



COLORADO

Department of Revenue

Enforcement Division - Marijuana
1697 Cole Boulevard, Suite 200
Lakewood, CO 80401

February 5, 2018

INDUSTRY-WIDE BULLETIN: 18-02

RE: New Outdoor Cultivation Security Requirements Mandatory on January 1, 2019

Dear Marijuana Industry Stakeholders:

This Industry Bulletin is being issued to notify licensees of new requirements for outdoor or greenhouse medical and retail marijuana cultivations (collectively referred to as “Outdoor Cultivations”), **effective January 1, 2019.**¹

Rules M and R 305, 1 CCR 212-1 and 1 CCR 212-2, establish minimum requirements for maintaining adequate security, including requirements for a Security Alarm System on all perimeter entry points and perimeter windows of the Licensed Premises, as well as continuous monitoring of the Licensed Premises. Further, Rules M and R 305 require that Outdoor Cultivation licensees provide sufficient security measures to demonstrate that outdoor and greenhouse areas are not readily accessible by unauthorized individuals.

On November 17, 2017, the State Licensing Authority adopted amendments to Rules M and R 305, which establish the following additional minimum fencing requirements for Outdoor Cultivations, effective January 1, 2019:

1. The entire Limited Access Area shall be surrounded by a fence that measures at least eight feet from the ground, constructed of at least six gauge or higher metal chain link fence or a similarly secure material but may not be wood. All support posts shall be steel and securely anchored;
2. All entry gates shall measure at least eight feet from the ground and shall be constructed of six gauge or higher metal chain link fence or a similarly secure material but may not be wood;
3. The fence shall obscure the Limited Access Area so that it is not easily viewed from outside the fence; and
4. The perimeter of the fence shall be surrounded with lights illuminating all sides of the fence for at least 20 feet from the fence. Such lights may be, but are not required to be, motion sensing.

Compliance Date for Additional Minimum Outdoor Cultivation Fencing Requirements

During the period from January 1, 2018, to January 1, 2019 (“Grace Period”), an Outdoor Cultivation licensee that is currently in compliance with the requirements contained in Permanent Rules M and R

¹ Outdoor Cultivations as referenced in this Industry Bulletin includes Optional Premise Cultivation Operations, Marijuana Research and Development Cultivations, and Retail Marijuana Cultivation Facilities, as defined in Rules M and R 103, 1 CCR 212-1 and 1 CCR 212-2.



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305 is not required to comply with revised Rules M and R 305(A)(5)(a)-(d). In other words, an Outdoor Cultivation that was licensed and compliant with Rules M and R 305 prior to the effective date may maintain compliance with those requirements during the Grace Period. **However, as of January 1, 2019, all Outdoor Cultivation licensees must comply with the additional requirements established in Rules M and R 305.**

Waiver Process for One or More Security Requirements

An Outdoor Cultivation licensee may request that the Marijuana Enforcement Division (“Division”) waive one or more of the security requirements described in revised Rules M and R 305(A)(5)(a)-(d), through the submission of a written security waiver request. The Division may, in its discretion and on a case-by-case basis, approve a security waiver request, if the Division finds that the alternative safeguard proposed by the Outdoor Cultivation licensee meets the goals of the security requirements contained in revised Rules M and R 305(A)(5)(a)-(d). Any security waiver request must include, at a minimum, the following information:

1. The specific Rules and subsections of a Rule that is requested to be waived;
2. The reason for the waiver;
3. A description of an alternative safeguard the licensee will implement in lieu of the requirement that is subject to the waiver; and
4. An explanation of how and why the alternative safeguard accomplishes the goal of the security Rules, specifically protecting public safety, prevention of diversion, accountability, and prohibited access to minors.

The security waiver form will be made available at the Division’s website at the following link:
<https://www.colorado.gov/pacific/enforcement/med-license-applications-and-forms>.

The Division encourages licensees submitting a security waiver request to provide any additional information (e.g. pictures, diagrams, construction plans) that the Division should take under consideration when evaluating whether a proposed alternative safeguard meets the goals of the Rules’ security requirements.

Note that any security waiver issued by the Division is subject to annual review at the time of renewal of the underlying medical or retail marijuana business license. As such, on the renewal date of the medical or retail business license, an Outdoor Cultivation licensee must receive new Division approval in order to maintain operations under a prior-issued security waiver.

In addition to the requirements of revised Rules M and R 305, an Outdoor Cultivation licensee must comply with all other applicable Rule requirements. For example, any Rules containing requirements for Limited Access Areas apply to cultivation areas and greenhouses, which include, but are not limited to, video surveillance requirements contained in Rules M and R 306.



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To view the full text of any Rule referenced in this Industry Bulletin, please see the Division's website (<https://www.colorado.gov/pacific/enforcement/med-rules>). Please be aware that the information contained in this Industry Bulletin is not legal advice, and should not be treated as such. Nothing in this Industry Bulletin replaces a licensee's responsibility to read, understand, and maintain full compliance with all relevant statutes and Rules.

Regards,

Jim Burack
Director
Marijuana Enforcement Division

Applicants must provide required information for each security rule for which waiver is requested. Applicants are encouraged to attach supplemental and/or additional information (e.g. pictures, diagrams, construction plans, etc.) that the Division should consider in the review of the proposed alternative safeguard. Please copy and complete this page for each security rule waiver request.

Required Security Rule Information

Select one rule for waiver request: M/R 305(A)(5)(a) M/R 305(A)(5)(b) M/R305(A)(5)(c) M/R 305(A)(5)(d)

Reason for waiver: _____

Description of alternative safeguard. Please attach any additional information (e.g. pictures, diagrams, construction plans, etc. which will help to describe the alternate safeguard):

Explanation of how and why alternative safeguard accomplishes each goal of security rules (protecting public safety, prevention of diversion, accountability, and prohibited access to minors):

Signature: _____

Date: _____