was written to clarify that Licensees whose licenses are summarily suspended may care for on-hand inventory, manufactured products, and plants during the suspension (unless the State Licensing Authority does not allow such activity). In addition, the rule clarifies what activity is always prohibited during such suspension.

R 1303 – Suspension Process: Regular and Summary Suspensions

A. <u>Signs Required During Suspension</u>. Every Licensee whose License has been suspended, whether summarily or after an administrative hearing, shall post two notices in conspicuous places, one on the

exterior and one on the interior of its premises, for the duration of the suspension. The notices shall be two feet in length and 14 inches in width containing lettering not less 1/2" in height.

1. For suspension following issuance of a Final Agency Order, the sign shall be in the following form:

NOTICE OF SUSPENSION

RETAIL MARIJUANA LICENSES ISSUED

FOR THESE PREMISES HAVE BEEN

SUSPENDED BY ORDER OF THE STATE LICENSING AUTHORITY

FOR VIOLATION OF THE COLORADO RETAIL MARIJUANA CODE

2. For a summary suspension pending issuance of a Final Agency Order, the sign shall be in the following form:

NOTICE OF SUSPENSION

RETAIL MARIJUANA LICENSES ISSUED

FOR THESE PREMISES HAVE BEEN

SUSPENDED BY ORDER OF THE STATE LICENSING AUTHORITY

FOR ALLEGED VIOLATION OF THE COLORADO RETAIL MARIJUANA CODE

Any advertisement or posted signs that indicate that the premises have been closed or business suspended for any reason other than by the manner described in this rule shall be deemed a violation.

B. Prohibited Activity During Active Suspension

- Retail Licensee. Unless otherwise ordered by the State Licensing Authority, during any period of
 active license suspension the Licensee shall not permit the selling, serving, giving away,
 distribution, customer possession, transfer, or transport of any product, including but not limited to,
 Retail Marijuana or Retail Marijuana Products on the Licensed Premises. However, Retail
 Marijuana and Retail Marijuana Products shall not be removed from the Licensed Premises or
 destroyed unless and until the provisions described in sections 12-43.4-602, C.R.S., related to the
 proper destruction of unauthorized marijuana are met, and the State Licensing Authority orders
 forfeiture and destruction. See also Rule R 1203 Disposition of Unauthorized Retail Marijuana.
- 2. <u>Cultivation Licensee</u>. Unless otherwise ordered by the State Licensing Authority, during any period of active license suspension the Licensee may maintain its on hand inventory and otherwise care for its Retail Marijuana and plant inventories. However, marijuana shall not be removed from the Licensed Premises or destroyed unless and until the provisions described in section 12-43.4-602, C.R.S., related to the proper destruction of unauthorized marijuana are met, and the State Licensing Authority orders forfeiture and destruction. See also Rule R 1203 Disposition of Unauthorized Retail Marijuana.

- 3. Manufacturing Licensee. Unless otherwise ordered by the State Licensing Authority, during any period of active license suspension the Licensee shall not permit the selling, distribution, transfer, or transport of Retail Marijuana or Retail Marijuana Products on the Licensed Premises. Unless otherwise ordered by the State Licensing Authority, during any period of active license suspension the Licensee may maintain Retail Marijuana and Retail Marijuana Products on the Licensed Premises. However, Retail Marijuana Retail Marijuana Products shall not be removed from the Licensed Premises or destroyed unless and until the provisions described in section 12-43.4-602, C.R.S., related to the proper destruction of unauthorized marijuana are met, and the State Licensing Authority orders forfeiture and destruction. See also Rule R 1203 Disposition of Unauthorized Retail Marijuana.
- 4. Retail Marijuana Testing Facility Licensee. Unless otherwise ordered by the State Licensing Authority, during any period of active license suspension the Licensee shall not receive Samples for testing, perform any test on Samples, transfer, or transport Retail Marijuana or Retail Marijuana Products on the Licensed Premises. Unless otherwise ordered by the State Licensing Authority, during any period of active license suspension the Licensee must maintain the security and integrity of all previously received Samples on the Licensed Premises. However, Retail Marijuana and Retail Marijuana Products shall not be removed from the Licensed Premises or destroyed unless and until the provisions described in section 12-43.4-602, C.R.S., related to the proper destruction of unauthorized marijuana are met, and the State Licensing Authority orders forfeiture and destruction. See also Rule R 1203 Disposition of Unauthorized Retail Marijuana.

Basis and Purpose - R 1304

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(l) and section 24-4-105, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(l). The purpose of this rule is to establish what entity conducts the administrative hearings, the scope of the administrative hearings rules, and other general hearings issues.

R 1304 – Administrative Hearings

A. General Procedures

- Hearing Location. Hearings will generally be conducted by the Department of Revenue, Hearings Division. Unless the Hearing Officer orders a change of location based on good cause, as described in this Rule, all hearings will be conducted at the Division's hearing facilities in Denver, Colorado.
- 2. <u>Scope of Hearing Rules</u>. The Administrative Hearings rules shall be construed to promote the just and efficient determination of all matters presented.
- Right to Legal Counsel. Any <u>Denied Applicant or Respondent has a right to legal counsel</u> throughout all processes described in rules associated with <u>the denial of a application and</u> disciplinary action. Such counsel shall be provided solely at the <u>Denied Applicant's or Respondent's expense</u>.

B. Requesting a Hearing

 A Denied Applicant that has been served with a Notice of Denial, and been denied a license pursuant to the R 200 Series – Licensing, may request a hearing within 60 days of the service of the Notice of Denial by making a written request for a hearing to the Division. The request must be submitted by United States mail or by hand delivery. Email or fax requests will not be considered. The request must be sent to:

Marijuana Enforcement Division

Attn: Hearing Request

455 Sherman Street, Suite 390

Denver, CO 80203

The written request for a hearing must be received by the Division within the time stated in the Notice of Denial. An untimely request will not be considered.

- 2. A Respondent that has been served with an Order to Show Cause shall be entitled to a hearing regarding the matters addressed therein.
- 3. A Denied Applicant or a Respondent may waive his or her right to a hearing by submitting a written statement to the State Licensing Authority to that effect before the hearing.

C. When a Responsive Pleading is Required

- 1. A Respondent shall file a written answer with the Hearings Division and the Division within 30 days after the date of mailing of any administrative notice or Order to Show Cause. If a Respondent fails to file a required answer, the Hearing Officer, upon motion, may enter a default against that Person pursuant to section 24-4-105(2)(b), C.R.S. For good cause, as described in this rule, shown, the hearing officer may set aside the entry of default within ten days after the date of such entry.
- 2. In connection with any request for a hearing, a Denied Applicant shall provide a written response to the Notice of Denial.

D. Hearing Notices

- 1. <u>Notice to Set</u>. The Division shall send a notice to set a hearing to the Denied Applicant or Respondent in writing by first-class mail to the last mailing address of record.
- 2. Notice of Hearing. The Hearings Division shall notify the Division and Denied Applicant or Respondent of the date, place, time and nature of the hearing regarding denial of the license application or whether discipline should be imposed against the Respondent's license at least 30 days prior to the date of such hearing, unless otherwise agreed to by both parties. This notice shall be sent to the Denied Applicant or Respondent in writing by first-class mail to the last mailing address of record. Hearings shall be scheduled and held as soon as is practicable.
 - a. Summary suspension hearings will be scheduled and held promptly.

- b. Continuances may be granted for good cause, as described in this rule, shown. A motion for a continuance must be timely.
- c. For purposes of this rule, good cause may include but is not limited to: death or incapacitation of a party or an attorney for a party; a court order staying proceedings or otherwise necessitating a continuance; entry or substitution of an attorney for a party a reasonable time prior to the hearing, if the entry or substitution reasonably requires a postponement of the hearing; a change in the parties or pleadings sufficiently significant to require a postponement; a showing that more time is clearly necessary to complete authorized discovery or other mandatory preparation for the hearing; or agreement of the parties to a settlement of the case which has been or will likely be approved by the final decision maker. Good cause normally will not include the following: unavailability of counsel because of engagement in another judicial or administrative proceeding, unless the other proceeding was involuntarily set subsequent to the setting in the present case; unavailability of a necessary witness, if the witness' testimony can be taken by telephone or by deposition; or failure of an attorney or a party timely to prepare for the hearing.

E. <u>Prehearing Matters Generally</u>

- Prehearing Conferences Once a Hearing is Set. Prehearing conferences may be held at the
 discretion of the Hearing Officer upon request of any party, or upon the Hearing Officer's own
 motion. If a prehearing conference is held and a prehearing order is issued by the Hearing Officer,
 the prehearing order will control the course of the proceedings. Such prehearing conferences may
 occur by telephone.
- 2. <u>Depositions</u>. Depositions are generally not allowed; however, a Hearing Officer has discretion to allow a deposition if a party files a written motion and can show why such deposition is necessary to prove its case. When a Hearing Officer grants a motion for a deposition, C.R.C.P. 27 controls. Hearings will not be continued because a deposition is allowed unless both parties stipulate to a continuance and the Hearing Officer grants the continuation.
- 3. <u>Prehearing Statements Once a Hearing is Set.</u> Prehearing Statements are required and unless otherwise ordered by the Hearing Officer, each party shall file with the Hearing Officer and serve on each party a prehearing statement no later than seven calendar days prior to the hearing. Parties shall also exchange exhibits at that time. Parties shall not file exhibits with the Hearing Officer. Parties shall exchange exhibits by the date on which prehearing statements are to be filed. Prehearing statements shall include the following information:
 - a. <u>Witnesses</u>. The name, mailing address, and telephone number of any witness whom the party may call at hearing, together with a detailed statement of the expected testimony.
 - b. <u>Experts</u>. The name, mailing address, and brief summary of the qualifications of any expert witness a party may call at hearing, together with a statement that details the opinions to which each expert is expected to testify. These requirements may be satisfied by the incorporation of an expert's resume or report containing the required information.

- c. <u>Exhibits</u>. A description of any physical or documentary evidence to be offered into evidence at the hearing. Exhibits should be identified as follows: Division using numbers and Denied Applicant or Respondent using letters.
- d. <u>Stipulations</u>. A list of all stipulations of fact or law reached, as well as a list of any additional stipulations requested or offered to facilitate disposition of the case.
- e. <u>Prehearing Statements Binding</u>. The information provided in a <u>party's</u> prehearing statement shall be binding on <u>submitting that</u> party throughout the course of the hearing unless modified to prevent manifest injustice. New witnesses or exhibits may be added only if: (1) the need to do so was not reasonably foreseeable at the time of filing of the prehearing statement; (2) it would not prejudice other parties; and (3) it would not necessitate a delay of the hearing.
- 4. <u>Consequence of Not Filing a Prehearing Statement Once a Hearing is Set</u>. If a party does not timely file a prehearing statement, the Hearing Officer may impose appropriate sanctions including, but not limited to, striking proposed witnesses and exhibits.

F. Conduct of Hearings

- 1. The Hearing Officer shall cause all hearings to be electronically recorded.
- 2. The Hearing Officer may allow a hearing, or any portion of the hearing, to be conducted in real time by telephone or other electronic means. If a party is appearing by telephone, the party must provide actual copies of the exhibits to the hearing officer when the prehearing statement is filed.
- 3. The Hearing Officer may guestion any witness.

Court Rules

- a. To the extent practicable, the Colorado Rules of Evidence apply. Unless the context requires otherwise, whenever the word "court," "judge," or "jury" appears in the Colorado Rules of Evidence, such word shall be construed to mean a Hearing Officer. A Hearing Officer has discretion to consider evidence not admissible under such rules, including but not limited to hearsay evidence, pursuant to section 24-4-105(7), C.R.S.
- b. To the extent practicable, the Colorado Rules of Civil Procedure apply. However, Colorado Rules of Civil Procedure 16 and 26-37 do not apply, although parties are encouraged to voluntarily work together to resolve the case, simplify issues, and exchange information relevant to the case prior to a hearing. Unless the context otherwise requires, whenever the word "court" appears in a rule of civil procedure, that word shall be construed to mean a Hearing Officer.

5. Exhibits

- a. All documentary exhibits must be paginated by the party offering the exhibit into evidence.
- b. The Division shall use numbers to mark its exhibits.

- c. The Denied Applicant or Respondent shall use letters to mark its exhibits.
- 6. The Hearing Officer may proceed with the hearing or enter default judgment if any party fails to appear at hearing after proper notice.
- G. <u>Post Hearing</u>. After considering all the evidence, the Hearing Officer shall determine whether the proponent of the order has proven its case by a preponderance of the evidence, and shall make written findings of evidentiary fact, ultimate conclusions of fact, conclusions of law, and a recommendation. These written findings shall constitute an Initial Decision subject to review by the State Licensing Authority pursuant to the Colorado Administrative Procedure Act and as set forth in Rule R 1306 Administrative Hearing Appeals/Exceptions to Initial Decision.
- H. No Ex Parte Communication. Ex parte communication shall not be allowed at any point in the hearing process. A party or counsel for a party shall not initiate any communication with a Hearing Officer pertaining to any pending matter unless all other parties participate in the communication or unless prior consent of all other parties (and any pro se parties) has been obtained. Copies of all pleadings and correspondence submitted to the Hearing Officer by parties shall be served upon all other parties.
- I. <u>Marijuana Enforcement Division representation</u>. The Division shall be represented by the Colorado Department of Law.

Basis and Purpose - R 1305

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(c), and 12-43.4-202(3)(a)(I), and sections 24-4-105 and 12-43.4-601, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish how all parties, including pro se parties, can obtain subpoenas during the administrative hearing process.

R 1305 - Administrative Subpoenas

A. <u>Informal Exchange of Documents Encouraged</u>. Parties are encouraged to exchange documents relevant to the Notice of Denial or Order to Show Cause prior to requesting subpoenas. In addition, to the extent practicable, parties are encouraged to secure the voluntary presence of witnesses necessary for the hearing prior to requesting subpoenas.

B. <u>Hearing Officer May Issue Subpoenas</u>

- 1. A party or its counsel may request the Hearing Officer to issue subpoenas to secure the presence of witnesses or documents necessary for the hearing or a deposition, if one is allowed.
- 2. Requests for subpoenas to be issued by the Hearing Officer must be delivered in Pperson or by mail to the office of the Department of Revenue Hearings Division, 1881 Pierce St. #106, Lakewood, CO 80214. Subpoena requests must include the return mailing address, and phone and facsimile numbers of the requesting party or its attorney.

- 3. Requests for subpoenas to be issued by the Hearing Officer must be made on a "Request for Subpoena" form authorized and provided by the Hearings Division. A Hearing Officer shall not issue a subpoena unless the request contains the following information:
 - a. Name of Denied Applicant or Respondent;
 - b. License or application number;
 - c. Case number;
 - d. Date of hearing;
 - e. Location of hearing, or telephone number for telephone check-in;
 - f. Time of hearing;
 - g. Name of witness to be subpoenaed; and
 - h. Mailing address of witness (home or business).
- 4. A request for a subpoena *duces tecum* must identify each document or category of documents to be produced.
- 5. Requests for subpoenas shall be signed by the requesting party or its counsel.
- 6. The Hearing Officer shall issue subpoenas without discrimination, as set forth in section 24-4-105(5), C.R.S. If the reviewing Hearing Officer denies the issuance of a subpoena, or alters a subpoena in any material way, specific findings and reasons for such denial or alteration must be made on the record, or by written order incorporated into the record.

C. Service of Subpoenas

- 1. Service of any subpoena is the duty of the party requesting the subpoena.
- 2. All subpoenas must be served at least two business days prior to the hearing.

D. Subpoena Enforcement

- 1. Any subpoenaed witness, entity, or custodian of documents may move to quash the subpoena with the Hearing Officer.
- 2. A Hearing Officer may quash a subpoena if he or she finds on the record that compliance would be unduly burdensome or impracticable, unreasonably expensive, or is unnecessary.

Basis and Purpose – R 1306

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(c), and 12-43.4-202(3)(a)(I), and sections 24-4-105 and 12-43.4-601, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(I). The purpose of this rule is to establish how parties may appeal a hearing officer's Initial Decision pursuant to the Administrative Procedure Act.

R 1306 – Administrative Hearing Appeals/Exceptions to Initial Decision

- A. Exception(s) Process. Any party may appeal an Initial Decision to the State Licensing Authority pursuant to the Colorado Administrative Procedure Act by filing written exception(s) within 30 days after the date of mailing of the Initial Decision to the Denied Applicant or ARespondent and the Division. The written exception(s) shall include a statement giving the basis and grounds for the exception(s). Any party who fails to properly file written exception(s) within the time provided in these rules shall be deemed to have waived the right to an appeal. A copy of the exception(s) shall be served on all parties.
- B. <u>Designation of Record</u>. Any party that seeks to reverse or modify the Initial Decision of the Hearing Officer shall file with the State Licensing Authority, within 20 days from the mailing of the Initial Decision, a designation of the relevant parts of the record and of the parts of the hearing transcript which shall be prepared, and advance the costs therefore. A copy of this designation shall be served on all parties. Within ten days thereafter, any other party may also file a designation of additional parts of the transcript of the proceedings which is to be included and advance the cost therefore. No transcript is required if the review is limited to a pure question of law. A copy of this designation of record shall be served on all parties.
- C. <u>Deadline Modifications</u>. The State Licensing Authority may modify deadlines and procedures related to the filing of exceptions to the Initial Decision upon motion by either party for good cause shown.
- D. No Oral Argument Allowed. Requests for oral argument will not be considered.

Basis and Purpose – R 1307

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(XV), 12-43.4-104(6)(f), and 12-43.4-601(3)(b), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(IX). The purpose of this rule is to establish guidelines for enforcement and penalties that will be imposed by the State Licensing Authority for non-compliance with Retail Code, section 18-18-406.3(7), or any other applicable rule. The State Licensing Authority considered the type of violation and the threat of harm to the public versus purely administrative harm when setting the penalty structure.

R 1307 - Penalties

- A. <u>Penalty Schedule</u>. The State Licensing Authority will make determinations regarding the type of penalty to impose based on the severity of the violation in the following categories:
 - <u>License Violations Affecting Public Safety</u>. This category of violation is the most severe and may include, but is not limited to, Retail Marijuana sales to <u>Persons</u> under the age of 21 years, consuming marijuana on the Licensed Premises, <u>or</u> Retail Marijuana sales in excess of the relevant transaction limit, permitting the diversion of Retail Marijuana outside the regulated distribution system, not adhering to inventory tracking procedures, failure to maintain books and records to fully account for all transactions of the business, <u>aAdvertising</u> violations directly targeting

minors, or packaging or Labeling violations that directly impact consumer safety. Violations of this nature generally have an immediate impact on the health, safety, and welfare of the public at large. The range of penalties for this category of violation may include license suspension, a fine per individual violation, a fine in lieu of suspension of up to \$100,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

- 2. <u>License Violations</u>. This category of violation is more severe than a license infraction but generally does not have an immediate impact on the health, safety and welfare of the public at large. License violations may include but are not limited to, <u>aA</u>dvertising and/or marketing violations, packaging or Labeling violations that do not directly impact consumer safety, failure to maintain minimum security requirements, failure to keep and maintain adequate business books and records, or minor or clerical errors in the inventory tracking procedures. The range of penalties for this category of violation may include a written warning, license suspension, a fine per individual violation, a fine in lieu of suspension of up to \$50,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.
- 3. <u>License Infractions</u>. This category of violation is the least severe and may include, but is not limited to, failure to display required badges, unauthorized modifications of the <u>Licensed P</u>premises of a minor nature, or failure to notify the State Licensing Authority of a minor change in ownership. The range of penalties for this category of violation may include a verbal or written warning, license suspension, a fine per individual violation, and/or a fine in lieu of suspension of up to \$10,000 depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

B. Other Factors

- 1. The State Licensing Authority may take into consideration any aggravating and mitigating factors surrounding the violation which could impact the type or severity of penalty imposed.
- 2. The penalty structure is a framework providing guidance as to the range of violations, suspension description, fines, and mitigating and aggravating factors. The penalty structure is intended for reference purposes only. The circumstances surrounding any penalty imposed will be determined on a case-by-case basis.
- 3. For all administrative offenses, a Licensee may petition the State Licensing Authority for permission to pay a monetary fine, within the provisions of section 12-43.4-601, C.R.S., in lieu of having its license suspended for all or part of the suspension.
- C. <u>Mitigating and Aggravating Factors</u>. The State Licensing Authority may consider mitigating and aggravating factors when considering the imposition of a penalty. These factors may include, but are not limited to:
 - 1. Action taken by the Licensee to prevent the violation (e.g., training provided to employees).
 - 2. Licensee's past history of success or failure with compliance checks.
 - 3. Corrective action(s) taken by the Licensee.
 - 4. Prior violations/prior corrective action(s) and their effectiveness.

- 5. Willfulness and deliberateness of the violation.
- 6. Likelihood of reoccurrence of the violation.
- 7. Circumstances surrounding the violation, which may include, but <u>isare</u> not limited to:
 - a. Prior notification letter to the Licensee that an underage compliance check would be forthcoming.
 - b. The dress or appearance of an underage operative used during an underage compliance check (*e.g.*, the operative was wearing a high school letter jacket).
- 8. Owner or manager is the violator or has directed an employee or other individual to violate the law.
- 9. Participation in state-approved educational programs related to the operation of a Retail Marijuana Establishment.

R 1400 Series – Division, Local Jurisdiction, and Law Enforcement Procedures

Basis and Purpose – R 1401

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(b)(II), 12-43.4-202(3)(b)(III), and 12-43.3-301(1), C.R.S. This rule gives general instructions regarding Retail Marijuana Establishment administrative matters to local jurisdictions and clarifies for such entities what the Division and State Licensing Authority will do in certain instances. The rule also reaffirms that local law enforcement's authority to investigate and take any necessary action with regard to Retail Marijuana Establishments remains unaffected by the Retail Code or any rules promulgated thereunder.

R 1401 – Instructions for Local Jurisdictions and Law Enforcement Officers

A. Division Protocol for Retail Marijuana Establishments

- 1. The Division shall forward a copy of all new Retail Marijuana Establishment applications to the relevant local jurisdiction.
- 2. The Division shall forward half of the total application fee with the copy of the Retail Marijuana Establishment application to the relevant local jurisdiction.
- 3. The Division shall notify relevant local jurisdictions when an application for a Retail Marijuana Establishment is either approved or denied.
- 4. Any license issued or renewed by the Division for Retail Marijuana Establishments shall be conditioned upon relevant local jurisdiction approval of the application.

B. Local Jurisdiction Protocol for Retail Marijuana Establishments

- 1. As soon as practicable, local jurisdictions that have prohibited the operation of Retail Marijuana Establishments shall inform the Division, in writing, of such prohibition and shall include a copy of the applicable ordinance or resolution.
- If a local jurisdiction will authorize the operation of marijuana establishments, they shall inform the
 Division of the local point-of-contact on Retail Marijuana regulatory matters. The local jurisdiction
 shall include, at minimum, the name of the Division or branch of local government, the mailing
 address of that entity, and telephone number.
- Local jurisdictions may impose separate local licensing requirements related to the time, place, and manner of Retail Marijuana Establishments, and shall otherwise determine if an application meets those local requirements.
- 4. The relevant local jurisdiction shall notify the Division, in writing, of whether an application for a Retail Marijuana Establishment complies with local restrictions and requirements, and whether the

application is approved or denied based on that review. Local jurisdiction shall include their written findings of fact.

- C. <u>Local Jurisdiction Inspections</u>. The relevant local jurisdictions and their investigators may inspect Retail Marijuana Establishments during all business hours and other times of apparent activity, for the purpose of inspection or investigation
- D. <u>Local Jurisdiction Authority</u>. Nothing in these rules shall be construed to limit the authority of local jurisdictions as established by the Retail Code or otherwise by law.
- E. <u>Local Law Enforcement's Authority Not Impaired by Retail Code</u>. Nothing in the Retail Code or regulations promulgated thereunder shall be construed to limit <u>the ability of local police</u> departments, sheriffs, or other state or local law enforcement agencies' <u>ability</u> to investigate unlawful activity in relation to a Retail Marijuana Establishment, and <u>such agencies</u> shall have the ability to run a Colorado Crime Information Center criminal history check of an <u>Applicant or Licensee</u> or employee of an <u>Applicant or Licensee</u> during an investigation of unlawful activity related to Retail Marijuana or a Retail Marijuana Establishment. This includes, but is not limited to, inspecting and investigating Retail Marijuana Establishments to ensure they are in compliance with all local jurisdiction regulations related to time, place, and manner