DEPARTMENT OF REVENUE

Marijuana Enforcement Division

RETAIL MARIJUANA CODE

1 CCR 212-2

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

R 100 Series – General Applicability

Basis a 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 that if one is found to be invalid, the remainder will stay in effect. 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. Defined terms are capitalized where they appear in the rules, to let the reader know to refer back to these definitions. When a term is used in a conventional sense, and not intended to be a defined term, it is not capitalized.

With regard to the definition of Child-Resistant, the State Licensing Authority relied extensively upon written commentary provided by a public health agency within a Colorado hospital, which had conducted a health impact assessment of packaging regulations, looking at accidental ingestion of medical marijuana. The assessment was supported by others in the public, including industry representatives and a physician specializing in medical toxicology.

With regard to the definition of Restricted Access Area, the State Licensing Authority relied extensively upon written commentary provided by a consumer advocate.

R 103 – Definitions

Definitions. 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 promulgated pursuant to the Retail Code, unless the context requires otherwise:

> "Advertising" means the act of providing consideration for the publication, dissemination, solicitation, or circulation, visual, oral, or written, to induce directly or indirectly any Person to patronize a particular a Retail Marijuana Establishment, or to purchase particular Retail Marijuana or a Retail Marijuana Product. "Advertising" includes marketing, but does not include packaging and labeling. "Advertising" proposes a commercial transaction or otherwise constitutes commercial speech.

"Additive" means any substance added to Retail Marijuana Product that is not a common baking or cooking item.

"Agreement" means any unsecured convertible debt option, option agreement, warrant, or at the Division's discretion, other document that establishes a right for a person to obtain a Permitted Economic Interest that might convert to an ownership interest in a Retail Marijuana Establishment or Medical Marijuana Business.

"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.

"Associated Key License" means an Occupational License for an individual who is an Owner of the Retail Marijuana Establishment.

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

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

"Child-Resistant" means special packaging that is:

a. Designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.20 (1995). Note that this rule does not include any later amendments or editions to the Code of Federal Regulations. The Division has maintained a copy of the applicable federal regulation, which is available to the public.

b. Opaque so that the packaging does not allow the product to be seen without opening the packaging material;

c. Resealable for any product intended for more than a single use or containing multiple servings.

"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 Rules 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 Product already within a Container are placed.

"Final Agency Order" means an Order of the State Licensing Authority issued in accordance with the Retail Code and the State Administrative Procedure Act. The State Licensing Authority will issue a Final Agency Order following review of the Initial Decision and any exceptions filed thereto or at the conclusion of the declaratory order process. A Final Agency Order is subject to judicial review.

"Flammable Solvent" means a liquid that has a flash point below 100 degrees Fahrenheit.

"Flowering" means the reproductive state of *Cannabis* in which the plant is in a light cycle intended to stimulate production of flowers, trichromes, and cannabinoids characteristic of marijuana.

"Food-Based Retail Marijuana Concentrate" means a Retail Marijuana Concentrate that was produced by extracting cannabinoids from Retail Marijuana through the use of propylene glycol, glycerin, butter, olive oil or other typical cooking fats.

"Good Cause" for purposes of denial of an initial, renewal, or reinstatement of a license application, means:

a. 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 it, or any supplemental relevant state or local law, rule, or regulation;

b. 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

c. 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 having a personal history that demonstrates honesty, fairness, and respect for the rights of others and for the law.

"Harvest Batch" means a specifically identified quantity of processed Retail Marijuana that is uniform in strain, cultivated utilizing the same Pesticide and other agricultural chemicals and harvested at the same time.

"Harvested Marijuana" means post-Flowering Retail Marijuana not including trim, concentrate or waste that remains on the premises of the Retail Marijuana Cultivation Facility or its off-premises storage location beyond 60 days from harvest.

"Identity Statement" means the name of the business as it is commonly known and used in any Advertising.

"Immature plant" means a nonflowering Retail Marijuana plant that is no taller than eight inches and no wider than eight inches produced from a cutting, clipping or seedling and is in a cultivating container. Plants meeting these requirements are not attributable to a licensee's maximum allowable plant count, but must be fully accounted for in the Inventory Tracking System.

"Industrial Hemp" means a plant of the genus Cannabis and any part of the plant, whether growing or not, containing a delta-9 tetrahydrocannabinol (THC) concentration of no more than three-tenths of one percent (0.3%) on a dry weight basis.

"Industrial Hygienist" means an individual who has obtained a baccalaureate or graduate degree in industrial hygiene, biology, chemistry, engineering, physics, or a closely related physical or biological science from and accredited college or university.

A. The special studies and training of such individuals shall be sufficient in the cognate sciences to provide the ability and competency to:

1. Anticipate and recognize the environmental factors and stresses associated with work and work operations and to understand their effects on individuals and their well-being;

2. Evaluate on the basis of training and experience and with the aid of quantitative measurement techniques the magnitude of such environmental factors and stresses in terms of their ability to impair human health and well-being;

3. Prescribe methods to prevent, eliminate, control, or reduce such factors and stresses and their effects.

B. Any individual who has practiced within the scope of the meaning of industrial hygiene for a period of not less than five years immediately prior to July 1, 1997, is exempt from the degree requirements set forth in the definition above.

C. Any individual who has a two-year associate of applied science degree in environmental science from an accredited college or university and in addition not less than four years practice immediately prior to July 1, 1997, within the scope of the meaning of industrial hygiene is exempt from the degree requirements set forth in the definition above.

"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.

"Inventory Tracking System" means the required seed-to-sale tracking system that tracks Retail Marijuana from either the seed or immature plant stage until the Retail Marijuana or Retail Marijuana Product is sold to a customer at a Retail Marijuana Store or is destroyed.

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

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

"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 pursuant to the Retail Code or, in the case of an Occupational License Licensee, any individual licensed pursuant to the Retail Code or Medical 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.

"Limit of Detection" or "LOD" 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%).

"Limit of Quantitation" or "LOQ" 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.

"Liquid Edible Retail Marijuana Product" means an Edible Retail Marijuana Product that is a liquid beverage or food-based product and intended to be consumed orally, such as a soft drink or cooking sauce.

"Material Change" means any change that would require a substantive revision to a Retail Marijuana Establishment's standard operating procedures for the cultivation of Retail Marijuana or the production of a Retail Marijuana Concentrate or Retail Marijuana Product.

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

"Medical Marijuana" means marijuana that is grown and sold pursuant to the Medical Code and includes seeds and Immature Plants.

"Medical Marijuana Business" means a Medical Marijuana Center, a Medical Marijuana-Infused Product Manufacturer, an Optional Premises Cultivation Operation, or a Medical Marijuana Testing Facility.

"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 Concentrate" means a specific subset of Medical Marijuana that was produced by extracting cannabinoids from Medical Marijuana. Categories of Medical Marijuana Concentrate include Water-Based Medical Marijuana Concentrate, Food-Based Medical Marijuana Concentrate and Solvent-Based Medical Marijuana Concentrate.

"Medical Marijuana-Infused Product" means a product infused with Medical Marijuana that is intended for use or consumption other than by smoking, including but not limited to edible product, ointments, and tinctures. Such products shall not be considered a food or drug for purposes of the "Colorado Food and Drug Act," part 4 of Article 5 of Title 25, C.R.S.

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

"Medical Marijuana Testing Facility" means a public or private laboratory licensed and certified, or approved by the Division, to conduct research and analyze Medical Marijuana, Medical Marijuana-Infused Products, and Medical Marijuana Concentrate for contaminants and potency.

"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.

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

"Multiple-Serving Edible Retail Marijuana Product" means an Edible Retail Marijuana Product unit for sale to consumers containing more than 10mg of active THC and no more than 100mg of active THC. If the overall Edible Retail Marijuana Product unit for sale to the consumer consists of multiple pieces where each individual piece may contain less than 10mg active THC, yet in total all pieces combined within the unit for sale contain more than 10mg of active THC, then the Edible Retail Marijuana Product shall be considered a Multiple-Serving Edible Retail Marijuana Product.

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

"Occupational License" means a license granted to an individual by the State Licensing Authority pursuant to section 12-43.3-401 or 12-43.4-401, C.R.S.

"Opaque" means that the packaging does not allow the product to be seen without opening the packaging material.

"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, and includes any other Person that qualifies as an Owner pursuant to Rule R 204. The holder of a suitable Permitted Economic Interest is not an Owner.

"Permitted Economic Interest" means an Agreement to obtain an ownership interest in a Retail Marijuana Establishment or Medical Marijuana Business when the holder of such interest is a natural person who is a lawful United States resident and whose right to convert into an ownership interest is contingent on the holder qualifying and obtaining a license as an owner under the Retail Code or Medical Code.

"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.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; except that the term "pesticide" shall not include any article that is a "new animal drug" as designated by the United States Food and Drug Administration.

"Production Batch" means (a) any amount of Retail Marijuana Concentrate of the same category and produced using the same extraction methods, standard operating procedures and an identical group of Harvest Batch(es) of Retail Marijuana; or (b) any amount of Retail Marijuana Product of the same exact type, produced using the same ingredients, standard operating procedures and the same Production Batch(es) of Retail Marijuana Concentrate.

"Professional Engineer" means an individual who is licensed by the State of Colorado as a professional engineer pursuant to 12-25-101 et. seq., C.R.S.

"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.

"Propagation" means the reproduction of Retail Marijuana plants by seeds, cuttings or grafting.

"RFID" means Radio Frequency Identification.

"Resealable" means that the package maintains its Child-Resistant effectiveness for multiple openings.

"Respondent" means a Person who has filed a petition for declaratory order that the State Licensing Authority has determined needs a hearing or legal argument or a Licensee who is subject to an Order to Show Cause.

"Restricted Access Area" means a designated and secure area within a Licensed Premises in a Retail Marijuana Store where Retail Marijuana and Retail Marijuana Product are sold, possessed for sale, and displayed for sale, and where no one under the age of 21 is permitted.

"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 Concentrate" means a specific subset of Retail Marijuana that was produced by extracting cannabinoids from Retail Marijuana. Categories of Retail Marijuana Concentrate include Water-Based Retail Marijuana Concentrate, Food-Based Retail Marijuana Concentrate and Solvent-Based Retail Marijuana Concentrate.

"Retail Marijuana Cultivation Facility" means an entity licensed to cultivate, prepare, and package Retail Marijuana and sell Retail Marijuana to Retail Marijuana Establishments, 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 Product" means a product that is comprised of Retail Marijuana and other ingredients and is intended for use or consumption, such as, but not limited to, edible product, ointments and tinctures.

"Retail Marijuana Products Manufacturing Facility" means an entity licensed to purchase Retail Marijuana; manufacture, prepare, and package Retail Marijuana Product; and sell Retail Marijuana and Retail Marijuana Product only to other Retail Marijuana Products Manufacturing Facilities and Retail Marijuana Stores.

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

"Retail Marijuana Testing Facility" means a public or private laboratory licensed and certified, or approved by the Division, to conduct research and analyze Retail Marijuana, Retail Marijuana Products and Retail Marijuana Concentrate for contaminants and potency.

"Sample" means anything collected from a Retail Marijuana Establishment or Medical Marijuana Business that is provided to a Retail Marijuana Testing Facility for testing. The following is a non-exhaustive list of types of Samples: Retail Marijuana, Retail Marijuana Product, Retail Marijuana Concentrate, Medical Marijuana, Medical Marijuana-Infused Product, Medical Marijuana Concentrate, soil, growing medium, water, solvent or swab of a counter or equipment.

"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 transport of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product in bulk to other Retail Marijuana Establishments.

"Single-Serving Edible Retail Marijuana Product" means an Edible Retail Marijuana Product unit for sale to consumers containing no more than 10mg of active THC.

"Solvent-Based Retail Marijuana Concentrate" means a Retail Marijuana Concentrate that was produced by extracting cannabinoids from Retail Marijuana through the use of a solvent approved by the Division pursuant to Rule R 605.

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

"Standardized Serving Of Marijuana" means a standardized single serving of active THC. The size of a Standardized Serving Of Marijuana shall be no more than 10mg of active THC.

"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 Colorado, pursuant to section 12-43.3-201, C.R.S.

"Sub-Lingual Edible Retail Marijuana Product" means a specific subset of Edible Retail Marijuana Product that is two ounces or less of liquid per package, contains five milligrams or less of active THC per serving, is intended to be placed under the tongue and is packaged and labeled accordingly, and utilizes a dropper or spray delivery method for consumption. This definition is effective beginning October 1, 2016.

"THC" means tetrahydrocannabinol.

"THCA" means tetrahydrocannabinolic acid.

"Test Batch" means a group of Samples that are collectively submitted to a Retail Marijuana Testing Facility for testing purposes. A Test Batch may not be a combination of any two or three of the following: Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product.

"Universal Symbol" means the image established by the Division and made available to Licensees through the Division's website indicating the Retail Marijuana or Retail Marijuana Product contains marijuana.

"Unrecognizable" means marijuana or *Cannabis* plant material rendered indistinguishable from any other plant material.

"Vegetative" means the state of the *Cannabis* plant during which plants do not produce resin or flowers and are bulking up to a desired production size for Flowering.

"Water-Based Retail Marijuana Concentrate" means a Retail Marijuana Concentrate that was produced by extracting cannabinoids from Retail Marijuana through the use of only water, ice or dry ice.

Basis and Purpose – R 104

The statutory authority for this rule exists in subsections 12-43.4-(3)(a)(IX) and 24-4-105(11), and section 12-43.4-201, C.R.S. The purpose of this rule is to establish a system by which a Licensee may request the Division to issue a formal statement of position and, subsequently, petition State Licensing Authority for a declaratory order. Typically, a position statement or declaratory order would address matters that are likely to be applicable to other Licensees. The approach is similar to that utilized byother divisions within the Department of Revenue.

R 104 – Declaratory Orders Concerning the Retail Code

A. Who May Request a Statement of Position. Any person as defined in section 24-4-102(12), C.R.S., may request the Division to issue 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.

B. Division Response. The Division will determine, in its sound discretion, whether to respond with a written statement of position. Following receipt of a proper request, the Division will respond by issuing a written statement of position or by declining to issue such a statement.

C. Petition for Declaratory Order. Any person who has properly requested a statement of position, and who is dissatisfied with the Division's response, may petition the State Licensing Authority for a declaratory order pursuant to section 24-4-105(11), C.R.S. The petition shall be filed within 30 days of the Division's response, or may be filed at any time before the Division's response if the Division has not responded within 60 days of receiving a proper request for a statement of position, andshall set forth the following:

1. The name and address of the petitioner.

2. Whether the petitioner is licensed pursuant to the Retail Code or Medical 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 Licensing Authority or relevant local jurisdiction.

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 statute, rule, or order to which the petition relates.

6. 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.

D. State Licensing Authority Retains Discretion Whether to Entertain Petition. 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 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 request a statement of position from the Division, or the petition for declaratory order was filed with the State Licensing Authority more than 30 days after the Division's response to the request for a statement of position.

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 that is relevant to a pending hearing before the state or any local licensing authority, an on-going investigation conducted by the Division, or 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.

E. State Licensing Authority May Adopt Division Position Statement. The State Licensing Authority may adopt the Division Position Statement as a Final Agency Action subject to judicial review pursuant to section 24-4-106, C.R.S.

F. If State Licensing Authority Entertains Petition. If the State Licensing Authority determines that it will entertain the petition for declaratory order, it shall so notify the petitioner within 30 days, and any of the following procedures may apply:

1. The State Licensing Authority may expedite the matter 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 is necessary to a ruling on the petition, a hearing shall be conducted in accordance 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 State 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 a Final Agency Order subject to judicial review pursuant to section 24-4-106, C.R.S.

G. Public Inspection. Files of all requests, petitions, 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.

H. Posted on Website. The Division shall post a copy of all statements of position and all declaratory orders on the Division's web site.

Basis and Purpose – R 105

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 any reference to days means calendar days.

R 105 – Computation of Time

The word "days" as used in these rules means calendar days.

Basis and Purpose – R 106

The statutory authority for this rule is found at subsections 12-43.3-501(4), C.R.S. and 12-43.4-202(2)(b), C.R.S. The purpose of this rule is to establish the basic fees that must be paid at the time of service of any subpoena (including a subpoena for testimony and/or a subpoena duces tecum) upon the State Licensing Authority, and for production of documents pursuant to any such subpoena. This rule also establishes additional fees for meals, mileage, and each day's testimony. The service fee is not applicable when a subpoena is served by a governmental agency.

R 106 – Subpoena Fees

A. Required Fees for Subpoenas. The following fees must be paid at the time of service of any subpoena on the Division or State Licensing Authority:

1. Subpoenas for records only (subpoenas duces tecum):

a. Responsive records - $0.25/page. The Division and State Licensing Authority may use discretion when electronic copies are requested.

b. The Division or State Licensing Authority may charge $25/hour to retrieve and review voluminous records.

2. Subpoenas requiring any Division or State Licensing Authority employee to attend any proceeding:

   a. $200/day attendance;

   b. Current state mileage reimbursement fee; and

   c. Current state meal reimbursement fee.

B. When Subpoena-Related Fees Are Due.

1. Subpoenas duces tecum fees must be paid before the Division or State Licensing Authority will release the records.

2. All other subpoena-related fees are due at the time of service of the subpoena.

C. Service Complete Only When Fees Are Paid. The Division or State Licensing Authority will not consider service to be complete unless and until all applicable fees are paid.

D. State Employees and Private Litigation. Division and State Licensing Authority employees will not serve as expert witnesses in private litigation. In addition, the Division and State Licensing Authority may move to quash any subpoena that seeks fact testimony from Division or State Licensing Authority employees in private litigation.

E. Not Applicable to Government-Issued Subpoenas. This rule does not apply to subpoenas issued by any governmental agency.

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 by 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 and accepted, 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

1. All applications for licenses authorized pursuant to subsections 12-43.4-401(1)(a)-(d), C.R.S., shall be made upon current forms prescribed by the Division. Such applications include, but are not limited to, Retail Marijuana Stores, Retail Marijuana Cultivation Facilities, Retail Marijuana Products Manufacturers, and Retail Marijuana Testing Facilities.

2. A license issued by a Division to a Retail Marijuana Establishment constitutes a revocable privilege. The burden of proving an Applicant's qualifications for licensure rests at all times with the Applicant.

3. If required by the forms supplied by the Division, each application shall identify the relevant local jurisdiction.

4. 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 current forms supplied by the Division.

   c. All applications must be accompanied by a full remittance for the whole amount of the application and license fees.

5. The Division may refuse to accept an incomplete application.

B. Additional Information May Be Required

1. 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 seven days after of the request is made unless otherwise specified by the Division.

2. An Applicant's failure to provide the requested information by the Division deadline may be grounds for denial of the application.

C. Information Must Be Provided Truthfully. 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 or purposeful misstatements, 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 for additional administrative action against the Applicant and it may also be the basis for criminal charges against the Applicant.

D. Application Forms Accessible. 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 state or local law enforcement agency for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose.

E. Other Considerations Regarding Medical Marijuana Business Applications. The Applicant, if not an individual, must be comprised of individuals. If the Applicant is not an individual, each of the Applicant's individual Owners, as defined in rule R 103, including without limitation the shareholders, officers and directors of a corporation, the general, limited and managing partners of a partnership, the members and managers of a limited liability company, and any Person contracted to manage the overall operation of a Licensed Premises, must establish that:

1. He or she is of Good Moral Character based upon his or her criminal history background check; and

2. He or she has met all other licensing requirements.

Basis and Purpose – R 201.5

The statutory authority for this rule is found at subsections 12-43.4-103(12.4), 12-43.4-104(2)(a), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(III) and (XIV.5), 12-43.4-309(2), and 12-43.4-901(6), 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 Permitted Economic Interests, accompanied by 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 and accepted, 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 201.5 – Complete Applications Required for Permitted Economic Interests: Retail Marijuana Establishments

A. Retail Marijuana Establishment Initiates Process. The Retail Marijuana Establishment seeking to obtain financing from a Permitted Economic Interest must file all required documents with the Division.

B. Agreement Requirements. The Retail Marijuana Establishment seeking to obtain financing from a Permitted Economic Interest must submit a copy of the Agreement between the Retail Marijuana Establishment and the person seeking to hold a Permitted Economic Interest. The following requirements apply to all Agreements:

1. The Agreement must be complete.

2. The Agreement must fully incorporate all terms and conditions.

3. The following provisions must be included in the Agreement:

a. Any interest in a Retail Marijuana Establishment, whether held by a Permitted Economic Interest or any other person, must be acquired in accordance with the provisions of the Medical Code and/or Retail Code, as applicable, and the rules promulgated thereunder. The issuance of any Agreement or other interest in violation thereof shall be void.

b. No Agreement or other interest issued by the Retail Marijuana Establishment and no claim or charge therein or thereto shall be transferred except in accordance with the provisions of the Medical Code and/or Retail Code as applicable, and the rules promulgated thereunder. Any transfer in violation thereof shall be void.

c. The Retail Marijuana Establishment must initiate the process to convert a Permitted Economic Interest to an ownership interest. The holder of the Permitted Economic Interest must meet all qualifications for licensure and ownership pursuant to the Medical Code and/or Retail Code and any rules promulgated thereunder prior to conversion of the Permitted Economic Interest to an ownership interest.

d. At the election of the Retail Marijuana Establishment, if the holder of the Permitted Economic Interest is unsuitable for licensure and/or ownership but is suitable as a holder of the Permitted Economic Interest, and the Permitted Economic Interest is also suitable, then the Permitted Economic Interest may remain in force and effect for as long as it maintains suitability under the Medical Code and/or Retail Code as applicable, and any rules promulgated thereunder.

e. The Permitted Economic Interest holder shall disclose in writing to the Division and to the Retail Marijuana Establishment any and all disqualifying events, within ten days after occurrence of the event, that would lead to a finding of unsuitability to hold the Permitted Economic Interest and/or a denial of licensure pursuant to the Medical Code and/or Retail Code and any rules promulgated thereunder.

f. The Retail Marijuana Establishment shall disclose in writing to the Division any and all disqualifying events, within ten days after receiving notice of the event, which would lead to a finding of unsuitability to hold the Permitted Economic Interest and/or a denial of licensure pursuant to the Medical Code and/or Retail Code as applicable, and any rules promulgated thereunder.

g. Failure to make required disclosures by a Permitted Economic Interest holder or a Retail Marijuana Establishment may be grounds for administrative action including but not limited to denial of a subsequent request to convert the Permitted Economic Interest into an ownership interest in the Retail Marijuana Establishment.

C. General Requirements. The Retail Marijuana Establishment seeking to obtain financing from a Permitted Economic Interest must meet the following requirements:

1. All applications for Permitted Economic Interests shall be made upon current forms prescribed by the Division.

2. The burden of proving that an applicant for a Permitted Economic Interest is qualified to hold such an interest rests at all times with the applicant for a Permitted Economic Interest.

3. The Retail Marijuana Establishment seeking to obtain financing from a Permitted Economic Interest must submit a complete application to the Division before it will be accepted or considered.

4. All applications must be complete in every material detail.

5. All applications must include all attachments or supplemental information required by the current forms supplied by the Division.

6. All applications must be accompanied by a full remittance of the required fees.

7. The Division may refuse to accept an incomplete application.

8. Additional Information May Be Required

a. Upon request by the Division, either a Retail Marijuana Establishment that is seeking to obtain financing from a Permitted Economic Interest or the person seeking to hold a Permitted Economic Interest, or both, 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 seven days after of the request is made unless otherwise specified by the Division.

b. Failure to provide the requested information by the Division's deadline may be grounds for denial of the application.

9. Information Must Be Provided Truthfully. A Retail Marijuana Establishment seeking to obtain financing from a Permitted Economic Interest and the person seeking to hold a Permitted Economic Interest shall submit information to the Division in a full, faithful, truthful, and fair manner. The Division may recommend denial of an application where either party made intentional or purposeful misstatements, omissions, misrepresentations or untruths in the application or in connection with the background investigation of the person seeking to hold a Permitted Economic Interest. This type of conduct may be considered as the basis for additional administrative action against the Retail Marijuana Establishment or the person seeking to hold a Permitted Economic Interest and it may also be the basis for criminal charges against either party.

10. Application Forms Accessible. All application forms supplied by the Division and filed by the Retail Marijuana Establishment seeking to obtain financing from a Permitted Economic Interest, including attachments and any other documents associated with the investigation, shall be accessible by the State Licensing Authority, local jurisdictions, and any state or local law enforcement agency for a purpose authorized by the Retail Code, Medical Code, or for any other state or local law enforcement purpose.

11. The Permitted Economic Interest holder shall disclose in writing to the Division and to the Retail Marijuana Store any and all disqualifying events, within ten days after occurrence of the event, that would lead to a finding of unsuitability to hold the Permitted Economic Interest and/or a denial of licensure pursuant to the Medical Code and/or Retail Code and any rules promulgated thereunder.

12. The Retail Marijuana Establishment shall disclose in writing to the Division any and all disqualifying events, within ten days after receiving notice of the event, which would lead to a finding of unsuitability to hold the Permitted Economic Interest and/or a denial of licensure pursuant to the Medical Code and/or Retail Code as applicable, and any rules promulgated thereunder.

13. Failure to make required disclosures by a Permitted Economic Interest holder or a Retail Marijuana Establishment may be grounds for administrative action including but not limited to denial of a subsequent request to convert the Permitted Economic Interest into an ownership interest in the Retail Marijuana Establishment.

D. At the election of the Retail Marijuana Establishment, if the holder of the Permitted Economic Interest is unsuitable for licensure and/or ownership but is suitable as a holder of the Permitted Economic Interest, and the Permitted Economic Interest is also suitable, then the Permitted Economic Interest may remain in force and effect for as long as it maintains suitability under the Medical Code and/or Retail Code as applicable, and any rules promulgated thereunder.

Basis and Purpose – R 202

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(I), 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)(I). 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 licenses authorized pursuant to section 12-43.4-401, C.R.S., shall be made upon current 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, at the time of application, the following information:

a. Suitable evidence of proof of lawful presence, residence, if applicable, and Good Moral Character as required by the current forms prescribed by the Division;

b. All requested information concerning financial and management associations and interests of other Persons in the business;

i. If the Applicant for any license pursuant to 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 officers, directors, and Owners; a copy of its articles of incorporation or articles of organization; and evidence of 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.

ii. 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.

c. Department of Revenue tax payment information;

d. Proof of good and sufficient surety bond, if applicable;

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 or relevant to determining an Applicant's suitability for licensure.

4. Failure to provide such additional information 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. This includes, but is not limited to, licenses that have been expired for more than 90 days, licenses that have been voluntarily surrendered, and licenses that have been revoked.

B. Other Factors

1. The Division will either approve or deny a complete application not less than 45 days and not more than 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 license before the relevant local jurisdiction approves the application or grants a local license, the 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 202.5

The statutory authority for this rule is found at subsections 12-43.4-103(12.4), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(I) and (XIV.5), 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)(I). The purpose of this rule is to establish basic requirements for Retail Marijuana Establishments that are seeking to obtain financing from a Permitted Economic Interest. In addition, the rule clarifies what information is required for a person seeking to hold a Permitted Economic Interest to establish he or she has lawful residency in the United States. This rule clarifies that such lawful residency must be maintained throughout the duration of holding a Permitted Economic Interest in order for a person to be a suitable holder of a Permitted Economic Interest.

R 202.5 – Process for Obtaining a Permitted Economic Interest: Retail Marijuana Establishments

A. General Requirements

1. All applications for Permitted Economic Interests shall be made upon current forms prescribed by the Division.

2. All applications for new Permitted Economic Interests must include the required administrative service fee. *See* R 210 – Schedule of Licensing Administrative Service Fees: All Licensees.

3. A Permitted Economic Interest approved by the Division constitutes a revocable privilege. The burden of proving the suitability of the Permitted Economic Interest rests at all times with the applicant.

B. Agreement Required. All applications for Permitted Economic Interests must include a copy of the Agreement between the Retail Marijuana Establishment and the person seeking to hold a Permitted Economic Interest.

1. The Agreement must be complete.

2. The Agreement must fully incorporate all terms and conditions.

C. Lawful Residency Required. At the time of application, a Retail Marijuana Establishment seeking to obtain financing from a Permitted Economic Interest shall provide suitable evidence that the person seeking to hold a Permitted Economic Interest is a lawful resident of the United States. Such evidence can be established by the following:

1. A valid, unexpired Colorado driver's license, permit, or identification card;

2. Valid United States passport that is expired for less than 10 years;

3. Certificate verifying naturalized status issued by an authorized agency of the United States bearing Applicant's intact photographs impressed with the raised embossed seal of the issuing agency;

4. Certificate verifying United States citizenship issued by an authorized agency of the United States bearing Applicant's intact photograph impressed with the raised embossed seal of the issuing agency;

5. Valid driver's license or ID card bearing Applicant's photograph issued by a lawful presence state, including the District of Columbia;

6. United States birth certificate or consular report of birth abroad;

7. United States adoption order with birth information;

8. Certificate of Citizenship;

9. Valid immigration documents demonstrating lawful presence and verified through the Systematic Alien Verification for Entitlements, administered by the United States Citizenship and Immigration Services of the Department of Homeland Security. Valid immigration documents are as follows:

a. Unexpired foreign passport bearing an unexpired "Processed for I-551" stamp or with an attached unexpired "Temporary I-551" visa;

b. Unexpired foreign passport accompanied by an "I-94" indicating a specific future "until" date; or

c. "I-94" with refugee or asylum status.

D. Good Moral Character. At the time of application, a Retail Marijuana Establishment seeking to obtain financing from a Permitted Economic Interest shall provide suitable evidence that the person seeking the Permitted Economic Interest is of Good Moral Character as required by the current forms prescribed by the Division.

E. Additional Information. Nothing in this section is intended to limit the Division's ability to request additional information it deems necessary or relevant to determining one's suitability for holding a Permitted Economic Interest.

F. Failure to Provide Additional Information When Requested. Failure to provide such additional information by the requested deadline may result in denial of the application.

Basis and Purpose – R 203

The statutory authority for this rule is found at subsections 12-43.4-103(12.4), 12-43.4-202(2)(b) and 12-43.4-202(3)(a)(I) and (XIV.5), and section 12-43.4-310, 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 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 not less than 30 days prior to the license's expiration date. If a Licensee timely applies for the renewal of an existing license, the Division may administratively continue the license beyond the expiration date while it completes the renewal licensing process.

3. 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 the Division may elect to administratively continue the license beyond the expiration date while it completes the renewal licensing process.

4. An application for renewal will only be accepted if it is accompanied by:

   a. The requisite licensing fees. *See* Rule R 209 - Schedule of Business License Renewal Fees: Retail Marijuana Establishments; and

   b. A copy of the relevant local jurisdiction's approval. If the relevant local jurisdiction does not approve such activity, the Licensee must submit a copy of the local jurisdiction's written acknowledgment of receiving the approval with the application for renewal.

5. Each Owner must be fingerprinted at the Division's discretion.

6. 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. Failure to Receive a Notice for License Renewal. Failure to receive a Notice for License Renewal does not relieve a Licensee of the obligation to renew all licenses as required.

C. If License Not Renewed Before Expiration or Administratively Continued. A license is immediately invalid upon expiration if the Licensee has not filed a renewal application and remitted all of the required fees.

1. In the event the license is not renewed prior to expiration, a Retail Marijuana Establishment may not operate unless it has been administratively continued.

2. If a former Licensee files a late application and the requisite fees with 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.

D. Licenses Subject to Ongoing Discipline and/or Summary Suspension. Licenses that are the subject of a summary suspension, a disciplinary action, and/or any other administrative action are subject to the requirements of this rule. Licenses that are not timely renewed will expire. *See* Rules R 1301 – Disciplinary Process: Non-Summary Suspension and R 1302 – Disciplinary Process: Summary Suspensions.

E. Permitted Economic Interests. At the time of renewal, a Retail Marijuana Establishment shall disclose any and all Permitted Economic Interests that hold an interest in the Retail Marijuana Establishment. If a Retail Marijuana Establishment is financed by a Permitted Economic Interest, the following must accompany all renewal materials and be submitted at the time the Retail Marijuana Establishment submits its renewal materials:

1. Current Division Permitted Economic Interest renewal forms;

2. Current Division form, signed by the Owner(s) of the Retail Marijuana Establishment and the person holding the Permitted Economic Interest, allowing the holder of the Permitted Economic Interest to be investigated by the Division if the Division deems it necessary;

3. At the discretion of the Division, the holder of the Permitted Economic Interest may need to submit new fingerprints; and

4. Current Division certification form, signed by the holder of the Permitted Economic Interest, certifying that he or she:

a. Has maintained, and currently maintains, lawful residence in the United States; and

b. Has met, and currently meets, the requirements of R 231.5 – Qualifications for Permitted Economic Interests: Individuals

Basis and Purpose – R 204

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 Division 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 Division make the proper determination.

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

A. Licenses Held By Owners. 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 premises 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 of 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. Businesses Must Have 100% Ownership To Operate.

a. The sum of the percentages of ownership of all Owners of a Retail Marijuana Establishment must equal 100%, and a Retail Marijuana Establishment must maintain 100% ownership, held by Owners who possess current and valid Occupational Licenses. *See* Rule R 233 – Retail Code or Medical Code Occupational Licenses Required.

b. In the event of an Owner's death or Occupational License revocation, a Retail Marijuana Establishment shall have 45 days to submit a change of ownership application to the Division detailing how the Licensee intends to redistribute ownership among the remaining Owners.

C. Loss Of Occupational License As An Owner Of Multiple Businesses. If an Owner's Occupational License is suspended or revoked as to one Retail Marijuana Establishment or Medical Marijuana Business, that Owner's Occupational License shall be suspended or revoked as to any other Retail Marijuana Establishment or Medical Marijuana Business in which that Owner possesses an ownership interest. *See* Rule R 233 – Retail Code or Medical Code Occupational Licenses Required.

D. Management Companies. Any Person contracted to manage the overall operation of a Licensed Premises may be considered an Owner.

E. Role of Managers. 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.

F. Entities and Interests

1. 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 inventory constitutes ownership and a direct financial interest.

2. Having a secured interest in furniture, fixtures, or equipment used directly in the manufacture or cultivation of Retail Marijuana or Retail Marijuana Product may constitute ownership and a direct financial interest.

3. Secured or unsecured notes or loans constitute a financial interest. It shall be unlawful to fail to completely report all financial interests in each license issued.

Basis and Purpose – R 205

The statutory authority for this rule is found at subsections 12-43.4-103(12.4), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(III) (XIV.5), 12-43.4-304, 12-43.4-306, 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. In addition, the rule clarifies that a business cannot use the transfer of ownership process in order to circumvent the administrative disciplinary process and that an ongoing investigation or disciplinary action may: (1) constitute grounds to deny a transfer of ownership request; (2) constitute grounds to delay a transfer of ownership request, or (3) mandate that the new business owner is responsible for any imposed sanction.

R 205 – Transfer of Ownership and Changes in Business Structure: 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 ownership and changes in Retail Marijuana Establishments must include application fees, be complete in every material detail, and be filled out truthfully.

3. All applications for transfers of ownership and changes in licensed entities by Retail Marijuana Establishments must be reported to the State Licensing Authority or its designee and relevant local licensing authority 30 days prior to any requested transfer or change.

4. 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 Licensed Premises. 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.

5. Failure to provide such additional evidence by the deadline specified by the Division may result in denial of the application.

6. 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.

7. The Division will not approve a transfer of ownership application without first receiving written notification that the Applicant disclosed the transfer of ownership to the relevant local licensing authority. 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 and the State Licensing Authority shall revoke the state-issued license.

8. The Applicant(s), or proposed transferee(s), for any license shall not operate the Retail Marijuana Establishment identified in the transfer of ownership application until the transfer of ownership request is approved in writing by the State Licensing Authority or its designee. A violation of this requirement shall constitute grounds to deny the transfer of ownership request and may result in disciplinary action against the Applicant's existing license(s), if applicable.

9. The current Owner(s), or proposed transferor(s), of the license(s) at issue retain full responsibility for the Retail Marijuana Establishment identified in the transfer of ownership application until the transfer of ownership request is approved in writing by the Division. A violation of this requirement shall constitute grounds to deny the transfer of ownership request and may result in disciplinary action against the license(s) of the current Owner(s) and/or the Retail Marijuana Establishment.

10. If a Retail Marijuana Establishment or any Licensees affiliated or associated with the business are applying to transfer ownership and are involved in an administrative investigation or administrative disciplinary action, the following may apply:

    a. The transfer of ownership may be delayed or denied until the administrative action is resolved; or

    b. If the transfer of ownership request is approved in writing by the Division, the transferee may be responsible for the actions of the Retail Marijuana Establishment and its prior owners, and subject to discipline based upon the same.

11. Licensee Initiates Change of Ownership for Permitted Economic Interests. All individuals holding a suitable Permitted Economic Interest who are converting to an ownership interest are subject to this rule R 205. The Licensee that is a party to the Permitted Economic Interest must initiate the change of ownership process for an individual holding a suitable Permitted Economic Interest who is converting its interest to ownership. Unsuitable Permitted Economic Interests and holders thereof shall not be allowed to convert to an ownership interest.

B. As It Relates to Corporations and Limited Liability Companies

1. If the Applicant 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 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 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, regardless of the number of shares of capital stock transferred, shall be reported and approved by the State Licensing Authority or its designee and the relevant local jurisdiction at least 30 days prior to such transfer or change. If a local jurisdiction elects not to approve or deny this activity, the local jurisdiction must provide written notification acknowledging receipt of the application.

C. As It Relates to Partnerships. If the Applicant 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.

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. The Licensee shall submit to the Division the names and mailing addresses of any officers, directors, general or managing partners, and all Persons having an ownership interest.

E. Approval Required. It may be considered a license violation affecting public safety if a Licensee engages in any transfer of ownership without prior approval from the Division and the relevant local jurisdiction.

F. Applications for Reinstatement Deemed New Applications. The Division will not accept an application for transfer of ownership if the license to be transferred is expired for more than 90 days, is voluntarily surrendered, or is revoked. *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 Owner or other authorized representative of a 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. Be submitted at least 30 days prior to the proposed change;

d. Explain the reason for requesting such change;

e. Be supported by evidence that the application complies with the relevant local jurisdiction requirements; and

f. 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. At no time may a Retail Marijuana Establishment operate or exercise any of the privileges granted pursuant to the license in both locations. For good cause 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

1. 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), and sections 12-43.3-501, 12-43.3-502 and 12-43.4-501, 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, and that meets the requirements of 12-43.4-104, 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 the provisions of the Medical Code and the regulations adopted thereto and is not subject to a disciplinary action at the time of the application.

B. Application Fee for New Applicants - Retail Marijuana Store, Cultivation Facility, or Product Manufacturer. 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. Application Fee for Retail Marijuana Testing Facilities - $1,000.00

D. 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.

Basis and Purpose – R 208

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(II), and 12-43.4-304(1), and sections 12-43.3-501, 12-43.3-502, 12-43.4-305, and 12-43.4-501, 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. License Fees - Medical Marijuana Business Converting To or Adding a Retail Marijuana Establishment Pursuant to 12-43.4-104(1)(a)(I).

1. Medical Marijuana Center Applying For A Retail Marijuana Store License – $3,000.00

2. Retail Marijuana Cultivation Facility License – $2,200.00

3. Extended Plant Count Fee for an Existing Medical Marijuana Center 2– $4,000.00

4. Extended Plant Count Fee for an Existing Medical Marijuana Center 3– $8,000.00

5. Retail Marijuana Products Manufacturing License – $2,200.00

B. License Fees - New Retail Marijuana Establishment Applicants That Have Applied Pursuant To 12-43.4-104(1)(b)(II).

1. Retail Marijuana Store License - $3,000.00

2. Retail Marijuana Cultivation Facility License - $2,200.00

3. Extended Plant Count Fee for Applicants that Meet Waiver Requirements of R R212(C) for 6,000 Plants - $4,000.00

4. Extended Plant Count Fee for Applicants that Meet Waiver Requirements of R R212(C) for 10,200 Plants - $8,000.00

5. Retail Marijuana Products Manufacturing License - $2,200.00

6. Retail Marijuana Testing Facility License - $2,200.00

C. When License Fees Are Due. All license fees are due at the time an application is submitted.

D. If Application is Denied. 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), 12-43.4-202(3)(a)(II), and 12-43.4-304(1), and sections 12-43.4-501, 12-43.3-502,12-43.4-305, and section 12-43.4-501, 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. Renewal Fee Amount and Due Date. The renewal fee shall be $300 for each renewal application. Renewal license and processing fees are due at the time the renewal application is submitted for each licensed premise.

B. Renewal License Fees shall be the same amount as the initial license fee. See Rule R 208 - Schedule of Business License Fees: Retail Marijuana Establishments.

C. Renewal License Fees.

1. Retail Marijuana Store – $3,000.00

2. Extended Plant Count Renewal Fee – 6,000 Plants - $4,000.00

3. Extended Plant Count Renewal Fee – 10,200 Plants - $8,000.00

4. Retail Marijuana Cultivation Facility License – $2,200.00

5. Retail Marijuana Products Manufacturing License – $2,200.00

6. Retail Marijuana Testing Facility License – $2,200.00

D. If Renewal Application is Denied. 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.

Basis and Purpose – R 210

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(II), and12-43.4-304(1), and sections 12-43.3-501, 12-43.3-502 and 12-43.4-501, 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 Licensing Administrative Service Fees: All Licensees

A. Administrative Service Fees. Administrative service fees shall be as follows:

1. Transfer of Ownership - New Owners - $2,000.00

2. Transfer of Ownership - Reallocation of Ownership - $800.00

3. Change of Corporation or LLC Structure - $800.00/Person

4. Change of Trade Name - $40.00

5. Change of Location Application Fee - Same Local Jurisdiction Only - $500.00

6. Modification of Licensed Premises - $120.00

7. Duplicate Business License - $40.00

8. Duplicate Occupational License - $10.00

9. Indirect Financial Interest Background Investigations - $150.00

10. Off Premises Storage Permit - $2,200.00

11. Subpoena Fee - See Rule R 106 – Subpoena Fees.

B. When Administrative Service Fees Are Due. 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), 12-43.4-202(3)(a)(I-II), 12-43.4-202(3)(b)(IX), and 12-43.4-202(4)(a) and (b) and sections 12-43.4-103, 12-43.4-104, and 12-43.4-501, C.R.S. The purpose of this rule is to clarify that, with the exception of a Medical Marijuana Testing Facility, an existing Medical Marijuana Business may apply to convert a Medical Marijuana Business License to a Retail Marijuana Establishment License or may apply to obtain one additional license to operate a Retail Marijuana Establishment. It is important to note that the State Licensing Authority considers each license issued as separate and distinct. Each license, whether it is in the same location or not, is fully responsible to maintain compliance with all statutes and rules promulgated regardless of whether or not they are located in a shared address.

A Medical Marijuana Business may only obtain one Retail Marijuana Establishment License, whether it converts the Medical Business License or obtains a Retail Marijuana Establishment License, for each Medical Marijuana Business License it holds. In order to ensure all Retail Marijuana and Retail Marijuana Product are tracked in the Inventory Tracking System and as a condition of licensure, a Medical Marijuana Business must declare in the Inventory Tracking System all Medical Marijuana and Medical Marijuana Infused-Product that are converted for sale as Retail Marijuana or Retail Marijuana Product prior to initiating or allowing any sales. This declaration may be made only once, in part, due to the excise tax issues that may be implicated if a Licensee makes multiple conversions from Medical Marijuana or Medical Marijuana-Infused Product to Retail Marijuana or Retail Marijuana Product. Beginning July 1, 2016, the only allowed transfer of marijuana between a Medical Marijuana Business and Retail Marijuana Establishment is the transfer of Medical Marijuana and Medical Marijuana Concentrate that was produced at the Optional Premises Cultivation Operation, from the Optional Premises Cultivation Operation to a Retail Marijuana Cultivation Facility. The marijuana subject to the one-time transfer is subject to the excise tax upon the first transfer from the Retail Marijuana Cultivation Facility to another Retail Marijuana Establishment.

The State Licensing Authority received several comments from stakeholders who requested lower fees for Medical Marijuana Businesses that were either converting a Medical Marijuana Business license to a Retail Marijuana Establishment license or obtaining an additional Retail Marijuana Establishment license while retaining the existing Medical Marijuana Business license. The adopted permanent regulations reflect changes to address this concern. Under the rules as adopted Medical Marijuana Businesses that apply to convert to a Retail Marijuana Establishment license will be required to pay an application fee, but no license fees will be charged until such time as the renewal fees would have been due under the Medical Marijuana Business license term. The Retail Marijuana Establishment license, if approved, would assume the balance of the license term from the Medical Marijuana Business license and have the same expiration date.

This rule also informs existing and prospective licensees of production management conditions. The State Licensing Authority intends to replace or revise this rule's production management provisions as early as January 2017 by transitioning to an output-based production management model. Existing and prospective licensees should be on notice that the new or revised regulations may impact the production limits provided for in this rule. Additionally, throughout the rulemaking process stakeholders expressed concern over ensuring an adequate amount of licensed Retail Marijuana Stores exist to sell the amount of Retail Marijuana being produced at licensed Retail Marijuana Cultivation Facilities. Scaling the number of interests a person may hold in Retail Marijuana Cultivation Facility licenses relative to the number of controlling interests the person has in Retail Marijuana Store(s) has been incorporated in the production management rules as a means to address this production management concern.

R 211 – Conversion - Medical Marijuana Business to Retail Marijuana Establishment Pursuant to 12-43.4-104(1)(a)(I), C.R.S.

A. Medical Marijuana Business Applying for a Retail Marijuana Establishment License. Except for a Medical Marijuana Testing Facility, a Medical Marijuana Business 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 Expiration Date.

1. A Medical Marijuana Business converting its license to a Retail Marijuana Establishment license shall not be required to pay a license fee at the time of application for conversion.

2. If a Medical Marijuana Business licensee is scheduled to renew its license during the processing of its conversion to a Retail Marijuana Establishment license, the Medical Marijuana Business must complete all renewal applications and pay the requisite renewal licensing fees.

3. A Retail Marijuana Establishment license that was fully converted from a Medical Marijuana Business license will assume the balance of licensing term previously held by the surrendered Medical Marijuana Business license.

C. 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 jurisdiction approvals. Each Retail Marijuana Establishment license issued shall be conditioned on the Licensee's receipt of all required local jurisdiction approvals and licensing, if required.

2. Each Retail Marijuana Establishment license issued shall be conditioned on the Medical Marijuana Business' declaration of the amount of Medical Marijuana or Medical Marijuana-Infused Product it intends to transfer from the requisite Medical Marijuana Business for sale as Retail Marijuana or Retail Marijuana Product. A Licensee that converts to a Retail Marijuana Establishment shall not exercise any of the rights or privileges of a Retail Marijuana Establishment until such time as all such Medical Marijuana and Medical Marijuana-Infused Product are fully transferred and declared in the Inventory Tracking System as Retail Marijuana and Retail Marijuana Product. See also, Rule R 309 –Inventory Tracking System. Beginning July 1, 2016, the only allowed transfer of marijuana between a Medical Marijuana Business and Retail Marijuana Establishment is the transfer of Medical Marijuana and Medical Marijuana Concentrate that was produced at the Optional Premises Cultivation Operation, from the Optional Premises Cultivation Operation to a Retail Marijuana Cultivation Facility.

D. One-Time Transfer

1. This rule R 211(D)(1) is repealed effective July 1, 2016. Prior to July 1, 2016, once a Retail Marijuana Establishment has declared Medical Marijuana and Medical Marijuana-Infused Product as Retail Marijuana or Retail Marijuana Product in the Inventory Tracking System and begun exercising the rights and privileges of the license, no additional Medical Marijuana or Medical Marijuana-Infused Product can be transferred from the Medical Marijuana Business to the relevant Retail Marijuana Establishment at any time.

1.5. Beginning July 1, 2016, the only allowed transfer of marijuana between a Medical Marijuana Business and a Retail Marijuana Establishment is the transfer of Medical Marijuana and Medical Marijuana Concentrate that was produced at the Optional Premises Cultivation Operation, from the Optional Premises Cultivation Operation to a Retail Marijuana Cultivation Facility. All other transfers are prohibited, including but not limited to transfers from a Medical Marijuana Center or Medical Marijuana-Infused Products Manufacturer to any Retail Marijuana Establishment. Once a Retail Marijuana Establishment has declared Medical Marijuana and Medical Marijuana Concentrate as Retail Marijuana or Retail Marijuana Concentrate in the Inventory Tracking System and begun exercising the rights and privileges of the license, no additional Medical Marijuana or Medical Marijuana Concentrate can be transferred from the Medical Marijuana Business to the relevant Retail Marijuana Establishment at any time.

E. Additional Application Disclosures.

1. At the time of application for a Retail Marijuana Store license an Applicant must designate the Medical Marijuana Center license intended to be used to obtain the Retail Marijuana Store license, whether or not that license will be converted, by providing its business license number.

2. At the time of application for a Retail Marijuana Products Manufacturing Facility license an Applicant must designate the Medical Marijuana Infused-Products Manufacturing Business license intended to be used to obtain the Retail Marijuana Products Manufacturing license, whether or not that license will be converted, by providing its business license number.

3. At the time of application for a Retail Marijuana Cultivation Facility license an Applicant must designate the Optional Premises Cultivation Operation license intended to be used to obtain the Retail Marijuana Cultivation Facility license, whether or not that license will be converted, by providing its business license number.

F. One Retail Cultivation License per Licensed Premises.

1. Only one Retail Marijuana Cultivation Facility License shall be permitted at each licensed premises. Each licensed premises must be located at a distinct address recognized by the local jurisdiction.

2. Existing Retail Marijuana Cultivation Facilities that have Multiple Cultivation Licenses at the Licensed Premises. Upon the first renewal at the Retail Marijuana Cultivation Facility, all of the Retail Marijuana Cultivation Facility's licenses will be collapsed into one surviving license, and fees shall be prorated for the non-expiring licenses. The maximum authorized plant count shall also collapse into the surviving license. See rule R 506 – Retail Marijuana Cultivation Facility: Production Management.

G. Authorized Plant Count and Associated Fees.

1. All Retail Marijuana Cultivation Facility licenses granted on or after November 30, 2015 shall be authorized to cultivate no more than 1,800 plants at any given time and are subject to the production management requirements of rule R 506 – Retail Marijuana Cultivation Facility: Production Management. See rule R 506 – Retail Marijuana Cultivation Facility: Production Management.

2. All Retail Marijuana Cultivation Facility licenses granted before November 30, 2015 are subject to the production management requirements of rule R 506 – Retail Marijuana Cultivation Facility: Production Management.

3. As of November 30, 2015, a Retail Marijuana Cultivation Facility license that was associated with a Retail Marijuana Products Manufacturing Facility shall be authorized to cultivate no more than 1,800 plants at any given time. If such a Retail Marijuana Cultivation Facility licensee submitted a plant count waiver application prior to August 31, 2015 and it was subsequently approved, the license shall be authorized to cultivate the maximum number of plants at any given time in the corresponding production management tier pursuant to rule R 506 – Retail Marijuana Cultivation Facility: Production Management.

4. Upon demonstrating certain conditions, the Owner/s of an existing Retail Marijuana Cultivation Facility license may apply to the Division for a production management tier increase to be authorized to cultivate the number of plants in the next highest production management tier. See rule R 506 – Retail Marijuana Cultivation Facility: Production Management. If the application is approved, the Licensee shall pay the applicable expanded production management tier fee prior to cultivating the additional authorized plants. See rule R 208 – Schedule of Business License Fees: Retail Marijuana Establishments.

5. At renewal, a Licensee that is authorized to cultivate more than 1,800 plants shall pay the requisite Retail Marijuana Cultivation Facility licensee fee and the applicable expanded production management tier fee. See rule R 209 – Schedule of Business License Renewal Fees: Retail Marijuana Establishments.

6. At renewal, the Division will review a Licensee's maximum authorized plant count and may reduce it pursuant to the requirements of rule R 506.

7. The State Licensing Authority, at its sole discretion, may adjust any of the plant limits described in this rule on an industry-wide aggregate basis for all Retail Marijuana Cultivation Facility Licensees subject to that limitation.

H. Maximum Allowed Retail Marijuana Cultivation Facility Licenses.

1. A Person with an Interest in Three or More Retail Marijuana Cultivation Facility Licenses. For every multiple of three Retail Marijuana Cultivation Facility licenses a person has an interest in, the person must have a controlling interest in at least one Retail Marijuana Store. For example: (1) a person with an interest in three, four, or five Retail Marijuana Cultivation Facility licenses also must have a controlling interest in at least one Retail Marijuana Store; (2) a person with an interest in six, seven, or eight Retail Marijuana Cultivation Facility licenses also must have a controlling interest in at least two Retail Marijuana Stores; (3) a person with an interest in nine, ten, or eleven Retail Marijuana Cultivation Facility licenses also must have a controlling interest in at least three Retail Marijuana Stores; etc.

2. A Person with an Interest in Less than Three Retail Marijuana Cultivation Facility Licenses. The person shall not be required to have an interest in a Retail Marijuana Store.

Basis and Purpose – R 212

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(I-II), 12-43.4-202(3)(b)(IX), and 12-43.4-202(4)(a) and (b); and sections 12-43.4-103, 12-43.4-104, and 12-43.4-501, C.R.S. This rule also informs existing and prospective licensees licensed pursuant to 12-43.4-104(1)(b)(II), C.R.S. of licensing and production management conditions. The State Licensing Authority intends to replace or revise this rule's production management provisions as early as January 2017 by transitioning to an output-based production management model. Existing and prospective licensees should be on notice that the new or revised regulations may impact the production limits provided for in this rule. Additionally, throughout the rulemaking process stakeholders expressed concern over ensuring an adequate amount of licensed Retail Marijuana Stores exist to sell the amount of Retail Marijuana being produced at licensed Retail Marijuana Cultivation Facilities. Scaling the number of interests a person may hold in Retail Marijuana Cultivation Facility licenses relative to the number of controlling interests the person has in Retail Marijuana Store(s) has been incorporated in the production management rules as a means to address this production management concern.

Rule R 212 – New Applicant Retail Marijuana Cultivation Facilities Licensed Pursuant To 12-43.4-104(1)(b)(II), C.R.S.

A. Applicability. This rule R 212 shall apply to all new applicant Retail Marijuana Cultivation Facility Licenses granted after September 30, 2014 pursuant to 12-43.4-104(1)(b)(II), C.R.S.

B. One Retail Cultivation License per Licensed Premises.

1. Only one Retail Marijuana Cultivation Facility License shall be permitted at each licensed premises. Each licensed premises must be located at a distinct address recognized by the local jurisdiction.

2. Existing Retail Marijuana Cultivation Facilities that have Multiple Cultivation Licenses at the Licensed Premises. Upon the first renewal at the Retail Marijuana Cultivation Facility, all of the Retail Marijuana Cultivation Facility's licenses will be collapsed into one surviving license, and fees shall be prorated for the non-expiring licenses. The maximum authorized plant count shall also collapse into the surviving license. See rule R 506 – Retail Marijuana Cultivation Facility: Production Management.

C. Authorized Plant Count and Associated Fees.

1. All Retail Marijuana Cultivation Facility licenses granted on or after November 30, 2015 shall be authorized to cultivate no more than 1,800 plants at any given time and are subject to the production management requirements of rule R 506 – Retail Marijuana Cultivation Facility: Production Management.

2. All Retail Marijuana Cultivation Facility licenses granted before November 30, 2015 are subject to the production management requirements of rule R 506 – Retail Marijuana Cultivation Facility: Production Management.

3. As of November 30, 2015, a Retail Marijuana Cultivation Facility license that was associated with a Retail Marijuana Products Manufacturing Facility shall be authorized to cultivate no more than 1,800 plants at any given time. If such a Retail Marijuana Cultivation Facility licensee submitted a plant count waiver application prior to August 31, 2015 and it was subsequently approved, the license shall be authorized to cultivate the maximum number of plants at any given time in the corresponding production management tier pursuant to rule R 506 – Retail Marijuana Cultivation Facility: Production Management.

4. Upon demonstrating certain conditions, the Owner/s of an existing Retail Marijuana Cultivation Facility license may apply to the Division for a production management tier increase to be authorized to cultivate the number of plants in the next highest production management tier. See rule R 506 – Retail Marijuana Cultivation Facility: Production Management. If the application is approved, the Licensee shall pay the applicable expanded production management tier fee prior to cultivating the additional authorized plants. See rule R 208 – Schedule of Business License Fees: Retail Marijuana Establishments.

5. At renewal, a Licensee that is authorized to cultivate more than 1,800 plants shall pay the requisite Retail Marijuana Cultivation Facility licensee fee and the applicable expanded production management tier fee. See rule R 209 – Schedule of Business License Renewal Fees: Retail Marijuana Establishments.

6. At renewal, the Division will review a Licensee's maximum authorized plant count and may reduce it pursuant to the requirements of rule R 506.

7. The State Licensing Authority, at its sole discretion, may adjust any of the plant limits described in this rule on an industry-wide aggregate basis for all Retail Marijuana Cultivation Facility Licensees subject to that limitation.

D. Maximum Allowed Retail Marijuana Cultivation Facility Licenses.

1. A Person with an Interest in Three or More Retail Marijuana Cultivation Facility Licenses. For every multiple of three Retail Marijuana Cultivation Facility licenses a person has an interest in, the person must have a controlling interest in at least one Retail Marijuana Store. For example: (1) a person with an interest in three, four, or five Retail Marijuana Cultivation Facility licenses also must have a controlling interest in at least one Retail Marijuana Store; (2) a person with an interest in six, seven, or eight Retail Marijuana Cultivation Facility licenses also must have a controlling interest in at least two Retail Marijuana Stores; (3) a person with an interest in nine, ten, or eleven Retail Marijuana Cultivation Facility licenses also must have a controlling interest in at least three Retail Marijuana Stores; etc.

2. A Person with an Interest in Less than Three Retail Marijuana Cultivation Facility Licenses. The person shall not be required to have an interest in a Retail Marijuana Store.

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 licenses authorized pursuant to subsection 12-43.4-401(1)(e), 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, individuals as Owners and transfers of ownership.

2. A license issued by the Division to Owners and Occupational License Licensees constitutes a revocable privilege. The burden of proving an Applicant's qualifications for licensure rests at all times with the Applicant.

3. 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.

   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

1. 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. The additional information must be provided to the Division no later than seven 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. Application Forms Accessible. 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 state or local law enforcement agency for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose.

Basis and Purpose – R 231

The statutory authority for this rule is found at subsections 12-43.3-201(4), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(III), and 24-18-105(3), and sections 12-43.4-305, 12-43.4-306, and 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 at the Division's discretion 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;

ii. 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 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 or 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. Application Forms Accessible to Law Enforcement and Licensing Authorities. 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. Associated Key Licenses/Owners. An Owner Applicant for an Associated Key License 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 part, 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;

5. The Applicant has paid all taxes, interest, or penalties due the Department of Revenue relating to a Retail Marijuana Establishment or Medical Marijuana Business, if applicable;

6. The Applicant establishes that he or she is not currently subject to and 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 meets qualifications for licensure that directly and demonstrably relate to the operation of a Retail Marijuana Establishment.

8. The Applicant can prove that he or she is not currently subject to or 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 28, 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;

9. The Applicant establishes 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.

10. The Applicant establishes 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 jurisdiction;

11. The Applicant establishes that he or she was not a State Licensing Authority employee with regulatory oversight responsibilities for individuals, Retail Marijuana Establishments and/or Medical Marijuana Businesses licensed by the State Licensing Authority in the six months immediately preceding the date of the Applicant's application; and

12. The Applicant establishes that the premises he or she proposes to be licensed is not currently licensed as a retail food establishment or wholesale food registrant; and

13. 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. Occupational Licenses. An Occupational License 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 at least 21 years of age;

4. The Applicant can establish that he or she is currently a resident of Colorado.

5. The Applicant can prove that he or she is not currently subject to and 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 is not currently subject to and 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 28, 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 jurisdiction;

E. Current Medical Marijuana Occupational Licensees

1. An individual 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 who holds a current, valid Occupational License issued pursuant to the Retail Code and these rules shall only work at licensed premises that are exclusively a Retail Marijuana Establishment and 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 231.5

The statutory authority for this rule is found at subsections 12-43.4-103(12), 12-43.3-201(4), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(III) and (XIV.5), and 24-18-105(3), and sections 12-43.4-305, 12-43.4-306, and 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 holding a Permitted Economic Interest, including, but not limited to, the requirement for a fingerprint-based criminal history record check and that the applicant is a natural person who is a lawful United States resident.

R 231.5 – Qualifications for Permitted Economic Interests: Individuals

A. General Requirements

1. All individuals applying for a Permitted Economic Interest shall submit information to the Division in a full, faithful, truthful, and fair manner. The Division may recommend denial of an application where the individual made intentional misstatements, purposeful omissions, misrepresentations, or untruths in the application or in connection with the individual's background investigation. This type of conduct may be considered as the basis of additional administrative action against the individual and it may also be the basis for criminal charges against the individual.

2. The Division may deny the individual's application when the individual fails to provide any requested evidence or information by the Division's deadline.

3. A Permitted Economic Interest approved by the Division constitutes a revocable privilege. The burden of proving the qualifications for suitability to hold a Permitted Economic Interest rests at all times with the applicant.

B. Other Requirements

1. Fingerprints Required. Any individual applying for a Permitted Economic Interest shall be fingerprinted for a fingerprint-based criminal history record check at the Division's discretion.

2. Other Documents May Be Required. Any individual applying for a Permitted Economic Interest may be required to establish his or her identity and age by any document required for a determination of lawful United States residence.

C. Maintaining Ongoing Suitability:

1. An individual seeking or holding a Permitted Economic Interest 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 or 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. This duty to report includes, but is not limited to, deferred sentences, prosecutions, or judgments that are not sealed. If the Division lawfully finds a disqualifying event and the individual asserts that the record was sealed, the Division may require the individual to provide proof from a court evidencing the sealing of the case.

2. An individual seeking or holding a Permitted Economic Interest shall cooperate in any investigation conducted by the Division.

D. Application Forms Accessible to Law Enforcement and Licensing Authorities. All application forms supplied by the Division and filed by an individual for a Permitted Economic Interest shall be accessible by the State Licensing Authority, local jurisdictions, and any state or local law enforcement agent.

E. Permitted Economic Interest Applicants. An individual seeking to hold a Permitted Economic Interest must meet the following criteria before holding the interest:

1. The individual shall establish that he or she is a natural person with lawful United States residency, and that he or she can maintain such residency throughout the duration of holding the Permitted Economic Interest;

2. The application fee must be paid;

3. The individual's criminal history must indicate that he or she is of Good Moral Character;

4. The money used to finance the Agreement was not obtained by or through any Person whose criminal history indicates that he or she is not of Good Moral Character;

5. The individual is at least 21 years of age;

6. The individual establishes that he or she is not currently subject to and has not discharged a sentence for a conviction of a felony in the five years immediately preceding his or her application date;

7. The individual can prove that he or she is not currently subject to or 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 28, 2013, whichever is longer, except that the State Licensing Authority or its designee may grant a Permitted Economic Interest 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 Permitted Economic Interest;

8. The individual establishes 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 jurisdiction; and

9. The individual establishes that he or she was not a State Licensing Authority employee with regulatory oversight responsibilities for individuals, Retail Marijuana Establishments and/or Medical Marijuana Businesses licensed by the State Licensing Authority in the six months immediately preceding the date of the individual's application.

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. Primary Home Defined. 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 person's habitation is fixed and to which the person, 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. Reliable Indicators That an Applicant's Primary Home is in Colorado. 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 personal 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;

2. 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. Totality of the Evidence. 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. Other Considerations for Residency. The State Licensing Authority may consider the following circumstances:

1. 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 pursuant to the rules or policy of the educational institution he or she is attending.

E. Entering Armed Forces Does Not Terminate Residency. 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.

Basis and Purpose – R 233

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 – Retail Code or Medical Code Occupational Licenses Required

A. Retail Code or Medical Code Occupational Licenses and Identification Badges

1. Any person who possesses, cultivates, manufactures, tests, dispenses, sells, serves, transports or delivers Retail Marijuana or Retail Marijuana Product as permitted by privileges granted under a Retail Marijuana Establishment license must have a valid Occupational License.

2. Any person who has the authority to access or input data into the Inventory Tracking System or a Retail Marijuana Establishment point of sale system must have a valid Occupational License.

3. Any person within a Restricted Access Area or Limited Access Area that does not have a valid Occupational License shall be considered a visitor and must be escorted at all times by a person who holds a valid Owner or Occupational License. Failure by a Retail Marijuana Establishment to continuously escort a person who does not have a valid Occupational License within a Limited Access Area may be considered a license violation affecting the public safety. *See* Rule R 1307 – Penalties; *see also* Rule R 301 – Limited Access Areas. Nothing in this provision alters or eliminates a Retail Marijuana Establishment's obligation to comply with the Occupational License requirements of paragraph (A) of this rule R 233.

B. Occupational License Required to Commence or Continue Employment. Any person required to be licensed pursuant to these rules shall obtain all required approvals and obtain a Division-issued identification badge before commencing activities permitted by his or her Retail Code or Medical Code Occupational License. *See* Rules R 231 – Qualifications for Licensure: Individuals; Rule R 204 – Factors Considered When Evaluating Ownership of a License: Retail Marijuana Establishments; and R 301 – Limited Access Areas.

C. Identification Badges Are Property of State Licensing Authority. 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. The Licensee shall not alter, obscure, damage, or deface the badge in any manner.

Basis and Purpose – R 234

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)(VIII), 12-43.4-202(3)(b)(IX), 12-43.4-309(6), 12-43.4-401(1)(e), and 12-43.3-501(1), C.R.S. The purpose of this rule is to establish licensing fees for individuals.

R 234 – Schedule of License Fees: Individuals

A. Individual License Fees

1. Occupational Key License - $300

2. Associated Key License Fee - $1,300.00

2. Occupational Support License - $150.00

B. When Fees Are Due. License fees are due at the time Applicant submits application.

Basis and Purpose – R 235

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)(VIII), 12-43.4-202(3)(b)(IX), 12-43.4-309(6), 12-43.4-401(1)(e), and 12-43.3-501(1), C.R.S. The purpose of this rule is to establish renewal license fees for individuals.

R 235 – Schedule of Renewal Fees: Individuals

A. Individual Renewal License Fees

1. Retail Owner License - $200.00

2. Retail Occupational License. $75.00

B. When Fees Are Due. Renewal license fees are due at the time Applicant submits application for renewal.

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. Timing of Notification. 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. Division Communications. Division communications are sent to the last mailing address furnished by an Applicant or Licensee to the Division.

C. Failure to Change Address Does Not Relieve Licensee's or Applicant's Obligation. Failure to notify the Division of a change of mailing address does not relieve a Licensee or Applicant of the obligation to respond to a Division communication.

D. Disciplinary Communications. 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.

Basis and Purpose – R 251

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(XV), 12-43.4-202(3)(a)(XVI), and 12-43.4-305, 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 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 Product without receiving prior approval from all relevant local jurisdictions.

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. In such instances, an Applicant waives his or her right to a hearing in the matter 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 Retail Marijuana Establishment licenses are valid for one year unless suspended, revoked, or otherwise disciplined.

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

A. All Retail Code Licenses. All Licenses issued pursuant to the Retail Code and these rules are valid for one year, except those fully converted from a Medical Marijuana Business license.

B. License May Be Valid for Less Than One Year. 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 individuals licensed by the State Licensing Authority. In addition, this rule clarifies that businesses and individuals cannot use the visitor system as a means to employ an individual who does not possess a valid and current Occupational License.

R 301 – Limited Access Areas

A. Proper Display of License Badge. 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.

B. Visitors in Limited Access Areas

1. Prior to entering a Limited Access Area, all visitors, including outside vendors, contractors or others, 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 the Retail Marijuana Establishment's licensed 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. *See* Rule R 404 – Acceptable Forms of Identification.

6. A Licensee may not receive consideration or compensation for permitting a visitor to enter a Limited Access Area.

7. Use of a visitor badge to circumvent the Occupational License requirements of rule R 233 - Retail Code or Medical Code Occupational Licenses Required is prohibited and may constitute a license violation affecting public safety.

C. Required Signage. All areas of ingress and egress to Limited Access Areas on the Licensed Premises 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. Diagram for Licensed Premises. All Limited Access Areas shall be clearly identified to the Division or relevant local jurisdiction and described in a diagram of the Licensed Premises 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. Modification of Limited Access Area. 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. Law Enforcement Personnel Authorized. Notwithstanding the requirements of subsection A of this rule, nothing shall prohibit investigators and employees of the Division, authorities from relevant local jurisdiction or state or local law enforcement, for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose, from entering a Limited Access Area upon presentation of official credentials identifying them as such.

Basis and Purpose – R 302

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. Evidence of Lawful Possession. 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 premises to be licensed or 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 the relevant local jurisdiction. If the local jurisdiction elects not to approve or deny this activity, the local jurisdiction must provide written notification acknowledging receipt of the application. 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. Subletting Not Authorized. 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 the relevant local jurisdiction. If the local jurisdiction elects not to approve or deny this activity, the local jurisdiction must provide written notification acknowledging receipt of the application.

Basis and Purpose – R 303

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-304, 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. Application Required to Change, Alter, or Modify Licensed Premises. 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, written approval or written acknowledgement from the relevant local jurisdiction. The Licensee whose Licensed Premises are to be materially or substantially changed is responsible for filing an application for approval on current forms provided by the Division.

B. What Constitutes a Material Change. 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 Product 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

5. The addition or deletion of a Retail Marijuana Cultivation Facility license that will be, or has been, combined with other commonly owned cultivation licenses in a common area for the purpose of growing and cultivating Retail Marijuana.

C. Attachments to Application. 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 Licensed Premises, as changed, by ownership, lease, or rental agreement; and

2. The proposed change conforms to any local restrictions related to the time, manner, and place of Retail Marijuana Establishment regulation.

Basis and Purpose – R 304

The statutory authority for this rule is found at subsections 12-43.4-104(1)(a)(V), 12-43.4-202(2)(b), 12-43.3-202(2.5)(a)(I)(A)-(F), 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 Center that prohibits patients under the age of 21 years to be on the Licensed 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 and the two are commonly owned.

2. 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. Even when the two are commonly owned, the two shall maintain distinctly separate Licensed Premises; including, but not limited to, separate sales and storage areas, separate entrances and exits, separate inventories, separate point-of-sale operations, and separate record-keeping.

3. An Optional Premises Cultivation Operation and a Retail Marijuana Cultivation Facility may share a single Licensed Premises in order to operate a dual cultivation business operation if the relevant local jurisdiction permits a dual operation at the same location and the two are commonly owned.

4. A Medical Marijuana-Infused Products Manufacturer may also apply to also hold a Retail Marijuana Products 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 and the two are commonly owned.

5. A Medical Marijuana Testing Facility Licensee and a Retail Marijuana Testing Facility Licensee may share a single Licensed Premises to operate a dual testing business operation at the same location if the relevant local jurisdiction permits dual operation at the same location and the two are identically owned.

B. Separation of Co-located Licensed Operations

1. Cultivation Operations. A Licensee that operates an Optional Premises Cultivation Operation 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 product must enable the Division and relevant local jurisdictions to clearly distinguish the inventories and business transactions of the Medical Marijuana Business from the Retail Marijuana Establishment.

2. Manufacturing Operations. A Licensee that operates a Medical Marijuana-Infused Products Manufacturer 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 enable the Division and Local Jurisdictions/Local Licensing Authorities to clearly distinguish the inventories and business transactions of Medical Marijuana-Infused Product from Retail Marijuana Product.

3. Raw Ingredients May Be Shared. Nothing in this rule prohibits a co-located Retail Marijuana Establishment and Medical Marijuana Business from sharing raw ingredients in bulk, for example flour or sugar, except that Retail Marijuana and Medical Marijuana may not be shared under any circumstances.

4. Retail Store and Medical Center Operations: No Patients Under The Age of 21 Years. Persons operating a Medical Marijuana Center that 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 and Medical Marijuana-Infused Product and Retail Marijuana Product must be separately displayed on the same sale floor. Record-keeping for the business operations of both must enable 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 Product. Violation of the restrictions in this rule by co-located Medical Marijuana Centers and Retail Marijuana Stores may be considered a license violation affecting public safety.

5. 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.

6 Testing Facilities. A co-located Medical Marijuana Testing Facility and Retail Marijuana Testing Facility shall maintain either physical or virtual separation of the facilities and marijuana and products being tested. Record keeping for the business operations and labeling of products must enable the Division and local licensing authority to clearly distinguish the inventories and business transactions of Medical Marijuana and Medical Marijuana-Infused Product and Retail Marijuana and Retail Marijuana Product.

7. Clear Separation of Inventory. A Licensee that 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 Marijuana and Retail Marijuana inventories. The inventories must be clearly tagged or labeled so that the product can be reconciled to a particular Medical Marijuana Business or a Retail Marijuana Establishment.

Basis and Purpose – R 305

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 Product 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. The following Security Alarm Systems and lock standards apply to all Retail Marijuana Establishments.

1. Each Licensed Premises shall have a Security Alarm System, installed by an Alarm Installation Company, on all perimeter entry points and perimeter windows.

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.

3. A Licensee 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.

4. Upon request, Licensees shall make available to agents of the Division or relevant local jurisdiction or state or local law enforcement agency, for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose, all information related to Security Alarm Systems, Monitoring, and alarm activity.

5. 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. An outdoor or greenhouse Retail Marijuana Cultivation Facility must provide sufficient security measures to demonstrate that outdoor areas are not readily accessible by unauthorized individuals. 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. Lock Standards – Minimum Requirement

1. At all points of ingress and egress, the Licensee shall ensure the use of a commercial-grade, non-residential door locks.

2. Any outdoor Retail Marijuana Cultivation Facility, 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), and section 12-43.4-701, 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 Product 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 following video surveillance requirements shall apply to all Retail Marijuana Establishments.

1. Prior to exercising the privileges of a Retail Marijuana Establishment, an Applicant must install a fully operational video surveillance and camera recording system. The recording system must record in digital format and meet the requirements outlined in this rule.

2. All video surveillance records and recordings must be stored in a secure area that is only accessible to a Licensee's management staff.

3. 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.

4. 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 systems 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

1. 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, all areas where Retail Marijuana or Retail Marijuana Product is displayed for sale, 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 has 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.

6. Areas where Retail Marijuana is grown, tested, 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, transport 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 applicable to any other indoor Limited Access Areas.

D. Location and Maintenance of Surveillance Equipment

1. The surveillance room or surveillance area shall be 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 for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose, 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 meet or exceed all standards for on-site Monitoring.

5. Each Retail Marijuana Licensed Premises located in a common or shared building, or commonly owned Retail Marijuana Establishments located in the same local jurisdiction, 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 this 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

1. 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 be easily accessed for viewing. 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 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. After the 40 day surveillance video retention schedule has lapsed, surveillance video recordings must be erased or destroyed prior to: sale or transfer of the facility or business to another Licensee; or being discarded or disposed of 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.

F. Other Records

1. All records applicable to the surveillance system shall be maintained on the Licensed Premises. At a 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)(X), 12-43.4-202(3)(a)(XI), 12-43.4-202(3)(a)(XII), and 12-43.4-202(3)(b)(IX), 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 waste disposal requirements for Retail Marijuana Establishments. The State Licensing Authority modeled this rule after its Medical Marijuana rules.

R 307 – Waste Disposal

A. All Applicable Laws Apply. 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. Liquid Waste. Liquid waste from Retail Marijuana Establishments shall be disposed of in compliance with all applicable federal, state and local laws, regulations, rules and other requirements.

C. Chemical, Dangerous and Hazardous Waste. Disposal of chemical, dangerous or hazardous waste must be conducted in a manner consistent with federal, state and local laws, regulations, rules and other requirements. This may include, but is not limited to, the disposal of all Pesticide or other agricultural chemicals, certain solvents or other chemicals used in the production of Retail Marijuana Concentrate or any Retail Marijuana soaked in a Flammable Solvent for purposes of producing a Retail Marijuana Concentrate.

D. Waste Must Be Made Unusable and Unrecognizable. Retail Marijuana and Retail Marijuana Product waste must be made unusable and Unrecognizable prior to leaving the Licensed Premises.

E. Methods to Make Waste Unusable and Unrecognizable. Retail Marijuana and Retail Marijuana Product waste shall be rendered unusable and Unrecognizable 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; and

h. Soil.

F. After Waste is Made Unusable and Unrecognizable. 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, 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

3. 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.

G. Proper Disposal of Waste. A Licensee shall not dispose of Retail Marijuana and Retail Marijuana Product waste in an unsecured waste receptacle not in possession and control of the Licensee.

H. Inventory Tracking Requirements

1. In addition to all other tracking requirements set forth in these rules, a Licensee shall utilize the Inventory Tracking System to ensure its post-harvest waste materials are identified, weighed and tracked while on the Licensed Premises until disposed of.

2. All Retail Marijuana waste must be weighed before leaving any Retail Marijuana Establishment. A scale used to weigh Retail Marijuana waste prior to entry into the Inventory Tracking System shall be tested and approved in accordance with 35-14-127, C.R.S. *See* Rule R 309 – Retail Marijuana Establishments: Inventory Tracking Solution.

3. A Licensee is required to maintain accurate and comprehensive records regarding waste material that accounts for, reconciles, and evidences all waste activity related to the disposal of Marijuana. *See* Rule R 901 – Business Records Required.

4. A Licensee is required to maintain accurate and comprehensive records regarding any waste material produced through the trimming or pruning of a Retail Marijuana plant prior to harvest, which must include weighing and documenting all waste. Unless required by an Inventory Tracking System procedure, records of waste produced prior to harvest must be maintained on the Licensed Premises. All waste, whether produced prior or subsequent to harvest, must be disposed of in accordance with this rule and be made unusable and unrecognizable.

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 Colorado Department of Revenue's liquor rules. Based upon written comments and testimony during working groups and public hearings, this rule was amended to permit the transport of Retail Marijuana and Retail Marijuana Product between the hours 12:01 am and 7:59 am, provided the delivery began prior to 12:01 am. This change was made to accommodate the impact inclement weather can have on driving conditions and other unpredictable events that could delay a delivery.

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

A. Hours of Operation. Retail Marijuana Establishments shall not sell, serve, distribute, or initiate the transport of Retail Marijuana or Retail Marijuana Product at any time other than between the hours of 8:00 am and 12:00 am, Mountain Time, Monday through Sunday.

B. Local Jurisdictions May Further Restrict Hours. Nothing in this rule shall prohibit a local jurisdiction from further restricting hours of operation within its jurisdiction.

Basis and Purpose – R 309

The statutory authority for this rule is found at subsections 12-43.4-104(1)(a)(III)12-43.4-201(1), 12-43.4-202(2)(b), 12-43.4-402(1)(e), 12-43.4-402(4), 12-43.4-403(2)(d), and 12-43.4-404(1)(b), C.R.S. The purpose of this rule is to establish a system that will allow the State Licensing Authority and the industry to jointly track Retail Marijuana and Retail Marijuana Product from either seed or immature plant stage until the Retail Marijuana or Retail Marijuana Product is sold to the customer or destroyed.

The Inventory Tracking System is a web-based tool coupled with RFID technology that allows both the Inventory Tracking System user and the State Licensing Authority the ability to identify and account for all Retail Marijuana or Retail Marijuana Product. Through the use of RFID technology, a Retail Marijuana Cultivation Facility will tag either the seed or immature plant with an individualized number, which will follow the Retail Marijuana through all phases of production and final sale to a consumer. This will allow the State Licensing Authority and the Inventory Tracking System user the ability to monitor and track Retail Marijuana and Retail Marijuana Product inventory. The Inventory Tracking System will also provide a platform for the State Licensing Authority to exchange information and provide compliance notifications to the industry.

The State Licensing Authority finds it essential to regulate, monitor, and track all Retail Marijuana to eliminate diversion, inside and outside of the state, and to ensure that all marijuana grown, processed, sold and disposed of in the Retail Marijuana market is transparently accounted for.

The State Licensing Authority will engage the industry and provide training opportunities and continue to evaluate the Inventory Tracking System to promote an effective means for this industry to account for and monitor its Retail Marijuana inventory.

R 309 – Retail Marijuana Establishments: Inventory Tracking Solution

A. Inventory Tracking System Required. A Retail Marijuana Establishment is required to use the Inventory Tracking System as the primary inventory tracking system of record. A Retail Marijuana Establishment must have an Inventory Tracking System 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(C) below.

B. Inventory Tracking System Access - Inventory Tracking System Administrator

1. Inventory Tracking System Administrator Required. A Retail Marijuana Establishment must have at least one individual Owner who is an Inventory Tracking System Administrator. A Retail Marijuana Establishment may also designate additional Owners and occupationally licensed employees to obtain Inventory Tracking System Administrator accounts.

2. Training for Inventory Tracking System Administrator Account. In order to obtain a Inventory Tracking System Administrator account, a person must attend and successfully complete all required Inventory Tracking System training. The Division may also require additional ongoing, continuing education for an individual to retain his or her Inventory Tracking System Administrator account.

3. Inventory Tracking System Access - Inventory Tracking System User Accounts. A Retail Marijuana Establishment may designate licensed Owners and employees who hold valid Occupational Licenses as Inventory Tracking System Users. A Retail Marijuana Establishment shall ensure that all Owners and Occupational License Licensees who are granted Inventory Tracking System User account access for the purposes of conducting inventory tracking functions in the system are trained by Inventory Tracking System Administrators in the proper and lawful use of Inventory Tracking System.

C. Medical Marijuana Business License Conversions - Declaring Inventory Prior to Exercising Licensed Privileges as a Retail Marijuana Establishment

1. Medical Marijuana Inventory Transfer to Retail Marijuana Establishments.

a. This rule R 309(C)(1)(a) is repealed effective July 1, 2016. Prior to July 1, 2016, each Medical Marijuana Business that is either converting to or adding a Retail Marijuana Establishment license must create a Retail Marijuana Inventory Tracking System account for each license it is converting or adding. A Medical Marijuana Business must transfer all relevant Medical Marijuana inventory into the Retail Marijuana Establishment's Inventory Tracking System accounts and affirmatively declare those items as Retail Marijuana and Retail Marijuana Product.

b. Beginning July 1, 2016:

i. The the only allowed transfer of marijuana between a Medical Marijuana Business and Retail Marijuana Establishment is Medical Marijuana and Medical Marijuana Concentrate that was produced at the Optional Premises Cultivation Operation, from the Optional Premises Cultivation Operation to a Retail Marijuana Cultivation Facility.

ii. Each Optional Premises Cultivation Operation that is either converting to or adding a Retail Marijuana Cultivation Facility license must create a Retail Marijuana Inventory Tracking System account for each license it is converting or adding.

iii. An Optional Premises Cultivation Operation must transfer all relevant Medical Marijuana and Medical Marijuana Concentrate into the Retail Marijuana Cultivation Facility's Inventory Tracking System account and affirmatively declare those items as Retail Marijuana or Retail Marijuana Concentrate as appropriate.

iv. The marijuana subject to the one-time transfer is subject to the excise tax upon the first transfer from the Retail Marijuana Cultivation Facility to another Retail Marijuana Establishment.

v. All other transfers are prohibited, including but not limited to transfers from a Medical Marijuana Center or Medical Marijuana-Infused Products Manufacturer to any Retail Marijuana Establishment.

2. No Further Transfer Allowed. 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.

D. RFID Tags Required

1. 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 the Inventory Tracking System. Each licensee is responsible for the cost of all RFID tags and any associated vendor fees.

2. Use of RFID Tags Required. A Licensee is responsible to ensure its inventories are properly tagged where the Inventory Tracking System requires RFID tag use. A Retail Marijuana Establishment must ensure it has an adequate supply of RFID tags to properly tag Retail Marijuana and Retail Marijuana Product as required by the Inventory Tracking System.

E. General Inventory Tracking System Use

1. Reconciliation with Inventory. All inventory tracking activities at a Retail Marijuana Establishment must be tracked through use of the Inventory Tracking System. A Licensee must reconcile all on-premises and in-transit Retail Marijuana and Retail Marijuana Product inventories each day in the Inventory Tracking System 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 the Inventory Tracking System to track all Retail Marijuana and Retail Marijuana Product.

b. A scale used to weigh product prior to entry into the Inventory Tracking System system shall be tested and approved in accordance with 35-14-127, C.R.S.

3. Inventory Tracking System Administrator and User Accounts – Security and Record

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

   b. A Retail Marijuana Establishment must cancel any Inventory Tracking System Administrators and Inventory Tracking System Users from their associated Inventory Tracking System accounts once any such individuals are no longer employed by the Licensee or at the Licensed Premises.

   c. A Retail Marijuana Establishment is accountable for all actions employees take while logged into the Inventory Tracking System or otherwise conducting Retail Marijuana or Retail Marijuana Product inventory tracking activities.

   d. Each individual user is also accountable for all of his or her actions while logged into the Inventory Tracking System or otherwise conducting Retail Marijuana or Retail Marijuana Product inventory tracking activities, and shall maintain compliance with all relevant laws.

4. Secondary Software Systems Allowed

   a. Nothing in this rule prohibits a Retail Marijuana Establishment from using separate software applications to collect information to be used by the business including secondary inventory tracking or point of sale systems.

   b. A Licensee must ensure that all relevant Inventory Tracking System data is accurately transferred to and from the Inventory Tracking System for the purposes of reconciliations with any secondary systems.

   c. A Retail Marijuana establishment must preserve original Inventory Tracking System data when transferred to and from a secondary application(s). Secondary software applications must use the Inventory Tracking System data as the primary source of data and must be compatible with updating to the Inventory Tracking System.

F. Conduct While Using Inventory Tracking System

1. Misstatements or Omissions Prohibited. A Retail Marijuana Establishment and its designated Inventory Tracking System Administrator(s) and Inventory Tracking System User(s) shall enter data into the Inventory Tracking System that fully and transparently accounts for all inventory tracking activities. Both the Retail Marijuana Establishment and the individuals using the Inventory Tracking system are responsible for the accuracy of all information entered into the Inventory Tracking System. Any misstatements or omissions may be considered a license violation affecting public safety.

2. Use of Another User's Login Prohibited. Individuals entering data into the Inventory Tracking System shall only use that individual's Inventory Tracking System account.

3. Loss of System Access. If at any point a Retail Marijuana Establishment loses access to the Inventory Tracking System for any reason, the Retail Marijuana Establishment must keep and maintain comprehensive records detailing all Retail Marijuana and Retail Marijuana Product 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 Product inventory tracking activities that occurred during the loss of access must be entered into the Inventory Tracking System. A Retail Marijuana Establishment must document when access to the system was lost and when it was restored. A Retail Marijuana Establishment shall not transport any Retail Marijuana or Retail Marijuana Product to another Retail Marijuana Establishment until such time as access is restored and all information is recorded into the Inventory Tracking System.

G. System Notifications

1. Compliance Notifications. A Retail Marijuana Establishment must monitor all compliance notifications from the Inventory Tracking System. The Licensee must resolve the issues detailed in the compliance notification in a timely fashion. Compliance notifications shall not be dismissed in the Inventory Tracking System until the Retail Marijuana Establishment resolves the compliance issues detailed in the notification.

2. Informational Notifications. A Retail Marijuana Establishment must take appropriate action in response to informational notifications received through the Inventory Tracking System, including but not limited to notifications related to RFID billing, enforcement alerts, and other pertinent information.

H. Lawful Activity Required. Proper use of the Inventory Tracking System does not relieve a Licensee of its responsibility to maintain compliance with all laws, rules, and other requirements at all times.

I. Inventory Tracking System Procedures Must Be Followed. A Retail Marijuana Establishment must utilize Inventory Tracking System in conformance with these rules and Inventory Tracking System procedures.

R 400 Series – Retail Marijuana Stores

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. Privileges Granted. A Retail Marijuana Store shall only exercise those privileges granted to it by the State Licensing Authority.

B. Licensed Premises. To the extent authorized by Rule R 304 – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation, a Retail Marijuana Store may share a location with a commonly-owned Medical Marijuana Center. However, a separate license is required for each specific business or business entity, regardless of geographical location.

C. Authorized Sources of Retail Marijuana. A Retail Marijuana Store may only sell Retail Marijuana that it has purchased from a Retail Marijuana Cultivation Facility 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. Authorized Sources of Retail Marijuana Product. A Retail Marijuana Store may only sell Retail Marijuana Product that it has purchased from a Retail Marijuana Products Manufacturing Facility, so long as such product is pre-packaged and labeled upon purchase from the manufacturer.

E. Samples Provided for Testing. A Retail Marijuana Store may provide samples of its products for testing and research purposes to a Retail Marijuana Testing Facility. The Retail Marijuana Store shall maintain the testing results as part of its business books and records. *See* Rule R 901 – Business Records Required.

F. Authorized On-Premises Storage. 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)(IX), 12-43.4-202(3)(a.5)(I),12-43.4-402(1)(d), 12-43.4-402(3)(a), 12-43.4-402(3)(b), 2-43.4-402(7)(a), 12-43.4-402(7)(b), 12-43.4-402(7)(c), 12-43.4-402(9); 12-43.4-901(1), and 12-43.4-901(4), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(3)(a), 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.

Regarding quantity limitations on sales, equivalencies for Retail Marijuana Concentrate and Retail Marijuana Product to Retail Marijuana flower have been included in this rule pursuant to the mandate of House Bill 14-1361. The equivalencies have been determined through utilizing findings of a study that the House Bill authorized. The study, “Marijuana Equivalency in Portion and Dosage,” was authored by the Marijuana Policy Group and is available on the Division’s website. The study was presented to a group of stakeholders during a public meeting as part of the rulemaking process. Although there was disagreement among stakeholders regarding what the equivalencies should be, the general consensus was that the equivalencies must be simple and straightforward, which would facilitate regulatory compliance and serve public safety.

The establishment of equivalencies also provides information to stakeholders including Licensees, the general public, and law enforcement to aid in the enforcement of and compliance with the lawful personal possession limit of one ounce or less of marijuana. Setting these equivalencies provides Retail Marijuana Stores and their employees with necessary information to avoid being complicit in a patron acquiring more marijuana than is lawful to possess under the Colorado Constitution pursuant to Article XVIII, Subsection 16(3)(a).

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

A. Sales to Persons Under 21 Years. Licensees are prohibited from selling, giving, or distributing Retail Marijuana or Retail Marijuana Product to persons under 21 years of age.

B. Age Verification. Prior to initiating the sale of Retail Marijuana or Retail Marijuana Product, a Licensee must verify that the purchaser has a valid government-issued photo identification showing that the purchaser is 21 years of age or older.

C. Quantity Limitations On Sales.

1. This subparagraph (C)(1) is repealed effective January 1, 2016. Licensees shall refer to subparagraphs (C)(1.5)&(C)(2) of this rule R 402 for quantity limitations on sales beginning January 1, 2016. A Retail Marijuana Store and its employees are prohibited from selling more than one ounce of Retail Marijuana or its equivalent in Retail Marijuana Product during a single sales transaction to a Colorado resident. A Retail Marijuana Store and its employees are prohibited from selling more than a quarter ounce of Retail Marijuana or its equivalent in Retail Marijuana Product during a single sales transaction to a person who does not have a valid government-issued photo identification card showing that the person is a resident of the state of Colorado. See Rule R 404 – Acceptable Forms of Identification for Retail Sales.

1.5. Sales Transaction to a Colorado Resident. This subparagraph (C)(1.5) is effective beginning January 1, 2016. A Retail Marijuana Store and its employees are prohibited from selling more than one ounce of Retail Marijuana flower or its equivalent in Retail Marijuana Concentrate or Retail Marijuana Product during a sales transaction to a Colorado resident.

a. One ounce of Retail Marijuana flower shall be equivalent to eight grams of Retail Marijuana Concentrate.

b. One ounce of Retail Marijuana flower shall be equivalent to 80 ten-milligram servings of THC in Retail Marijuana Product.

2. Sales Transaction to a non-Colorado Resident. This subparagraph (C)(2) is effective beginning January 1, 2016. A Retail Marijuana Store and its employees are prohibited from selling more than a quarter ounce of Retail Marijuana flower or its equivalent in Retail Marijuana Concentrate or Retail Marijuana Product during a sales transaction to a person who does not have a valid government-issued photo identification card showing that the person is a resident of the state of Colorado. See Rule R 404 – Acceptable Forms of Identification for Retail Sales.

a. A quarter ounce of Retail Marijuana flower shall be equivalent to two grams of Retail Marijuana Concentrate.

b. A quarter ounce of Retail Marijuana flower shall be equivalent to 20 ten-milligram servings of THC in Retail Marijuana Product.

D. Licensees May Refuse Sales. Nothing in these rules prohibits a Licensee from refusing to sell Retail Marijuana or Retail Marijuana Product to a customer.

E. Sales over the Internet. A Licensee is prohibited from selling Retail Marijuana or Retail Marijuana Product over the internet. All sales and transfers of possession of Retail Marijuana and Retail Marijuana Product must occur within the Retail Marijuana Store's Licensed Premises.

F. Purchases Only Within Restricted Access Area. 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 Product.

G. 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 is prohibited from accepting Retail Marijuana from a 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.

H. Prohibited Items. A Retail Marijuana Store 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 Product.

I. Free Product Prohibited. A Retail Marijuana Store may not give away Retail Marijuana or Retail Marijuana Product to a consumer for any reason.

J. Nicotine or Alcohol Prohibited. A Retail Marijuana Store is prohibited from selling Retail Marijuana or Retail Marijuana Product that contain nicotine or alcohol, if the sale of the alcohol would require a license pursuant to Articles 46 or 47 of Title 12, C.R.S.

K. Consumption Prohibited. A Licensee shall not permit the consumption of marijuana or marijuana product on the Licensed Premises.

L. Storage and Display Limitations. A Retail Marijuana Store shall not display Retail Marijuana and Retail Marijuana Product outside of a designated Restricted Access Area or in a manner in which Retail Marijuana or Retail Marijuana Product can be seen from outside the Licensed Premises. Storage of Retail Marijuana and Retail Marijuana Product shall otherwise be maintained in Limited Access Areas or Restricted Access Area.

M. Sale of Expired Product Prohibited. A Retail Marijuana Store shall not sell any expired Retail Marijuana Product.

Basis and Purpose – R 403

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 Retail Marijuana Store must control and safeguard access to certain areas where Retail Marijuana and Retail Marijuana Product will be sold to the general public and prevent the diversion of Retail Marijuana and Retail Marijuana Product to people under 21 years of age.

R 403 – Point of Sale: Restricted Access Area

A. Identification of Restricted Access Area. All areas where Retail Marijuana or Retail Marijuana Product 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. Customers in Restricted Access Area. The Restricted Access Area must be supervised by a Licensee 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 Occupational Licensees shall make reasonable efforts to limit the number of customers in relation to the number of Owners or employees in the Restricted Access Area at any time.

C. Display of Retail Marijuana. The display of Retail Marijuana and Retail Marijuana Product for sale is allowed only in Restricted Access Areas. Any product displays that are readily accessible to the customer must be supervised by the Owner or Occupational Licensees 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 Marijuana or Retail Marijuana Product.

R 404 – Acceptable Forms of Identification for Retail Sales

A. Valid Identification to Verify Age Only. A Licensee shall refuse the sale of Retail Marijuana or Retail Marijuana Product to anyone, unless such person can produce a form of valid identification of 21 years of age. If the identification contains a picture and date of birth, the kind and type of identification deemed adequate shall be limited to the following, 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. Affirmative Defense and Licensee's Burden. 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. Valid Identification to Verify Colorado Residency. A Licensee shall refuse the sale of more than one quarter of an ounce of Retail Marijuana or its equivalent in Retail Marijuana Product 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 a Retail Marijuana Store's 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.

R 405 – Retail Marijuana Store: Inventory Tracking System

A. Minimum Tracking Requirement. A Retail Marijuana Store must use Inventory Tracking System to ensure its inventories are identified and tracked from the point they are transferred from a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility through the point of sale, given to a Retail Marijuana Testing Facility, or otherwise disposed of. *See also* Rule R 309 – Retail Marijuana Establishment: Inventory Tracking System. The Retail Marijuana Store must have the ability to reconcile its inventory records with the Inventory Tracking System 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 Product from a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility without receiving a valid transport manifest generated from the Inventory Tracking System.

2. A Retail Marijuana Store must immediately input all Retail Marijuana and Retail Marijuana Product delivered to the Licensed Premises, accounting for all RFID tags, into the Inventory Tracking System at the time of delivery from a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility. All delivered Retail Marijuana must be weighed and the scale used shall be tested and approved in accordance with measurement standards established in 35-14-127, C.R.S. A Retail Marijuana Store must account for all variances.

3. A Retail Marijuana Store must reconcile transactions from their point of sale processes and on-hand inventory to the Inventory Tracking System at the close of business each day.

Basis and Purpose – R 406

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XI), 12-43.4-202(3)(a)(XII), and 12-43.4-202(3)(b)(IX), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). It sets forth general standards and basic sanitary requirements for Retail Marijuana Stores. It covers the physical premises where the products are made as well as the individuals handling the products. This rule also authorizes the State Licensing Authority to require an independent consultant to conduct a health and sanitary audit of a Retail Marijuana Store. This rule explains when an independent health and sanitary audit may be deemed necessary and sets forth possible consequences of a Retail Marijuana Establishment's refusal to cooperate or pay for the audit. The State Licensing Authority intends for this rule to reduce any product contamination, which will benefit both the Licensees and consumers. The State Licensing Authority modeled this rule after those adopted by the Colorado Department Revenue for Medical Marijuana and those adopted by the Colorado Department of Public Health and Environment. Overall, 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 406 – Retail Marijuana Store: Health and Safety Regulations:

A. Local Safety Inspections. A Retail Marijuana Store may be subject to inspection 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. Sanitary Conditions. A Retail Marijuana Store shall take all reasonable measures and precautions to ensure the following:

1. 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 Product, shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected;

2. That 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;

3. That all persons working in direct contact with Retail Marijuana or Retail Marijuana Product 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; and

c. Refraining from having direct contact with Retail Marijuana or Retail Marijuana Product 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.

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 Product are exposed;

5. 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 lighting in all areas where Retail Marijuana or Retail Marijuana Product are stored or sold, and where equipment or utensils are cleaned;

7. 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;

8. That any buildings, fixtures, and other facilities are maintained in a sanitary condition;

9. That toxic cleaning compounds, sanitizing agents, and other chemicals shall be identified, held, stored and disposed of in a manner that protects against contamination of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product and in a manner that is in accordance with any applicable local, state or federal law, rule, regulation or ordinance;

10. That all operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of Retail Marijuana or Retail Marijuana Product shall be conducted in accordance with adequate sanitation principles;

11. That each employee is provided with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and

12. That Retail Marijuana or Retail Marijuana Product that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.

C. Independent Health and Sanitary Audit

1. State Licensing Authority May Require a Health and Sanitary Audit

a. When the State Licensing Authority determines a health and sanitary audit by an independent consultant is necessary, it may require a Retail Marijuana Store to undergo such an audit. The scope of the audit may include, but need not be limited to, whether the Retail Marijuana Store is in compliance with the requirements set forth in this rule and other applicable health, sanitary or food handling laws, rules and regulations.

b. In such instances, the Division may attempt to mutually agree upon the selection of the independent consultant with a Retail Marijuana Store. However, the Division always retains the authority to select the independent consultant regardless of whether mutual agreement can be reached.

c. The Retail Marijuana Store will be responsible for all costs associated with the independent health and sanitary audit.

2. When Independent Health and Sanitary Audit Is Necessary. The State Licensing Authority has discretion to determine when an audit by an independent consultant is necessary. The following is a non-exhaustive list of examples that may justify an independent audit:

a. The Division has reasonable grounds to believe that the Retail Marijuana Store is in violation of one or more of the requirements set forth in this rule or other applicable public health or sanitary laws, rules or regulations; or

b. The Division has reasonable grounds to believe that the Retail Marijuana Store was the cause or source of contamination of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product.

3. Compliance Required. A Retail Marijuana Store must pay for and timely cooperate with the State Licensing Authority's requirement that it undergo an independent health and sanitary audit in accordance with this rule.

4. Suspension of Operations

a. If the State Licensing Authority has objective and reasonable grounds to believe and finds upon reasonable ascertainment of the underlying facts that the public health, safety or welfare imperatively requires emergency action and incorporates such findings into its order, it may order summary suspension of the Retail Marijuana Store's license. See Rule R 1302 – Disciplinary Process: Summary Suspensions.

b. Prior to or following the issuance of such an order, the Retail Marijuana Store may attempt to come to a mutual agreement with the Division to suspend its operations until the completion of the independent audit and the implementation of any required remedial measures.

i. If an agreement cannot be reached or the State Licensing Authority, in its sole discretion, determines that such an agreement is not in the best interests of the public health, safety or welfare, then the State Licensing Authority will promptly institute license suspension or revocation procedures. See Rule R 1302 – Disciplinary Process: Summary Suspensions.

ii. If an agreement to suspend operations is reached, then the Retail Marijuana Store may continue to care for its inventory and conduct any necessary internal business operations but it may not sell any Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product to a consumer or to any other Retail Marijuana Establishment during the period of time specified in the agreement.

D. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

Basis and Purpose - R 407

The statutory authority for this rule is found at section 12-43.3-1101, 12-43.3-1102, and subsections, 12-43.4-202(2)(b), 12-43.4-202(3)(a)(XII), 12-43.4-202(3)(b)(VII), and 12-43.4-202(3)(b)(IX), C.R.S. The purpose of this rule is to establish minimum standards for responsible vendor programs that provide training to personnel at Retail Marijuana Stores seeking designation as a "responsible vendor." It sets forth general standards and basic requirements for responsible vendor programs. This rule also establishes the timeframe for new staff to complete a responsible vendor program and the requirements for recertification. The State Licensing Authority intends this rule to help maintain the integrity of Colorado's Retail Marijuana Stores

R 407 - Retail Marijuana Store: Responsible Vendor Program

A. General Standards.

1. To be designated a "responsible vendor" of Retail Marijuana, Retail Marijuana Product and Retail Marijuana Concentrate at any licensed Retail Marijuana Store, a Retail Marijuana Store licensee shall comply with this rule.

2. To be designated a "responsible vendor" all Owners, managers and employees involved in the handling and sale of Retail Marijuana, Retail Marijuana Product and Retail Marijuana Concentrate shall attend and successfully complete a responsible vendor program.

3. Once a licensee is designated a "responsible vendor," all new employees involved in the handling and sale of Retail Marijuana, Retail Marijuana Product and Retail Marijuana Concentrate shall successfully complete the training described in this rule within 90 days of hire.

4. After initial successful completion of a responsible vendor program, each Owner, manager and employee of a Retail Marijuana Store shall successfully complete the program once every two years thereafter to maintain designation as a "responsible vendor."

B. Certification Training Program Standards.

1. No owner or employee of a responsible vendor program shall have an interest in a licensed Medical Marijuana Business or Retail Marijuana Establishment.

2. Program providers shall submit their programs to the division for approval as a responsible vendor program.

3. Program providers shall submit their programs for approval every two years in order to maintain designation as a responsible vendor program.

4. The program shall include at least two hours of instruction time.

5. The program shall be taught in a real-time, interactive classroom setting where the instructor is able to verify the identification of each individual attending the program and certify completion of the program by the individual identified.

6. The program provider shall maintain its training records at its principal place of business during the applicable year and for the following three years. The provider shall make the records available for inspection by the licensing authority upon request during normal business hours.

7. The program shall provide written documentation of attendance and successful passage of a test on the knowledge of the required curriculum for each attendee.

    a. Attendees who can speak and write English must successfully pass a written test with a score of 70% or better.

    b. Attendees who cannot speak or write English may be offered a verbal test, provided that the same questions are given as are on the written test and the results of the verbal test are documented with a passing score of 70% or better.

8. Program providers shall solicit effectiveness evaluations from individuals who have completed their program.

C. Certification Training Class Core Curriculum.

1. Discussion concerning marijuana's effect on the human body. Training shall include:

    a. Marijuana's physical effects based on type of marijuana product;

    b. The amount of time to feel impairment;

    c. Visible signs of impairment; and

    d. Recognizing the signs of impairment.

2. Sales to minors. Training shall cover all pertinent Colorado law provisions.

3. Acceptable forms of Identification. Training shall include:

    a. How to check identification;

    b. Spotting false identification;

    c. Patient Registry Cards issued by the department of public health and environment and equivalent patient verification documents;

    d. Provisions for confiscating fraudulent identifications; and

    e. Common mistakes made in verification.

4. Other key state laws and rules affecting owners, managers, and employees. Training shall include:

a. Local and state licensing and enforcement;

b. Compliance with all Inventory Tracking System regulations;

c. Administrative and criminal liability;

d. License sanctions and court sanctions;

e. Waste disposal

f. Health and safety standards

g. Patrons prohibited from bringing marijuana onto licensed premises;

h. Permitted hours of sale;

i. Conduct of establishment;

j. Permitting inspections by state and local licensing and enforcement authorities;

k. Licensee responsible for activities occurring within licensed premises;

l. Maintenance of records;

m. Privacy issues; and

n. Prohibited purchases.

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 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. Privileges Granted. A Retail Marijuana Cultivation Facility shall only exercise those privileges granted to it by the State Licensing Authority.

B. Licensed Premises. 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. Cultivation of Retail Marijuana Authorized. A Retail Marijuana Cultivation Facility may Propagate, cultivate, harvest, prepare, cure, package, store, and label Retail Marijuana, whether in concentrated form or otherwise.

D. Authorized Sales. A Retail Marijuana Cultivation Facility may only sell Retail Marijuana to a Retail Marijuana Store, Retail Marijuana Products Manufacturing Facility, and other Retail Marijuana Cultivation Facility(-ies), 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. Authorized On-Premises Storage. 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.

F. Samples Provided for Testing. A Retail Marijuana Cultivation Facility may provide Samples of its Retail Marijuana to a Retail Marijuana Testing Facility 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.

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 Retail Marijuana Cultivation Facility.

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

A. Temporary Limitations

1. 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 Facility license.

2. Temporary Sales Limitation. 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 designated and commonly-owned Retail Marijuana Store. However, a Retail Marijuana Cultivation Facility may sell up to 30 percent of its processed and finished Retail Marijuana inventory to other Retail Marijuana Establishments. A Licensee shall calculate the percentage limitation using the total weight of its on-hand inventory at the end of the month preceding the purchase.

B. Packaging and Labeling Standards Required. 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.

C. Sale to Consumer Prohibited. A Retail Marijuana Cultivation Facility is prohibited from selling Retail Marijuana to a consumer.

D. Consumption Prohibited. A Retail Marijuana Cultivation Facility shall not permit the consumption of marijuana or 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 a Retail Marijuana Cultivation Facility's 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.

R 503 – Retail Marijuana Cultivation Facility: Inventory Tracking System

A. Minimum Tracking Requirement. A Retail Marijuana Cultivation Facility must use the Inventory Tracking System 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 –Inventory Tracking System. A Retail Marijuana Cultivation Facility must have the ability to reconcile its Retail Marijuana inventory with the Inventory Tracking System and the associated transaction history and sale receipts. *See* also Rule R 901 – Business Records Required.

B. Transport of Retail Marijuana Without Transport Manifest Prohibited. A Retail Marijuana Cultivation Facility is prohibited from transporting any Retail Marijuana without a valid transport manifest generated by the Inventory Tracking System.

C. Accepting Retail Marijuana Without Transport Manifest Prohibited. Retail Marijuana Facility is prohibited from accepting any Retail Marijuana from another Retail Marijuana Cultivation Facility without receiving a valid transport manifest generated from the Inventory Tracking System.

D. Input Into Inventory Tracking System Required. A Retail Marijuana Cultivation Facility must immediately input all Retail Marijuana delivered to its Licensed Premises, accounting for all RFID tags, into the Inventory Tracking System at the time of delivery from another Retail Marijuana Cultivation Facility.

E. Inventory Must Be Reconciled Daily. A Retail Marijuana Cultivation Facility must reconcile its transaction history and on-hand inventory to the Inventory Tracking System 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), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XI), 12-43.4-202(3)(a)(XII), and 12-43.4-202(3)(b)(IX), C.R.S. The purpose of this rule is to establish minimum health and safety regulation for Retail Marijuana Cultivation Facilities. The rule prohibits a Retail Marijuana Cultivation Facility from treating or otherwise adulterating Retail Marijuana with any chemical or other compound whatsoever to alter its color, appearance, weight or smell. This rule also authorizes the State Licensing Authority to require an independent consultant to conduct a health and sanitary audit of a Retail Marijuana Cultivation Facility. This rule explains when an independent health and sanitary audit may be deemed necessary and sets forth possible consequences of a Retail Marijuana Establishment's refusal to cooperate or pay for the audit.

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

A. Local Safety Inspections. A Retail Marijuana Cultivation Facility 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. General Sanitary Requirements. A Retail Marijuana Cultivation Facility shall take all reasonable measures and precautions to ensure the following:

1. 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;

   b. Washing hands thoroughly in an adequate hand-washing area(s) before starting work, prior to engaging in the production of a Retail Marijuana Concentrate, 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

   c. 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, solvents and other chemicals shall be identified, held, stored and disposed of in a manner that protects against contamination of Retail Marijuana or Retail Marijuana Concentrate, and in a manner that is in accordance with any applicable local, state, or federal law, rule, regulation or ordinance. All Pesticide must be stored and disposed of in accordance with the information provided on the product's label;

9. That all contact surfaces, including utensils and equipment used for the preparation of Retail Marijuana or Retail Marijuana Concentrate 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 sanitizers and disinfectants registered with the Environmental Protection Agency shall be used in a Retail Marijuana Cultivation Facility and used in accordance with labeled instructions;

10. 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 Licensed Premises needs;

11. 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 Licensed Premises. There shall be no cross-connections between the potable and waste water lines;

12. That all operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of Retail Marijuana or Retail Marijuana Product shall be conducted in accordance with adequate sanitation principles;

13. That each Retail Marijuana Cultivation Facility shall provide its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and

14. 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. Pesticide Application. A Retail Marijuana Cultivation Facility may only use Pesticide in accordance with the "Pesticide Act," section 35-9-101 et seq., C.R.S., "Pesticides Applicators' Act," section 35-10-101 et seq., C.R.S., and all other applicable federal, state, and local laws, statutes, rules and regulations. This includes, but shall not be limited to, the prohibition on detaching, altering, defacing or destroying, in whole or in part, any label on any Pesticide.

D. Application of Other Agricultural Chemicals. A Retail Marijuana Cultivation Facility may only use agricultural chemicals, other than Pesticide, in accordance with all applicable federal, state, and local laws, statutes, rules and regulations.

E. Required Documentation

1. Standard Operating Procedures. A Retail Marijuana Cultivation Facility must establish written standard operating procedures for the cultivation of Retail Marijuana. The standard operating procedures must at a minimum include when, and the manner in which, all Pesticide and other agricultural chemicals are to be applied during its cultivation process. A copy of all standard operating procedures must be maintained on the Licensed Premises of the Retail Marijuana Cultivation Facility.

2. Material Change. If a Retail Marijuana Cultivation Facility makes a Material Change to its standard operating procedures, it must document the change and revise its standard operating procedures accordingly. Records detailing the Material Change must be maintained on the Licensed Premises of the Retail Marijuana Cultivation Facility.

3. Material Safety Data Sheet. A Retail Marijuana Cultivation Facility must obtain a material safety data sheet for any Pesticide or other agricultural chemical used or stored on its Licensed Premises. A Retail Marijuana Cultivation Facility must maintain a current copy of the material safety data sheet for any Pesticide or other agricultural chemical on the Licensed Premises where the product is used or stored.

4. Labels of Pesticide and Other Agricultural Chemicals. A Retail Marijuana Cultivation Facility must have the original label or a copy thereof at its Licensed Premises for all Pesticide and other agricultural chemicals used during its cultivation process.

5. Pesticide Application Documentation. A Retail Marijuana Cultivation Facility that applies any Pesticide or other agricultural chemical to any portion of a Retail Marijuana plant, water or feed used during cultivation or generally within the Licensed Premises must document, and maintain a record on its Licensed Premises of, the following information:

a. The name, signature and Occupational License number of the individual who applied the Pesticide or other agricultural chemical;

b. Applicator certification number if the applicator is licensed through the Department of Agriculture in accordance with the “Pesticides Applicators’ Act,” section 35-10-101 et seq., C.R.S.;

c. The date and time of the application;

d. The EPA registration number of the Pesticide or CAS number of any other agricultural chemical(s) applied;

e. Any of the active ingredients of the Pesticide or other agricultural chemical(s) applied;

f. Brand name and product name of the Pesticide or other agricultural chemical(s) applied;

g. The restricted entry interval from the product label of any Pesticide or other agricultural chemical(s) applied;

h. The RFID tag number of the Retail Marijuana plant(s) to which the Pesticide or other agricultural chemical(s) were applied, or, if the Pesticide or other agricultural chemical(s) were applied to all plants throughout the Licensed Premises, a statement to that effect; and

i. The total amount of each Pesticide or other agricultural chemical applied.

F. Prohibited Chemicals. The following chemicals shall not be used in Retail 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)

ALDRIN

309-00-2

ARSENIC OXIDE (3)

1327-53-3

ASBESTOS (FRIABLE)

1332-21-4

AZODRIN

6923-22-4

1,4-BENZOQUINONE, 2,3,5,6-TETRACHLORO-

118-75-2

BINAPACRYL

485-31-4

2,3,4,5-BIS (2-BUTENYLENE) TETRAHYDROFURFURAL

126-15-8

BROMOXYNIL BUTYRATE

EDF-186

CADMIUM COMPOUNDS

CAE750

CALCIUM ARSENATE [2ASH3O4.2CA]

7778-44-1

CAMPHECHLOR

8001-35-2

CAPTAFOL

2425-06-1

CARBOFURAN

1563-66-2

CARBON TETRACHLORIDE

56-23-5

CHLORDANE

57-74-9

CHLORDECONE (KEPONE)

143-50-0

CHLORDIMEFORM

6164-98-3

CHLOROBENZILATE

510-15-6

CHLOROMETHOXYPROPYLMERCURIC ACETATE [CPMA] EDF-

183

COPPER ARSENATE

10103-61-4

2,4-D, ISOOCTYL ESTER

25168-26-7

DAMINOZIDE

1596-84-5

DDD

72-54-8

DDT

50-29-3

DI(PHENYLMERCURY)DODECENYLSUCCINATE [PMDS] EDF-

187

1,2-DIBROMO-3-CHLOROPROPANE (DBCP)

96-12-8

1,2-DIBROMOETHANE

106-93-4

1,2-DICHLOROETHANE

107-06-2

DIELDRIN

60-57-1

4,6-DINITRO-O-CRESOL

534-52-1

DINITROBUTYL PHENOL

88-85-7

ENDRIN

72-20-8

EPN

2104-64-5

ETHYLENE OXIDE

75-21-8

FLUOROACETAMIDE

640-19-7

GAMMA-LINDANE

58-89-9

HEPTACHLOR

76-44-8

HEXACHLOROBENZENE

118-74-1

1,2,3,4,5,6-HEXACHLOROCYCLOHEXANE (MIXTURE OF ISOMERS)

608-73-1

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

298-00-0

MEVINPHOS

7786-34-7

MIREX

2385-85-5

NITROFEN

1836-75-5

OCTAMETHYLDIPHOSPHORAMIDE

152-16-9

PARATHION

56-38-2

PENTACHLOROPHENOL

87-86-5

PHENYLMERCURIC OLEATE [PMO]

EDF-185

PHOSPHAMIDON

13171-21-6

PYRIMINIL

53558-25-1

SAFROLE

94-59-7

SODIUM ARSENATE

13464-38-5

SODIUM ARSENITE

7784-46-5

2,4,5-T

93-76-5

TERPENE POLYCHLORINATES (STROBANE6)

8001-50-1

THALLIUM(I) SULFATE

7446-18-6

2,4,5-TP ACID (SILVEX)

93-72-1

TRIBUTYLTIN COMPOUNDS

EDF-184

2,4,5-TRICHLOROPHENOL

95-95-4

VINYL CHLORIDE

75-01-4

G. DMSO. The use of Dimethylsulfoxide ("DMSO") in the production of Retail Marijuana shall be prohibited and possession of DMSO upon the Licensed Premises is prohibited.

H. Adulterants. A Retail Marijuana Cultivation Facility may not treat or otherwise adulterate Retail Marijuana with any chemical or other compound whatsoever to alter its color, appearance, weight or smell.

I. Independent Health and Sanitary Audit

1. State Licensing Authority May Require A Health and Sanitary Audit

a. When the State Licensing Authority determines a health and sanitary audit by an independent consultant is necessary, it may require a Retail Marijuana Cultivation Facility to undergo such an audit. The scope of the audit may include, but need not be limited to, whether the Retail Marijuana Cultivation Facility is in compliance with the requirements set forth in this rule and other applicable public health or sanitary laws and regulations.

b. In such instances, the Division may attempt to mutually agree upon the selection of the independent consultant with a Retail Marijuana Cultivation Facility. However, the Division always retains the authority to select the independent consultant regardless of whether mutual agreement can be reached.

c. The Retail Marijuana Cultivation Facility will be responsible for all costs associated with the independent health and sanitary audit.

2. When Independent Health and Sanitary Audit Is Necessary. The State Licensing Authority has discretion to determine when an audit by an independent consultant is necessary. The following is a non-exhaustive list of examples that may justify an independent audit:

a. A Retail Marijuana Cultivation Facility does not provide requested records related to the use of Pesticide or other agricultural chemicals during in the cultivation process;

b. The Division has reasonable grounds to believe that the Retail Marijuana Cultivation Facility is in violation of one or more of the requirements set forth in this rule or other applicable public health or sanitary laws, rules or regulations;

c. The Division has reasonable grounds to believe that the Retail Marijuana Cultivation Facility was the cause or source of contamination of Retail Marijuana or Retail Marijuana Concentrate; or

d. Multiple Harvest Batches or Production Batches produced by the Retail Marijuana Cultivation Facility failed contaminant testing.

3. Compliance Required. A Retail Marijuana Cultivation Facility must pay for and timely cooperate with the State Licensing Authority's requirement that it undergo an independent health and sanitary audit in accordance with this rule.

4. Suspension of Operations

a. If the State Licensing Authority has objective and reasonable grounds to believe and finds upon reasonable ascertainment of the underlying facts that the public health, safety or welfare imperatively requires emergency action and incorporates such findings into its order, it may order summary suspension of the Retail Marijuana Cultivation Facility's license. See Rule R 1302 – Disciplinary Process: Summary Suspensions.

b. Prior to or following the issuance of such an order, the Retail Marijuana Cultivation Facility may attempt to come to a mutual agreement with the Division to suspend its operations until the completion of the independent audit and the implementation of any required remedial measures.

i. If an agreement cannot be reached or the State Licensing Authority, in its sole discretion, determines that such an agreement is not in the best interests of the public health, safety or welfare, then the State Licensing Authority will promptly institute license suspension or revocation procedures. See Rule R 1302 – Disciplinary Process: Summary Suspensions.

ii. If an agreement to suspend operations is reached, then the Retail Marijuana Cultivation Facility may continue to care for its inventory and conduct any necessary internal business operations but it may not sell, transfer or wholesale Retail Marijuana or Retail Marijuana Concentrate to any other Retail Marijuana Establishment during the period of time specified in the agreement.

J. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

Basis and Purpose – R 505

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(XI), and 12-43.4-2-2(3)(b)(IX), C.R.S. The purpose of this rule is to establish the categories of Retail Marijuana Concentrate that may be produced at a Retail Marijuana Cultivation Facility and standards for the production of Retail Marijuana Concentrate.

R 505 – Retail Marijuana Cultivation Facilities: Retail Marijuana Concentrate Production

A. Permitted Production of Certain Categories of Retail Marijuana Concentrate. A Retail Marijuana Cultivation Facility may only produce Water-Based Retail Marijuana Concentrate on its Licensed Premises and only in an area clearly designated for concentrate production on the current diagram of the Licensed Premises. See Rule R 901- Business Records Required. No other method of production or extraction for Retail Marijuana Concentrate may be conducted within the Licensed Premises of a Retail Marijuana Cultivation Facility unless the Owner(s) of the Retail Marijuana Cultivation Facility also has a valid Retail Marijuana Products Manufacturing Facility license and the room in which Retail Marijuana Concentrate is to be produced is physically separated from all cultivation areas and has clear signage identifying the room.

B. Safety and Sanitary Requirements for Concentrate Production. If a Retail Marijuana Cultivation Facility produces Retail Marijuana Concentrate, then all areas in which the Retail Marijuana Concentrate are produced and all Owners and Occupational Licensees engaged in the production of the Retail Marijuana Concentrate shall be subject to all of the requirements imposed upon a Retail Marijuana Products Manufacturing Facility that produces Retail Marijuana Concentrate, including all general requirements. *See* Rule R 604– Health and Safety Regulations: Retail Marijuana Products Manufacturing Facility and Rule R 605 – Retail Marijuana Products Manufacturing Facility: Retail Marijuana Concentrate Production.

C. Possession of Other Categories of Retail Marijuana Concentrate. It shall be considered a violation of this rule if a Retail Marijuana Cultivation Facility possesses a Retail Marijuana Concentrate other than a Water-Based Retail Marijuana Concentrate on its Licensed Premises unless the Owner(s) of the Retail Marijuana Cultivation Facility also has a valid Retail Marijuana Products Manufacturing Facility license.

Basis and Purpose – R 506

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(I-II), 12-43.4-202(3)(b)(IX), and 12-43.4-202(4)(a) and (b) and sections 12-43.4-103, 12-43.4-104, and 12-43.4-501, C.R.S.

The rule establishes a means by which to manage the overall production of retail marijuana. The intent of this rule is to encourage responsible production to meet demand for retail marijuana, while also avoiding overproduction or underproduction. The establishment of production management is necessary to ensure there is not significant under or over production, either of which will increase incentives to engage in diversion and facilitate the continuation of the sale of illegal marijuana.

The State Licensing Authority intends to replace or revise this rule's production management provisions as early as January 2017 by transitioning to an output-based production management model. Existing and prospective licensees should be on notice that the new or revised regulations may impact the production limits provided for in this rule. Additionally, throughout the rulemaking process stakeholders expressed concern over ensuring an adequate amount of licensed Retail Marijuana Stores exist to sell the amount of Retail Marijuana being produced at licensed Retail Marijuana Cultivation Facilities. Scaling the number of interests a person may hold in Retail Marijuana Cultivation Facility licenses relative to the number of controlling interests the person has in Retail Marijuana Store(s) has been incorporated in the production management rules as a means to address this production management concern.

R 506 – Retail Marijuana Cultivation Facility: Production Management

A. Applicability. This rule is effective beginning November 30, 2015 and shall apply to all Retail Marijuana Cultivation Facility Licensees.

B. One Retail Cultivation License per Licensed Premises.

1. Only one Retail Marijuana Cultivation Facility License shall be permitted at each licensed premises. Each licensed premises must be located at a distinct address recognized by the local jurisdiction.

2. Existing Retail Marijuana Cultivation Facilities that have Multiple Cultivation Licenses at the Licensed Premises. Upon the first renewal at the Retail Marijuana Cultivation Facility, all of the Retail Marijuana Cultivation Facility's licenses will be collapsed into one surviving license, and fees shall be prorated for the non-expiring licenses. The maximum authorized plant count shall also collapse into the surviving license.

C. Production Management.

1. Production Management Tiers.

a. Tier 1: 1 - 1,800 plants

b. Tier 2: 1,801 – 3,600 plants

c. Tier 3: 3,601 – 6,000 plants

d. Tier 4: 6,001 – 10,200 plants

e. Tier 5: 10,201 – 13,800+ plants

i. Tier 5 shall not have a cap on the maximum authorized plant count.

ii. The maximum authorized plant count above 10,200 plants shall increase in increments of 3,600 plants. A Retail Marijuana Cultivation Facility Licensee shall be allowed to increase its maximum authorized plant count one increment of 3,600 plants at a time upon application and approval by the Division pursuant to the requirements of paragraph (E) of this rule R 506.

2. All Retail Marijuana Cultivation Facility licenses granted on or after November 30, 2015 shall be authorized to cultivate no more than 1,800 plants at any given time.

3. As of November 30, 2015, a Retail Marijuana Cultivation Facility license that was associated with a Retail Marijuana Products Manufacturing Facility shall be authorized to cultivate no more than 1,800 plants at any given time. If such a Retail Marijuana Cultivation Facility Licensee submitted a plant count waiver application prior to August 31, 2015 and it was subsequently approved, the license shall be authorized to cultivate the maximum number of plants at any given time in the corresponding production management tier pursuant to subparagraph (C)(1) of this rule R 506.

4. Each Retail Marijuana Cultivation Facility with a license(s) granted before November 30, 2015 shall be authorized to cultivate the same number of plants that it was authorized to cultivate prior to November 30, 2015. Pursuant to subparagraph (B)(2) of this rule R 506, for any Retail Marijuana Cultivation Facility that has multiple licenses, the total plant count authorized in sum across those licenses shall apply to the entire Retail Marijuana Cultivation Facility and shall be collapsed into one license upon renewal.

5. In connection with the license renewal process for Retail Marijuana Cultivation Facilities that are authorized to cultivate more than 1,800 plants, the Division will review the purchases, sales, and cultivated plant count of the Retail Marijuana Cultivation Facility Licensee during the preceding licensing term. The Division may reduce the Licensee's maximum allowed plant count to a lower production management tier pursuant to subparagraph (C)(1) of this rule if the Licensee sold less than 70% of what it produced during the six months prior to the application for renewal. When determining whether to reduce the maximum authorized plant count, the Division may consider the following factors including but not limited to:

a. Cultivation and production history including whether the plants/inventory suffered a catastrophic event during the licensing period;

b. Transfer, sales, and excise tax payment history;

c. Existing inventory and inventory history;

d. Sales contracts; and

e. Any other factors relevant to ensuring responsible cultivation, production, and inventory management.

D. Inventory Management.

1. Inventory Management for Retail Cultivation Facilities that harvest once or twice a year. Beginning February 1, 2015, a Retail Marijuana Cultivation Facility that harvests once or twice a year may not accumulate Harvested Marijuana in excess of the total amount of inventory the Licensee produced that was transferred to another Retail Marijuana Establishment in the previous year.

2. Inventory Management for Retail Cultivation Facilities that harvest more than twice a year. Beginning February 1, 2015, a Retail Marijuana Cultivation Facility that harvests more than twice a year may not accumulate Harvested Marijuana in excess of the total amount of inventory the Licensee produced that was transferred to another Retail Marijuana Establishment in the previous six months.

E. Application for Additional Plants.

1. After accruing at least two quarters of sales, a Retail Marijuana Cultivation Facility Licensee may apply to the Division for a production management tier increase to be authorized to cultivate the number of plants in the next highest production management tier. The Licensee shall provide documentation demonstrating that for at least six consecutive months prior to the tier increase application, it has consistently cultivated an amount of plants that is at or near its maximum authorized plant count, and has transferred at least 85% of the inventory it produced during that time period to another Retail Marijuana Establishment, and any other information requested to aid the Division in its evaluation of the tier increase application.

2. If the Division approves the production management tier increase application, the Licensee shall pay the applicable expanded production management tier fee prior to cultivating the additional authorized plants. See See rule R 208 – Schedule of Business License Fees: Retail Marijuana Establishments.

3. For a Licensee with an authorized plant count in Tier 2-5 to continue producing at its expanded authorized plant count, the Licensee shall pay the requisite Retail Marijuana Cultivation Facility license fee and the applicable expanded production management tier fee at license renewal. See rule R 209 – Schedule of Business License Renewal Fees: Retail Marijuana Establishments.

F. Maximum Allowed Retail Marijuana Cultivation Facility Licenses.

1. A Person with an Interest in Three or More Retail Marijuana Cultivation Facility Licenses. For every multiple of three Retail Marijuana Cultivation Facility licenses a person has an interest in, the person must have a controlling interest in at least one Retail Marijuana Store. For example: (1) a person with an interest in three, four, or five Retail Marijuana Cultivation Facility licenses also must have a controlling interest in at least one Retail Marijuana Store; (2) a person with an interest in six, seven, or eight Retail Marijuana Cultivation Facility licenses also must have a controlling interest in at least two Retail Marijuana Stores; (3) a person with an interest in nine, ten, or eleven Retail Marijuana Cultivation Facility licenses also must have a controlling interest in at least three Retail Marijuana Stores; etc.

2. A Person with an Interest in Less than Three Retail Marijuana Cultivation Facility Licenses. The person shall not be required to have an interest in a Retail Marijuana Store.

G. The State Licensing Authority, at its sole discretion, may adjust any of the plant limits described in this rule on an industry-wide aggregate basis for all Retail Marijuana Cultivation Facility Licensees subject to that limitation.

R 600 Series – Retail Marijuana Products Manufacturing Facilities

Basis and Purpose – R 601

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 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 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 Facilities: License Privileges

A. Privileges Granted. A Retail Marijuana Products Manufacturing Facility shall only exercise those privileges granted to it by the State Licensing Authority.

B. Licensed Premises. A separate license is required for each specific business or business entity and geographical location. A Retail Marijuana Products Manufacturing Facility may share a location with a commonly owned Medical Marijuana-Infused Products Manufacturer. However, a separate license is required for each specific business or business entity, regardless of geographical location.

C. Sales Restricted. A Retail Marijuana Products Manufacturing Facility may only sell Retail Marijuana Product to Retail Marijuana Stores and to other Retail Marijuana Products Manufacturing Facilities.

D. Manufacture of Retail Marijuana Product Authorized. A Retail Marijuana Products Manufacturing Facility may manufacture, prepare, package, store, and label Retail Marijuana Product, 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. Location Prohibited. A Retail Marijuana Products Manufacturing Facility may not manufacture, prepare, package, store, or label Retail Marijuana Product in a location that is operating as a retail food establishment or a wholesale food registrant.

F. Samples Provided for Testing. A Retail Marijuana Products Manufacturing Facility may provide samples of its Retail Marijuana Product to a Retail Marijuana Testing Facility 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)(VI), 12-43.4-202(3)(a)(VII)(K), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(c)(V), 12-43.4-309(7)(a), 12-43.4-404(1)(c)(I), 12-43.4-404(1)(d), 12-43.4-404(1)(e)(I), 12-43.4-404(4), 12-43.4-404(5), 12-43.4-404(9), and 12-43.3-901(2)(a), 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 Retail Marijuana Products Manufacturing Facility.

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

A. Temporary Sales Limitation. 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 Product produced by the Retail Marijuana Products Manufacturing Facility.

B. Packaging and Labeling Standards Required. A Retail Marijuana Products Manufacturing Facility is prohibited from selling Retail Marijuana Product that are not properly packaged and labeled. *See* R 1000 Series – Labeling, Packaging, and Product Safety.

C. THC Content Container Restriction. 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 Product.

D. Sale to Consumer Prohibited. A Retail Marijuana Products Manufacturing Facility is prohibited from selling Retail Marijuana or Retail Marijuana Product to a consumer.

E. Consumption Prohibited. A Retail Marijuana Products Manufacturing Facility shall not permit the consumption of marijuana or marijuana products on its Licensed Premises.

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. Adequate Care of Perishable Product. A Retail Marijuana Products Manufacturing Facility must provide adequate refrigeration for perishable Retail Marijuana Product that will be consumed and shall utilize adequate storage facilities and transport methods.

H. Homogeneity of Edible Retail Marijuana Product. A Retail Marijuana Products Manufacturing Facility must ensure that its manufacturing processes are designed so that the cannabinoid content of any Edible Retail Marijuana Product is homogenous.

Basis and Purpose – R 603

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 require all Retail Marijuana Products Manufacturing Facilities to track all inventory from the point it is received from a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility, through any manufacturing processes, to the point of sale or transfer to another Retail Marijuana Establishment.

R 603 – Retail Marijuana Products Manufacturing Facility: Inventory Tracking System

Minimum Tracking Requirement. A Retail Marijuana Products Manufacturing Facility must use the Inventory Tracking System to ensure its inventories are identified and tracked from the point they are transferred from a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility through wholesale transaction or transfer. *See also* Rule R 309 –Inventory Tracking System. A Retail Marijuana Products Manufacturing Facility must have the ability to reconcile its inventory records with the Inventory Tracking System and the associated transaction history and sale receipts. *See also* Rule R 901 – Business Records Required.

1. A Retail Marijuana Products Manufacturing Facility is prohibited from accepting any Retail Marijuana or Retail Marijuana Product from a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility without receiving a valid transport manifest generated from the Inventory Tracking System.

2. A Retail Marijuana Products Manufacturing Facility must immediately input all Retail Marijuana and Retail Marijuana Product delivered to the Licensed Premises, accounting for all RFID tags, into the Inventory Tracking System 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 the Inventory Tracking System 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), 12-43.4-202(3)(a)(IV)(A), 12-43.4-202(3)(a)(VI), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(XI), 12-43.4-202(3)(a)(XII), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(V), 12-43.4-202(3)(c)(VII), 12-43.4-202(3)(c.5)(I), and 12-43.4-404, .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 Products Manufacturing Facilities. It requires all Owners and Occupational Licensees to demonstrate an understanding of basic food handling safety practices or attend a food handler training course prior to manufacturing any Edible Retail Marijuana Product. It sets forth general standards and 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 consumers. The State Licensing Authority modeled this rule after those adopted by the Colorado Department of Public Health and Environment. This rule also authorizes the State Licensing Authority to require an independent consultant to conduct a health and sanitary audit of a Retail Marijuana Products Manufacturing Facility. This rule explains when a heath and sanitary audit may be deemed necessary and sets forth possible consequences of a Retail Marijuana Establishment's refusal to cooperate or pay for the audit. This rule also establishes requirements for each Edible Retail Marijuana Product manufactured by a Retail Marijuana Products Manufacturing Facility. Product safety requirements were adopted to aid in making Edible Retail Marijuana Products more readily identifiable to the general public outside of their packaging as containing marijuana. Overall, 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 –Retail Marijuana Products Manufacturing Facility: Health and Safety Regulations

A. Training

1. Prior to engaging in the manufacture of any Edible Retail Marijuana Product each Owner or Occupational Licensee must:

a. Have a currently valid ServSafe Food Handler Certificate obtained through the successful completion of an online assessment or print exam; or

b. Take a food safety course that includes basic food handling training and is comparable to, or is a course given by, the Colorado State University extension service or a state, county, or district public health agency, and must maintain a status of good standing in accordance with the course requirements, including attending any additional classes if necessary. Any course taken pursuant to this rule must last at least two hours and cover the following subjects:

i. Causes of foodborne illness, highly susceptible populations and worker illness;

ii. Personal hygiene and food handling practices;

iii. Approved sources of food;

iv. Potentially hazardous foods and food temperatures;

v. Sanitization and chemical use; and

vi. Emergency procedures (fire, flood, sewer backup).

2. A Retail Marijuana Products Manufacturing Facility must obtain documentation evidencing that each Owner and each Occupational Licensee has successfully completed the examination or course required by this rule and is in good standing. A copy of the documentation must be kept on file at any Licensed Premises where that Owner or Occupational Licensee is engaged in the manufacturing of an Edible Retail Marijuana Product.

B. General Standards

1. A Retail Marijuana Products Manufacturing Facility may be subject to inspection 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.

2. A Retail Marijuana Products Manufacturing Facility that manufacturers edible Retail Marijuana Product 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.

C. Product Safety

Paragraph C is repealed effective October 1, 2016. Licensees shall refer to paragraph (C.5) of this rule for product safety requirements beginning October 1, 2016.

1. A Retail Marijuana Products Manufacturing Facility that manufactures Edible Retail Marijuana Product shall comply fully with paragraph C of this rule no later than February 1, 2015.

2. A Retail Marijuana Products Manufacturing Facility that manufactures Edible Retail Marijuana Product shall create and maintain standard production procedures and detailed manufacturing processes for each Edible Retail Marijuana Product it manufactures. These procedures and processes must be documented and made available on the licensed premises for inspection by the Marijuana Enforcement Division, the Colorado Department of Public Health & Environment, and local licensing authorities.

3. The size of a Standardized Serving Of Marijuana shall be no more than 10mg of active THC. A Retail Marijuana Products Manufacturing Facility that manufactures Edible Retail Marijuana Product shall determine the total number of Standardized Servings Of Marijuana for each product that it manufactures. No individual Edible Retail Marijuana Product unit for sale shall contain more than 100 milligrams of active THC.

4. The following information must be documented in the standard production procedures for each Edible Retail Marijuana Product: the amount in milligrams of Standardized Serving Of Marijuana, the total number of Standardized Servings Of Marijuana, and the total amount of active THC contained within the product.

5. Multiple-Serving Edible Retail Marijuana Product. A Retail Marijuana Products Manufacturing Facility must ensure that each single Standardized Serving Of Marijuana of a Multiple-Serving Edible Retail Marijuana Product is physically demarked in a way that enables a reasonable person to intuitively determine how much of the product constitutes a single serving of active THC. Each demarked Standardized Serving Of Marijuana must be easily separable in order to allow an average person 21 years of age and over to physically separate, with minimal effort, individual servings of the product.

6. If an Edible Retail Marijuana Product is of the type that is impracticable to clearly demark each Standardized Serving Of Marijuana or to make each Standardized Serving Of Marijuana easily separable, then the product must contain no more than 10 mg of active THC per unit of sale, and the Retail Marijuana Products Manufacturing Facility must ensure that the product complies with subparagraph (B)(2)(a) of rule R 1004.5.

C.5. Product Safety.

Paragraph (C.5) is effective beginning October 1, 2016.

1. A Retail Marijuana Products Manufacturing Facility that manufactures Edible Retail Marijuana Product shall create and maintain standard production procedures and detailed manufacturing processes for each Edible Retail Marijuana Product it manufactures. These procedures and processes must be documented and made available on the Licensed Premises for inspection by the Division, the Colorado Department of Public Health & Environment, and local licensing authorities.

2. The size of a Standardized Serving Of Marijuana shall be no more than 10mg of active THC. A Retail Marijuana Products Manufacturing Facility that manufactures Edible Retail Marijuana Product shall determine the total number of Standardized Servings Of Marijuana for each product that it manufactures. No individual Edible Retail Marijuana Product unit for sale shall contain more than 100 milligrams of active THC.

3. The following information must be documented in the standard production procedures for each Edible Retail Marijuana Product: the amount in milligrams of Standardized Serving Of Marijuana, the total number of Standardized Servings Of Marijuana, and the total amount of active THC contained within the product.

4. Each single Standardized Serving Of Marijuana shall be marked, stamped, or otherwise imprinted with the Universal Symbol directly on at least one side of the Edible Retail Marijuana Product in a manner to cause the Universal Symbol to be distinguishable and easily recognizable. The Universal Symbol marking shall:

   a. Be centered either horizontally or vertically on each Standardized Serving Of Marijuana; and

   b. If centered horizontally on a serving, the height and width of the Universal Symbol shall be of a size that is at least 25% of the serving's width, but not less than ¼ inch by ¼ inch; or

   c. If centered vertically on a serving, the height and width of the Universal Symbol shall be of a size that is at least 25% of the serving's height, but not less than ¼ inch by ¼ inch.

5. Notwithstanding the requirement of subparagraph (C.5)(4), an Edible Retail Marijuana Product shall contain no more than 10 mg of active THC per Child-Resistant package and the Retail Marijuana Products Manufacturing Facility must ensure that the product complies with subparagraph (A)(2) of rule R 1004 when:

    a. The Edible Retail Marijuana Product is of the type that is impracticable to mark, stamp, or otherwise imprint with the Universal Symbol directly on the product in a manner to cause the Universal Symbol to be distinguishable and easily recognizable; or

    b. The Edible Retail Marijuana Product is of the type that is impracticable to clearly demark each Standardized Serving Of Marijuana or to make each Standardized Serving Of Marijuana easily separable.

6. The following categories of Edible Retail Marijuana Product are considered to be per se practicable to mark with the Universal Symbol:

    a. Chocolate

    b. Soft confections

    c. Hard confections or lozenges

    d. Consolidated baked goods (e.g. cookie, brownie, cupcake, granola bar)

    e. Pressed pills and capsules

7. The following categories of Edible Retail Marijuana Product are considered to be per se impracticable to mark with the Universal Symbol:

    a. Liquids

    b. Loose bulk goods (e.g. granola, cereals, popcorn)

    c. Powders

8. Notwithstanding subsubparagraph (C.5)(7)(a) of this rule R 604, a sub-lingual liquid shall be exempt from the 10 mg or less active THC per Child-Resistant package requirement of subparagraph (C.5)(5) provided that the sub-lingual liquid:

    a. Meets the definition of Sub-Lingual Edible Retail Marijuana Product pursuant to rule R 103;

    b. Is packaged in a Child-Resistant Container that maintains its Child-Resistant effectiveness for multiple openings; and

    c. Complies with all applicable labeling requirements of the R 1000 series.

9. Multiple-Serving Edible Retail Marijuana Product.

a. A Retail Marijuana Products Manufacturing Facility must ensure that each single Standardized Serving Of Marijuana of a Multiple-Serving Edible Retail Marijuana Product is physically demarked in a way that enables a reasonable person to intuitively determine how much of the product constitutes a single serving of active THC.

b. Each demarked Standardized Serving Of Marijuana must be easily separable in order to allow an average person 21 years of age and over to physically separate, with minimal effort, individual servings of the product.

c. Each single Standardized Serving Of Marijuana contained in a Multiple-Serving Edible Retail Marijuana Product shall be marked, stamped, or otherwise imprinted with the Universal Symbol directly on the product in a manner to cause the Universal Symbol to be distinguishable and easily recognizable. The Universal Symbol marking shall comply with the requirements of subparagraph (C.5)(4) of this rule R 604.

10. Remanufactured Products Prohibited. A Retail Marijuana Product Manufacturing Facility shall not utilize a commercially manufactured food product as its Edible Retail Marijuana Product. The following exceptions to this prohibition apply:

a. A food product that was commercially manufactured specifically for use by the Retail Marijuana Product Manufacturing Facility Licensee to infuse with marijuana shall be allowed. The Licensee shall have a written agreement with the commercial food product manufacturer that declares the food product's exclusive use by the Retail Marijuana Product Manufacturing Facility.

b. Commercially manufactured food products may be used as ingredients in a Retail Marijuana Product Manufacturing Facility's Edible Retail Marijuana product so long as: (1) they are used in a way that renders them unrecognizable as the commercial food product in the final Edible Retail Marijuana Product, and (2) the Retail Marijuana Product Manufacturing Facility does not state or advertise to the consumer that the final Edible Retail Marijuana Product contains the commercially manufactured food product.

11. Trademarked Food Products. Nothing in this rule alters or eliminates a Retail Marijuana Product Manufacturing Facility's responsibility to comply with the trademarked food product provisions required by the Retail Code per 12-43.4-404(1)(e)(I-III), C.R.S.

D. General Sanitary Requirements. The Licensee shall take all reasonable measures and precautions to ensure the following:

1. 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 Product shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected;

2. That 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/or in Retail Marijuana Product preparation areas 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;

3. That all persons working in direct contact with preparation of Retail Marijuana or Retail Marijuana Product 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, prior to engaging in the production of a Retail Marijuana Concentrate or manufacture of a Retail Marijuana Product and at any other time when the hands may have become soiled or contaminated; and

    c. Refraining from having direct contact with preparation of Retail Marijuana or Retail Marijuana Product 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.

4. 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 Product;

5. 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 Product are exposed;

6. 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;

7. That there is adequate safety-type lighting in all areas where Retail Marijuana or Retail Marijuana Product are processed or stored and where equipment or utensils are cleaned;

8. That the Licensed Premises 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;

9. That any buildings, fixtures, and other facilities are maintained in a sanitary condition;

10. That all contact surfaces, including utensils and equipment used for the preparation of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product, 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 sanitizers and disinfectants registered with the Environmental Protection Agency shall be used in a Retail Marijuana Products Manufacturing Facility and used in accordance with labeled instructions;

11. That toxic cleaning compounds, sanitizing agents, solvents used in the production of Retail Marijuana concentrate and other chemicals shall be identified, held, stored and disposed of in a manner that protects against contamination of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product, and in a manner that is in accordance with any applicable local, state, or federal law, rule, regulation or ordinance;

12. 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 Licensed Premises needs;

13. 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 Licensed Premises. There shall be no cross-connections between the potable and waste water lines;

14. 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;

15. That all operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of Retail Marijuana or Retail Marijuana Product shall be conducted in accordance with adequate sanitation principles;

16. That Retail Marijuana or Retail Marijuana Product that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms; and

17. That storage and transport of finished Retail Marijuana Product shall be under conditions that will protect products against physical, chemical, and microbial contamination as well as against deterioration of any container.

E. <u>Standard Operating Procedures</u>

1. A Retail Marijuana Products Manufacturing Facility must have written standard operating procedures for each category of Retail Marijuana Concentrate and type of Retail Marijuana Product that it produces.

    a. All standard operating procedures for the production of a Retail Marijuana Concentrate must follow the requirements in Rule R 605.

b. A copy of all standard operating procedures must be maintained on the Licensed Premises of the Retail Marijuana Products Manufacturing Facility.

2. If a Retail Marijuana Products Manufacturing Facility makes a Material Change to its standard Retail Marijuana Concentrate or Retail Marijuana Product production process, it must document the change and revise its standard operating procedures accordingly. Records detailing the Material Change must be maintained on the relevant Licensed Premises.

F. Additives. A Retail Marijuana Products Manufacturing Facility shall not include any Additive that is toxic within a Retail Marijuana Product; nor include any Additive for the purposes of making the product more addictive, appealing to children or misleading to consumers.

G. Independent Health and Sanitary Audit

1. State Licensing Authority May Require An Independent Health and Sanitary Audit

a. When the State Licensing Authority determines a health and sanitary audit by an independent consultant is necessary, it may require a Retail Marijuana Products Manufacturing Facility to undergo such an audit. The scope of the audit may include, but need not be limited to, whether the Retail Marijuana Products Manufacturing Facility is in compliance with the requirements set forth in this rule or other applicable food handling laws, rules or regulations or compliance with the concentrate production rules in Rule R 605 or other applicable laws, rules and regulations.

b. In such instances, the Division may attempt to mutually agree upon the selection of the independent consultant with a Retail Marijuana Products Manufacturing Facility. However, the Division always retains the authority to select the independent consultant regardless of whether mutual agreement can be reached.

c. The Retail Marijuana Products Manufacturing Facility will be responsible for all costs associated with the independent health and sanitary audit.

2. When Independent Health and Sanitary Audit Is Necessary. The State Licensing Authority has discretion to determine when an audit by an independent consultant is necessary. The following is a non-exhaustive list of examples that may justify an independent audit:

a. A Retail Marijuana Products Manufacturing Facility does not provide requested records related to the food handling training required for Owners or Occupational Licensees engaged in the production of Edible Retail Marijuana Product to the Division;

b. A Retail Marijuana Products Manufacturing Facility does not provide requested records related to the production of Retail Marijuana Concentrate, including but not limited to, certification of its Licensed Premises, equipment or standard operating procedures, training of Owners or Occupational Licensees, or Production Batch specific records;

c. The Division has reasonable grounds to believe that the Retail Marijuana Products Manufacturing Facility is in violation of one or more of the requirements set forth in this rule or Rule R 605;

d. The Division has reasonable grounds to believe that the Retail Marijuana Products Manufacturing Facility was the cause or source of contamination of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product; or

e. Multiple Production Batches of Retail Marijuana Concentrate or Retail Marijuana Product produced by the Retail Marijuana Products Manufacturing Facility failed contaminant testing.

3. Compliance Required. A Retail Marijuana Products Manufacturing Facility must pay for and timely cooperate with the State Licensing Authority's requirement that it undergo an independent health and sanitary audit in accordance with this rule.

4. Suspension of Operations

a. If the State Licensing Authority has objective and reasonable grounds to believe and finds upon reasonable ascertainment of the underlying facts that the public health, safety or welfare imperatively requires emergency action and incorporates such findings into its order, it may order summary suspension of the Retail Marijuana Products Manufacturing Facility's license. See Rule R 1302 – Disciplinary Process: Summary Suspensions.

b. Prior to or following the issuance of such an order, the Retail Marijuana Products Manufacturing Facility may attempt to come to a mutual agreement with the Division to suspend its operations until the completion of the independent audit and the implementation of any required remedial measures.

i. If an agreement cannot be reached or the State Licensing Authority, in its sole discretion, determines that such an agreement is not in the best interests of the public health, safety or welfare, then the State Licensing Authority will promptly institute license suspension or revocation procedures. See Rule R 1302 – Disciplinary Process: Summary Suspensions.

ii. If an agreement to suspend operations is reached, then the Retail Marijuana Products Manufacturing Facility may continue to care for its inventory and conduct any necessary internal business operations but it may not sell, transfer or wholesale Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product to another Retail Marijuana Establishment during the period of time specified in the agreement. Depending on the condition of the Retail Marijuana Products Manufacturing Facility and required remedial measures, the Division may permit a Retail Marijuana Products Manufacturing Facility to produce Retail Marijuana Concentrate or manufacture Retail Marijuana Product while operations have been suspended.

H. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

Basis and Purpose – R 605

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(VIII), 12-43.4-202(3)(a)(XI), and 12-43.4-2-2(3)(b)(IX), C.R.S. The purpose of this rule is to establish the categories of Retail Marijuana Concentrate that may be produced at a Retail Marijuana Products Manufacturing Facility and establish standards for the production of Retail Marijuana Concentrate. Nothing in this rule authorizes the unlicensed practice of engineering under Article 25 of Title 12, C.R.S.

R 605 –Retail Marijuana Products Manufacturing Facility: Retail Marijuana Concentrate Production.

A. Permitted Categories of Retail Marijuana Concentrate Production

1. A Retail Marijuana Products Manufacturing Facility may produce Water-Based Retail Marijuana Concentrate and Food-Based Retail Marijuana Concentrate.

2. A Retail Marijuana Products Manufacturing Facility may also produce Solvent-Based Retail Marijuana Concentrate using only the following solvents: butane, propane, CO_2, ethanol, isopropanol, acetone and heptane. The use of any other solvent is expressly prohibited unless and until it is approved by the Division.

3. Beginning on July 1, 2014, a Retail Marijuana Products Manufacturing Facility may submit a request to the Division to consider the approval of solvents not permitted for use under this rule during the next formal rulemaking.

B. General Applicability. A Retail Marijuana Products Manufacturing Facility that engages in the production of Retail Marijuana Concentrate, regardless of the method of extraction or category of concentrate being produced, must:

1. Ensure that the space in which any Retail Marijuana Concentrate is to be produced is a fully enclosed room and clearly designated on the current diagram of the Licensed Premises. See Rule R 901- Business Records Required.

2. Ensure that all applicable sanitary rules are followed. *See* R 604.

3. Ensure that the standard operating procedure for each method used to produce a Retail Marijuana Concentrate on its Licensed Premises includes, but need not be limited to, step-by-step instructions on how to safely and appropriately:

a. Conduct all necessary safety checks prior to commencing production;

b. Prepare Retail Marijuana for processing;

c. Extract cannabinoids and other essential components of Retail Marijuana;

d. Purge any solvent or other unwanted components from a Retail Marijuana Concentrate,

e. Clean all equipment, counters and surfaces thoroughly; and

f. Dispose of any waste produced during the processing of Retail Marijuana in accordance with all applicable local, state and federal laws, rules and regulations. See Rule R 307 – Waste Disposal.

4. Establish written and documentable quality control procedures designed to maximize safety for Owners and Occupational Licensees and minimize potential product contamination.

5. Establish written emergency procedures to be followed by Owners or Occupational Licensees in case of a fire, chemical spill or other emergency.

6. Have a comprehensive training manual that provides step-by-step instructions for each method used to produce a Retail Marijuana Concentrate on its Licensed Premises. The training manual must include, but need not be limited to, the following topics:

    a. All standard operating procedures for each method of concentrate production used at that Licensed Premises;

    b. The Retail Marijuana Products Manufacturing Facility's quality control procedures;

    c. The emergency procedures for that Licensed Premises;

    d. The appropriate use of any necessary safety or sanitary equipment;

    e. The hazards presented by all solvents used within the Licensed Premises as described in the material safety data sheet for each solvent;

    f. Clear instructions on the safe use of all equipment involved in each process and in accordance with manufacturer's instructions, where applicable; and

    g. Any additional periodic cleaning required to comply with all applicable sanitary rules.

7. Provide adequate training to every Owner or Occupational Licensee prior to that individual undertaking any step in the process of producing a Retail Marijuana Concentrate.

    a. Adequate training must include, but need not be limited to, providing a copy of the training manual for that Licensed Premises and live, in-person instruction detailing at least all of the topics required to be included in the training manual.

    b. The individual training an Owner or Occupational Licensee must sign and date a document attesting that all required aspects of training were conducted and that he or she is confident that the Owner or Occupational Licensee can safely produce a Retail Marijuana Concentrate. *See* Rule R 901- Business Records Required.

    c. The Owner or Occupational Licensee that received the training must sign and date a document attesting that he or she can safely implement all standard operating procedures, quality control procedures, and emergency procedures, operate all closed-loop extraction systems, use all safety, sanitary and other equipment and understands all hazards presented by the solvents to be used within the Licensed Premises and any additional period cleaning required to maintain compliance with all applicable sanitary rules. *See* Rule R 901- Business Records Required.

8. Maintain clear and comprehensive records of the name, signature and Owner or Occupational License number of every individual who engaged in any step related to the creation of a Production Batch of Retail Marijuana Concentrate and the step that individual performed. *See* Rule R 901- Business Records Required.

C. Water-Based Retail Marijuana Concentrate and Food-Based Retail Marijuana Concentrate. A Retail Marijuana Products Manufacturing Facility that engages in the production of a Water-Based Retail Marijuana Concentrate or a Food-Based Retail Marijuana Concentrate must:

1. Ensure that all equipment, counters and surfaces used in the production of a Water-Based Retail Marijuana Concentrate or a Food-Based Retail Marijuana Concentrate is food-grade including ensuring that all counters and surface areas were constructed in such a manner that it reduces the potential for the development of microbials, molds and fungi and can be easily cleaned.

2. Ensure that all equipment, counters, and surfaces used in the production of a Water-Based Retail Marijuana Concentrate or a Food-Based Retail Marijuana Concentrate are thoroughly cleaned after the completion of each Production Batch.

3. Ensure that any room in which dry ice is stored or used in processing Retail Marijuana into a Retail Marijuana Concentrate is well ventilated to prevent against the accumulation of dangerous levels of CO_2.

4. Ensure that the appropriate safety or sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner or Occupational Licensee engaged in the production of a Water-Based Retail Marijuana Concentrate or Food-Based Retail Marijuana Concentrate.

5. Ensure that only finished drinking water and ice made from finished drinking water is used in the production of a Water-Based Retail Marijuana Concentrate.

6. Ensure that if propylene glycol or glycerin is used in the production of a Food-Based Retail Marijuana Concentrate, then the propylene glycol or glycerin to be used is food-grade.

7. Follow all of the rules related to the production of a Solvent-Based Retail Marijuana Concentrate if a pressurized system is used in the production of a Water-Based Retail Marijuana Concentrate or a Food-Based Retail Marijuana Concentrate.

D. Solvent-Based Retail Marijuana Concentrate. A Retail Marijuana Products Manufacturing Facility that engages in the production of Solvent-Based Retail Marijuana Concentrate must:

1. Obtain a report from an Industrial Hygienist or a Professional Engineer that certifies that the equipment, Licensed Premises and standard operating procedures comply with these rules and all applicable local and state building codes, fire codes, electrical codes and other laws. If a local jurisdiction has not adopted a local building code or fire code or if local regulations do not address a specific issue, then the Industrial Hygienist or Professional Engineer shall certify compliance with the International Building Code of 2012 (http://www.iccsafe.org), the International Fire Code of 2012 (http://www.iccsafe.org) or the National Electric Code of 2014 (http://www.nfpa.org), as appropriate. Note that this rule does not include any later amendments or editions to each Code. The Division has maintained a copy of each code, each of which is available to the public;

   a. Flammable Solvent Determinations. If a Flammable Solvent is to be used in the processing of Retail Marijuana into a Retail Marijuana Concentrate, then the Industrial Hygienist or Professional Engineer must:

      i. Establish a maximum amount of Flammable Solvents and other flammable materials that may be stored within that Licensed Premises in accordance with applicable laws, rules and regulations;

      ii. Determine what type of electrical equipment, which may include but need not be limited to outlets, lights and junction boxes, must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored in accordance with applicable laws, rules and regulations;

      iii. Determine whether a gas monitoring system must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations; and

      iv. Determine whether fire suppression system must be installed within the room in which Retail Marijuana Concentrate is to be produced or Flammable Solvents are to be stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

   b. CO2 Solvent Determination. If $C0_2$ is used as solvent at the Licensed Premises, then the Industrial Hygienist or Professional Engineer must determine whether a CO_2 gas monitoring system must be installed within the room in which Retail Marijuana Concentrate is to be produced or CO_2 is stored, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

   c. Exhaust System Determination. The Industrial Hygienist or Professional Engineer must determine whether a fume vent hood or exhaust system must be installed within the room in which Retail Marijuana Concentrate is to be produced, and if required the system's specifications, in accordance with applicable laws, rules and regulations.

d. Material Change. If a Retail Marijuana Products Manufacturing Facility makes a Material Change to its Licensed Premises, equipment or a concentrate production procedure, in addition to all other requirements, it must obtain a report from an Industrial Hygienist or Professional Engineer re-certifying its standard operating procedures and, if changed, its Licensed Premises and equipment as well.

e. Manufacturer's Instructions. The Industrial Hygienist or Professional Engineer may review and consider any information provided to the Retail Marijuana Products Manufacturing Facility by the designer or manufacturer of any equipment used in the processing of Retail Marijuana into a Retail Marijuana Concentrate.

f. Records Retention. A Retail Marijuana Products Manufacturing Facility must maintain copy of all reports received from an Industrial Hygienist and Professional Engineer on its Licensed Premises. Notwithstanding any other law, rule or regulation, compliance with this rule is not satisfied by storing these reports outside of the Licensed Premises. Instead the reports must be maintained on the Licensed Premises until the Licensee ceases production of Retail Marijuana Concentrate on the Licensed Premises.

2. Ensure that all equipment, counters and surfaces used in the production of a Solvent-Based Retail Marijuana Concentrate are food-grade and do not react adversely with any of the solvents to be used in the Licensed Premises. Additionally, all counters and surface areas must be constructed in a manner that reduces the potential development of microbials, molds and fungi and can be easily cleaned;

3. Ensure that the room in which Solvent-Based Retail Marijuana Concentrate shall be produced must contain an emergency eye-wash station;

4. Ensure that only a professional grade, closed-loop extraction system capable of recovering the solvent is used to produce Solvent-Based Retail Marijuana Concentrate;

a. UL or ETL Listing.

i. If the system is UL or ETL listed, then a Retail Marijuana Products Manufacturing Facility may use the system in accordance with the manufacturer's instructions.

ii. If the system is UL or ETL listed but the Retail Marijuana Products Manufacturing Facility intends to use a solvent in the system that is not listed in the manufacturer's instructions for use in the system, then, prior to using the unlisted solvent within the system, the Retail Marijuana Products Manufacturing Facility must obtain written approval for use of the non-listed solvent in the system from either the system's manufacturer or a Professional Engineer after the Professional Engineer has conducted a peer review of the system. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

iii. If the system is not UL or ETL listed, then there must a designer of record. If the designer of record is not a Professional Engineer, then the system must be peer reviewed by a Professional Engineer. In reviewing the system, the Professional Engineer shall review and consider any information provided by the system's designer or manufacturer.

b. Ethanol or Isopropanol. A Retail Marijuana Products Manufacturing Facility need not use a professional grade, closed-loop system extraction system capable of recovering the solvent for the production of a Solvent-Based Retail Marijuana Concentrate if ethanol or isopropanol are the only solvents being used in the production process.

5. Ensure that all solvents used in the extraction process are food-grade or at least 99% pure;

a. A Retail Marijuana Products Manufacturing Facility must obtain a material safety data sheet for each solvent used or stored on the Licensed Premises. A Retail Marijuana Products Manufacturing Facility must maintain a current copy of the material safety data sheet and a receipt of purchase for all solvents used or to be used in an extraction process. See Rule R 901- Business Records Required.

b. A Retail Marijuana Products Manufacturing Facility is prohibited from using denatured alcohol to produce a Retail Marijuana Concentrate.

6. Ensure that all Flammable Solvents or other flammable materials, chemicals and waste are stored in accordance with all applicable laws, rules and regulations. At no time may a Retail Marijuana Products Manufacturing Facility store more Flammable Solvent on its Licensed Premises than the maximum amount established for that Licensed Premises by the Industrial Hygienist or Professional Engineer;

7. Ensure that the appropriate safety and sanitary equipment, including personal protective equipment, is provided to, and appropriately used by, each Owner or Occupational Licensee engaged in the production of a Solvent-Based Retail Marijuana Concentrate; and

8. Ensure that a trained Owner or Occupational Licensee is present at all times during the production of a Solvent-Based Retail Marijuana Concentrate whenever an extraction process requires the use of pressurized equipment.

E. Ethanol and Isopropanol. If a Retail Marijuana Products Manufacturing Facility only produces Solvent-Based Retail Marijuana Concentrate using ethanol or isopropanol at its Licensed Premises and no other solvent, then it shall be considered exempt from paragraph D of this rule and instead must follow the requirements in paragraph C of this rule. Regardless of which rule is followed, the ethanol or isopropanol must be food grade or at least 99% pure and denatured alcohol cannot be used.

F. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

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), 12-43.3-202(1)(b), 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), 12-43.4-404(6), 12-43.4-405, 35-61-104, and 35-61-105.5, 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.

R 701 - Retail Marijuana Testing Facilities: License Privileges

A. Privileges Granted. A Retail Marijuana Testing Facility shall only exercise those privileges granted to it by the State Licensing Authority.

B. Licensed Premises. A separate License is required for each specific Retail Marijuana Testing Facility and only those privileges granted by the Retail Code and any rules promulgated pursuant to it may be exercised on the Licensed Premises.

C. Testing of Retail Marijuana and Retail Marijuana Product Authorized. A Retail Marijuana Testing Facility may accept Samples of Retail Marijuana or Retail Marijuana Product from Retail Marijuana Establishments for testing and research purposes only. The Division may require a Retail Marijuana Establishment to submit a sample of Retail Marijuana or Retail Marijuana Product to a Retail Marijuana Testing Facility upon demand.

D. Product Development Authorized. A Retail Marijuana Testing Facility may develop Retail Marijuana Product, 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. Medical Marijuana Occupational License for Testing and Research. This paragraph is repealed effective July 1, 2016. Licensees shall refer to the M 700 Series – Medical Marijuana Testing Facilities, located in 1 CCR 212-1, for the testing and research of Medical Marijuana and Medical Marijuana-Infused Product beginning July 1, 2016. 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 Product 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 to another Retail Marijuana Testing Facility for testing. All laboratory reports provided to a Retail Marijuana Establishment must identify the Retail Marijuana Testing Facility that actually conducted the test.

G. Testing of Registered and Tracked Industrial Hemp Authorized.

1. A Retail Marijuana Testing Facility may accept and test samples of Industrial Hemp as regulated by Article 61 of Title 35, C.R.S. The samples must be submitted by a registered cultivator and tracked through the radio frequency identification-based inventory tracking system approved by the Commissioner of the Colorado Department of Agriculture, pursuant to 35-61-105.5, C.R.S.

2. Only Retail Marijuana Testing Facilities that are certified to test in the category of THC and other Cannabinoid potency shall be permitted to test samples of Industrial Hemp as regulated by Article 61 of Title 35, C.R.S.

3. Nothing in these rules shall be construed to require a Retail Marijuana Testing Facility to accept and/or test samples of Industrial Hemp.

Basis and Purpose – R 702

The statutory authority for this rule is found at subsections 12-43.3-901(2),12-43.4-202(2)(b), 12-43.4-405(3), 12-43.4-901, 35-61-104, and 35-61-105.5, C.R.S. The purpose of this rule is to clarify those acts that are limited in some fashion, or prohibited, by a Retail Marijuana Testing Facility.

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

A. Prohibited Financial Interest. A Person who is an Owner of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility, Retail Marijuana Store, Medical Marijuana Center, Optional Premises Cultivation, or a Medical Marijuana Infused-Products Manufacturing Facility shall not be an Owner of a Retail Marijuana Testing Facility.

B. Sale of Marijuana Prohibited. A Retail Marijuana Testing Facility is prohibited from selling, distributing, or transferring Retail Marijuana, Retail Marijuana Product, Medical Marijuana, or Medical Marijuana-Infused Product 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 Retail Marijuana Testing Facility.

C. Destruction of Received Retail Marijuana. A Retail Marijuana Testing Facility shall properly dispose of all Samples it receives, that are not transferred to another Retail Marijuana Testing Facility, after all necessary tests have been conducted and any required period of storage. *See* Rule R 307 – Waste Disposal.

D. Consumption Prohibited. A Retail Marijuana Testing Facility shall not permit the consumption of marijuana or marijuana products on its Licensed Premises.

E. Sample Rejection. A Retail Marijuana Testing Facility shall reject any Sample where the condition of the Sample at receipt indicates that that the sample may have been tampered with.

F. Retail Marijuana Establishment Requirements Applicable. A Retail Marijuana Testing Facility shall be considered Licensed Premises. A Retail Marijuana Testing Facility shall be subject to all requirements applicable to Retail Marijuana Establishments.

G. Retail Marijuana Testing Facility – Inventory Tracking System Required. A Retail Marijuana Testing Facility must use the Inventory Tracking System to ensure its Samples are identified and tracked from the point they are transferred from a Retail Marijuana Establishment or Medical Marijuana Business through the point of destruction or disposal. *See also* Rule R 309 – Retail Marijuana Establishment: Inventory Tracking System. The Retail Marijuana Testing Facility must have the ability to reconcile its Sample records with the Inventory Tracking System and the associated transaction history. *See also* Rule R 901 – Business Records Required.

H. Testing of Unregistered or Untracked Industrial Hemp Prohibited. A Retail Marijuana Testing Facility shall not accept or test samples of Industrial Hemp that are not regulated by Article 61 of Title 35, C.R.S., are submitted by an unregistered cultivator, or are not tracked through the radio frequency identification-based inventory tracking system approved by the Commissioner of the Colorado Department of Agriculture, pursuant to 35-61-105.5, C.R.S.

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.

R 703 –Retail Marijuana Testing Facilities: Certification Requirements

A. Certification Types. A Retail Marijuana Testing Facility may only perform tests on Samples that the Retail Marijuana Testing Facility is certified by the Division to perform.

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;

6. Pesticides; and

7. THC and other Cannabinoid potency.

B. Certification Procedures. The 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. Certification Inspection. A Retail Marijuana Testing Facility must be inspected prior to initial certification and annually thereafter by an inspector approved by the Division.

2. 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. Laboratory Director. A Retail Marijuana Testing Facility must employ, at a minimum, a laboratory director with sufficient education and experience in a regulated laboratory environment in order to obtain and maintain certification. *See* Rule R 704 – Retail Marijuana Testing Facilities: Personnel.

b. Employee Competency. 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. Standard Operating Procedure Manual. 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.

    b. 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.

5. 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. Proficiency Testing. A Retail Marijuana Testing Facility must successfully participate in a Division approved proficiency testing program in order to obtain and maintain certification.

7. Quality Assurance and Quality Control. 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. Security. A Retail Marijuana Testing Facility must be located in a secure setting as to prevent unauthorized persons from gaining access to the testing and storage areas of the laboratory.

9. Chain of Custody. A Retail Marijuana Testing Facility must establish a system to document the complete chain of custody for samples from receipt through disposal.

10. Space. 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. Records. A Retail Marijuana Testing Facility must establish a system to retain and maintain records for a period not less than three years.

12. Results Reporting. 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 the operation of a Retail Marijuana Testing Facility.

R 704 –Retail Marijuana Testing Facilities: Personnel

A. Laboratory Director. 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 be a Medical Doctor (M.D.) licensed to practice medicine in Colorado and have at least three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body; or

b. The laboratory director must hold a doctoral degree in one of the natural sciences and have at least three years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body; or

c. The laboratory director must hold a master's degree in one of the natural sciences and have at least five years of full-time laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body.

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. Responsibilities of the Laboratory Director. 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;

3. 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. Supervisory Analyst. 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 laboratory experience in a regulated laboratory environment performing analytical scientific testing in which the testing methods were recognized by an accrediting body. A combination of education and experience may substitute for the three years of full-time laboratory experience.

E. Laboratory Testing Analyst

1. Educational Requirements. 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. Responsibilities. 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 the operation of a Retail Marijuana Testing Facility.

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

A. A 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;

7. Validating a new or revised method prior to testing specimens to include: accuracy, precision, analytical sensitivity, analytical specificity (interferences), LOD, LOQ, and verification of the reportable range;

8. Aliquoting specimens to avoid contamination and carry-over;

9. Sample retention to assure stability for 90 days;

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;

19. 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.

22. Testing Industrial Hemp, if the Retail Marijuana Testing Facility tests Industrial Hemp.

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 the 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:

1. 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. Gas Chromatography Mass Spectrometry ("GC/MS"). 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;

10. 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. Immunoassays. 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;

5. 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 Performance Liquid Chromatography ("HPLC"). A Retail Marijuana Testing Facility using HPLC 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. 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;

6. 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. Liquid Chromatography Mass Spectroscopy ("LC/MS"). 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.

G. Other Analytical Methodology. A Retail Marijuana Testing Facility using other methodology or new methodology must:

1. Implement a performance based measurement system for the selected methodology and validate the method following good laboratory practices prior to reporting results. Validation of other or new methodology must include when applicable, but is not limited to:

a. Verification of Accuracy

b. Verification of Precision

c. Verification of Analytical Sensitivity

d. Verification of Analytical Specificity

e. Verification of the LOD

f. Verification of the LOQ

g. Verification of the Reportable Range

h. Identification of Interfering Substances

2. Validation of the other or new methodology must be documented.

3. Prior to use, other or new methodology must have a standard operating procedure approved and signed by the laboratory director.

4. Testing analysts must have documentation of competency assessment prior to testing samples.

5. Any changes to the approved other or new methodology must be revalidated and documented prior to testing samples.

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. Proficiency Testing Required. A Retail Marijuana Testing Facility must participate in a Proficiency Testing program for each approved category in which it seeks certification.

B. Participation in Designated Proficiency Testing Event. 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. Continued Certification. 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. Analyzing Proficiency Testing Samples. 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. Proficiency Testing Challenge Attestation. The laboratory director and all testing analysts that participated in a Proficiency Test must sign corresponding attestation statements.

F. Laboratory Director Must Review Results. 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. Consequence of Unsuccessful Participation in Proficiency Testing Event. 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. Quality Assurance Program Required. 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

3. 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. Quality Control Measures Required. 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;

7. 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;

16. 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 requirement that a Retail Marijuana Testing Facility follow an adequate chain of custody for Samples it maintains.

R 709 –Retail Marijuana Testing Facilities: Chain of Custody

General Requirements. 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;

8. 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. General Requirement. A Retail Marijuana Testing Facility must maintain all required business records. *See* Rule R 901 - Business Records Required.

B. Specific Business Records Required: Three Year Retention. A Retail Marijuana Testing Facility must establish processes to preserve records for a minimum of three years that includes, but is not limited to;

1. 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

Required Procedures. 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;

2. 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.

Basis and Purpose – R 712

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XI), 12-43.4-202(3)(b)(III), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(V), 12-43.4-202(3)(c)(VI), 12-43.4-202(3)(c)(VII), and 12-43.4-405, 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 portion of the Division's Mandatory Testing and Random Sampling program that is applicable to Retail Marijuana Testing Facilities. The allowable plus or minus 15% potency variance has been included in the rule pursuant to the mandate of House Bill 15-1283, which modified 12-43.4-202(3)(a)(IV)(E), C.R.S. The bill established that the acceptable potency variance, which the Division must determine, must be at least plus or minus 15 percent.

R 712 – Retail Marijuana Testing Facilities: Sampling and Testing Program

A. Division Authority. The Division may elect to require that a Test Batch be submitted to a specific Retail Marijuana Testing Facility for testing to verify compliance, perform investigations, compile data or address a public health and safety concern.

B. Test Batches

1. Retail Marijuana and Retail Marijuana Concentrate. A Retail Marijuana Testing Facility must establish a standard minimum weight of Retail Marijuana and Retail Marijuana Concentrate that must be included in a Test Batch for every type of test that it conducts.

2. Retail Marijuana Product. A Retail Marijuana Testing Facility must establish a standard number of finished product(s) it requires to be included in each Test Batch of Retail Marijuana Product for every type of test that it conducts.

C. Rejection of Test Batches and Samples

1. A Retail Marijuana Testing Facility may not accept a Test Batch that is smaller than its standard minimum amount.

2. A Retail Marijuana Testing Facility may not accept a Test Batch or Sample that it knows was not taken in accordance with these rules or any additional Division sampling procedures or was not collected by Division personnel.

D. Notification of Retail Marijuana Establishment. If Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product failed a contaminant test, then the Retail Marijuana Testing Facility must immediately notify the Retail Marijuana Establishment that submitted the sample for testing and report the failure in accordance with all Inventory Tracking System procedures.

E. Permissible Levels of Contaminants. If Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product is found to have a contaminant in levels exceeding those established as permissible under this rule, then it shall be considered to have failed contaminant testing. Notwithstanding the permissible levels established in this rule, the Division reserves the right to determine, upon good cause and reasonable grounds, that a particular Test Batch presents a risk to the public health or safety and therefore shall be considered to have failed a contaminant test.

1. Microbials (Bacteria, Fungus)

Substance	**Acceptable Limits Per Gram**	**Product to be Tested**
–Shiga-toxin producing Escherichia coli (STEC)*- Bacteria	< 1 Colony Forming Unit (CFU)	Flower; Retail Marijuana Products; Water- and Food-Based Concentrates
Salmonella species* – Bacteria	< 1 Colony Forming Unit (CFU)	
Total Yeast and Mold	< 10^4 Colony Forming Unit (CFU)	

*Testing facilities should contact the Colorado Department of Public Health and Environment when STEC and Salmonella are detected beyond the acceptable limits.

2. Residual Solvents

Substance	Acceptable Limits Per Gram	Product to be Tested
Butanes	< 800 Parts Per Million (PPM)	Solvent-Based Concentrates
Heptanes	< 500 Parts Per Million (PPM)	
Benzene**	< 1 Parts Per Million (PPM)	
Toluene**	< 1 Parts Per Million (PPM)	
Hexane**	< 10 Parts Per Million (PPM)	
Total Xylenes (m,p, o-xylenes)**	< 1 Parts Per Million (PPM)	
Any solvent not permitted for use pursuant to Rule R 605.	None Detected	

** Note: These solvents are not approved for use. Due to their possible presence in the solvents approved for use per Rule R 605, limits have been listed here accordingly.

3. Metals

Substance	Acceptable Limits Per Gram	Product to be Tested
Metals (Arsenic, Cadmium, Lead and Mercury)	Lead – Max Limit: < 10 ppm Arsenic – Max Limit: < 10 ppm Cadmium – Max Limit: <4.1 ppm Mercury – Max Limit: <2.0 ppm	Flower; Water-, Food-, and Solvent-Based Concentrates; and Retail Marijuana Products

4. Other Contaminants

Pesticide	If testing identifies the use of a banned Pesticide or the improper application of a permitted Pesticide, then that Test Batch shall be considered to have failed contaminant testing.
Chemicals	If Test Batch is found to contain levels of any chemical that could be toxic if consumed, then the Division may determine that the Test Batch has failed contaminant testing.
Microbials	If Test Batch is found to contain levels of any microbial that could be toxic if consumed, then the Division may determine that the Test Batch has failed contaminant testing.
Molds, Mildew, and Filth	If a Test Batch is found to contain levels of any mold, mildew, or filth that could be toxic if consumed, then that Test Batch shall be considered to have failed contaminant testing.

5. Division Notification. A Retail Marijuana Testing Facility must notify the Division if a Test Batch is found to contain levels of a contaminant not listed within this rule that could be injurious to human health if consumed.

F. Potency Testing

1. Cannabinoids Potency Profiles. A Retail Marijuana Testing Facility may test and report results for any cannabinoid provided the test is conducted in accordance with the Division's Retail Marijuana Testing Facility Certification Policy Statement.

2. Reporting of Results

a. For potency tests on Retail Marijuana and Retail Marijuana Concentrate, results must be reported by listing a single percentage concentration for each cannabinoid that represents an average of all samples within the Test Batch.

b. For potency tests conducted on Retail Marijuana Product, whether conducted on each individual production batch or via Process Validation per rule R 1503, results must be reported by listing the total number of milligrams contained within a single Retail Marijuana Product unit for sale for each cannabinoid and affirming the THC content is homogenous.

3. Dried Flower. All potency tests conducted on Retail Marijuana must occur on dried and cured Retail Marijuana that is ready for sale.

4. Failed Potency Tests for Retail Marijuana Products

a. If an individually packaged Edible Retail Marijuana Product contained within a Test Batch is determined to have more than 100 mgs of THC within it, then the Test Batch shall be considered to have failed potency testing. Except that the potency variance provided for in subparagraph (F)(5) of this rule R 712 shall apply to potency testing.

b. If the THC content of a Marijuana Product is determined through testing to not be homogenous, then it shall be considered to have failed potency testing. A Retail Marijuana Product shall be considered to not be homogenous if 10% of the infused portion of the Retail Marijuana Product contains more than 20% of the total THC contained within entire Retail Marijuana Product.

5. Potency Variance. A potency variance of no more than plus or minus 15% is allowed.

R 800 Series – Transport 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 transport and delivery of Retail Marijuana and Retail Marijuana Product 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 – Transport of Retail Marijuana, Retail Marijuana Vegetative Plants, and Retail Marijuana Product

A. Persons Authorized to Transport. The only Persons authorized to transport Retail Marijuana, Retail Marijuana Vegetative plants, or Retail Marijuana Product 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. An individual who does not possess a current and valid Owner or Occupational License from the State Licensing Authority may not transport Retail Marijuana, Retail Marijuana Vegetative plants, or Retail Marijuana Product between Licensed Premises.

B. Transport Between Licensed Premises.

1. Retail Marijuana and Retail Marijuana Product. Retail Marijuana and Retail Marijuana Product 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 Product are responsible for ensuring that all Retail Marijuana and Retail Marijuana Product are secured at all times during transport.

2. Retail Marijuana Vegetative Plants. Retail Marijuana Vegetative plants shall only be transported between Licensed Premises due to an approved change of location pursuant to rule R 206 – Changing Location of Licensed Premises: Retail Marijuana Establishments. Transportation of Vegetative plants to a permitted off-premises storage facility shall not be allowed.

C. Inventory Tracking System-Generated Transport Manifest Required. A Licensee may only transport Retail Marijuana, Retail Marijuana Vegetative plants, or Retail Marijuana Product if he or she has a hard copy of an Inventory Tracking System -generated transport manifest that contains all the information required by this rule and shall be in the format prepared by the State Licensing Authority.

1. Retail Marijuana and Retail Marijuana Product. A Licensee may transport Retail Marijuana or Retail Marijuana Product from an originating location to multiple destination locations so long as the transport manifest correctly reflects the specific inventory destined for specific licensed locations.

2. Retail Marijuana Vegetative Plants. A Licensee shall transport Retail Marijuana Vegetative plants only from the originating Licensed Premises to the destination Licensed Premises due to a change of location that has been approved by the Division.

D. Motor Vehicle Required. Transport of Retail Marijuana and Retail Marijuana Product 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. Except that when a rental truck is required for transporting Medical Marijuana Vegetative plants, Colorado motor vehicle registration is not required.

E. Documents Required During Transport. Transport of Retail Marijuana, Retail Marijuana Vegetative plants, or Retail Marijuana Product shall be accompanied by a copy of the originating Retail Marijuana Establishment's business license, the driver's valid Owner or Occupational License, the driver's valid motor vehicle operator's license, and all required vehicle registration information.

F. Use of Colorado Roadways. State law does not prohibit the transport of Retail Marijuana , Retail Marijuana Vegetative plants, and Retail Marijuana Product 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 transport of Retail Marijuana, Retail Marijuana Vegetative plants, or Retail Marijuana Product.

G. Preparation of Retail Marijuana and Retail Marijuana Product for Transport

1. Final Weighing and Packaging. A Retail Marijuana Establishment shall comply with the specific rules associated with the final weighing and packaging of Retail Marijuana and Retail Marijuana Product before such items are prepared for transport pursuant to this rule. The scale used to weigh product to be transported shall be tested and approved in accordance with measurement standards established in35-14-127, C.R.S.

2. Preparation in Limited Access Area. Retail Marijuana and Retail Marijuana Product shall be prepared for transport in a Limited Access Area, including the packing and labeling of Shipping Containers.

3. Shipping Containers. All Shipping Containers must be affixed with an RFID tag prior to transport. Sealed packages or Containers may be placed in larger Shipping Containers, so long as such Shipping Containers are labeled in accordance with the R 1000 Series. The contents of Shipping Containers shall be easily accessible and may be inspected by the State Licensing Authority, local jurisdictions, and state and local law enforcement agency for a purpose authorized by the Retail Code or for any other state or local law enforcement purpose.

G.5. Required RFID Tags for Retail Marijuana Vegetative Plants. Each Retail Marijuana Vegetative plant that is transported pursuant to this rule must have a RFID tag affixed to it prior to transport.

H. Creation of Records and Inventory Tracking

1. Use of Inventory Tracking System -Generated Transport Manifest.

a. Retail Marijuana and Retail Marijuana Product. Licensees who transport Retail Marijuana or Retail Marijuana Product shall create an Inventory Tracking System-generated transport manifest to reflect inventory that leaves the Licensed Premises for destinations to other licensed locations. The transport manifest may either reflect all deliveries for multiple locations within a single trip or separate transport manifests may reflect each single delivery. In either case, no inventory shall be transported without an Inventory Tracking System -generated transport manifest.

b. Retail Marijuana Vegetative Plants. Licensees who transport Retail Marijuana Vegetative plants shall create an Inventory Tracking System-generated transport manifest to reflect inventory that leaves the originating Licensed Premises to be transported to the destination Licensed Premises due to a change of location approved by the Division pursuant to rule R 206.

2. Copy of Transport Manifest to Receiver. A Licensee shall provide a copy of the transport manifest to each Retail Marijuana Establishment receiving the inventory described in the transport manifest. In order to maintain transaction confidentiality, the originating Licensee may prepare a separate Inventory Tracking System-generated transport manifest for each receiving Retail Marijuana Establishment.

3. The Inventory Tracking System-generated transport manifest shall include the following:

a. Departure date and approximate time of departure;

b. Name, location address, and license number of the originating Retail Marijuana Establishment;

c. Name, location address, and license number of the destination Retail Marijuana Establishment(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 accompanying the transport.

J. Inventory Tracking. In addition to all the other tracking requirements set forth in these rules, a Retail Marijuana Establishment shall be responsible for all the procedures associated with the tracking of inventory that is transported between Licensed Premises. *See* Rule R 901 – Business Records Required.

1. Responsibilities of Originating Licensee.

a. Retail Marijuana and Retail Marijuana Product. Prior to departure, the originating Retail Marijuana Establishment shall adjust its records to reflect the removal of Retail Marijuana or Retail Marijuana Product. The scale used to weigh product to be transported shall be tested and approved in accordance with measurement standards established in 35-14-127, C.R.S. Entries to the records shall note the Inventory Tracking System-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest.

b. Retail Marijuana Vegetative Plants. Prior to departure, the originating Retail Marijuana Cultivation Facility shall adjust its records to reflect the removal of Retail Marijuana Vegetative plants. Entries to the records shall note the Inventory Tracking System-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest.

2. Responsibilities of Receiving Licensee.

a. Retail Marijuana and Retail Marijuana Product. Upon receipt, the receiving Licensee shall ensure that the Retail Marijuana or Retail Marijuana Product received are as described in the transport manifest and shall immediately adjust its records to reflect the receipt of inventory. The scale used to weigh product being received shall be tested and approved in accordance with measurement standards established in 35-14-127, C.R.S. Entries to the inventory records shall note the Inventory Tracking System-generated transport manifest and shall be easily reconciled, by product name and quantity, with the applicable transport manifest.

b. Retail Marijuana Vegetative Plants. Upon receipt, the receiving Licensee shall ensure that the Retail Marijuana Vegetative plants received are as described in the transport manifest, accounting for all RFID tags and each associated plant, and shall immediately adjust its records to reflect the receipt of inventory.

3. Discrepancies. A receiving Licensee shall separately document any differences between the quantity specified in the transport manifest and the quantities received. Such documentation shall be made in the Inventory Tracking System and in any relevant business records.

K. Adequate Care of Perishable Retail Marijuana Product. A Retail Marijuana Establishment must provide adequate refrigeration for perishable Retail Marijuana Product 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 Product may not be stored outside of Licensed Premises unless the Licensee obtains an off-premises storage facility permit. Rule 802.G was amended to require Retail Marijuana Establishments to submit proof of local approval or acknowledgement with an application for an off-premises storage facility. This change was made due to comments received from a local jurisdiction representative.

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

A. Off-Premises Storage Permit Authorized. A Retail Marijuana Establishment may only store Retail Marijuana or Retail Marijuana Product in its Licensed Premises or in its one permitted off-premises storage facility.

B. Permitting. 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.

C. Extension of Licensed Premises. 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.

D. Limitation on Inventory to be Stored. The Retail Marijuana Establishment may only have upon the permitted off-premises storage facility Retail Marijuana or Retail Marijuana Product that are part of its finished goods inventory. The Licensee may not share the premises with, or store inventory belonging to, a Medical Marijuana Business or Retail marijuana Establishment that is not commonly-owned.

E. Restrictions. The permitted off-premises storage facility may be utilized for storage only. A Retail Marijuana Establishment may not sell, cultivate, manufacture, process, test, or consume any Retail Marijuana or Retail Marijuana Product within the premises of the permitted off-premises storage facility.

F. Display of Off-premises Storage Permit and License. The off-premises storage facility permit and a copy of the Retail Marijuana Establishment's license must be displayed in a prominent place within the permitted off-premises storage facility.

G. Local Jurisdiction Approval

1. Prior to submitting an application for an off-premises storage facility permit, the Retail Marijuana Establishment must obtain approval or acknowledgement from the relevant local jurisdiction.

2. A copy of the relevant local jurisdiction's approval or acknowledgement must be submitted by the Retail Marijuana Establishment in conjunction with its application for an off-premises storage facility.

3. No Retail Marijuana or Retail Marijuana Product 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.

4. Any off-premises storage permit issued by the Division shall be conditioned upon the Retail Marijuana Establishment's receipt of all required local jurisdiction approvals or acknowledgments.

H. Security in Storage Facility. A permitted off-premises storage facility must meet all video, security and lock requirements applicable to a Licensed Premises. *See* Rules R 305 – Security Alarm and Lock Standards and R 306 – Video Surveillance.

I. Transport to and from a Permitted Off-Premises Storage Facility. A Licensee must comply with the provisions of Rule R 801 - Transport of Retail Marijuana and Retail Marijuana Product when transporting any Retail Marijuana or Retail Marijuana Product to a permitted off-premises storage facility.

J. Inventory Tracking. In addition to all the other tracking requirements set forth in these rules, a Retail Marijuana Establishment shall utilize the Inventory Tracking System to track its inventories from the point of transfer to or from a permitted off-premises storage facility. *See* Rules R 309 – Retail Marijuana Establishment: Inventory Tracking System and R 901 – Business Records Required.

K. Inventory Tracking System Access and Scale. Every permitted off-premises storage facility must have an Inventory Tracking System terminal and a scale tested and approved in accordance with measurement standards established in 35-14-127, C.R.S.

L. Adequate Care of Perishable Retail Marijuana Product. A Retail Marijuana Establishment must provide adequate refrigeration for perishable Retail Marijuana Product and shall utilize adequate storage facilities and transport methods.

M. Consumption Prohibited. A Retail Marijuana Establishment shall not permit the consumption of marijuana or marijuana Product on the premises of its permitted off-premises storage facility.

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 and clarifies that such records must be made available to the Division on demand. Rule R 901.B was added due to written commentary received from an industry representative.

R 901 – Business Records Required

A. General Requirements

1. A Retail Marijuana Establishment must maintain the information required in this rule in a format that is readily understood by a reasonably prudent business person.

2. Each Retail Marijuana Establishment shall retain all books and records necessary to fully account for the business transactions conducted under its license 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.

3. The books and records must fully account for 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 and all non-employee Owners, who work at a Retail Marijuana Establishment.

        i. Once the functionality is developed, each Licensed Premises shall enter the full name and Occupational license number of every employee that works on the premises into the Inventory Tracking System. The Licensed Premises shall update its list of employees in the Inventory Tracking System within 10 days of an employee commencing or ceasing employment on the premises.

    b. Secure Facility Information – For its Licensed Premises and any associated permitted off-premises storage facility, a Retail Marijuana Establishment 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 and any permitted off-premises storage facilities.

    e. Visitor Log – List of all visitors entering Limited Access Areas or Restricted Access Areas.

    f. All records normally retained for tax purposes.

B. Loss of Records and Data. 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. Violation Affecting Public Safety. Violation of this rule may constitute a license violation affecting public safety.

D. Records Related to Inventory Tracking. A Retail Marijuana Establishment 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 destroyed or sold to another Retail Marijuana Establishment or a consumer.

E. Records Related to Transport. A Retail Marijuana Establishment must maintain adequate records for the transport of all Retail Marijuana and Retail Marijuana Product. *See* Rule R 801 – Transport of Retail Marijuana and Retail Marijuana Product.

F. Provision of Any Requested Record to the Division. A Licensee 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. A Retail Marijuana Establishment 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. Sales and Use Tax Returns Required. 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. Excise and Retail Marijuana Sales Tax Returns Required. 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 any applicable tax returns and remit any payments due pursuant to Article 28.8 of Title 39, C.R.S.

C. Proof of Tax Remittance Required. 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 remittance 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 provided 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 a Retail Marijuana Establishment 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 Retail Marijuana Establishment's refusal to cooperate or pay for the audit.

R 903 – Independent Audit May Be Required

A. State Licensing Authority May Require Independent Audit

1. When the State Licensing Authority deems it necessary, it may require a Retail Marijuana Establishment to undergo an audit by an independent accountant. The scope of the audit may include, but need not be limited, to financial transactions and inventory control measures.

2. In such instances, the Division may attempt to mutually agree upon the selection of the independent accountant with a Retail Marijuana Establishment. However, the Division always retains the right to select the independent accountant regardless of whether mutual agreement can be reached. The independent accountant shall be a certified public accountant licensed by, and in good standing with, the Colorado State Board of Accountancy.

3. The Retail Marijuana Establishment will be responsible for all direct costs associated with the independent audit.

B. When Independent Audit Is Necessary. 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 Retail Marijuana Establishment does not provide requested records to the Division;

2. The Division has reason to believe that the Retail Marijuana Establishment does not properly maintain its business records;

3. A Retail Marijuana Establishment has a prior violation related to recordkeeping or inventory control;

4. A Retail Marijuana Establishment 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. Compliance Required. A Retail Marijuana Establishment must pay for and timely cooperate with the State Licensing Authority's requirement that it undergo and audit in accordance with this rules.

D. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

Basis and Purpose – R 904

The statutory authority for this rule is found at subsections 12-43.3-201(5), 12-43.3-202(1)(d), 12-43.4-202(2)(b), 12-43.4-202(1), 12-43.4-202(2)(d), 12-43.4-202(3)(b)(IX), 12-43.4-309(11), and 12-43.4-901(2)(a), 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.

The State Licensing Authority finds it essential to the stringent and comprehensive enforcement of the Retail Code to regulate, monitor, and track all Retail Marijuana in order to prevent diversion and to ensure that all Retail Marijuana grown, processed, sold, and disposed of in the Retail Marijuana market is accounted for transparently in accordance with the Retail Code.

Requiring Licensees to report instances when the Retail Marijuana they cultivate, manufacture, distribute, sell, or dispose of is stolen, unlawfully transferred, or otherwise diverted from the regulated market, or when Licensees discover plans to divert the Retail Marijuana, emphasizes that Licensees are accountable for their Retail Marijuana at all times and contributes to the transparency of the regulated market.

In addition to maintaining transparency in the regulated marijuana industry, the State Licensing Authority also must ensure the confidentiality of certain Licensee information and records, including information in the Inventory Tracking System. Requiring Licensees to report instances where the Inventory Tracking System was compromised or planned to be compromised through unlawful access, use for unlawful purposes, the deliberate alteration or deletion of data, or deliberately entering false data, contributes to ensuring the accuracy and transparency of the system and therefore the regulated market, and aids in maintaining the confidentiality of Licensee data.

R 904 – Retail Marijuana Establishment Reporting Requirements

A. Manager Change Must Be Reported.

1. When Required. A Retail Marijuana Establishment shall provide the Division a written report within seven days after any change in manager occurs.

2. Licensee Must Maintain Record of Reported Change. A Retail Marijuana Establishment must also maintain a copy of this written report with its business records.

3. Consequence of Failure to Report. Failure to report a change in a timely manner may result in discipline.

B. Reporting of Crime on the Licensed Premises or Othewise Related to a Retail Marijuana Establishment. A Retail Marijuana Establishment and all Licensees employed by the Retail Marijuana Establishment shall report to the Division any discovered plan or other action of any Person to (1) commit theft, burglary, underage sales, diversion of marijuana or marijuana product, or other crime related to the operation of the subject Retail Marijuana Establishment; or (2) compromise the integrity of the Inventory Tracking System. A report shall be made as soon as possible after the discovery of the action, but not later than 14 days. Nothing in this paragraph (B) alters or eliminates any obligation a Retail Marijuana Establishment or Licensee may have to report criminal activity to a local law enforcement agency.

R 1000 Series – Labeling, Packaging, and Product Safety

Basis and Purpose – R 1001

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(VI), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(b)(IV), 12-43.4-202(3)(b)(IX), and 12-43.4-202(3)(c)(III), C.R.S. The State Licensing Authority finds it essential to regulate and establish labeling and secure packaging requirements for Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Product. The purpose of this rule, and the rules in this series, is to ensure that all Retail Marijuana and Retail Marijuana Product are sold and delivered to lawful consumers in packaging that is not easily opened by children. Further, the State Licensing Authority believes based on written and oral comments it received through the rulemaking process that prohibiting labels that appeal to or are intended to target individuals under the age of 21 and requiring child-resistant packaging is of a state wide concern and would assist in limiting exposure and diversion to minors. One of the State Licensing Authority's primary goals is to prevent underage marijuana use. The State Licensing Authority has a compelling state interest in the reduction and prevention of accidental marijuana consumption by children. This can be achieved through avoidance of packaging designed to appeal to children and avoidance of use of the word "candy" on packaging, labeling and product. Children generally have a strong attraction to and interest in candy. "Candy" is one of the first words children learn to speak. Children rely upon packaging to deduce a product's contents. This rule is in the interest of the health of the people of Colorado and is necessary for the stringent and comprehensive administration of the Retail Code. The State Licensing Authority is adopting this rule as a narrowly-tailored way to reduce or prevent accidental ingestion of Retail Marijuana or Retail Marijuana Products by children and others.

R 1001 – Labeling and Packaging Requirements: General Applicability

A. Ship Product Ready for Sale. A Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility may package smaller quantities of Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Product in a Container prior to transport, provided the Containers are placed within a Shipping Container. See Rule R 309 – Inventory Tracking System and Rule R 801 – Transport of Retail Marijuana and Retail Marijuana Product.

B. Inventory Tracking Compliance.

1. A Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must package all Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Product in accordance with all Inventory Tracking System rules and procedures.

2. A Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must place an RFID tag on every Shipping Container holding Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product prior to transport or transfer of possession to another Retail Marijuana Establishment. *See* Rule R 309 – Inventory Tracking System and Rule R 801 – Transport of Retail Marijuana and Retail Marijuana Product.

C. Packaging May Not Be Designed to Appeal to Children. A Retail Marijuana Establishment shall not place any content on a Container holding Retail Marijuana, Retail Marijuana Concentrate, or a Retail Marijuana Product in a manner that specifically targets individuals under the age of 21, including but not limited to, cartoon characters or similar images.

D. Health and Benefit Claims. Labeling text on a Container may not make any false or misleading statements regarding health or physical benefits to the consumer.

E. Font Size. Labeling text on a Container must be no smaller than 1/16 of an inch.

F. Use of English Language. Labeling text on a Container must be clearly written or printed and in the English language.

G. Unobstructed and Conspicuous. Labeling text on a Container must be unobstructed and conspicuous. A Licensee may affix multiple labels to a Container, provided that none of the information required by these rules is completely obstructed.

H. This paragraph (H) is effective beginning October 1, 2016. Use of the Word "Candy" and/or "Candies" Prohibited.

1. Licensees shall not use the word(s) "candy" and/or "candies" on the product, packaging or labeling for Retail Marijuana or Retail Marijuana Product.

2. Notwithstanding the requirements of subparagraph (H)(1), a licensed Retail Marijuana Establishment whose Identity Statement contains the word(s) "candy" and/or "candies" shall be permitted to place its Identity Statement on Retail Marijuana and/or Retail Marijuana Product packaging and labeling.

Basis and Purpose – R 1002

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(VII), 12-43.4-403(5), and 25-4-1614(3)(a), 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 every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility label each Shipping Container and Container of Retail Marijuana with all of the necessary and relevant information for the receiving Retail Marijuana Establishment. In addition, this rule clarifies basic packaging requirements. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques to all Retail Marijuana as this is a public health and safety concern.

R 1002 – Packaging and Labeling of Retail Marijuana by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility

Rule R 1002 is repealed effective October 1, 2016. Licensees shall refer to rule R 1002.5 beginning October 1, 2016.

A. Packaging of Retail Marijuana by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. Every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility must ensure that all Retail Marijuana is placed within a sealed, tamper-evident Shipping Container that has no more than ten pounds of Retail Marijuana within it prior to transport or transfer of any Retail Marijuana to another Retail Marijuana Establishment.

B. Labeling of Retail Marijuana Shipping Containers by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. Every Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must ensure that a label(s) is affixed to every Shipping Container holding Retail Marijuana that includes all of the information required by this rule prior to transport or transfer to another Retail Marijuana Establishment.

1. Required Information. Every Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must ensure the following information is affixed to every Shipping Container holding Retail Marijuana:

a. The license number of the Retail Marijuana Cultivation Facility where the Retail Marijuana was grown;

b. The Harvest Batch Number(s) assigned to the Retail Marijuana;

c. The net weight, using a standard of measure compatible with the Inventory Tracking System, of the Retail Marijuana prior to its placement in the Shipping Container; and

d. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana.

2. Required Statement When Tests are Performed. If a Retail Marijuana Testing Facility(-ies) conducted a test(s) on a Harvest Batch, then every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to a Shipping Container holding any Retail Marijuana from that Harvest Batch with the results of that test. The type of information that must be labeled shall be limited to the following:

a. A cannabinoid potency profile expressed as a range of percentages that extends from the lowest percentage to highest percentage of concentration 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 tests for the following contaminants were conducted: (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(ies) did not test a Harvest Batch for potency, then every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to a Shipping Container holding any Retail Marijuana from that Harvest Batch with following the statement **"The marijuana contained within this package has not been tested for potency, consume with caution."**

4. Required Statement When Contaminant Tests Are Not Performed. If a Retail Marijuana Testing Facility(-ies) did not test a Harvest Batch for (1) molds, mildew and filth; (2) microbials, (3) herbicides, pesticides, and fungicides, and (4) harmful chemicals, then every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to a Shipping Container holding any Retail Marijuana from that Harvest Batch with the following statement: **"The marijuana contained within this package has not been tested for contaminants."**

C. Labeling of Retail Marijuana Containers by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. If a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility packages Retail Marijuana within a Container that is then placed within a Shipping Container, each Container must be affixed with a label(s) containing all of the information required by Rule R 1002.B, except that the net weight statement required by Rule R 1002.B.1.c shall be based upon the weight in the Container and not the Shipping Container.

Basis and Purpose – R 1002.5

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(VII), 12-43.4-403(5), and 25-4-1614(3)(a), 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 every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility label each Shipping Container and Container of Retail Marijuana with all of the necessary and relevant information for the receiving Retail Marijuana Establishment. In addition, this rule clarifies basic packaging requirements. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques to all Retail Marijuana as this is a public health and safety concern.

R 1002.5 – Packaging and Labeling of Retail Marijuana by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility

Rule R 1002.5 is effective beginning October 1, 2016.

A. Packaging of Retail Marijuana by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. Every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility must ensure that all Retail Marijuana is placed within a sealed, tamper-evident Shipping Container that has no more than ten pounds of Retail Marijuana within it prior to transport or transfer of any Retail Marijuana to another Retail Marijuana Establishment.

B. Labeling of Retail Marijuana Shipping Containers by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. Every Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must ensure that a label(s) is affixed to every Shipping Container holding Retail Marijuana that includes all of the information required by this rule prior to transport or transfer to another Retail Marijuana Establishment.

1. Required Information. Every Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must ensure the following information is affixed to every Shipping Container holding Retail Marijuana:

   a. The license number of the Retail Marijuana Cultivation Facility where the Retail Marijuana was grown;

   b. The Harvest Batch Number(s) assigned to the Retail Marijuana;

   c. The net weight, using a standard of measure compatible with the Inventory Tracking System, of the Retail Marijuana prior to its placement in the Shipping Container; and

   d. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana.

2. Required Potency Statement. For each Harvest Batch of Retail Marijuana packaged within a Shipping Container, the potency of at least the Retail Marijuana's THC and CBD shall be included on a label that is affixed to the Shipping Container. The potency shall be expressed as a range of percentages that extends from the lowest percentage to the highest percentage of concentration 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 six months.

3. Required Contaminant Testing Statement.

a. When All Required Contaminant Tests Are Not Performed. If a Retail Marijuana Testing Facility did not test a Harvest Batch for microbials, mold, mildew, and filth, then the Shipping Container shall be labeled with the following statement: **"The marijuana contained within this package has not been tested for contaminants."** Except that when a Retail Marijuana Cultivation Facility has successfully validated its process regarding contaminants pursuant to rule R 1501, then the Shipping Container instead shall be labeled with the following statement: "**The marijuana contained within this package complies with the mandatory contaminant testing required by rule R 1501.**"

b. When All Required Contaminant Tests Are Performed and Passed. If a Retail Marijuana Testing Facility tested a Harvest Batch for microbials, mold, mildew, and filth, and the required test(s) passed, then the Shipping Container shall be labeled with the following statement: "**The marijuana contained within this package complies with the mandatory contaminant testing required by rule R 1501**."

c. Nothing in this rule permits a Retail Marijuana Establishment to transfer, wholesale, or sell Retail Marijuana that has failed contaminant testing and has not subsequently passed the additional contaminant testing required by rule R 1507(B).

C. Labeling of Retail Marijuana Containers by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. If a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility packages Retail Marijuana within a Container that is then placed within a Shipping Container, each Container must be affixed with a label(s) containing all of the information required by Rule R 1002(B), except that the net weight statement required by Rule R 1002 (B)(1)(c) shall be based upon the weight in the Container and not the Shipping Container.

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)(VII), 12-43.4-403(5), 12-43.4-404(1)(e)(II), 12-43.4-404(1)(e)(III), and 25-4-1614(3)(a), 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 every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility labels each Shipping Container and Container of Retail Marijuana Concentrate with all of the necessary and relevant information for the receiving Retail Marijuana Establishment. In addition, this rule clarifies basic packaging requirements. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques to all Retail Marijuana Concentrate as this is a public health and safety concern.

R 1003 – Packaging and Labeling of Retail Marijuana Concentrate by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility.

Rule R 1003 is repealed effective October 1, 2016. Licensees shall refer to rule R 1003.5 beginning October 1, 2016.

A. Packaging of Retail Marijuana Concentrate by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. Every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility must ensure that all Retail Marijuana Concentrate are placed within a sealed, tamper-evident Shipping Container that has no more than one pound of Retail Marijuana Concentrate within it prior to transport or transfer to another Retail Marijuana Establishment.

B. Labeling Retail Marijuana Concentrate Shipping Containers by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. Every Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must ensure that a label(s) is affixed to every Shipping Container holding a Retail Marijuana Concentrate that includes all of the information required by this rule prior to transport or transfer to another Retail Marijuana Establishment.

1. Required Information. Every Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must ensure the following information is affixed to every Shipping Container holding a Retail Marijuana Concentrate:

a. The license number of the Retail Marijuana Cultivation Facility(-ies) where the Retail Marijuana used to produce the Retail Marijuana Concentrate 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 to the Retail Marijuana Concentrate contained within the Shipping Container;

d. The net weight, using a standard of measure compatible with the Inventory Tracking System, of the Retail Marijuana Concentrate prior to its placement in the 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 Concentrate contained; and

f. A complete list of solvents and chemicals used to create the Retail Marijuana Concentrate.

2. Required Statement When Contaminant Tests are Performed. Every Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to a Shipping Container in which a Retail Marijuana Concentrate is placed that contains a statement asserting that the Retail Marijuana Concentrate within was tested for contaminants and the results of those tests, if:

a. A Retail Marijuana Testing Facility(ies) tested every Harvest Batch used to produce the Retail Marijuana Concentrate for (1) molds, mildew and filth; (2) microbials; (3) herbicides, pesticides and fungicides, (4) and harmful chemicals; and

b. A Retail Marijuana Testing Facility tested the Production Batch of the Retail Marijuana Concentrate for residual solvents, poisons or toxins.

3. Required Statement When Potency Testing is Performed. If a Retail Marijuana Testing Facility tested the Production Batch of the Retail Marijuana Concentrate within a Shipping Container for potency, then every Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to the Shipping Container with a cannabinoid potency profile expressed as a percentage.

4. Required Statement When Contaminant Tests Are Not Performed. Every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to each Shipping Container that holds a Retail Marijuana Concentrate with the statement: **"The marijuana concentrate contained within this package has not been tested for contaminants."** unless:

a. A Retail Marijuana Testing Facility(ies) tested every Harvest Batch used to produce the Retail Marijuana Concentrate for (1) molds, mildew and filth; (2) microbials; (3) herbicides, pesticides and fungicides, (4) and harmful chemicals; and

b. A Retail Marijuana Testing Facility tested the Production Batch of the Retail Marijuana Concentrate for residual solvents, poisons or toxins.

5. Required Statement When Potency Testing Is Not Performed. If a Retail Marijuana Testing Facility did not test the Production Batch of the Retail Marijuana Concentrate within a Shipping Container for potency, then every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility must ensure a label is affixed to the Shipping Container with the statement: **"The marijuana concentrate contained within this package has not been tested for potency, consume with caution."**

C. Labeling of Retail Marijuana Concentrate Containers by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. If a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility packages a Retail Marijuana Concentrate within a Container that is then placed within a Shipping Container, each Container must be affixed with a label(s) containing all of the information required by Rule R 1003.B, except that the net weight statement required by Rule R 1003.B.1.d shall be based upon the weight in the Container and not the Shipping Container.

Basis and Purpose – R 1003.5

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(VII), 12-43.4-403(5), 12-43.4-404(1)(e)(II), 12-43.4-404(1)(e)(III), and 25-4-1614(3)(a), 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 every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility labels each Shipping Container and Container of Retail Marijuana Concentrate with all of the necessary and relevant information for the receiving Retail Marijuana Establishment. In addition, this rule clarifies basic packaging requirements. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques to all Retail Marijuana Concentrate as this is a public health and safety concern.

R 1003.5 – Packaging and Labeling of Retail Marijuana Concentrate by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility.

Rule R 1003.5 is effective beginning October 1, 2016.

A. Packaging of Retail Marijuana Concentrate by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. Every Retail Marijuana Cultivation Facility and Retail Marijuana Products Manufacturing Facility must ensure that all Retail Marijuana Concentrate is placed within a sealed, tamper-evident Shipping Container that has no more than one pound of Retail Marijuana Concentrate within it prior to transport or transfer to another Retail Marijuana Establishment.

B. Labeling Retail Marijuana Concentrate Shipping Containers by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. Every Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must ensure that a label(s) is affixed to every Shipping Container holding Retail Marijuana Concentrate that includes all of the information required by this rule prior to transport or transfer to another Retail Marijuana Establishment.

1. Required Information. Every Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must ensure the following information is affixed to every Shipping Container holding Retail Marijuana Concentrate:

a. The license number(s) of the Retail Marijuana Cultivation Facility(-ies) where the Retail Marijuana used to produce the Retail Marijuana Concentrate 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 to the Retail Marijuana Concentrate contained within the Shipping Container;

d. The net weight, using a standard of measure compatible with the Inventory Tracking System, of the Retail Marijuana Concentrate prior to its placement in the 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 Concentrate contained within; and

f. A complete list of solvents and chemicals used to create the Retail Marijuana Concentrate.

2. Required Potency Statement. For each Production Batch of Retail Marijuana Concentrate packaged within a Shipping Container, the potency of at least the Retail Marijuana Concentrate's THC and CBD shall be included on a label that is affixed to the Shipping Container. The potency shall be expressed in milligrams for each cannabinoid.

3. Required Contaminant Testing Statement.

a. When All Required Contaminant Tests Are Not Performed.

i. Solvent-Based Retail Marijuana Concentrate. If a Retail Marijuana Testing Facility did not test a Production Batch of Solvent-Based Retail Marijuana Concentrate for residual solvents, mold, and mildew, then the Shipping Container shall be labeled with the following statement: **"The Retail Marijuana Concentrate contained within this package has not been tested for contaminants."** Except that when a Retail Marijuana Products Manufacturing Facility has successfully validated its process regarding contaminants pursuant to rule R 1501, the Shipping Container instead shall be labeled with the following statement: "**The Retail Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule R 1501.**"

ii. Food- and Water-Based Retail Marijuana Concentrate. If a Retail Marijuana Testing Facility did not test a Production Batch of Food- or Water-Based Retail Marijuana Concentrate for microbials, mold, and mildew, then the Shipping Container shall be labeled with the following statement: **"The Retail Marijuana Concentrate contained within this package has not been tested for contaminants."** Except that when a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility has successfully validated its process regarding contaminants pursuant to rule R 1501, then the Shipping Container instead shall be labeled with the following statement: "**The Retail Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule R 1501.**"

b. When All Required Contaminant Tests Are Performed and Passed.

i. Solvent-Based Retail Marijuana Concentrate. If a Retail Marijuana Testing Facility tested a Production Batch of Solvent-Based Retail Marijuana Concentrate for residual solvents, mold, and mildew, and the required test(s) passed, then the Shipping Container instead shall be labeled with the following statement: "**The Retail Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule R 1501**."

ii. Food- and Water-Based Retail Marijuana Concentrate. If a Retail Marijuana Testing Facility tested a Production Batch for microbials, mold, and mildew, and the required test(s) passed, then the Shipping Container instead shall be labeled with the following statement: "**The Retail Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule R 1501**."

c. Nothing in this rule permits a Retail Marijuana Establishment to transfer, wholesale, or sell Retail Marijuana Concentrate that has failed contaminant testing and has not subsequently passed the additional contaminant testing required by rule R 1507(B).

C. Labeling of Retail Marijuana Concentrate Containers by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility. If a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility packages a Retail Marijuana Concentrate within a Container that is then placed within a Shipping Container, each Container must be affixed with a label(s) containing all of the information required by Rule R 1003(B), except that the net weight statement required by Rule R 1003(B)(1)(d) shall be based upon the weight in the Container and not the Shipping Container.

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), 12-43.4-202(3)(c)(III), 12-43.4-202(3)(c)(V), 12-43.4-404(4), 12-43.4-404(6), 12-43.4-404(8), 12-43.4-901(2)(a), and 25-4-1614(3)(a), 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 every Retail Marijuana Products Manufacturing Facility labels each Shipping Container and Container holding a Retail Marijuana Product with all of the necessary and relevant information for the receiving Retail Marijuana Establishment. In addition, this rule clarifies basic packaging requirements. The State Licensing Authority wants to ensure the regulated community employs proper packaging and labeling techniques for each Retail Marijuana Product as this is a public health and safety concern. The allowable plus or minus 15% potency variance has been included in the rule pursuant to the mandate of House Bill 15-1283, which modified 12-43.4-202(3)(a)(IV)(E), C.R.S. The bill established that the acceptable potency variance, which the Division must determine for correct labeling, must be at least plus or minus 15 percent.

R 1004 – Packaging and Labeling Requirements of a Retail Marijuana Product by a Retail Marijuana Products Manufacturing Facility

Rule R 1004 is effective beginning October 1, 2016.

A. Packaging of Retail Marijuana Product by a Retail Marijuana Products Manufacturing Facility

1. General Standard. Every Retail Marijuana Products Manufacturing Facility must ensure that each Container holding a Retail Marijuana Product is placed in a Shipping Container prior to transport or transfer to another Retail Marijuana Establishment.

2. Single-Serving Edible Retail Marijuana Product. Every Retail Marijuana Products Manufacturing Facility must ensure that each Single-Serving Edible Retail Marijuana Product is packaged within a Child-Resistant Container prior to transport or transfer to another Retail Marijuana Establishment.

3. Bundled Single-Serving Edible Retail Marijuana Product. A Retail Marijuana Products Manufacturing Facility may bundle Single-Serving Edible Retail Marijuana Products that are packaged in Child-Resistant packaging and labeled pursuant to Rule R 1004.5(B) into a larger package that does not need to be Child-Resistant so long as:

    a. The total amount of active THC contained within the larger package does not exceed 100 milligrams;

    b. The larger package complies with the Universal Symbol labeling requirement of subsubparagraph (B)(1)(i) of this rule R 1004; and

    c. The larger package complies with the Serving Size and Total Active THC Statement requirement of subsubparagraph (B)(2)(c) of this rule R 1004.

4. Multiple-Serving Edible Retail Marijuana Product. Every Retail Marijuana Products Manufacturing Facility must ensure that each Multiple-Serving Edible Marijuana Product is packaged within a Child-Resistant Container that maintains its Child-Resistant effectiveness for multiple openings prior to transport or transfer to another Retail Marijuana Establishment.

5. Retail Marijuana Product that is not Edible Retail Marijuana Product. Every Retail Marijuana Products Manufacturing Facility must ensure that each Retail Marijuana Product that is not an Edible Retail Marijuana Product is individually packaged within a Container prior to transport or transfer to another Retail Marijuana Establishment.

B. Labeling of Retail Marijuana Product Containers by a Retail Marijuana Products Manufacturing Facility. A Retail Marijuana Products Manufacturing Facility must ensure that a label(s) is affixed to every Container holding a Retail Marijuana Product that includes all of the information required by this rule prior to transport or transfer to another Retail Marijuana Establishment.

1. Required Information (General). Every Retail Marijuana Products Manufacturing Facility must ensure the following information is affixed to every Container holding a Retail Marijuana Product:

    a. The license number of the Retail Marijuana Cultivation Facility(-ies) where the Retail Marijuana used to produce the Retail Marijuana Product was grown;

    b. The Production Batch Number(s) of Retail Marijuana Concentrate(s) used in the production of the Retail Marijuana Product.

    c. The license number of the Retail Marijuana Products Manufacturing Facility that produced the Retail Marijuana Product.

    d. A net weight statement.

    e. The Production Batch Number(s) assigned to the Retail Marijuana Product.

    f. A statement about whether the Container is Child-Resistant.

    g. A clear set of usage instructions for non-Edible Retail Marijuana Product.

h. The Identity Statement and Standardized Graphic Symbol of the Retail Marijuana Products Manufacturing Facility that manufactured the Retail Marijuana Product. 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;

i. The Universal Symbol, which must be located on the front of the packaging and no smaller than ½ of an inch by ½ of an inch, and the following statement which must be labeled directly below the Universal Symbol: "Contains Marijuana. Keep out of the reach of children.";

j. The following warning statements:

i. **"There may be health risks associated with the consumption of this product."**

ii. **"This product contains marijuana and its potency was tested with an allowable plus or minus 15% variance pursuant to 12-43.4-202(3)(a)(IV)(E), C.R.S."**

iii. **"This product was produced without regulatory oversight for health, safety, or efficacy."**

iv. **"The intoxicating effects of this product may be delayed by two or more hours."**

v. **"There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant."**

vi. **"Do not drive a motor vehicle or operate heavy machinery while using marijuana."**

k. 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.

l. A complete list of solvents and chemicals used in the creation of any Retail Marijuana concentrate that was used to produce the Retail Marijuana Product.

2. Required Information (Edible Retail Marijuana Product). Every Retail Marijuana Products Manufacturing Facility must ensure that the following information or statement is affixed to every Container holding an Edible Retail Marijuana Product:

a. Ingredient List. A list of all ingredients used to manufacture the Edible Retail Marijuana Product; which shall include a list of any potential allergens contained within.

b. Statement Regarding Refrigeration. If the Retail Marijuana Product is perishable, a statement that the Retail Marijuana Product must be refrigerated.

c. Serving Size and Total Active THC Statement. Information regarding: the size of Standardized Serving Of Marijuana for the product by milligrams, the total number of Standardized Servings of Marijuana in the product, and the total amount of active THC in the product by milligrams. For example: **"The serving size of active THC in this product is X mg, this product contains X servings of marijuana, and the total amount of active THC in this product is X mg."**

d. Statement of Production Date. The date on which the Edible Retail Marijuana Product was produced.

e. Statement of Expiration Date. A product expiration date, for perishable Retail Marijuana Product, 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 holding a Retail Marijuana Product, a Licensee shall not alter that date or affix a new label with a later use-by or expiration date.

f. A nutritional fact panel that must be based on the number of THC servings within the Container.

3. Permissive Information (Edible Retail Marijuana Product). Every Retail Marijuana Products Manufacturing Facility may affix a label(s) with the following information to every Container holding an Edible Retail Marijuana Product:

a. The Retail Marijuana Product's compatibility with dietary restrictions.

4. Required Potency Statement.

a. Every Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to the Container that includes the number of THC servings within the Container, and at least the Retail Marijuana Product's THC and CBD content.

b. Nothing in this rule permits a Retail Marijuana Establishment to transfer, wholesale, or sell Retail Marijuana Product that has failed potency testing and has not subsequently passed the additional potency testing required by rule R 1507(C).

5. Required Contaminant Testing Statement.

a. When All Required Contaminant Tests Are Not Performed. If a Retail Marijuana Testing Facility did not test a Production Batch of Retail Marijuana Product for microbials, mold, and mildew, then the Container shall be labeled with the following statement: **"The Retail Marijuana Product contained within this package has not been tested for contaminants."** Except that when a Retail Marijuana Products Manufacturing Facility has successfully validated its process regarding contaminants for the particular Retail Marijuana Product pursuant to rule R 1501, then the Container instead shall be labeled with the following statement: "**The Retail Marijuana Product contained within this package complies with the mandatory contaminant testing required by rule R 1501.**"

b. When All Contaminant Tests Are Performed and Passed. If a Retail Marijuana Testing Facility tested a Production Batch of Retail Marijuana Product for microbials, mold, and mildew, and the required test(s) passed, then the Container shall be labeled with the following statement: "**The Retail Marijuana Product contained within this package complies with the mandatory contaminant testing required by rule R 1501**."

c. Nothing in this rule permits a Retail Marijuana Establishment to transfer, wholesale, or sell Retail Marijuana Product that has failed contaminant testing and has not subsequently passed the additional contaminant testing required by rule R 1507(B).

D. Labeling of Retail Marijuana Product Shipping Containers by Retail Marijuana Products Manufacturing Facility. Prior to transporting or transferring any Retail Marijuana Product to another Retail Marijuana Establishment, a Retail Marijuana Manufacturing Products Facility must ensure that a label is affixed to a Shipping Container holding 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 Containers holding a Retail Marijuana Product within the Shipping Container; and

2. The license number of the Retail Marijuana Products Manufacturing Facility(-ies) that produced the Retail Marijuana Product within the Shipping Container.

Basis and Purpose – R 1004.5

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), 12-43.4-404(6), and 25-4-1614(3)(a), 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 every Retail Marijuana Products Manufacturing Facility labels each Shipping Container and Container holding a Retail Marijuana Product with all of the necessary and relevant information for the receiving Retail Marijuana Establishment. In addition, this rule clarifies basic packaging requirements. The State Licensing Authority wants to ensure the regulated community employs proper packaging and labeling techniques for each Retail Marijuana Product as this is a public health and safety concern.

R 1004.5 – Packaging and Labeling Requirements of a Retail Marijuana Product by a Retail Marijuana Products Manufacturing Facility

Rule R 1004.5 is repealed effective October 1, 2016. Licensees shall refer to rule R 1004 beginning October 1, 2016.

A. Applicability. This rule shall apply to all Retail Marijuana Products manufactured on or after February 1, 2015.

B. Packaging of Retail Marijuana Product by a Retail Marijuana Products Manufacturing Facility

1. General Standard.

a. Every Retail Marijuana Products Manufacturing Facility must ensure that each Container holding a Retail Marijuana Product is placed in a Shipping Container prior to transport or transfer to another Retail Marijuana Establishment.

2. Single-Serving Edible Retail Marijuana Product.

a. Every Retail Marijuana Products Manufacturing Facility must ensure that each Single-Serving Edible Retail Marijuana Product is packaged within a Child-Resistant Container prior to transport or transfer to another Retail Marijuana Establishment.

b. A Retail Marijuana Products Manufacturing Facility may bundle Single-Serving Edible Retail Marijuana Products that are packaged in Child-Resistant packaging and labeled pursuant to Rule R 1004.5(C) into a larger package that does not need to be Child-Resistant so long as the total amount of active THC contained within the bundled package does not exceed 100 milligrams and the external packaging complies with the Serving Size and Total Active THC Statement requirement of subparagraph (C)(2)(c) of this rule.

3. Multiple-Serving Edible Retail Marijuana Product.

a. Every Retail Marijuana Products Manufacturing Facility must ensure that each Multiple-Serving Edible Marijuana Product is packaged within a Child-Resistant Container that maintains its Child-Resistant effectiveness for multiple openings prior to transport or transfer to another Retail Marijuana Establishment.

4. Liquid Edible Retail Marijuana Product.

a. Liquid Edible Retail Marijuana Product that contains no more than one Standardized Serving Of Marijuana. A Retail Marijuana Products Manufacturing Facility must ensure that each product complies with subparagraph (B)(2)(a) of this rule.

b. Liquid Edible Retail Marijuana Product that contains more than one Standardized Serving Of Marijuana.

i. A Retail Marijuana Products Manufacturing Facility must ensure that each product is packaged in a Child-Resistant Container that maintains its Child-Resistant effectiveness for multiple openings; and

ii. The Container shall clearly demark each Standardized Serving Of Marijuana in a way that enables a reasonable person to intuitively determine how much of the product constitutes a single serving of active THC. The portion of the Container that clearly demarks each Standardized Serving Of Marijuana need not be Opaque; OR

iii. The Container shall include a device that allows a reasonable person to intuitively measure and serve a single serving of active THC.

5. Retail Marijuana Product that is not Edible Retail Marijuana Product.

   a. Every Retail Marijuana Products Manufacturing Facility must ensure that each Retail Marijuana Product that is not an Edible Retail Marijuana Product is individually packaged within a Container prior to transport or transfer to another Retail Marijuana Establishment.

C. Labeling of Retail Marijuana Product Containers by a Retail Marijuana Products Manufacturing Facility. A Retail Marijuana Products Manufacturing Facility must ensure that a label(s) is affixed to every Container holding a Retail Marijuana Product that includes all of the information required by this rule prior to transport or transfer to another Retail Marijuana Establishment.

1. Required Information (General). Every Retail Marijuana Products Manufacturing Facility must ensure the following information is affixed to every Container holding a Retail Marijuana Product:

   a. The license number of the Retail Marijuana Cultivation Facility(-ies) where the Retail Marijuana used to produce the Retail Marijuana Product was grown;

   b. The Production Batch Number(s) of Retail Marijuana Concentrate(s) used in the production of the Retail Marijuana Product.

   c. The license number of the Retail Marijuana Products Manufacturing Facility that produced the Retail Marijuana Product.

   d. A net weight statement.

   e. The Production Batch Number(s) assigned to the Retail Marijuana Product.

   f. A statement about whether the Container is Child-Resistant.

   g. A clear set of usage instructions for non-Edible Retail Marijuana Product.

   h. The Identity Statement and Standardized Graphic Symbol of the Retail Marijuana Products Manufacturing Facility that manufactured the Retail Marijuana Product. 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;

   i. The Universal Symbol, indicating that the Container holds marijuana, which must be no smaller than ¼ of an inch by ¼ of an inch. Nothing in this rule prohibits a Licensee from the voluntary use of the revised Universal Symbol prior to its mandatory use beginning on October 1, 2016;

   j. The following warning statements:

      i. **"There may be health risks associated with the consumption of this product."**

ii. **"This product is infused with marijuana."**

iii. **"This product was produced without regulatory oversight for health, safety, or efficacy."**

iv. **"The intoxicating effects of this product may be delayed by two or more hours."**

v. **"There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant."**

vi. **"Do not drive a motor vehicle or operate heavy machinery while using marijuana."**

k. 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.

l. A complete list of solvents and chemicals used in the creation of any Retail Marijuana concentrate that was used to produce the Retail Marijuana Product.

2. Required Information (Edible Retail Marijuana Product). Every Retail Marijuana Products Manufacturing Facility must ensure that the following information or statement is affixed to every Container holding an Edible Retail Marijuana Product:

a. Ingredient List. A list of all ingredients used to manufacture the Edible Retail Marijuana Product; which shall include a list of any potential allergens contained within.

b. Statement Regarding Refrigeration. If the Retail Marijuana Product is perishable, a statement that the Retail Marijuana Product must be refrigerated.

c. Serving Size and Total Active THC Statement. Information regarding: the size of Standardized Serving Of Marijuana for the product by milligrams, the total number of Standardized Servings of Marijuana in the product, and the total amount of active THC in the product by milligrams. For example: **"The serving size of active THC in this product is X mg, this product contains X servings of marijuana, and the total amount of active THC in this product is X mg."**

d. Statement of Production Date. The date on which the Edible Retail Marijuana Product was produced.

e. Statement of Expiration Date. A product expiration date, for perishable Retail Marijuana Product, 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 holding a Retail Marijuana Product, a Licensee shall not alter that date or affix a new label with a later use-by or expiration date.

f. A nutritional fact panel that must be based on the number of THC servings within the Container.

3. Permissive Information (Edible Retail Marijuana Product). Every Retail Marijuana Products Manufacturing Facility may affix a label(s) with the following information to every Container holding an Edible Retail Marijuana Product:

a. The Retail Marijuana Product's compatibility with dietary restrictions.

4. Required Statement When Contaminant Tests are Performed. Every Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to each Container holding a Retail Marijuana Product with a statement asserting that the Retail Marijuana Product was tested for contaminants and the results of those tests, if:

a. A Retail Marijuana Testing Facility(ies) tested every Harvest Batch used to produce the Retail Marijuana Product for contaminants required to be tested per rule R 1501;

b. A Retail Marijuana Testing Facility tested every Production Batch of Retail Marijuana concentrate used to produce the Retail Marijuana Product for contaminants required to be tested per rule R 1501; and

c. A Retail Marijuana Testing Facility(ies) tested the Production Batch of the Retail Marijuana Product for contaminants required to be tested per rule R 1501.

5. Required Statement When Cannabinoid Potency is Tested. Every Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to the Container with a potency profile expressed in milligrams pursuant to rule R 1503 and the number of THC servings within the Container.

6. Required Statement When No Contaminant Testing is Completed. Every Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to each Container that holds a Retail Marijuana Product with the statement: **"The marijuana product contained within this package has not been tested for contaminants."** unless:

a. A Retail Marijuana Testing Facility(ies) tested every Harvest Batch used to produce the Retail Marijuana Product for contaminants required to be tested per rule R 1501;

b. A Retail Marijuana Testing Facility tested every Production Batch of Retail Marijuana concentrate used to produce the Retail Marijuana Product for contaminants required to be tested per rule R 1501; and

c. A Retail Marijuana Testing Facility(ies) tested the Production Batch of the Retail Marijuana Product for contaminants required to be tested per rule R 1501.

D. Labeling of Retail Marijuana Product Shipping Containers by Retail Marijuana Products Manufacturing Facility. Prior to transporting or transferring any Retail Marijuana Product to another Retail Marijuana Establishment, a Retail Marijuana Manufacturing Products Facility must ensure that a label is affixed to a Shipping Container holding 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 Containers holding a Retail Marijuana Product within the Shipping Container; and

2. The license number of the Retail Marijuana Products Manufacturing Facility(-ies) that produced the Retail Marijuana Product within the Shipping Container.

Basis and Purpose – R 1005

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-402(4), and 25-4-1614(3)(a), 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 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. Further, the State Licensing Authority believes based on written and oral comments it has received through the rulemaking process that prohibiting labels that are intended to target individuals under the age of 21 and requiring child-resistant packaging is of a state wide concern and would assist in limiting exposure and diversion to minors. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques to all Retail Marijuana as this is a public health and safety concern.

R 1005 – Packaging and Labeling of Retail Marijuana by a Retail Marijuana Store

Rule R 1005 is repealed effective October 1, 2016. Licensees shall refer to rule R 1005.5 beginning October 1, 2016.

A. Packaging of Retail Marijuana by a Retail Marijuana Store. A Retail Marijuana Store must ensure that all Retail Marijuana is placed within a Container prior to sale to a consumer. If the Container is not Child-Resistant, the Retail Marijuana Store must place the Container within an Exit Package that is Child-Resistant

B. Labeling of Retail Marijuana by a Retail Marijuana Store. 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 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 Harvest Batch Number(s) assigned to the Retail Marijuana within the Container;

e. The date of sale to the consumer;

f. The net weight, in grams to at least the tenth of a gram, of the Retail Marijuana prior to its placement in the Container;

g. The Universal Symbol, indicating that the Container holds marijuana, which must be no smaller than ¼ of an inch by ¼ of an inch. Nothing in this rule prohibits a Licensee from the voluntary use of the revised Universal Symbol prior to its mandatory use beginning on October 1, 2016;

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.

2. Required Statement When Tests are Performed. If a Retail Marijuana Testing Facility(-ies) conducted a test(s) on a Harvest Batch, then a Retail Marijuana Store must ensure that a label is affixed to a Container holding any Retail Marijuana from that Harvest Batch with the results of that test. The type of information that must be labeled shall be limited to the following:

a. A cannabinoid potency profile expressed as a range of percentages that extends from the lowest percentage to highest percentage of concentration 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 tests for the following contaminants were conducted: (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(ies) did not test a Harvest Batch for potency, then a Retail Marijuana Store must ensure that a label is affixed to a Container holding any Retail Marijuana from that Harvest Batch with following the statement: **"The marijuana contained within this package has not been tested for potency, consume with caution."**

4. Required Statement When Contaminant Tests Are Not Performed. If a Retail Marijuana Testing Facility(-ies) did not test a Harvest Batch for (1) molds, mildew and filth; (2) microbials, (3) herbicides, pesticides, and fungicides, and (4) harmful chemicals, then a Retail Marijuana Store must ensure that a label is affixed to a Container holding any Retail Marijuana from that Harvest Batch with the following statement: **"The marijuana contained within this package has not been tested for contaminants."**

Basis and Purpose – R 1005.5

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-402(4), and 25-4-1614(3)(a), 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 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. Further, the State Licensing Authority believes based on written and oral comments it has received through the rulemaking process that prohibiting labels that are intended to target individuals under the age of 21 and requiring child-resistant packaging is of a state wide concern and would assist in limiting exposure and diversion to minors. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques to all Retail Marijuana as this is a public health and safety concern. The allowable plus or minus 15% potency variance has been included in the rule pursuant to the mandate of House Bill 15-1283, which modified 12-43.4-202(3)(a)(IV)(E), C.R.S. The bill established that the acceptable potency variance, which the Division must determine for correct labeling, must be at least plus or minus 15 percent.

R 1005.5 – Packaging and Labeling of Retail Marijuana by a Retail Marijuana Store

Rule 1005.5 is effective beginning October 1, 2016.

A. Packaging of Retail Marijuana by a Retail Marijuana Store. A Retail Marijuana Store must ensure that all Retail Marijuana is placed within a Container prior to sale to a consumer. If the Container is not Child-Resistant, the Retail Marijuana Store must place the Container within an Exit Package that is Child-Resistant

B. Labeling of Retail Marijuana by a Retail Marijuana Store. A Retail Marijuana Store must affix all of the information required by this rule to every Container in which Retail Marijuana is placed no later than at the time of 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 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 Harvest Batch Number(s) assigned to the Retail Marijuana within the Container;

e. The date of sale to the consumer;

f. The net weight, in grams to at least the tenth of a gram, of the Retail Marijuana prior to its placement in the Container;

g. The Universal Symbol, which must be located on the front of the Container and no smaller than ½ of an inch by ½ of an inch, and the following statement which must be labeled directly below the Universal Symbol: "Contains Marijuana. Keep out of the reach of children.";

h. The following warning statements:

i. **"There may be health risks associated with the consumption of this product."**

ii. **"This marijuana's potency was tested with an allowable plus or minus 15% variance pursuant to 12-43.4-202(3)(a)(IV)(E), C.R.S."**

iii. **"There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant."**

iv. **"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.

2. Required Potency Statement. For each Harvest Batch of Retail Marijuana packaged within a Container, the Retail Marijuana Store shall ensure the potency of at least the Retail Marijuana's THC and CBD is included on a label that is affixed to the Container. The potency shall be expressed as a range of percentages that extends from the lowest percentage to the highest percentage of concentration 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 six months.

3. Required Contaminant Testing Statement.

a. When All Required Contaminant Tests Are Not Performed. If a Retail Marijuana Testing Facility did not test a Harvest Batch for microbials, mold, mildew, and filth, then a Retail Marijuana Store must ensure that a label is affixed to a Container holding any Retail Marijuana from that Harvest Batch with the following statement: **"The marijuana contained within this package has not been tested for contaminants."** Except that when a Retail Marijuana Cultivation Facility has successfully validated its process regarding contaminants pursuant to rule R 1501, then the Container instead shall be labeled with the following statement: "**The marijuana contained within this package complies with the mandatory contaminant testing required by rule R 1501**."

b. When All Required Contaminant Tests Are Performed and Passed. If a Retail Marijuana Testing Facility tested a Harvest Batch for microbials, mold, mildew, and filth, and all the required test(s) passed, then the Container shall be labeled with the following statement: "**The marijuana contained within this package complies with the mandatory contaminant testing required by rule R 1501**."

c. Nothing in this rule permits a Retail Marijuana Establishment to transfer, wholesale, or sell Retail Marijuana that has failed contaminant testing and has not subsequently passed the additional contaminant testing required by rule R 1507(B).

Basis and Purpose – R 1006

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(c)(III), 12-43.4-202(3)(c)(V), 12-43.4-402(2), 12-43.4-402(4), 12-43.4-402(5), 12-43.4-901(2)(a), and 25-4-1614(3)(a), 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 holding 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. Further, the State Licensing Authority believes based on written and oral comments it has received through the rulemaking process that prohibiting labels that are intended to target individuals under the age of 21 and requiring child-resistant packaging is of a state wide concern and would assist in limiting exposure and diversion to minors. The State Licensing Authority wants to ensure the regulated community employs proper packaging and labeling techniques for each Retail Marijuana Product as this is a public health and safety concern. The allowable plus or minus 15% potency variance has been included in the rule pursuant to the mandate of House Bill 15-1283, which modified 12-43.4-202(3)(a)(IV)(E), C.R.S. The bill established that the acceptable potency variance, which the Division must determine for correct labeling, must be at least plus or minus 15 percent.

R 1006 – Packaging and Labeling of Retail Marijuana Product by a Retail Marijuana Store

Rule R 1006 is effective October 1, 2016.

A. Packaging Requirements for a Retail Marijuana Store.

1 Beginning December 1, 2016, a Retail Marijuana Store shall not purchase, take possession of, or sell Retail Marijuana Product that does not comply with rules R 604 and R 1004.

2. A Retail Marijuana Store must ensure that each Edible Retail Marijuana Product placed within a Container for sale to a consumer pursuant to this rule must also be placed in an Opaque Exit Package at the point of sale to the consumer.

3. A Retail Marijuana Store must ensure that each Retail Marijuana Product that is not an Edible Retail Marijuana Product is placed within a Container prior to sale to a consumer. If the Container is not Child-Resistant, the Retail Marijuana Store must place the Container within an Exit Package that is Child-Resistant.

B. Labeling of Retail Marijuana Product by a Retail Marijuana Store. Every Retail Marijuana Store must ensure that a label(s) is affixed to every Exit Package at the time of sale to a consumer that includes all of the information required by this rule. If an Exit Package is not required pursuant to paragraph (B)(3) of this rule, and the Retail Marijuana Store elects not to provide one, then the Retail Marijuana Store must ensure the labels required by this rule are affixed to each Container.

1. Required Information.

a. The license number of the Retail Marijuana Store that sold the Retail Marijuana Product to the consumer;

b. 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;

c. The date of sale to the consumer;

d. The following warning statements;

i. **"There may be health risks associated with the consumption of this product."**

ii. **"This product contains marijuana and its potency was tested with an allowable plus or minus 15% variance pursuant to 12-43.4-202(3)(a)(IV)(E), C.R.S."**

iii. **"This product was produced without regulatory oversight for health, safety, or efficacy."**

iv. **"The intoxicating effects of this product may be delayed by two or more hours."**

v. **"There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant."**

vi. **"Do not drive a motor vehicle or operate heavy machinery while using marijuana."**

e. The Universal Symbol, which must be located on the front of the Container or Exit Package as appropriate and no smaller than ½ of an inch by ½ of an inch, and the following statement which must be labeled directly below the Universal Symbol: "Contains Marijuana. Keep out of the reach of children.".

Basis and Purpose – R 1006.5

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-402(4), and 25-4-1614(3)(a), 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 holding 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. Further, the State Licensing Authority believes based on written and oral comments it has received through the rulemaking process that prohibiting labels that are intended to target individuals under the age of 21 and requiring child-resistant packaging is of a state wide concern and would assist in limiting exposure and diversion to minors. The State Licensing Authority wants to ensure the regulated community employs proper packaging and labeling techniques for each Retail Marijuana Product as this is a public health and safety concern.

R 1006.5 – Packaging and Labeling of Retail Marijuana Product by a Retail Marijuana Store

Rule R 1006.5 is repealed effective October 1, 2016. Licensees shall refer to rule R 1006 beginning October 1, 2016.

A. Applicability. This rule shall apply to all Retail Marijuana Stores beginning February 1, 2015.

B. Packaging Requirements for a Retail Marijuana Store.

1. Beginning February 1, 2015, a Retail Marijuana Store shall not purchase, take possession of, or sell Edible Retail Marijuana Product that does not comply with rule R 1004.5.

2. A Retail Marijuana Store must ensure that each Edible Retail Marijuana Product placed within a Container for sale to a consumer pursuant to this rule must also be placed in an Opaque Exit Package at the point of sale to the consumer.

3. A Retail Marijuana Store must ensure that each Retail Marijuana Product that is not an Edible Retail Marijuana Product is placed within a Container prior to sale to a consumer. If the Container is not Child-Resistant, the Retail Marijuana Store must place the Container within an Exit Package that is Child-Resistant.

C. Labeling of Retail Marijuana Product by a Retail Marijuana Store. Every Retail Marijuana Store must ensure that a label(s) is affixed to every Exit Package at the time of sale to a consumer that includes all of the information required by this rule. If an Exit Package is not required pursuant to paragraph (B)(3) of this rule, and the Retail Marijuana Store elects not to provide one, then the Retail Marijuana Store must ensure the labels required by this rule are affixed to each Container.

1. Required Information.

a. The license number of the Retail Marijuana Store that sold the Retail Marijuana Product to the consumer;

b. 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;

c. The date of sale to the consumer;

d. The date of sale to the consumer;

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 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 a motor vehicle or operate heavy machinery while using marijuana."**

e. The Universal Symbol, indicating that the Exit Package holds marijuana, which must be no smaller than ¼ of an inch by ¼ of an inch. Nothing in this rule prohibits a Licensee from the voluntary use of the revised Universal Symbol prior to its mandatory use beginning on October 1, 2016.

Basis and Purpose – R 1007

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-402(4), and 25-4-1614(3)(a), 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 holding a Retail Marijuana Concentrate 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. Further, the State Licensing Authority believes based on written and oral comments it has received through the rulemaking process that prohibiting labels that are intended to target individuals under the age of 21 and requiring child-resistant packaging is of a state wide concern and would assist in limiting exposure and diversion to minors. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques to each Retail Marijuana Concentrate as this is a public health and safety concern.

R 1007 – Packaging and Labeling of Retail Marijuana Concentrate by a Retail Marijuana Store

Rule R 1007 is repealed effective October 1, 2016. Licensees shall refer to rule R 1007.5 beginning October 1, 2016.

A. Packaging of Retail Marijuana Concentrate by a Retail Marijuana Cultivation Facility. A Retail Marijuana Store must ensure that all Retail Marijuana Concentrate are placed within a Container prior to sale to a consumer. If the Container is not Child-Resistant, the Retail Marijuana Store must place the Container within an Exit Package that is Child-Resistant.

B. Labeling of Retail Marijuana Concentrate by Retail Marijuana Stores. Every Retail Marijuana Store must ensure that a label(s) is affixed to every Container holding Retail Marijuana Concentrate that includes all of the information required by this rule prior to sale to a consumer:

1. Every Retail Marijuana Store must ensure the following information is affixed to every Container holding a Retail Marijuana Concentrate:

a. The license number of the Retail Marijuana Cultivation Facility(-ies) where the Retail Marijuana used to produce the Retail Marijuana Concentrate within the Container 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 to the Retail Marijuana Concentrate;

d. The license number of the Retail Marijuana Store that sold the Retail Marijuana Concentrate to the consumer;

e. The net weight, in grams to at least the tenth of a gram, of the Retail Marijuana Concentrate prior to its placement in the Container;

f. 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 contains marijuana."**

v. **"This product was produced without regulatory oversight for health, safety, or efficacy."**

vi. **"There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant."**

vii. **"Do not drive a motor vehicle or operate heavy machinery while using marijuana."**

h. The Universal Symbol, indicating that the Container holds marijuana, which must be no smaller than ¼ of an inch by ¼ of an inch. Nothing in this rule prohibits a Licensee from the voluntary use of the revised Universal Symbol prior to its mandatory use beginning on October 1, 2016;

i. 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; and

j. A complete list of solvents and chemicals used to produce the Retail Marijuana Concentrate.

2. Every Retail Marijuana Store must ensure that a label is affixed to a Container in which a Retail Marijuana Concentrate is placed that contains a statement asserting that the Retail Marijuana Concentrate within was tested for contaminants and the results of those tests, if:

a. A Retail Marijuana Testing Facility(ies) tested every Harvest Batch used to produce the Retail Marijuana Concentrate for (1) molds, mildew and filth; (2) microbials; (3) herbicides, pesticides and fungicides, (4) and harmful chemicals; and

b. A Retail Marijuana Testing Facility tested the Production Batch of the Retail Marijuana Concentrate for residual solvents, poisons or toxins.

3. Required Statement When Potency Testing is Performed. If a Retail Marijuana Testing Facility tested the Production Batch of the Retail Marijuana Concentrate within a Container for potency, then every Retail Marijuana Store must ensure that a label is affixed to the Shipping Container with a cannabinoid potency profile expressed as a percentage.

4. Required Statement When Contaminant Tests Are Not Performed. Every Retail Marijuana Store must ensure that a label is affixed to each Container that holds a Retail Marijuana Concentrate with the statement: **"The marijuana concentrate contained within this package has not been tested for contaminants."** unless:

a. A Retail Marijuana Testing Facility(ies) tested every Harvest Batch used to produce the Retail Marijuana Concentrate for (1) molds, mildew and filth; (2) microbials; (3) herbicides, pesticides and fungicides, (4) and harmful chemicals; and

b. A Retail Marijuana Testing Facility tested the Production Batch of the Retail Marijuana Concentrate for residual solvents, poisons or toxins.

5. Required Statement When Potency Testing Is Not Performed. If a Retail Marijuana Testing Facility did not test the Production Batch of the Retail Marijuana Concentrate within a Shipping Container for potency, then every Retail Marijuana Store must ensure a label is affixed to the Container with the statement: **"The marijuana concentrate contained within this package has not been tested for potency, consume with caution."**

Basis and Purpose – R 1007.5

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-402(4), and 25-4-1614(3)(a), 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 holding a Retail Marijuana Concentrate 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. Further, the State Licensing Authority believes based on written and oral comments it has received through the rulemaking process that prohibiting labels that are intended to target individuals under the age of 21 and requiring Child-Resistant packaging is of a state wide concern and would assist in limiting exposure and diversion to minors. The State Licensing Authority wants to ensure the regulated community employs proper labeling techniques to each Retail Marijuana Concentrate because this is a public health and safety concern. The allowable plus or minus 15% potency variance has been included in the rule pursuant to the mandate of House Bill 15-1283, which modified 12-43.4-202(3)(a)(IV)(E), C.R.S. The bill established that the acceptable potency variance, which the Division must determine for correct labeling, must be at least plus or minus 15 percent.

R 1007.5 – Packaging and Labeling of Retail Marijuana Concentrate by a Retail Marijuana Store

Rule 1007.5 is effective beginning October 1, 2016.

A. Packaging of Retail Marijuana Concentrate by a Retail Marijuana Cultivation Facility. A Retail Marijuana Store must ensure that all Retail Marijuana Concentrate is placed within a Container prior to sale to a consumer. If the Container is not Child-Resistant, the Retail Marijuana Store must place the Container within an Exit Package that is Child-Resistant.

B. Labeling of Retail Marijuana Concentrate by Retail Marijuana Stores. Every Retail Marijuana Store must ensure that a label(s) is affixed to every Container holding Retail Marijuana Concentrate that includes all of the information required by this rule no later than at the time of sale to a consumer:

1. Every Retail Marijuana Store must ensure the following information is affixed to every Container holding a Retail Marijuana Concentrate:

a. The license number of the Retail Marijuana Cultivation Facility(-ies) where the Retail Marijuana used to produce the Retail Marijuana Concentrate within the Container 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 to the Retail Marijuana Concentrate;

d. The license number of the Retail Marijuana Store that sold the Retail Marijuana Concentrate to the consumer;

e. The net weight, in grams to at least the tenth of a gram, of the Retail Marijuana Concentrate prior to its placement in the Container;

f. 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 contains marijuana and its potency was tested with an allowable plus or minus 15% variance pursuant to 12-43.4-202(3)(a)(IV)(E), C.R.S."**

iii. **"This product was produced without regulatory oversight for health, safety, or efficacy."**

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 a motor vehicle or operate heavy machinery while using marijuana."**

h. The Universal Symbol, which must be located on the front of the Container and no smaller than ½ of an inch by ½ of an inch, and the following statement which must be labeled directly below the Universal Symbol: "Contains Marijuana. Keep out of the reach of children.";

i. 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; and

j. A complete list of solvents and chemicals used to produce the Retail Marijuana Concentrate.

2. Required Potency Statement. For each Production Batch of Retail Marijuana Concentrate packaged within a Container, the Retail Marijuana Store shall ensure the potency of at least the Retail Marijuana Concentrate's THC and CBD is included on a label that is affixed to the Container. The potency shall be expressed in milligrams for each cannabinoid.

3. Required Contaminant Testing Statement.

a. When All Required Contaminant Tests Are Not Performed.

i. Solvent-Based Retail Marijuana Concentrate. If a Retail Marijuana Testing Facility did not test a Production Batch of Solvent-Based Retail Marijuana Concentrate for residual solvents, mold, and mildew, then the Container shall be labeled with the following statement: **"The Retail Marijuana Concentrate contained within this package has not been tested for contaminants."** Except that when a Retail Marijuana Products Manufacturing Facility has successfully validated its process regarding contaminants pursuant to rule R 1501, the Container instead shall be labeled with the following statement: "**The Retail Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule R 1501.**"

ii. Food- and Water-Based Retail Marijuana Concentrate. If a Retail Marijuana Testing Facility did not test a Production Batch of Food- or Water-Based Retail Marijuana Concentrate for microbials, mold, and mildew, then the Container shall be labeled with the following statement: **"The Retail Marijuana Concentrate contained within this package has not been tested for contaminants."** Except that when a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility has successfully validated its process regarding contaminants pursuant to rule R 1501, then the Container instead shall be labeled with the following statement: "**The Retail Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule R 1501.**"

b. When All Required Contaminant Tests Are Performed and Passed.

i. Solvent-Based Retail Marijuana Concentrate. If a Retail Marijuana Testing Facility tested a Production Batch of Solvent-Based Retail Marijuana Concentrate for residual solvents, mold, and mildew, and the required test(s) passed, then the Container shall be labeled with the following statement: "**The Retail Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule R 1501**."

ii. Food- and Water-Based Retail Marijuana Concentrate. If a Retail Marijuana Testing Facility tested a Production Batch for microbials, mold, and mildew, and the required test(s) passed, then the Container shall be labeled with the following statement: "**The Retail Marijuana Concentrate contained within this package complies with the mandatory contaminant testing required by rule R 1501**."

c. Nothing in this rule permits a Retail Marijuana Establishment to transfer, wholesale, or sell Retail Marijuana Concentrate that has failed contaminant testing and has not subsequently passed the additional contaminant testing required by rule R 1507(B).

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)(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 clearly delineate that a Retail Marijuana Establishment is 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 Retail Marijuana Establishment shall not engage in Advertising that is deceptive, false, or misleading. A Retail Marijuana Establishment shall not make any deceptive, false, or misleading assertions or statements on any product, any sign, or any 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 throughout Article XVIII, Section 16 of the Colorado Constitution. The purpose of this rule is to clarify the definition of the term “minor” as used in the Retail Code and these rules.

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

The term “minor” as used in the Retail Code and 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)(I), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to television Advertising.

The operation of Retail Marijuana Establishments in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Section 16. Article XVIII, Section 16 of the Colorado Constitution prohibits the purchase, possession and consumption of Retail Marijuana by those under the age of 21. See for example Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(1)(b). The constitutionally mandated regulatory scheme governing Retail Marijuana Establishments must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to persons under the age of 21. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Retail Code adopted in 2013, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* §12-43.4-202(3)(c), C.R.S. The Retail Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. *See* §12-43.4-202(3)(c)(I), C.R.S. Through the rulemaking process, the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors' decision-making with regard to substance use and abuse. Nearly all live testimony at the rulemaking hearing requested less restrictive advertising rules, but written commentary included multiple perspectives. The written and oral testimony and commentary included a variety of recommended standards for determining when advertising has a high likelihood of reaching minors. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than approximately 30 percent of the audience is reasonably expected to be under the age of 21. After reviewing the rulemaking record, the State Licensing Authority has determined that in order to prevent advertising that has a high likelihood of reaching minors, it is appropriate to model the Retail Marijuana Advertising restrictions on this voluntary standard used by the alcohol industry. This standard is consistent with the directive in the state constitution to regulate marijuana in a manner that is similar to alcohol, while also recognizing that the legal status of the marijuana industry and the legal status of the liquor industry are not the same. These rules apply to Advertising as defined in Rule R 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the best way to implement the state constitutional directive to establish appropriate advertising restrictions for this emerging industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 21 and to prevent underage use of marijuana.

R 1104 –Advertising: Television

A. Television Defined. As used in this rule, the term "television" means a system for transmitting visual images and sound that are reproduced on screens, and includes broadcast, cable, on-demand, satellite, or internet programming. Television includes any video programming downloaded or streamed via the internet.

B. Television Advertising. A Retail Marijuana Establishment shall not utilize television Advertising unless the Retail Marijuana Establishment has reliable evidence that no more than 30 percent of the audience for the program on which the Advertising is to air is reasonably expected to be under the age of 21.

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)(I), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to radio Advertising.

The operation of Retail Marijuana Establishments in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Section 16. Article XVIII, Section 16 of the Colorado Constitution prohibits the purchase, possession and consumption of Retail Marijuana by those under the age of 21. See for example Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(I)(b). The constitutionally mandated regulatory scheme governing Retail Marijuana Establishments must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to persons under the age of 21. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Retail Code adopted in 2013, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* §12-43.4-202(3)(c), C.R.S. The Retail Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. *See* §12-43.4-202(3)(c)(I), C.R.S. Through the rulemaking process, the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors' decision-making with regard to substance use and abuse. Nearly all live testimony at the rulemaking hearing requested less restrictive advertising rules, but written commentary included multiple perspectives. The written and oral testimony and commentary included a variety of recommended standards for determining when advertising has a high likelihood of reaching minors. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than approximately 30 percent of the audience is reasonably expected to be under the age of 21. After reviewing the rulemaking record, the State Licensing Authority has determined that in order to prevent advertising that has a high likelihood of reaching minors, it is appropriate to model the Retail Marijuana Advertising restrictions on this voluntary standard used by the alcohol industry. This standard is consistent with the directive in the state constitution to regulate marijuana in a manner that is similar to alcohol, while also recognizing that the legal status of the marijuana industry and the legal status of the liquor industry are not the same. These rules apply to Advertising as defined in Rule R 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the best way to implement the state constitutional directive to establish appropriate advertising restrictions for this emerging industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 21 and to prevent underage use of marijuana.

R 1105 –Advertising: Radio

A. Radio Defined. As used in this rule, the term "radio" means a system for transmitting sound without visual images, and includes broadcast, cable, on-demand, satellite, or internet programming. Radio includes any audio programming downloaded or streamed via the internet.

B. Radio Advertising. A Retail Marijuana Establishment shall not engage in radio Advertising unless the Retail Marijuana Establishment has reliable evidence that no more than 30 percent of the audience for the program on which the Advertising is to air is reasonably expected to be under the age of 21.

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, Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to Advertising in print media.

The operation of Retail Marijuana Establishments in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Section 16. Article XVIII, Section 16 of the Colorado Constitution prohibits the purchase, possession and consumption of Retail Marijuana by those under the age of 21. See for example Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(I)(b). The constitutionally mandated regulatory scheme governing Retail Marijuana Establishments must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to persons under the age of 21. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Retail Code adopted in 2013, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* §12-43.4-202(3)(c), C.R.S. The Retail Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. *See* §12-43.4-202(3)(c)(I), C.R.S. Through the rulemaking process, the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors' decision-making with regard to substance use and abuse. Nearly all live testimony at the rulemaking hearing requested less restrictive advertising rules, but written commentary included multiple perspectives. The written and oral testimony and commentary included a variety of recommended standards for determining when advertising has a high likelihood of reaching minors. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than approximately 30 percent of the audience is reasonably expected to be under the age of 21. After reviewing the rulemaking record, the State Licensing Authority has determined that in order to prevent advertising that has a high likelihood of reaching minors, it is appropriate to model the Retail Marijuana Advertising restrictions on this voluntary standard used by the alcohol industry. This standard is consistent with the directive in the state constitution to regulate marijuana in a manner that is similar to alcohol, while also recognizing that the legal status of the marijuana industry and the legal status of the liquor industry are not the same. These rules apply to Advertising as defined in Rule R 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the best way to implement the state constitutional directive to establish appropriate advertising restrictions for this emerging industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 21 and to prevent underage use of marijuana.

R 1106 –Advertising: Print Media

A Retail Marijuana Establishment shall not engage in Advertising in a print publication unless the Retail Marijuana Establishment has reliable evidence that no more than 30 percent of the publication's readership is reasonably expected to be 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, Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to Advertising on the internet.

The operation of Retail Marijuana Establishments in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Section 16. Article XVIII, Section 16 of the Colorado Constitution prohibits the purchase, possession and consumption of Retail Marijuana by those under the age of 21. See for example Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2)(b), (3), (4), (5)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(I)(b). The constitutionally mandated regulatory scheme governing Retail Marijuana Establishments must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to persons under the age of 21. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Retail Code adopted in 2013, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* §12-43.4-202(3)(c), C.R.S. The Retail Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. *See* §12-43.4-202(3)(c)(I), C.R.S. Through the rulemaking process, the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors' decision-making with regard to substance use and abuse. Nearly all live testimony at the rulemaking hearing requested less restrictive advertising rules, but written commentary included multiple perspectives. The written and oral testimony and commentary included a variety of recommended standards for determining when advertising has a high likelihood of reaching minors. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than approximately 30 percent of the audience is reasonably expected to be under the age of 21. After reviewing the rulemaking record, the State Licensing Authority has determined that in order to prevent advertising that has a high likelihood of reaching minors, it is appropriate to model the Retail Marijuana Advertising restrictions on this voluntary standard used by the alcohol industry. This standard is consistent with the directive in the state constitution to regulate marijuana in a manner that is similar to alcohol, while also recognizing that the legal status of the marijuana industry and the legal status of the liquor industry are not the same. These rules apply to Advertising as defined in Rule R 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the best way to implement the state constitutional directive to establish appropriate advertising restrictions for this emerging industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 21 and to prevent underage use of marijuana.

R 1107 –Advertising: Internet

> A Retail Marijuana Establishment shall not engage in Advertising via the internet unless the Retail Marijuana Establishment has reliable evidence that no more than 30 percent of the audience for the internet web site is reasonably expected to be under the age of 21. *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.

The operation of Retail Marijuana Establishments in Colorado is permitted solely within the narrow confines of the Colorado Constitution, Article XVIII, Section 16. Colorado is one of the first two states to have authorized the regulated growth and sale of Retail Marijuana, and it has done so in the context of a longstanding federal ban on such activities. The State Licensing Authority finds that it is essential to regulate Retail Marijuana in the state of Colorado in a manner that does not negatively impact the ability of other states or the federal government to enforce their drug laws. The State Licensing Authority finds that the below restrictions on Advertising as defined in these Retail Marijuana rules are critical to prevent the diversion of Retail Marijuana outside of the state. The State Licensing Authority will continue to monitor and evaluate the best way to implement the state constitutional directive to establish appropriate Advertising restrictions for this emerging industry.

R 1108 – Advertising: Targeting Out-of-State Persons Prohibited.

A Retail Marijuana Establishment shall not engage in Advertising that specifically targets Persons located outside the state of Colorado.

Basis and Purpose – R 1109

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 Advertising restrictions applicable to safety claims that are by nature misleading, deceptive, or false.

R 1109 – Signage and Advertising: No Safety Claims Because Regulated by State Licensing Authority

No Retail Marijuana Establishment 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), 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 Advertising restrictions applicable to safety claims that are by nature misleading, deceptive, or false.

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

A Retail Marijuana Establishment may advertise that its products have been tested by a Retail Marijuana Testing Facility, but shall not engage in Advertising or utilize signage 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, Subsections 16(5)(a)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the restrictions applicable to outdoor Advertising and signage.

The operation of Retail Marijuana Establishments in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Section 16. Article XVIII, Section 16 of the Colorado Constitution prohibits the purchase, possession and consumption of Retail Marijuana by those under the age of 21. See for example Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2)(b), (3), (4), (5)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(I)(b). The constitutionally mandated regulatory scheme governing Retail Marijuana Establishments must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to persons under the age of 21. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Retail Code adopted in 2013, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* §12-43.4-202(3)(c), C.R.S. The Retail Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. *See* §12-43.4-202(3)(c)(I), C.R.S. Through the rulemaking process, the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors' decision-making with regard to substance use and abuse. Nearly all live testimony at the rulemaking hearing requested less restrictive advertising rules, but written commentary included multiple perspectives. The written and oral testimony and commentary included a variety of recommended standards for determining when advertising has a high likelihood of reaching minors. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than approximately 30 percent of the audience is reasonably expected to be under the age of 21. After reviewing the rulemaking record, the State Licensing Authority has determined that in order to prevent advertising that has a high likelihood of reaching minors, it is appropriate to model the Retail Marijuana Advertising restrictions on this voluntary standard used by the alcohol industry. This standard is consistent with the directive in the state constitution to regulate marijuana in a manner that is similar to alcohol, while also recognizing that the legal status of the marijuana industry and the legal status of the liquor industry are not the same. These rules apply to Advertising as defined in Rule R 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the best way to implement the state constitutional directive to establish appropriate advertising restrictions for this emerging industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 21 and to prevent underage use of marijuana.

R 1111– Signage and Advertising: Outdoor Advertising

A. Local Ordinances. In addition to any requirements within these rules, a Retail Marijuana Establishment shall comply with any applicable local ordinances regulating signs and Advertising.

B. Outdoor Advertising Generally Prohibited. 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. Exception. The prohibitions set forth in this rule shall not apply to any fixed sign that is located on the same zone lot as a Retail Marijuana Establishment and that exists solely for the purpose of identifying the location of the Retail Marijuana Establishment 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, Subsections 16(5)(a)(V) and (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.

The operation of Retail Marijuana Establishments in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Section 16. Article XVIII, Section 16 of the Colorado Constitution prohibits the purchase, possession and consumption of Retail Marijuana by those under the age of 21. See for example Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2)(b), (3), (4), (5)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(I)(b). The constitutionally mandated regulatory scheme governing Retail Marijuana Establishments must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to persons under the age of 21. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Retail Code adopted in 2013, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* §12-43.4-202(3)(c), C.R.S. The Retail Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. *See* §12-43.4-202(3)(c)(I), C.R.S. Through the rulemaking process, the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors' decision-making with regard to substance use and abuse. Nearly all live testimony at the rulemaking hearing requested less restrictive advertising rules, but written commentary included multiple perspectives. The written and oral testimony and commentary included a variety of recommended standards for determining when advertising has a high likelihood of reaching minors. Voluntary standards adopted by the alcohol industry direct the industry to refrain from advertising where more than approximately 30 percent of the audience is reasonably expected to be under the age of 21. After reviewing the rulemaking record, the State Licensing Authority has determined that in order to prevent advertising that has a high likelihood of reaching minors, it is appropriate to model the Retail Marijuana Advertising restrictions on this voluntary standard used by the alcohol industry. This standard is consistent with the directive in the state constitution to regulate marijuana in a manner that is similar to alcohol, while also recognizing that the legal status of the marijuana industry and the legal status of the liquor industry are not the same. These rules apply to Advertising as defined in Rule R 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the best way to implement the state constitutional directive to establish appropriate advertising restrictions for this emerging industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 21 and to prevent underage use of marijuana.

R 1112– Signage and Advertising: No Content That Targets Minors

A Retail Marijuana Establishment shall not include in any form of Advertising or signage any content that specifically targets individuals under the age of 21, including but not limited to cartoon characters or similar images.

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)(V) and 16(5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to marketing directed toward location-based devices.

The operation of Retail Marijuana Establishments in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Section 16. Article XVIII, Section 16 of the Colorado Constitution prohibits the purchase, possession and consumption of Retail Marijuana by those under the age of 21. *See* for example Colo. Const. Art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(I)(b). The constitutionally mandated regulatory scheme governing Retail Marijuana Establishments must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to persons under the age of 21. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Retail Code adopted in 2013, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* §12-43.4-202(3)(c), C.R.S. The Retail Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. Through the rulemaking process, the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors' decision-making with regard to substance use and abuse. Nearly all live testimony at the rulemaking hearing requested less restrictive advertising rules, but written commentary included multiple perspectives. The State Licensing Authority finds that the restrictions contained in this rule are necessary to prevent Advertising and signage that has a high likelihood of reaching minors. *See* §12-43.4-202(3)(c), C.R.S. The language in this rule was taken from the list of discretionary rules articulated by the General Assembly in House Bill 13-1317. *See* §12-43.4-202(3)(c)(1)(F), C.R.S. The State Licensing Authority will continue to evaluate the best way to implement the state constitutional directive to establish appropriate advertising restrictions for this emerging industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 21 and to prevent underage use of marijuana.

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)(V) and (5)(a)(VIII). The purpose of this rule is to clarify the Advertising restrictions applicable to pop-up Advertising.

The operation of Retail Marijuana Establishments in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Section 16. Article XVIII, Section 16 of the Colorado Constitution prohibits the purchase, possession and consumption of Retail Marijuana by those under the age of 21. *See* for example Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(I)(b). The constitutionally mandated regulatory scheme governing Retail Marijuana Establishments must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to persons under the age of 21. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Retail Code adopted in 2013, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* §12-43.4-202(3)(c), C.R.S. The Retail Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. *See* §12-43.4-202(3)(c)(I), C.R.S. Through the rulemaking process, the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors' decision-making with regard to substance use and abuse. Nearly all live testimony at the rulemaking hearing requested less restrictive advertising rules, but written commentary included multiple perspectives. The State Licensing Authority finds that the restrictions contained in this rule are necessary to prevent Advertising and signage that has a high likelihood of reaching minors. The language in this rule was taken from the list of discretionary rules articulated by the General Assembly in House Bill 13-1317. *See* §12-43.4-202(3)(c)(1)(C), C.R.S. The State Licensing Authority will continue to evaluate the best way to implement the state constitutional directive to establish appropriate advertising restrictions for this emerging industry, and will in particular continue to monitor and evaluate advertising, marketing and signage to protect the interests of those under the age of 21 and to prevent underage use of marijuana.

R 1114 – Pop-Up Advertising

A Retail Marijuana Establishment shall not utilize 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.

The operation of Retail Marijuana Establishments in Colorado is authorized solely within the narrow confines of the Colorado Constitution, Article XVIII, Section 16. Article XVIII, Section 16 of the Colorado Constitution prohibits the purchase, possession and consumption of Retail Marijuana by those under the age of 21. *See* for example Colo. Const. art XVIII, §16(1)(a), (1)(b)(I), (1)(b)(II), 2)(b), (3), (4), (5)(a)(V), (5)(c), and 6(c). The Colorado Constitution calls for the regulation of marijuana "in a manner similar to alcohol" in certain key respects. Colo. Const. Art. XVIII, §16(I)(b). The constitutionally mandated regulatory scheme governing Retail Marijuana Establishments must include rules establishing restrictions on the advertising and display of marijuana and marijuana product, and must include requirements to prevent the sale or diversion of marijuana and marijuana product to persons under the age of 21. Colo. Const. Art. XVIII, §16(5)(a)(V) and (VIII). Through the Retail Code adopted in 2013, the Colorado General Assembly provided further direction regarding mandated advertising restrictions. *See* §12-43.4-202(3)(c), C.R.S. The Retail Code requires the State Licensing Authority to promulgate rules on the subject of signage, marketing and advertising restrictions that include but are not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching minors. Through the rulemaking process, the State Licensing Authority received extensive comments reflecting the strong influence advertising has on minors' decision-making with regard to substance use and abuse. Nearly all live testimony at the rulemaking hearing requested less restrictive advertising rules, but written commentary included multiple perspectives. This rule in particular received extensive commentary from the industry. It has been modified and clarified in response to that commentary. The written and oral testimony and commentary included a variety of recommended standards for determining when Advertising has a high likelihood of reaching minors. After reviewing the rulemaking record, the State Licensing Authority has determined that it is appropriate to utilize the current voluntary standard in the alcohol industry that Advertising that is likely to reach an audience comprise of more than 30 percent individuals under the age of 21 should be prohibited, as such advertising has a high likelihood of reaching minors. This standard is consistent with the directive in the state constitution to regulate marijuana in a manner that is similar to alcohol, while also recognizing that the legal status of the marijuana industry and the legal status of the liquor industry are not the same. These rules apply only to Advertising as defined in Rule R 103. Advertising includes marketing but not labeling. Advertising includes only those promotions, positive statements or endorsements that are obtained in exchange for consideration. The State Licensing Authority will continue to evaluate the appropriate way to implement the state constitutional directive to establish appropriate advertising restrictions for this emerging industry, and will in particular continue to monitor and evaluate Advertising and signage to protect the interests of those under the age of 21 and to prevent underage use of marijuana.

R 1115 – Advertising: Event Sponsorship

A Retail Marijuana Establishment may sponsor a charitable, sports, or similar event, but a Retail Marijuana Establishment shall not engage in Advertising at, or in connection with, such an event unless the Retail Marijuana Establishment has reliable evidence that no more than 30 percent of the audience at the event and/or viewing Advertising in connection with the event is reasonably expected to be under the age of 21.

R 1200 Series – Enforcement

Basis and Purpose – R 1201

The statutory authority for this rule is found at subsections 12-43.3-201(4), 12-43.3-201(5), 12-43.3-202(1)(d), 12-43.4-202(2)(b),12-43.4-202(2)(d), 12-43.4-202(3)(b)(I), and 12-43.4-202(3)(b)(III), and sections 12-43.4-601, 12-43.4-701, 16-2.5-101, 16-2.5-121, 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 a Retail Marijuana Establishment to ensure the fair, impartial, stringent, and comprehensive administration of the Retail Code and rules promulgated pursuant to it.

R 1201 – Duties of Employees of the State Licensing Authority

A. <u>Duties of Director</u>

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 Division employees to perform tasks delegated from the State Licensing Authority.

B. Duties of Division Investigators. 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 any rules promulgated pursuant to it. Make arrests, with or without warrant, for any violation of the Retail Code, any 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 pursuant to the Retail Code, probable cause exists that a crime related to such laws has been or is being committed;

2. Serve all warrants, summonses, subpoenas, administrative citations, notices or other processes relating to the enforcement of laws regulating Retail Marijuana and Retail MarijuanaProduct;

3. 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;

4. Inspect, examine, or investigate any premises where the Licensee's Retail Marijuana or Retail Marijuana Product are grown, stored, cultivated, manufactured, tested, distributed, or sold, and any books and records in any way connected with any licensed or unlicensed activity;

5. 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 Product;

6. Require Applicants to submit complete and current applications and fees and other information the Division deems necessary to make licensing decisions and approve material changes made by the Applicant or Licensee;

7. 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

8. Exercise any other power or duty authorized by law.

C. Duties of State Licensing Authority and Division Employees.

1. Employees shall maintain the confidentiality of State Licensing Authority and Division records and information. For confidentiality requirements of State Licensing Authority and Division employees who leave the employment of the State Licensing Authority, see rule R 1308 - Confidential Information and Former State Licensing Authority Employees.

2. Pursuant to subsection 12-43.3-201(4), C.R.S., State Licensing Authority employees with regulatory oversight responsibilities for marijuana businesses licensed by the state licensing authority shall not work for, represent, or provide consulting services to or otherwise derive pecuniary gain from a marijuana business licensed by the State Licensing Authority or other business entity established for the primary purpose of providing services to the marijuana industry for a period of six months following his or her last day of employment with the State Licensing Authority.

3. Pursuant to subsection 12-43.3-201(5), C.R.S., disclosure of confidential records or information in violation of the provisions of the Medical Code (some of which also pertain to regulation of Retail Marijuana Establishments) constitutes a class 1 misdemeanor.

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 are acting within the normal scope of their duties and that failure to do so may result in sanctions. It also explains the administrative hold process, the handling of inventory subject to administrative hold and under investigation and the process for voluntary surrender of Retail Marijuana and Retail Marijuana Product.

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

A. <u>Applicants and Licensees Shall Cooperate with Division Employees</u>

1. Applicants and Licensees must cooperate with employees 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 any employee of the Division from exercising their duties pursuant to the provisions of the Retail Code and all rules promulgated pursuant to it. 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 investigators of the Division access to premises where the licensee’s Retail Marijuana or Retail Marijuana Product are grown, stored, cultivated, manufactured, tested, distributed, or sold 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

1. 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 Product pursuant to the following procedure:

a. If during an investigation or inspection of a Licensee, a Division investigator develops reasonable grounds to believe certain Retail Marijuana and Retail Marijuana Product constitute evidence of acts in violation of the Retail Code or rules promulgated pursuant to it, or constitute a threat to the public safety, the Division investigator may issue a notice of administrative hold of any such Retail Marijuana and Retail Marijuana Product. The notice of administrative hold shall provide a documented description of the Retail Marijuana or Retail Marijuana Product to be subject to the administrative hold and a concise statement that is promptly issued and approved by the Director or his or her designee regarding the reasons for issuing the administrative hold.

b. Following the issuance of a notice of administrative hold, the Division will identify the Retail Marijuana and Retail Marijuana Product subject to the administrative hold in the Inventory Tracking System. The Licensee shall continue to comply with all tracking requirements. *See* Rule R 309 Retail Marijuana Establishments: Inventory Tracking System.

c. The Licensee shall completely and physically segregate the Retail Marijuana and Retail Marijuana Product subject to the administrative hold in a Limited Access Area of the Licensed Premises under investigation, where it shall be safeguarded by the Licensee.

d. While the administrative hold is in effect, , the Licensee is prohibited from selling, giving away, transferring, transporting, or destroying the Retail Marijuana and Retail Marijuana Product subject to the administrative hold, except as otherwise authorized by these rules.

e. While the administrative hold is in effect, the Licensee must safeguard the Retail Marijuana and Retail Product subject to the administrative hold and must fully comply with all security requirements including but not limited to surveillance, lock and alarm requirements set forth in the Retail Code and the rules of the State Licensing Authority. See Rule R 1309 Administrative Warrants.

f. Nothing herein shall prevent a Licensee from voluntarily surrendering Retail Marijuana or Retail Marijuana Product that is subject to an administrative hold, except that the Licensee must follow the procedures set forth below for voluntary surrender of Retail Marijuana or Retail Marijuana Product.

g. Nothing herein shall prevent a Licensee from the continued possession, cultivation or harvesting of the Retail Marijuana subject to the administrative hold. All Retail Marijuana and Retail Marijuana Product subject to an administrative hold must be put into separate Harvest Batches.

h. At any time after the initiation of the administrative hold, the Division may lift the administrative hold, order the continuation of the administrative hold pending the administrative process, or seek other appropriate relief.

C. Voluntary Surrender of Retail Marijuana and Retail Marijuana Product

1. A Licensee, prior to a Final Agency Order and upon mutual agreement with the Division, may elect to voluntarily surrender any Retail Marijuana and Retail Marijuana Product to the Division.

a. Such voluntary surrender may require destruction of any Retail Marijuana and Retail Marijuana Product in the presence of a Division investigator and at the Licensee's expense.

b. The individual signing the Division's voluntary surrender form on behalf of the Licensee must certify that the individual has authority to represent and bind the Licensee.

2. The voluntary surrender form may be utilized in connection with a stipulated agency order through which the Licensee waives the right to hearing and any associated rights.

3. The voluntary surrender form may be utilized even if the Licensee does not waive the right to hearing and any associated rights, with the understanding that the outcome of the hearing does not impact the validity of the voluntary surrender.

4. A Licensee, after a Final Agency Order and upon mutual agreement with the Division, may elect to voluntarily surrender any marijuana or marijuana product to the Division.

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. Such voluntary surrender may require destruction of any marijuana or marijuana product in the presence of a Division investigator and at the Licensee's expense.

c. The individual signing the Division's voluntary surrender form 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(2)(b), 12-43.4-202(3)(b)(I), 12-43.3-202(2)(b)(III), 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 unauthorized Retail Marijuana or unauthorized Retail Marijuana Product. 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. After a Final Agency Order Orders the Destruction of Marijuana. 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 Product, the Licensee may:

1. Voluntarily Surrender. The Licensee may voluntarily surrender to the Division all of its unauthorized Retail Marijuana and unauthorized Retail Marijuana Product that are described in the Final Agency Order in accordance with the provisions of Rule R 1202.

2. Seek A Stay. The Licensee may file a petition for a 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 unauthorized Retail Marijuana or unauthorized Retail Marijuana Product as set forth in section A(1)(a) of this rule; or (2) properly seek 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 and/or marijuana products that are the subject of the Final Agency Order.

B. General Requirements Applicable To All Licensees Following Final Agency Order To Destroy Unauthorized Retail Marijuana and Unauthorized Retail Marijuana Product. The following requirements apply regardless of whether the Licensee voluntarily surrenders its unauthorized Retail Marijuana or unauthorized Retail Marijuana Product 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 Product the Licensee shall not sell, destroy, or otherwise let any unauthorized Retail Marijuana or unauthorized Retail Marijuana Product that are subject to the Final Agency Order leave the Licensed Premises, unless specifically authorized by the State Licensing Authority or Court order.

3. During the period of time between the issuance of the Final Agency Order and the destruction of unauthorized Retail Marijuana or unauthorized Retail Marijuana Product, the Licensee must safeguard any unauthorized Retail Marijuana or unauthorized Retail Marijuana Product in its possession or control and must fully comply with all security requirements including but not limited to surveillance, lock and alarm requirements set forth in the Retail Code and the rules of the State Licensing Authority.

4. Unless the State Licensing Authority otherwise orders, the Licensee may cultivate, water, or otherwise care for any unauthorized Retail Marijuana or unauthorized Retail Marijuana Product 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 Product.

5. If a district attorney notifies the Division that some or all of the unauthorized Retail Marijuana or unauthorized Retail Marijuana Product is involved in an investigation, the Division shall not destroy the unauthorized Retail Marijuana or unauthorized Retail Marijuana Product until approved by the district attorney.

Basis and Purpose - R 1204

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), 12-43.4-202(3)(b)(VIII), and 12-43.4-202(3)(b)(IX), C.R.S. This rule explains that the Director of the Division may exercise discretion to accept an assurance of voluntary compliance. It also explains the evidentiary value of an assurance of voluntary compliance should a licensee not comply with the agreement.

R 1204 - Assurance of Voluntary Compliance

A. The Director of the Division may accept an assurance of voluntary compliance regarding any act or practice alleged to violate the Retail Code, or the rules and regulations thereunder, from a person who has engaged in, is engaging in, or is about to engage in such acts or practices.

B. The assurance must be in writing and may include a stipulation for the voluntary payment of the cost commensurate with the acts or practices and an amount necessary to restore money or property which may have been acquired by the alleged violator because of the acts or practices.

C. An assurance of voluntary compliance may not be considered an admission of a violation for any purpose; however, proof of failure to comply with the assurance of voluntary compliance is prima facie evidence of a violation of the Retail Code, or the rules and regulation thereunder.

D. The State Licensing Authority may approve or review an assurance of voluntary compliance.

R 1300 Series – Discipline

Basis and Purpose – R 1301

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(c),12-43.4-202(3)(a)(I), 12-43.4-202(3)(a)(XVI) and 12-43.4-202(3)(b)(IX) and sections 12-43.4-601 and 24-4-105 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 how the disciplinary process for non- summary license suspensions and license revocations is initiated.

R 1301 – Disciplinary Process: Non-Summary Suspensions

A. <u>How a Disciplinary Action is Initiated</u>

1. 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 promulgated pursuant to it, or any of its orders, the State Licensing Authority shall issue and serve upon the Licensee an Order to Show Cause (administrative citation) as to why its license should not be suspended, revoked, restricted, fined, or subject to other disciplinary sanction.

2. 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, revoked, restricted, fined, or subject to other disciplinary sanction should the charges contained in the notice be sustained upon final hearing.

B. Disciplinary Hearings. Disciplinary hearings will be conducted in accordance with Rule R 1304 – Administrative Hearings.

C. Renewal. The issuance of an Order to Show Cause does not relieve the Licensee of the obligation to timely comply with all license renewal requirements.

Basis and Purpose – R 1302

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(2)(c), 12-43.4-202(3)(a)(I), 12-43.4-202(3)(a)(XVI) 12-43.4-202(3)(b)(IX) and 24-4-104(4)(a), C.R.S., and sections 12-43.3-601 and 24-4-105, 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 suspend a license prior to and pending a hearing and final agency order. Summary suspensions will be imposed 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 that the public health, safety, and welfare imperatively require emergency action. 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.

4. After the Summary Suspension Order is issued, the State Licensing Authority shall issue and serve upon the Licensee an Order to Show Cause (administrative citation) as to why the Licensee's license should not be suspended, revoked, restricted, fined, or subject to other disciplinary sanction.

5. 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 to Show Cause shall also provide an advisement that the license could be suspended, revoked, restricted, fined or subject to other disciplinary sanction should the charges contained in the notice be sustained upon final hearing.

6. Unless lifted by the State Licensing Authority, the Summary Suspension Order shall remain in effect until issuance of a Final Agency Order.

B. Summary Suspension Hearings. 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 subsections 12-43.4-202(2)(b), 12-43.4-202(2)(c), 12-43.4-202(3)(a)(I), 12-43.4-202(3)(a)(XVI) 12-43.4-202(3)(b)(IX) and 24-4-104(4)(a), C.R.S., and sections 12-43.3-601 and 24-4-105, 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), provided the Licensed Premises and all Retail Marijuana and Retail Marijuana Product are adequately secured. In addition, the rule clarifies what activity is always prohibited during such suspension.

R 1303 – Suspension Process: Regular and Summary Suspensions

A. Signs Required During Suspension. 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 at least 17 inches in length and 11 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 of these rules.

B. Prohibited Activity During Active Suspension

1. 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, manufacture, sampling, acquisition, purchase , transfer, or transport of Retail Marijuana or Retail Marijuana Product on the Licensed Premises, nor allow customers to enter the Licensed Premises.

2. Unless otherwise ordered by the State Licensing Authority, during any period of suspension the Licensee may continue to possess, maintain, cultivate or harvest Retail Marijuana or Retail Marijuana Product on the Licensed Premises. The Licensee must fully account for all such Retail Marijuana and Retail Marijuana Product in the Inventory Tracking System. The Licensee must safeguard any Retail Marijuana or Retail Marijuana Product in its possession or control. The Licensee must fully comply with all security requirements including but not limited to surveillance, lock and alarm requirements set forth in the Retail Code and the rules of the State Licensing Authority.

C. Removal and Destruction of Marijuana and Marijuana Product. Retail Marijuana and Retail Marijuana Product shall not be removed from the Licensed Premises or destroyed unless and until:

1. 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 R1203 – Disposition of Unauthorized Retail Marijuana;

2. The Licensee has voluntarily surrendered the Retail Marijuana or Retail Marijuana Product in accordance with Rule R 1202(C) – voluntary surrender;

3. The State Licensing Authority has seized the Retail Marijuana or Retail Marijuana Product pursuant to an Administrative Warrant. See Rule R 1309 – Administrative Warrant.

D. Renewal. The issuance of a suspension or an Order of Summary Suspension does not relieve the Licensee of the obligation to timely comply with all license renewal requirements.

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(2)(c), 12-43.4-202(2)(d), 12-43.4-202(3)(a)(I), and sections 12-43.4-601 and 24-4-105, 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 what entity conducts the administrative hearings, the procedures governing administrative hearings, and other general hearings issues.

R 1304 – Administrative Hearings

A. General Procedures

1. 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, hearings generally will be conducted at a location in the greater Denver metropolitan area to be determined by the hearing officer. Under unusual circumstances where justice, judicial economy and convenience of the parties would be served, hearings may be held in other locations in the state of Colorado.

2. Scope of Hearing Rules. This rule shall be construed to promote the just and efficient determination of all matters presented.

3. Right to Legal Counsel. Any Denied Applicant or Respondent has a right to legal counsel throughout all processes described in rules associated with the denial of an application and disciplinary action. Such counsel shall be provided solely at the Denied Applicant's or Respondent's expense.

B. Requesting a Hearing

1. A Denied Applicant that has been served with a Notice of Denial 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 for hearing will not be considered.

2. A Denied Applicant that timely requests a hearing following issuance of a Notice of Denial shall be served with a Notice of Grounds for Denial, and shall be entitled to a hearing regarding the matters addressed therein.

3. A Respondent that has been served with an Order to Show Cause shall be entitled to a hearing regarding the matters addressed therein.

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. The written answer shall comply with the requirements of Rule 8 of the Colorado Rules of Civil Procedure. 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. A Denied Applicant 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 Notice of Grounds for Denial. The written answer shall comply with the requirements of Rule 8 of the Colorado Rules of Civil Procedure. If a Denied Applicant 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.

D. Hearing Notices

1. Notice to Set. 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. Prehearing Matters Generally

1. 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. Depositions. 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. 30 controls. Hearings will not be continued because a deposition is allowed unless (a) both parties stipulate to a continuance and the hearing officer grants the continuance, or (b) the hearing officer grants a continuance over the objection of any party in accordance with subsections (D)(2)(b) and (c) of this rule..

3. Prehearing Statements Once a Hearing is Set. 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. Witnesses. 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. Experts. 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. Exhibits. 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. Stipulations. 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.

4. Prehearing Statements Binding. The information provided in a party's prehearing statement shall be binding on that 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.

5. Consequence of Not Filing a Prehearing Statement Once a Hearing is Set. 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 be offered into evidence at the hearing to the hearing officer when the prehearing statement is filed.

3. The hearing officer shall administer oaths to all witnesses at hearing. The hearing officer may question any witness.

4. The hearing, including testimony and exhibits, shall be open to the public unless otherwise ordered by the hearing officer in accordance with a specific provision of law.

    a. Reports and other information that would otherwise be confidential pursuant to Subsections 12-43.3-202(1)(d) and 12-43.4-202(2)(d), C.R.S., may be introduced as exhibits at hearing. Such exhibits shall not be sealed from public inspection unless confidential pursuant to a provision of law other than Subsections 12-43.3-202(1)(d) or 12-43.4-202(2)(d), C.R.S.

    b. Any party may move the hearing officer to seal an exhibit or order other appropriate relief if necessary to safeguard the confidentiality of evidence, if such evidence is confidential pursuant to a specific provision of law other than Subsections 12-43.3-202(1)(d) or 12-43.4-202(2)(d), C.R.S.

5. 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.

6. 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.

7. The hearing officer may proceed with the hearing or enter default judgment if any party fails to appear at hearing after proper notice.

G. Post Hearing. 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 following the formal initiation of the hearing process. A party or counsel for a party shall not initiate any communication with a hearing officer or the State Licensing Authority, or with conflicts counsel representing the hearing officer or State Licensing Authority, 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. Parties shall provide all other parties with copies of any pleading or other paper submitted to the hearing officer or the State Licensing Authority in connection with a hearing or with the exceptions process.

I. Marijuana Enforcement Division representation. 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. Informal Exchange of Documents Encouraged. 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. Hearing Officer May Issue Subpoenas

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 person 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 Respondent 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. The address of the State Licensing Authority is: State Licensing Authority, 1375 Sherman Street, 4th Floor, Denver, CO 80203.

B. Designation of Record. 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. Deadline Modifications. 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. Based upon public testimony and a written commentary, Rule R 1307.A was amended to include additional license violations affecting public safety and Rule R 1307.C.1 was added.

R 1307 – Penalties

A. Penalty Schedule. 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:

1. License Violations Affecting Public Safety. This category of violation is the most severe and may include, but is not limited to, Retail Marijuana sales to persons under the age of 21 years, consuming marijuana on the Licensed Premises, Retail Marijuana sales in excess of the relevant transaction limit, permitting the diversion of Retail Marijuana outside the regulated distribution system, possessing Retail Marijuana or Retail Marijuana Product obtained from outside the regulated distribution system or from an unauthorized source, making misstatements or omissions in the Inventory Tracking System, failing to continuously escort a visitor in a Limited Access Area, violations related to co-located Medical Marijuana Centers and Retail Marijuana Businesses, failure to maintain books and records to fully account for all transactions of the business, Advertising 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. License Violations. 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, Advertising 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. License Infractions. 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 Licensed 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 circumstances surrounding any penalty imposed will be determined on a case-by-case basis.

3. For all administrative offenses involving a proposed suspension, 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. Mitigating and Aggravating Factors. 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. Any prior violations that the Licensee has admitted to or was found to have engaged in.

2. Action taken by the Licensee to prevent the violation (e.g., training provided to employees).

3. Licensee's past history of success or failure with compliance checks.

4. Corrective action(s) taken by the Licensee related to the current violation or prior violations.

5. Willfulness and deliberateness of the violation.

6. Likelihood of reoccurrence of the violation.

7. Circumstances surrounding the violation, which may include, but are 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.

Basis and Purpose – R 1308

The statutory authority for this rule is found at subsections 12-43.3-201(4), 12-43.3-201(5), 12-43.4-202(2)(b), 12-43.4-202(2)(d), 12-43.4-202(3)(a)(XV), 12-43.4-202(3)(a)(XVI), 12-43.4-202(3)(b)(I), 12-43.4-202(3)(b)(IV), and and 12-43.4-202(3)(b)(IX), C.R.S. The purpose of this rule is to assure Licensees do not use unauthorized confidential information at any time and do not engage the services of former State Licensing Authority or Division employees with regulatory oversight responsibilities for licensed marijuana businesses for the first 6 months following State Licensing Authority or Division employment.

R 1308 – Confidential Information and Former State Licensing Authority Employees

A. Misdemeanor if Disclosed. Disclosure of confidential records or information in violation of the Retail Code constitutes a class 1 misdemeanor pursuant to subsection 12-43.3-201(5), C.R.S.

1. Licensees, and employees or agents Licensees, shall not obtain or utilize confidential information the Licensee, employee or agent is not lawfully entitled to possess and acquire through use or misuse of Division processes or Division-approved systems. For confidentiality requirements of State Licensing Authority and Division employees, see rule R 1201 – Duties of Employees of the State Licensing Authority.

2. Any Licensee, and any employee or agent of a Licensee, who is authorized to access the Division's Inventory Tracking System and/or have access to confidential information derived from Division sources, shall utilize the confidential information only for a purpose authorized by the Division or these Rules.

3. All Licensees, and all employees and agents of Licensees, shall not use the Inventory Tracking System for any purpose other than tracking the Licensee's Retail Marijuana and Retail Marijuana Product.

B. Six-Month Prohibition from Working with Former State Licensing Authority Employees. State Licensing Authority or Division employees with regulatory oversight responsibilities for Medical Marijuana Businesses or Retail Marijuana Establishments are prohibited from working for, representing, or providing consulting services to or otherwise deriving pecuniary gain from a Licensee for a period of six months following his or her last day of employment with the State Licensing Authority or Division.

1. Any Licensee who utilizes, employs, consults, seeks advice from, or contracts with a former employee of the State Licensing Authority or the Division prior to the conclusion of the six-month period shall be in violation of the Retail Code.

2. Any Licensee who possesses, utilizes or re-discloses confidential information obtained from a former State Licensing Authority or Division employee at any time shall be in violation of the Retail Code.

Basis and Purpose – R 1309

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(V), 12-43.4-202(3)(a)(XV), 12-43.4-202(3)(b)(I), 12-43.4-202(3)(b)(III), and 12-43.3-202(3)(b)(IX), C.R.S. The purpose of this rule is to establish the circumstances under which the Division may seek from a district court an administrative warrant to search and/or seize marijuana and marijuana products. The Division has encountered circumstances that would have justified such a warrant. Establishing the criteria under which the Division may seek an administrative warrant will give fair notice to the regulated community regarding the types of violations that would lead to a request for an administrative warrant.

R 1309 – Administrative Warrants

A. Criteria. The Division may seek from a district court an administrative search warrant authorizing search and seizure in circumstances in which the Division makes a proper showing that:

1. A Licensee has refused entry of Division investigators during business hours or times of apparent activity;

2. A Licensee subject to an administrative hold or summary suspension has failed to comply with applicable rules; or

3. A Licensee otherwise has acted in a manner demonstrating disregard for the Retail Code and the State Licensing Authority's rules or that threatens the public health, safety, and welfare.

B. Affidavit. When seeking an administrative search warrant, the Division will supply the district court with a sworn affidavit explaining the bases for seeking the warrant.

C. Seized Property. If the Division seizes marijuana, neither the Division nor the State Licensing Authority shall cultivate or care for any seized marijuana or marijuana products. The Division may seek from the district court an order to destroy any such marijuana or marijuana products.

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 pursuant to it.

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. This includes new business applications, renewal business applications, change of location applications, transfer of ownership applications, premises modification applications, and off-premises storage permit applications.

4. Any license issued or renewed by the Division for Retail Marijuana Establishments shall be conditioned upon relevant local jurisdiction approval of the application. If a local jurisdiction elects not to approve or deny this activity, the local jurisdiction must provide written notification acknowledging receipt 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.

2. If a local jurisdiction will authorize the operation of Retail Marijuana Establishments, it 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.

3. Local jurisdictions may impose separate local licensing or approval requirements related to the time, place, manner, and number 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. If a local jurisdiction makes any written findings of fact, a copy of those written findings shall be included with the notification.

C. Local Jurisdiction Inspections. 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. Local Jurisdiction Authority. 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. Local Law Enforcement's Authority Not Impaired by Retail Code. Nothing in the Retail Code or any rules promulgated pursuant to it shall be construed to limit the ability of local police departments, sheriffs, or other state or local law enforcement agencies to investigate unlawful activity in relation to a Retail Marijuana Establishment, and such agencies shall have the ability to run a Colorado Crime Information Center criminal history check of an Applicant or Licensee or employee of an Applicant or Licensee 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, manner, and number.

R 1500 Series – Retail Marijuana Testing Program

Basis and Purpose – R 1501

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XI), 12-43.4-202(3)(a)(XII), 12-43.4-202(3)(b)(III), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(VII), 12-43.4-402(4), 12-43.4-403(5), and 12-43.4-404(6), 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 protect the public health and safety by establishing the contaminant testing and related process validation portion of the Division's Retail Marijuana sampling and testing program.

R 1501 – Retail Marijuana Testing Program – Contaminant Testing

A. Contaminant Testing Required. Until a Retail Marijuana Cultivation Facility's or a Retail Marijuana Product Manufacturing Facility's cultivation or production process has been validated under this rule, it shall not wholesale, transfer, or process into a Retail Marijuana Concentrate or Retail Marijuana Product any Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product unless Samples from the Harvest Batch or Production Batch from which that Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product was derived was tested by a Retail Marijuana Testing Facility for contaminants and passed all contaminant tests required by paragraph C of this rule.

B. Validation of Process – Contaminant Testing

1. Retail Marijuana. A Retail Marijuana Cultivation Facility's cultivation process shall be deemed valid regarding Contaminants if every Harvest Batch that it produced during at least a six week period but no longer than a 12 week period passed all contaminant tests required by paragraph C of this rule. This must include at least 6 Test Batches that contain Samples from entirely different Harvest Batches

2. Retail Marijuana Concentrate or Retail Marijuana Product. A Retail Marijuana Cultivation Facility's or a Retail Marijuana Products Manufacturing Facility's production process shall be deemed valid regarding contaminants if every Production Batch that it produced during at least a four week period but no longer than an eight week period passed all contaminant tests required by paragraph C of this rule. This must include at least four Test Batches that contain Samples from entirely different Production Batches.

3. Process Validation is Effective for One Year. Once a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility has successfully obtained process validation for contaminants, the process validation shall be effective for one year from the date of the last passing test required to satisfy the process validation requirements.

C. Required Contaminant Tests

1. Microbial Contaminant Testing. Each Harvest Batch of Retail Marijuana and Production Batch of Water- or Food-Based Retail Marijuana Concentrate and Retail Marijuana Product must be tested for microbial contamination by a Retail Marijuana Testing Facility. The microbial contamination test must include, but need not be limited to, testing to determine the presence of and amounts present of Salmonella sp., Escherichia coli., and total yeast and mold.

2. Mold and Mildew Contaminant Testing. Each Harvest Batch of Retail Marijuana and Production Batch of Retail Marijuana Concentrate and Retail Marijuana Product must be visually inspected, in addition to other required mold testing, by a Retail Marijuana Testing Facility for toxic amounts of mold and mildew contamination.

3. Filth Contaminant Testing. Each Harvest Batch of Retail Marijuana must be visually inspected by a Retail Marijuana Testing Facility for toxic amounts of filth.

4. Residual Solvent Contaminant Testing. Each Production Batch of Solvent-Based Retail Marijuana Concentrate produced by a Retail Marijuana Products Manufacturing Facility must be tested by a Retail Marijuana Testing Facility for residual solvent contamination. The residual solvent contamination test must include, but need not be limited to, testing to determine the presence of, and amounts present of, butane, heptanes, benzene*, toluene*, hexane*, and xylenes*. * Note: These solvents are not approved for use. Testing is required for these solvents due to their possible presence in the solvents approved for use per rule R 605.

D. Additional Required Tests. The Division may require additional tests to be conducted on a Harvest Batch or Production Batch prior to a Retail Marijuana Cultivation Facility or a Retail Marijuana Product Manufacturing Facility wholesaling, transferring, or processing into a Retail Marijuana Concentrate or Retail Marijuana Product any Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product from that Harvest Batch or Production Batch. Additional tests may include, but need not be limited to, screening for Pesticide, harmful chemicals, adulterants or other types of microbials, molds, metals, filth or residual solvents.

E. Exemptions

1. Retail Marijuana Concentrate. A Production Batch of Retail Marijuana Concentrate shall be considered exempt from this rule if the Retail Marijuana Products Manufacturing Facility that produced it does not wholesale or transfer any of portion of the Production Batch and uses the entire Production Batch to manufacture Retail Marijuana Product, except that a Solvent-Based Retail Marijuana Concentrate must still be submitted for residual solvent contaminant testing.

F. Required Re-Validation - Contaminants.

1. Material Change Re-validation. If a Retail Marijuana Cultivation Facility or a Retail Marijuana Product Manufacturing Facility makes a Material Change to its cultivation or production process, then it must have the first five Harvest Batches or Production Batches produced using the new standard operating procedures tested for all of the contaminants required by paragraph C of this rule regardless of whether its process has been previously validated regarding contaminants. If any of those tests fail, then the Retail Marijuana Establishment's process must be re-validated.

a. Pesticide. It shall be considered a Material Change if a Retail Marijuana Cultivation Facility begins using a new or different Pesticide during its cultivation process and the first five Harvest Batches produced using the new or different Pesticide must also be tested for Pesticide.

b. Solvents. It shall be considered a Material Change if a Retail Marijuana Products Manufacturing Facility begins using a new or different solvent or combination of solvents.

c. Notification. A Retail Marijuana Cultivation Facility or a Retail Marijuana Product Manufacturing Facility that makes a Material Change must notify the Retail Marijuana Testing Facility that conducts contaminant testing on the first five Harvest Batches or Production Batches produced using the new standard operating procedures.

d. Testing Required Prior to Wholesale, Transfer or Processing. When a Harvest Batch or Production Batch is required to be submitted for testing pursuant to this rule, the Retail Marijuana Cultivation Facility or a Retail Marijuana Product Manufacturing Facility that produced it may not wholesale, transfer or process into a Retail Marijuana Concentrate or Retail Marijuana Product any of the Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product from that Harvest Batch or Production Batch.

2. Failed Contaminant Testing Re-Validation. If a Sample the Division requires to be tested fails contaminant testing, the Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility shall follow the procedures in paragraph B of rule R 1507 for any package, Harvest Batch, or Production Batch from which the failed Sample was taken. The Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility shall also submit three additional Test Batches of the Retail Marijuana or Retail Marijuana Product for contaminant testing by a Retail Marijuana Testing Facility within no more than 30 days. If any one of the three submitted Test Batches fails contaminant testing, the Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility shall re-validate its process for contaminants.

3. Expiration of Process Validation. A Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility shall be required to re-validate its process once the one year of process validation expires, or the Retail Marijuana Establishment shall comply with the requirements of paragraph A of this rule R 1501.

G. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

Basis and Purpose – R 1502

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XI), 12-43.4-202(3)(a)(XII), 12-43.4-202(3)(b)(III), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(VII), 12-43.4-402(4), 12-43.4-403(5), and 12-43.4-404(6), 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 protect the public health and safety by establishing the mandatory testing portion of the Division's Retail Marijuana sampling and testing program.

R 1502 – Retail Marijuana Testing Program – Mandatory Testing

A. Required Sample Submission. A Retail Marijuana Establishment may be required by the Division to submit a Sample(s) of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product it possesses to a Retail Marijuana Testing Facility at any time regardless of whether its process has been validated and without notice.

1. Samples collected pursuant to this rule may be tested for potency or contaminants which may include, but may not be limited to, Pesticide, microbials, molds, metals, filth, residual solvents, harmful chemicals and adulterants.

2. When a Sample(s) is required to be submitted for testing, the Retail Marijuana Establishment may not sell, wholesale, transfer or process into a Retail Marijuana Concentrate or Retail Marijuana Product any Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product from the package, Harvest Batch or Production Batch from which the Sample was taken.

B. Methods for Determining Required Testing

1. Random Testing. The Division may require Samples to be submitted for testing through any one or more of the following processes: random process, risk-based process or other internally developed process, regardless of whether a Retail Marijuana Establishment's process has been validated.

2. Inspection or Enforcement Tests. The Division may require a Retail Marijuana Establishment to submit a Sample for testing if the Division has reasonable grounds to believe that:

   a. Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product is contaminated or mislabeled;

   b. A Retail Marijuana Establishment is in violation of any product safety, health or sanitary law, rule or regulation; or

   c. The results of a test would further an investigation by the Division into a violation of any law, rule or regulation.

3. Beta Testing. The Division may require a Retail Marijuana Establishment to submit Samples from certain randomly selected Harvest Batches or Production Batches for potency or contaminant testing prior to implementing mandatory testing.

C. Minimum Testing Standards. The testing requirements contained in the R 1500 series are the minimum required testing standards. Retail Marijuana Establishments are responsible for receiving enough testing on any Retail Marijuana, Retail Marijuana Concentrate, and/or Retail Marijuana Product they produce to ensure the marijuana consumables are safe for human consumption.

D. Additional Sample Types. The Division may also require a Retail Marijuana Establishment to submit Samples comprised of items other than Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product to be tested for contaminants which may include, but may not be limited to, Pesticide, microbials, molds, metals, filth, residual solvents, harmful chemicals and adulterants. The following is a non-exhaustive list of the types of Samples that may be required to be submitted for contaminant testing:

1. Specific plant(s) or any portion of a plant(s),

2. Any growing medium, water or other substance used in the cultivation process,

3. Any water, solvent or other substance used in the processing of a Retail Marijuana Concentrate,

4. Any ingredient or substance used in the manufacturing of a Retail Marijuana Product; or

5. Swab of any equipment or surface.

E. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

Basis and Purpose – R 1503

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XII), 12-43.4-202(3)(b)(III), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(V), 12-43.4-202(3)(c)(VI), 12-43.4-202(3)(c)(VII), 12-43.4-402(4), 12-43.4-403(5), and 12-43.4-404(6), 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 protect the public health and safety by establishing the potency testing and related process validation portion of the Division's Retail Marijuana sampling and testing program.

R 1503 – Retail Marijuana Testing Program – Potency Testing

A. Potency Testing – General

1. Test Batches. A Test Batch submitted for potency testing may only be comprised of Samples that are of the same strain of Retail Marijuana or from the same Production Batch of Retail Marijuana Concentrate or Retail Marijuana Product.

2. Cannabinoid Profile. A potency test conducted pursuant to this rule must at least determine the level of concentration of THC, THCA, CBD, CBDA and CBN.

B. Potency Testing for Retail Marijuana.

1. Initial Potency Testing. A Retail Marijuana Cultivation Facility must have potency tests conducted by a Retail Marijuana Testing Facility on four Harvest Batches, created a minimum of one week apart, for each strain of Retail Marijuana that it cultivates.

a. The first potency test must be conducted on each strain prior to the Retail Marijuana Cultivation Facility wholesaling, transferring or processing into a Retail Marijuana Concentrate any Retail Marijuana of that strain.

b. All four potency tests must be conducted on each strain no later than December 1, 2014 or six months after the Retail Marijuana Cultivation Facility begins cultivating that strain, whichever is later.

2. Ongoing Potency Testing. After the initial four potency tests, a Retail Marijuana Cultivation Facility shall have each strain of Retail Marijuana that it cultivates tested for potency at least once every six months.

C. Potency Testing for Retail Marijuana Concentrate. A Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility must have a potency test conducted by a Retail Marijuana Testing Facility on every Production Batch of Retail Marijuana Concentrate that it produces prior to wholesaling, transferring or processing into a Retail Marijuana Product any of the Retail Marijuana Concentrate from that Production Batch.

D. Potency Testing for Retail Marijuana Product

1. Potency Testing Required for non-Edible Retail Marijuana Product. A Retail Marijuana Products Manufacturing Facility shall have potency tests conducted by a Retail Marijuana Testing Facility on every Production Batch of Retail Marijuana Product that is not Edible Retail Marijuana Product that it produces prior to transferring or wholesaling any of the non-Edible Retail Marijuana Product from that Production Batch.

1.5 Potency Testing Required for Edible Retail Marijuana Product. A Retail Marijuana Products Manufacturing Facility shall have potency tests conducted by a Retail Marijuana Testing Facility on every Production Batch of each type of Edible Retail Marijuana Product that it produces prior to transferring or wholesaling any of the Edible Retail Marijuana Product from that Production Batch, unless the Retail Marijuana Products Manufacturing Facility has successfully completed process validation for potency and homogeneity for the particular type of Edible Retail Marijuana Product.

2. Required Tests. Potency tests conducted on Retail Marijuana Product must determine the level of concentration of the required cannabinoids and whether or not THC is homogeneously distributed throughout the product.

3. Partially Infused Retail Marijuana Products. If only a portion of a Retail Marijuana Product is infused with Retail Marijuana, then the Retail Marijuana Products Manufacturing Facility must inform the Retail Marijuana Testing Facility of exactly which portions of the Retail Marijuana Product are infused and which portions are not infused.

E. Validation of Process - Potency and Homogeneity.

1. A Retail Marijuana Products Manufacturing Facility may process validate potency and homogeneity for each type of Edible Retail Marijuana Product it manufactures.

2. A Retail Marijuana Products Manufacturing Facility's production process for a particular type of Edible Retail Marijuana Product shall be deemed valid regarding potency and homogeneity if every Production Batch that it produces for that particular type of Edible Retail Marijuana Product during at least a four week period but no longer than an eight week period passes all potency tests required by rule R 1503(D)(2). This must include at least four Test Batches that contain Samples from entirely different Production Batches.

3. Process Validation is Effective for One Year. Once a Retail Marijuana Products Manufacturing Facility has successfully obtained process validation for potency and homogeneity for a particular type of Edible Retail Marijuana Product that it produces, the process validation shall be effective for one year from the date of the last passing test required to satisfy the process validation requirements.

F. Required Re-Validation - Potency and Homogeneity - Edible Retail Marijuana Product.

1. Material Change Re-Validation. If a Retail Marijuana Products Manufacturing Facility elects to process validate any Edible Retail Marijuana Product for potency and homogeneity and it makes a Material Change to its production process for that particular type of Edible Retail Marijuana Product, then the Retail Marijuana Products Manufacturing Facility must re-validate the production process.

a. New Equipment. It shall be considered a Material Change if the Retail Marijuana Products Manufacturing Facility begins using new or different equipment for any material part of the production process.

b. Notification. A Retail Marijuana Product Manufacturing Facility that makes a Material Change to the production process of a validated Edible Retail Marijuana Product must notify the Retail Marijuana Testing Facility that conducts potency and homogeneity testing on the first four Production Batches produced using the new standard operating procedures.

c. Testing Required Prior to Wholesale or Transfer. When a Production Batch is required to be submitted for testing pursuant to this rule, the Marijuana Product Manufacturing Facility that produced it may not wholesale or transfer Retail Marijuana Product from that Production Batch unless or until it obtains a passing test.

2. Failed Potency Testing Re-Validation. If a Sample the Division requires to be tested fails potency testing, the Retail Marijuana Products Manufacturing Facility shall follow the procedures in paragraph C of rule R 1507 for any package or Production Batch associated with the failed Sample. The Retail Marijuana Products Manufacturing Facility shall also submit three additional Test Batches of the Retail Marijuana Product for potency testing by a Retail Marijuana Testing Facility within no more than 30 days. If any one of the three submitted Test Batches fails potency testing, the Retail Marijuana Products Manufacturing Facility shall re-validate its process for potency.

3. Expiration of Process Validation. A Retail Marijuana Products Manufacturing Facility shall be required to re-validate its process for each particular type of Edible Retail Marijuana Product it produces once the one year of process validation expires, or the Licensee shall comply with the requirements of the potency testing requirements found in rule R 1503(D)(1.5).

G. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

Basis and Purpose – R 1504

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XI), 12-43.4-202(3)(a)(XII), 12-43.4-202(3)(b)(III), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(V), 12-43.4-202(3)(c)(VI), 12-43.4-202(3)(c)(VII), 12-43.4-402(4), 12-43.4-403(5), and 12-43.4-404(6), 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 protect the public health and safety by establishing sampling procedures and rules for the Division's Retail Marijuana sampling and testing program.

R 1504 – Retail Marijuana Testing Program – Sampling Procedures

A. Collection of Samples

1. Sample Collection. All Samples submitted for testing pursuant to this rule must be collected by Division personnel or in accordance with the Division's sampling policy.

2. Sample Selection. The Division may elect, at its sole direction, to assign Division personnel to collect Samples. A Retail Marijuana Establishment, its Owners and employees shall not attempt to influence the Samples selected by Division personnel.

B. Samples for Test Batches of Retail Marijuana and Retail Marijuana Concentrate. Each Test Batch of Retail Marijuana or Retail Marijuana Concentrate must be comprised of a representative selection of Samples.

1. Minimum Number of Samples. At a minimum, each Test Batch of Retail Marijuana or Retail Marijuana Concentrate must be comprised of at least the following number of separately taken Samples:

a. For Test Batches comprised of Harvest Batches or Production Batches weighing up to 10 pounds, eight separate Samples must be taken.

b. For Test Batches comprised of Harvest Batches or Production Batches weighing more than 10 pounds but less than 20 pounds, 12 separate Samples must be taken.

c. For Test Batches comprised of Harvest Batches or Production Batches weighing 20 pounds or more but less than 30 pounds, 15 separate Samples must be taken.

d. For Test Batches comprised of Harvest Batches or Production Batches weighing 30 pound or more but less than 40 pounds, 18 separate Samples must be taken.

e. For Test Batches comprised of Harvest Batches or Production Batches weighing 40 pounds or more but less than 100 pounds, 23 separate Samples must be taken.

f. For Test Batches comprised of Harvest Batches or Production Batches weighing 100 pounds or more, 29 separate Samples must be taken.

2. Multiple Harvest Batches or Production Batches. If more than one Harvest Batch or Production Batch is combined into a single Test Batch, then that Test Batch must include at least one Sample from each Harvest Batch or Production Batch.

C. Samples for Test Batches of Retail Marijuana Product

1. Finished Product. Test Batches of Retail Marijuana Product must be comprised of finished product that is packaged for sale.

2. Multiple Production Batches. If more than one Production Batch of Retail Marijuana Product is combined into a single Test Batch, then that Test Batch must include at least one finished product that is packaged for sale from each Production Batch combined into that Test Batch.

D. Retail Marijuana Testing Facility Selection. The Division will generally permit a Retail Marijuana Establishment to select which Retail Marijuana Testing Facility will test a Sample collected pursuant to this rule. However, the Division may elect, at is sole discretion, to assign a Retail Marijuana Testing Facility to test the Sample.

E. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

Basis and Purpose – R 1505

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(b)(III), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(V), 12-43.4-202(3)(c)(VI), 12-43.4-202(3)(c)(VII), 12-43.4-402(4), 12-43.4-403(5), and 12-43.4-404(6), 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 protect the public health and safety by establishing rules governing Test Batches for the Division's Retail Marijuana Sampling and Testing Program.

R 1505 – Retail Marijuana Testing Program – Test Batches

This rule shall be effective on May 1, 2014.

A. No Combination of Product Types. A Test Batch may not be a combination of any two or three of the following: Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product.

B. Combining Samples

1. Harvest Batches and Production Batches. The Division will generally permit a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility to combine Samples from any number of Harvest Batches or Production Batches created within a 7 day period into a single Test Batch for any contaminant testing required by rule. However, the Division may elect, at is sole discretion, to require a Test Batch to be comprised of Samples from only one Harvest Batch, Production Batch or a specifically identified quantity of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Production.

2. Packages. The Division will generally permit a Retail Marijuana Establishment to combine Samples from any number of packages of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product into a single Test Batch for any contaminant testing required by rule. However, the Division may elect, at is sole discretion, to require a Test Batch to be comprised of Samples from only one package or a specifically identified quantity of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Production.

C. Same Processes

1. General Applicability. All Harvest Batches or Production Batches combined into a single Test Batch must be cultivated or produced using the same standard operating procedure.

2. Retail Marijuana. All Harvest Batches of Retail Marijuana combined into a single Test Batch must be cultivated using the same Pesticide and other agricultural chemicals. If a Retail Marijuana Cultivation Facility applies a Pesticide or other agriculture chemical to only a specific set of plants, then Samples from those plants must be placed within a separate Test Batch.

3. Retail Marijuana Concentrate. All Production Batches of Retail Marijuana Concentrate combined into a single Test Batch must be of the same category and produced using the same extraction methods and combination of solvents.

4. Retail Marijuana Product. All Production Batches of Retail Marijuana Product combined into a single Test Batch must be of the exact same product type and made using the same ingredients.

D. Failed Contaminant Testing. If a Test Batch fails a contaminant test, then each Harvest Batch or Production Batch that was combined into that Test Batch shall be considered to have failed contaminant testing. See Rule R 1507.

E. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

Basis and Purpose – R 1506

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-402(4), 12-43.4-403(5), and 12-43.4-404(6), 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 protect the public health and safety by establishing rules requiring Retail Marijuana Establishments to cover certain costs associated with the Division's Retail Marijuana Sampling and Testing Program.

R 1506 – Retail Marijuana Testing Program – Costs

This rule shall be effective on May 1, 2014.

Costs. The cost for all sampling and tests conducted pursuant to these rules shall be the financial responsibility of the Retail Marijuana Establishment that is required to submit the Sample for testing.

Basis and Purpose – R 1507

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XI), 12-43.4-202(3)(a)(XII), 12-43.4-202(3)(b)(III), 12-43.4-202(3)(b)(IX), 12-43.4-202(3)(c)(V), 12-43.4-202(3)(c)(VII), 12-43.4-402(4), 12-43.4-403(5), and 12-43.4-404(6), 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 protect the public health and safety by establishing rules governing the quarantining of potentially contaminated product and the destruction of product that failed contaminant or potency testing for Division's Retail Marijuana Sampling and Testing Program.

R 1507 – Retail Marijuana Testing Program – Contaminated Product and Failed Test Results

This rule shall be effective on May 1, 2014.

A. Quarantining of Product

1. If the Division has reasonable grounds to believe that a particular Harvest Batch, Production Batch, package or quantity of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product is contaminated or presents a risk to public safety, then the Division may require a Retail Marijuana Establishment to quarantine it until the completion of the Division's investigation, which may include the receipt of any test results.

2. If a Retail Marijuana Establishment is notified by the Division or a Retail Marijuana Testing Facility that a Test Batch failed a contaminant or potency testing, then the Retail Marijuana Establishment shall quarantine any Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product from any package, Harvest Batch or Production Batch combined into that Test Batch and must follow the procedures established pursuant to paragraph B of this rule.

3. Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product that has been quarantined pursuant to this rule must be physically separated from all other inventory and may not be sold, wholesaled, transferred or processed into a Retail Marijuana Concentrate or Retail Marijuana Product.

B. Failed Contaminant Testing. If a Retail Marijuana Establishment is notified by the Division or a Retail Marijuana Testing Facility that a Test Batch failed contaminant testing, then for each package, Harvest Batch or Production Batch combined into that Test Batch the Retail Marijuana Establishment must either:

1. Destroy and document the destruction of the entire portion of the package, Harvest Batch or Production Batch that it possesses, See Rule R 307 – Waste Disposal; or

2. Decontaminate the portion of the package, Harvest Batch or Production Batch that it possesses, if possible, and create two new Test Batches, each containing the requisite number of Samples, and have those Test Batches tested for the identified contaminant by a different Retail Marijuana Testing Facility.

a. If both new Test Batches pass the required contaminant testing, then any Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product from any package, Harvest Batch or Production Batch included in that Test Batch may be sold, wholesaled, transferred or processed into a Retail Marijuana Concentrate or Retail Marijuana Product.

b. If one or both of the Test Batches do not pass contaminant testing, then the Retail Marijuana Establishment must destroy and document the destruction of the entire portion of the package, Harvest Batch or Production Batch included in that Test Batch that it possesses. See Rule R 307 – Waste Disposal.

C. Failed Potency Testing. If a Retail Marijuana Establishment is notified by the Division or a Retail Marijuana Testing Facility that a Test Batch of Retail Marijuana Product failed potency testing, then for the package or Production Batch from which that Test Batch was produced the Retail Marijuana Establishment must either:

1. Destroy and document the destruction of the entire portion of the package or Production Batch that it possesses, See Rule R 307 – Waste Disposal; or

2. Attempt corrective measures, if possible, and create two new Test Batches and have those Test Batches tested for potency by a different Retail Marijuana Testing Facility.

a. If both new Test Batches pass potency testing, then any Retail Marijuana Product from the Production Batch included in the Test Batch may be sold, wholesaled or transferred.

b. If one or both of the Test Batches fail potency testing, then the Retail Marijuana Products Manufacturing Facility must destroy and document the destruction of the entire portion of the package or Production Batch that it possesses. See Rule R 307 – Waste Disposal.

D. Violation Affecting Public Safety. Failure to comply with this rule may constitute a license violation affecting public safety.

Editor's Notes

History

Rule R 1101 emer. rule eff. 06/05/2013; expired 10/03/2013.

Rules R 102-R 1004, R 1102-R 1401 emer. rule eff. 07/01/2013.

Rules R 102-R 252, R 1401 emer. rule eff. 09/09/2013.

Entire rule eff. 10/15/2013.

Rule R 211 emer. rule eff. 12/19/2013; repealed eff. 03/02/2014.

Rules R 103, R 211, R 307, R 406, R 504-R 505, R 604-R 605, R 712, R 1500 eff. 03/02/2014.

Rules R 207-R 212 emer. rules eff. 07/01/2014; expired 10/28/2014.

Rules R 103, R 604, R 712, R 1004, R 1004.5, R 1006, R 1006.5, R 1501-R 1503 emer. rules eff. 08/01/2014

Rules R 231, R 234-R 235 emer. rules eff. 09/15/2014.

Rules R 207-R 212 emer. rules eff. 10/28/2014.

Rules R 103, R 207-R 212, R 231, R 234-R 235, R 407, R 604-R 605, R 712, R 1004, R 1004.5, R 1006, R 1006.5, R 1204, R 1501-R 1503 eff. 10/30/2014.

Rules R 1004.5, R 1006.5 emer. rules eff. 01/30/2015.

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Rules R 103-R 104, R 106, R 201-R 207, R 210-R 212, R 231-R 231.5, R 233-R 234, R 301, R 304, R 307, R 309, R 402, R 405, R 501, R 506, R 604-R 605, R 701-R 706, R 712, R 801-R 802, R 901, R 904, R 1001-R 1007.5, R 1201-R 1203, R 1301-R 1304, R 1308-R 1309, R 1501-R 1504 eff. 11/30/2015.