R 100 Series – General Applicability

Basis and Purpose – R 103

The statutory authority for this rule is found at subsection 12-43.4-202(2)(b), C.R.S. and all of the Retail Code. 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, of visual, oral, or written communication, 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.
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> "Additive" means any substance added to Retail Marijuana Product that is not a common baking or cooking item.
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> "Affiliated Interest" means any Business Interest related to a Retail Marijuana Establishment that does not rise to the level of a Financial Interest in a Retail Marijuana Establishment license. An Affiliated Interest may include, but shall not be limited to, an Indirect Beneficial Interest Owner that is not a Financial Interest, a lease agreement, secured or unsecured loan, or security interest in fixtures or equipment with a direct nexus to the cultivation, manufacture, sale, transportation, or testing of Retail Marijuana or Retail Marijuana Products. Except as otherwise provided by these rules, an Affiliated Interest holder shall neither exercise control of nor be positioned so as to enable the exercise of control over the Retail Marijuana Establishment or its operations. A Retail Marijuana Establishment shall report each of its Affiliated Interests to the Division with each application for initial licensure, renewal, change of ownership or change of corporate structure.
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> "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.
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> "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 for licensure or registration, or for renewal of licensure or registration, 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~~a Direct Beneficial Interest Owner of the Retail Marijuana Establishment~~.~~, other than a Qualified Limited Passive Investor. Each shareholder, officer, director, member, or partner of a Closely Held Business Entity that is a Direct Beneficial Interest Owner must hold an Associated Key License.

"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.

"Business Interest" means any Person that holds a Financial Interest or an Affiliated Interest in a Retail Marijuana Establishment.

"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.

"Closely Held Business Entity" means an "entity" as defined in section 7-90-102, C.R.S., that has no more than fifteen shareholders, officers, directors, members, partners or owners, each of whom are natural persons, each of whom holds an Associated Key License, and each of whom is a United States citizen prior to the date of application. There must be no publicly traded market for interests in the entity. A Closely Held Business Entity and each of the natural persons who are its shareholders, officers, directors, members, partners or owners, are Direct Beneficial Interest Owners. A Closely Held Business Entity is an associated business of the Retail Marijuana Establishment for which it is a Direct Beneficial Interest Owner.

"Commercially Reasonable Royalty" means a right to compensation in the form of a royalty payment for the use of product-specific intellectual property. A commercially reasonable royalty must be limited to a specific product or line of products and provide compensation to the Commercially Reasonable Royalty Holder as a percentage of gross revenue or gross profit generated from sales of the particular product or line of products. The royalty payment must be at a reasonable percentage rate. To determine whether the percentage rate is reasonable, the Division will consider the totality of the circumstances, including but not limited to the following factors:

a. The percentage of royalties received by the recipient for the licensing of the intellectual property.

b. The rates paid by the Licensee for the use of other intellectual property.

c. The nature and scope of the license, as exclusive or non-exclusive; or as restricted or non-restricted in terms of territory or with respect to whom the manufactured product may be sold.

d. The licensor's established policy and marketing program to maintain his intellectual property monopoly by not licensing others or by granting licenses under special conditions designed to preserve that monopoly.

e. The commercial relationship between the recipient and Licensee, such as, whether they are competitors in the same territory in the same line of business.

f. The effect of selling the intellectual property in promoting sales of other products of the Licensee; the existing value of the intellectual property to the recipient as a generator of sales of his non-intellectual property items; and the extent of such derivative sales.

g. The duration of the term of the license for use of the intellectual property.

h. The established or projected profitability of the product made using the intellectual property; its commercial success; and its current popularity.

i. The utility and advantages of the intellectual property over products without the intellectual property.

j. The nature of the intellectual property; the character of the commercial embodiment of it as owned and produced by the licensor; and the benefits to those who have used the intellectual property.

k. The portion of the profit or of the selling price that may be customary in the particular business or in comparable businesses to allow for the use of the intellectual property.

l. The portion of the realizable profit that should be credited to the intellectual property as distinguished from non-intellectual property elements, the manufacturing process, business risks, or significant features or improvements added by the Licensee.

"Commercially Reasonable Royalty Interest Holder" means a Person that receives a Commercially Reasonable Royalty in exchange for a Licensee's use of the Commercially Reasonable Royalty Interest Holder's intellectual property. A Commercially Reasonable Royalty Interest Holder is an Indirect Beneficial Interest Owner.

"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.

"Direct Beneficial Interest Owner" means a natural person or a Closely Held Business entity that owns a share or shares of stock in a licensed Retail Marijuana Establishment, including the officers, directors, members, or partners of the licensed Retail Marijuana Establishment or Closely Held Business Entity, or a Qualified Limited Passive Investor. Each natural person that is a Direct Beneficial Interest Owner must hold an Associated Key License. Except that a Qualified Limited Passive Investor need not hold an Associated Key License and shall not engage in activities for which an Occupational License is required.

"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.

"Financial Interest" means any Direct Beneficial Interest Owner, a Commercially Reasonable Royalty Interest Holder who receives more than 30 percent of the gross revenue or gross profit from sales of the product subject to the royalty, a Permitted Economic Interest holder, and any other Person who controls or is positioned so as to enable the exercise of control over the Retail Marijuana Establishment.

"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~~Licensee's maximum allowable plant count, but must be fully accounted for in the Inventory Tracking System.

"Indirect Beneficial Interest Owner" means a holder of a Permitted Economic Interest, a recipient of a Commercially Reasonable Royalty associated with the use of intellectual property by a Licensee, a Profit-Sharing Plan Employee, a Qualified Institutional Investor, or another similarly situated Person as determined by the State Licensing Authority. An Indirect Beneficial Interest Owner is not a Licensee. The Licensee must obtain Division approval for an Indirect Beneficial Interest Owner that constitutes a Financial Interest before such Indirect Beneficial Interest Owner may exercise any of the privileges of the ownership or interest with respect to the Licensee.

"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~~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~~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~~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~~Associated Key Licensee of a Retail Marijuana Establishment or an occupationally licensed employee of a Retail Marijuana Establishment, each of whom 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~~Associated Key Licensee of a Retail Marijuana Establishment or an occupationally licensed Retail Marijuana Establishment employee, who is granted Inventory Tracking System User account access for the purposes of ~~conducting~~performing inventory tracking functions in the Inventory Tracking System. Each Inventory Tracking System User must have ~~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, store, transport, or test Retail Marijuana in accordance with the provisions of the Retail Code and these rules.

"Licensee" means any Person licensed or registered pursuant to the Retail Code 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, a Medical Marijuana Testing Facility, a Medical Marijuana Business Operator, or a Medical Marijuana ~~Testing Facility~~Transporter.

"Medical Marijuana Business Operator" means an entity that holds a registration from the State Licensing Authority to provide professional operational services to one or more Medical Marijuana Businesses for direct remuneration from the Medical Marijuana Business(es), which may include compensation based upon a percentage of the profits of the Medical Marijuana Business(es) being operated. A Medical Marijuana Business Operator may contract with Medical Marijuana Business(es) to provide operational services.. A Medical Marijuana Business Operator's contract with a Medical Marijuana Business does not in and of itself constitute ownership.

"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.

"Medical Marijuana Transporter" means a Person that is licensed to transport Medical Marijuana and Medical Marijuana-Infused Products from one Medical Marijuana Business to another Medical Marijuana Business and to temporarily store the transported Medical Marijuana and Medical Marijuana-Infused Products at its licensed premises, but is not authorized to sell, give away, buy, or receive complimentary Medical Marijuana or Medical Marijuana-Infused Products

under any circumstances. A Medical Marijuana Transporter does not include a Licensee that transports its own Medical Marijuana or Medical Marijuana-Infused Products.

"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.~~

"Owner" means, except where the context otherwise requires, a Direct Beneficial Interest 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. A Permitted Economic Interest holder is an Indirect Beneficial Interest Owner.

"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.

“Profit-Sharing Plan” means a profit-sharing plan that is qualified pursuant to 26 U.S.C. § 401 of the Internal Revenue Code and subject to the Employee Retirement Income Security Act, and which provides for employer contributions in the form of cash, but not in the form of stock or other equity interests in a Retail Marijuana Establishment.

“Profit-Sharing Plan Employee” means an employee holding an Occupational License who receives a share of a Retail Marijuana Establishment’s profits through a Profit-Sharing Plan. A Profit-Sharing Plan Employee is an Indirect Beneficial Interest Owner.

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

“Qualified Institutional Investor” means:

a. A bank as defined in Section 3(a) (6) of the Federal Securities Exchange Act of 1934, as amended;

b. An insurance company as defined in Section 2(a) (17) of the Investment Company Act of 1940, as amended;

c. An investment company registered under Section 8 of the Investment Company Act of 1940, as amended;

d. An investment adviser registered under Section 203 of the Investment Advisers Act of 1940, as amended;

e. Collective trust funds as defined in Section 3(c) (11) of the Investment Company Act of 1940, as amended;

f. An employee benefit plan or pension fund that is subject to the Employee Retirement Income Security Act of 1974, as amended, excluding an employee benefit plan or pension fund sponsored by a licensed or an intermediary or holding company licensee which directly or indirectly owns five percent or more of a licensee;

g. A state or federal government pension plan;

h. A group comprised entirely of persons specified in (a) through (g) of this definition.

A Qualified Institutional Investor is an Indirect Beneficial Interest Owner.

"Qualified Limited Passive Investor" means a natural person who is a United States citizen and is a passive investor who owns less than a five percent share or shares of stock in a licensed Retail Marijuana Entity. A Qualified Limited Passive Investor is a Direct Beneficial Interest Owner.

"Qualified Limited Passive Investor License" means a license held by a Qualified Limited Passive Investor, and is subject to the requirements and limitations set forth in the Retail Code and these rules.

"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, a Retail Marijuana Testing Facility, a Retail Marijuana Establishment Operator or a Retail Marijuana ~~Testing Facility~~Transporter.

"Retail Marijuana Establishment Operator" means an entity that holds a license from the State Licensing Authority to provide professional operational services to one or more Retail Marijuana Establishments for direct remuneration from the Retail Marijuana Establishment(s), which may include compensation based upon a percentage of the profits of the Retail Marijuana Establishment(s) being operated. A Retail Marijuana Establishment Operator contracts with Retail Marijuana Establishment(s) to provide operational services. A Retail Marijuana Business

Operator's contract with a Retail Marijuana Establishment does not in and of itself constitute ownership.

"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.

"Retail Marijuana Transporter" means a Person that is licensed to transport Retail Marijuana and Retail Marijuana Products from one Retail Marijuana Establishment to another Retail Marijuana Establishment and to temporarily store the transported Retail Marijuana and Retail Marijuana Products at its licensed premises, but is not authorized to sell, give away, buy, or receive complimentary Retail Marijuana or Retail Marijuana Products under any circumstances. A Retail Marijuana Transporter does not include a Licensee that transports and distributes its own Retail Marijuana or Retail Marijuana Products.

"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 a hard-sided container with a lid or other enclosure that can be secured in place, and the container is ~~any container or wrapping~~ used solely for the transport of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product in bulk, or in a quantity for ~~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.

R 200 Series – Licensing and Interests

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),~~I), 12-43.4-202(3)(a)(III), 12-43.4-202(3)(a)(XX), 12-43.4-202(3)(b)(IX), 12-43.4-304(1), and 12-43.4-309(2), and sections 12-43.4-103, 12-43.4-306.5, 12-43.4-312, 12-43.4-401, and 24-76.5-101, 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~~purpose of the rule is also to clarify that when an initial application is materially complete and accepted, but the Division determines further information is required before ~~it~~ the application can be fully processed~~. In such instances~~, the ~~applicant~~Applicant must provide the additional requested information within the time frame ~~given~~provided by the Division~~ in order for the application to be acted~~. Otherwise, the Division cannot act on the application in a timely manner, and the application may be denied.

~~**R 201 – Complete Applications Required: Retail Marijuana Establishments**~~

R 201 –Application Process

A. General Requirements

1. All applications for licenses authorized pursuant to subsections 12-43.4-401(1)(a)-(~~d~~g), 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 or an individual 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~~3. 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 and accurate 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 relevant license fees~~.~~ for each applicant and each premises. *See* Rules R 207 - Schedule of Application Fees: Retail Marijuana Establishments, R 208 - Schedule of Business License Fees: Retail Marijuana Establishments, R 209 – Schedule of Business License Renewal Fees: Retail Marijuana Establishments, R 234 – Schedule of License Fees: Individuals, and R 235 – Schedule of Renewal Fees: Individuals.

d. All applications must include all information required by the Division related to the Applicant's proposed Direct Beneficial Interest Owners, Indirect Beneficial Interest Owners and Qualified Limited Passive Investors, and all other direct and indirect financial interests in the Applicant.

e. At a minimum, each Applicant for a new license shall provide, at the time of application, the following information:

i. For each Associated Key License Applicant, evidence of proof of lawful presence, citizenship, if applicable, residence, if applicable, and Good Moral Character as required by the current forms prescribed by the Division;

ii. For each Retail Marijuana Establishment Applicant and each Associated Key License Applicant, all requested information concerning financial and management associations and interests of other Persons in the business;

iii. If the Applicant for any license pursuant to the Retail Code is a Closely Held Business Entity it shall submit with the application:

A. The Associated Key License applications for all of its shareholders, members, partners, officers and directors who do not already hold an Associated Key License;

B. If the Closely Held Business Entity is a corporation, a copy of its articles of incorporation or articles of organization; evidence of authorization from the Colorado Secretary of State to do business within this State, for each shareholder: his or her name, mailing address, state of residence and certification of Colorado residency for at least one officer and all officers with day-to-day operational control over the business;

C. If the Closely Held Business Entity is a limited liability company, a copy of its articles of incorporation and its operating agreement; evidence of authorization from the Colorado Secretary of State to do business within this State, for each member: his or her name, mailing address, state of residence and certification of Colorado residency for at least one officer and all officers with day-to-day operational control over the business;

D. If the Closely Held Business Entity is a general partnership, limited partnership, limited liability partnership, or limited liability limited partnership, a copy of the partnership agreement and, for each partner, his or her name, mailing address and state of residency and certification of Colorado residency for at least one officer and all officers with day-to-day operational control over the business.

iv. For each Retail Marijuana Establishment Applicant and each Associated Key License Applicant, documentation establishing

compliant return filing and payment of taxes related to any Medical Marijuana Business or Retail Marijuana Establishment in which such Applicant is, or was, required to file and pay taxes;

v. For each Retail Marijuana Establishment Applicant and each Associated Key License Applicant, documentation verifying and confirming the funds used to start and/or sustain the operation of the medical or retail marijuana business were lawfully earned or obtained.

vi. Accurate floor plans for the premises to be licensed; and

viii. The deed, lease, sublease, contract, or other document(s) governing the terms and conditions of occupancy of the premises to be licensed.

5. All applications to reinstate ~~5~~a license will be deemed applications for new licenses. This includes, but is not limited to, Associated Key licenses that have expired, Retail Marijuana Establishment licenses that have been expired for more than 90 days, licenses that have been voluntarily surrendered, licenses for which local licensing approval was not obtained within 12 months, and licenses that have been revoked.

6. The Division may refuse to accept or consider 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~~may be ~~accessible by the State Licensing Authority, local jurisdictions, and any state or local law enforcement agency~~used for a purpose authorized by the Medical Code, the Retail Code or for any other state or local law enforcement purpose~~.~~ or as otherwise required by law.

E. Division Application Management and Local Licensure.

1. The Division will either approve or deny a complete application between 45 days and 90 days of its receipt.

2. For each application for a new Retail Marijuana Establishment, the Applicant shall submit the original application and one identical copy. The Division will retain the original application for a new Retail Marijuana Establishment and will send the copy 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 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.

~~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.~~

6. Each Financial Interest is void and of no effect unless and until approved by the Division. A Financial Interest shall not exercise any privilege associated with the proposed interest until approved by the Division. Any violation of this requirement may be considered a license violation affecting public safety.

Basis and Purpose – R ~~201.5~~202

The statutory authority for this rule is found at subsections 12-43.4-103(1), 12-43.4-103(2.5), 12-43.4-103(12.4), 12-43.4-104(2)(a), 12-43.4-202(2)(a), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(I), 12-43.4-202(3)(a)(III~~) and (XIV.5~~), 12-43.4-202(3)(a)(XX), 12-43.4-202(3)(b)(IX), 12-43.4-306.5, and 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~~clarify the process to be followed when a Retail Marijuana Establishment applies to obtain financing or otherwise have a relationship with an Indirect Beneficial Interest Owner. The rule establishes that only materially complete Retail Marijuana Establishment applications for ~~Permitted Economic Interests,~~ Indirect Beneficial Interest Owners, accompanied by all required fees, will be accepted and processed by the Division. ~~The State Licensing Authority understands there may be instances where an~~The rule also clarifies that when an initial application is materially complete and accepted, but the Division determines further information is required before ~~it~~the application can be fully processed~~. In such instances~~, the ~~applicant~~Retail Marijuana

Establishment Applicant must provide the additional requested information within the time frame ~~given~~provided by the Division~~ in order for~~. Otherwise, the ~~application to be acted~~Division cannot act on the application in a timely manner~~.~~

~~R 201.5 – Complete Applications Required for Permitted Economic Interests:~~, and the Retail Marijuana Establishment's application may be denied. The rule sets forth requirements for the contents of the contract or Agreement between Retail Marijuana Establishments and Indirect Beneficial Interest Owners, which reflect basic legal requirements surrounding the relationship between the parties.

~~A.~~ R 202 –Applications, Agreements, Contracts and Certifications Required for Indirect Beneficial Interest Owners: Retail Marijuana Establishments

A. Retail Marijuana Establishment Initiates Process. The Retail Marijuana Establishment seeking to obtain financing ~~from~~or otherwise establish any type of relationship with an Indirect Beneficial Interest Owner, including a Permitted Economic Interest, a Commercially Reasonable Royalty Interest Holder, a Profit-Sharing Plan Employee, or a Qualified Institutional Investor, must file all required documents with the Division~~.~~, including any supplemental documents requested by the Division in the course of its review of the application.

B. ~~B. Agreement~~General Requirements. The Retail Marijuana Establishment seeking approval of an Indirect Beneficial Interest Owner must meet the following requirements:

1. All applications for approval of an Indirect Beneficial Interest Owner shall be made upon current forms prescribed by the Division.

2. The burden of proving that a proposed Indirect Beneficial Interest Owner is qualified to hold such an interest rests at all times with the Retail Marijuana Establishment submitting the application.

3. The Retail Marijuana Establishment applying for approval of any type of Indirect Beneficial Interest Owner must submit a complete application to the Division before it will be accepted or considered.

4. All applications must be complete and accurate 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, a Retail Marijuana Establishment applying to have any type of Indirect Beneficial Interest Owner 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 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.

C. Information Must Be Provided Truthfully. A Retail Marijuana Establishment applying for approval of any type of Indirect Beneficial Interest Owner 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 misstatements, omissions, misrepresentations or untruths in the application or in connection with the background investigation of the proposed Indirect Beneficial Interest Owner. This type of conduct may be considered as the basis for additional administrative action against the Retail Marijuana Establishment and it may also be the basis for criminal charges against either the Retail Marijuana Establishment Applicant or the Indirect Beneficial Interest Owner.

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, may be used for a purpose authorized by the Medical Code, the Retail Code or for any other state or local law enforcement purpose or as otherwise required by law.

E. Approval of Financial Interest. Each Financial Interest in a Retail Marijuana Establishment is void and of no effect unless and until approved by the Division. Any amendment of a Financial Interest is also void and of no effect unless and until approved by the Division.

F. Ongoing Qualification and Violation Affecting Public Safety. If at any time the Division finds any Indirect Beneficial Interest Owner is not qualified, or is no longer qualified, the Division may require the Retail Marijuana Establishment to terminate its relationship with and financial ties to the Indirect Beneficial Interest Owner within a specified time period. Failure to terminate such relationship and financial ties within the specified time period may constitute a violation affecting public safety and be a basis for administrative action against the Retail Marijuana Establishment.

G. Permitted Economic Interest Holder Requirements. At the time of application, a Retail Marijuana Establishment seeking to obtain approval of a Permitted Economic Interest shall provide evidence to establish that the natural person seeking to become a Permitted Economic Interest holder is a lawful resident of the United States and shall provide documentation verifying and confirming the funds used for the Permitted Economic Interest were lawfully earned or obtained.

H. Permitted Economic Interest Agreement Requirements. The Retail Marijuana Establishment Applicant 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 , and must fully incorporate all terms and conditions.

32. 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. The

Permitted Economic Interest holder shall not provide funding to the Retail Marijuana Establishment until the Permitted Economic Interest is approved by the Division.

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 and the Permitted Economic Interest holder must sign an affirmation of passive investment on a form approved by the Division.

d. The Retail Marijuana Establishment must initiate ~~the~~any process to convert a Permitted Economic Interest to ~~an ownership interest~~a Direct Beneficial Interest Owner and the process to convert the Permitted Economic Interest into a Direct Beneficial Interest Owner must be completed prior to the expiration or termination of the Agreement. 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~~a Direct Beneficial Interest Owner.

~~d~~e. At the election of the Retail Marijuana Establishment, if the holder of the Permitted Economic Interest is ~~unsuitable~~not qualified for licensure ~~and/or ownership~~as a Direct Beneficial Interest Owner but is ~~suitable~~qualified as a holder of the Permitted Economic Interest, and the Permitted Economic Interest is also ~~suitable,~~approved by the Division then the Permitted Economic Interest may remain in force and effect for as long as it ~~maintains suitability~~remains approved by the Division under the Medical Code and/or Retail Code as applicable, and any rules promulgated thereunder.

~~e~~f. 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~~could lead to a finding ~~of unsuitability~~that the holder no longer qualifies to hold the Permitted Economic Interest and/or that could lead to a denial of licensure pursuant to the Medical Code and/or Retail Code and any rules promulgated thereunder.

~~f~~g. 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~~could lead to a finding ~~of unsuitability~~that the holder is no longer qualified to hold the Permitted Economic Interest and/or that could lead to 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 ah. A Permitted Economic Interest holderholder's or a Retail Marijuana EstablishmentEstablishment's failure to make required disclosures 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. Failure to make required disclosures may lead to a finding that the Permitted Economic Interest is no longer approved, and a requirement that the Retail Marijuana Establishment terminate its relationship with the Permitted Economic Interest holder.

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.

i. The Permitted Economic Interest holder agrees and acknowledges that it has no entitlement or expectation of being able to invest in, or have a relationship with, the Retail Marijuana Establishment unless and until the Division determines the Permitted Economic Interest is approved. The Permitted Economic Interest holder agrees and acknowledges that its relationship with the Retail Marijuana Establishment is contingent upon Division approval. The Permitted Economic Interest holder understands and acknowledges that approval by the Division is wholly discretionary and the Division may, at any time, deny approval of the Permitted Economic Interest or find that the Permitted Economic Interest is no longer qualified. The Permitted Economic Interest Holder agrees and acknowledges it has no entitlement to or expectation of the Division approving the Permitted Economic Interest. The Permitted Economic Interest holder further agrees that any administrative or judicial review of a determination by the Division regarding the qualification or approval of the Permitted Economic Interest will only occur through licensing or enforcement proceedings involving the Retail Marijuana Establishment. The Permitted Economic Interest holder further agrees and acknowledges that the Permitted Economic Interest holder shall only be entitled to notice of a denial or administrative action concerning the Retail Marijuana Establishment if the denial or administrative action is based upon, or directly related to, the qualifications or actions of the Permitted Economic Interest holder. The Permitted Economic Interest holder also agrees and acknowledges that the Permitted Economic Interest holder may only request leave to intervene in an administrative proceeding against the Retail Marijuana Establishment, pursuant to subsection 24-4-105(2)(c), C.R.S., if the administrative proceeding is based upon, or directly related to, the qualifications or actions of the Permitted Economic Interest holder. Furthermore, the Permitted Economic Interest holder agrees and acknowledges that the Permitted Economic Interest holder may only seek judicial review of an action against the Retail Marijuana Establishment, pursuant to subsection 24-4-106(4), C.R.S., if the administrative action is based upon, or directly related to, the qualifications or actions of the Permitted Economic Interest Holder. THE PERMITTED ECONOMIC INTEREST HOLDER KNOWINGLY, FREELY, AND VOLUNTARILY WAIVES ANY RIGHT OR

CLAIM TO SEEK ANY INDEPENDENT REVIEW OF APPROVAL OR DENIAL OF THE PERMITTED ECONOMIC INTEREST BY THE DIVISION, OR OF AN ADMINISTRATIVE ACTION AGAINST THE RETAIL MARIJUANA ESTABLISHMENT, THAT IS BASED UPON, OR DIRECTLY RELATED TO, THE QUALIFICATIONS OR ACTIONS OF THE PERMITTED ECONOMIC INTEREST, AND EXPRESSLY AGREES THAT THE ONLY ADMINISTRATIVE OR JUDICIAL REVIEW OF SUCH A DETERMINATION OR ACTION WILL OCCUR THROUGH A LICENSING OR ENFORCEMENT PROCEEDING FOR THE RETAIL MARIJUANA ESTABLISHMENT.

I. Commercially Reasonable Royalty Interest Contract Requirements. A Retail Marijuana Establishment seeking to utilize the intellectual property of a Commercially Reasonable Royalty Interest Holder must submit a copy of the contract between the Retail Marijuana Establishment and the Person seeking to hold a Commercially Reasonable Royalty Interest. The following requirements apply to all such contracts:

1. The contract must be complete, and must fully incorporate all terms and conditions.

2. The following provisions~~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.~~included in the contract:

~~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. Any interest in~~a.Upon request by the Division, either~~ a Retail Marijuana Establishment~~ that is seeking to obtain financing from~~, whether held by a ~~Permitted Economic~~Commercially Reasonable Royalty Interest Holder or ~~the~~any other person~~ seeking to hold a Permitted Economic Interest, or both.~~, 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 contract or other interest in violation thereof shall ~~provide any additional information required to process and fully investigate the application. The additional information~~be void.

b. No contract, royalty 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 and the Commercially Reasonable Royalty Interest Holder must be provided to the Division no later than seven days after of the request is made unless otherwise specifiedsign an affirmation of passive investment on a form approved 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 d. The Commercially Reasonable Royalty Interest Holder shall disclose in writing to the Division and to the Retail Marijuana StoreEstablishment any and all disqualifying events, within ten days after occurrence of the event, that wouldcould 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 thereunderthat the Commercially Reasonable Royalty Interest Holder is not qualified to hold the Commercially Reasonable Royalty Interest.

12e. 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 thereunderthat the Commercially Reasonable Royalty Interest Holder is not qualified to hold the Commercially Reasonable Royalty Interest.

13. Failure to make required disclosures by a Permitted Economicf. A Commercially Reasonable Royalty Interest holderHolder's or a Retail Marijuana Establishment Establishment's failure to make required disclosures may be grounds for administrative action including but not limitedlead to denial of a subsequent request to convert the Permitted

Economic Interest into an ownership interest in a finding that the Commercially Reasonable Royalty Interest is not approved, or is no longer approved, and may lead to a requirement that the Retail Marijuana Establishment terminate its relationship with the Commercially Reasonable Royalty Interest Holder.

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.~~

g. The Commercially Reasonable Royalty Interest Holder agrees and acknowledges that its relationship with the Retail Marijuana Establishment is contingent upon Division approval throughout the entire term of its relationship with the Retail Marijuana Establishment. The Commercially Reasonable Royalty Interest Holder understands and acknowledges that approval by the Division is wholly discretionary and the Division may, at any time, find that the Commercially Reasonable Royalty Interest Holder does not qualify or no longer qualifies. The Commercially Reasonable Royalty Interest Holder agrees and acknowledges it has no entitlement to or expectation to approval of the Commercially Reasonable Royalty Interest.

h. The Commercially Reasonable Royalty Interest Holder further agrees that any administrative or judicial review of a determination by the Division approving or denying the Commercially Reasonable Royalty will only occur through licensing or enforcement proceedings involving the Retail Marijuana Establishment. The Commercially Reasonable Royalty Interest Holder further agrees and acknowledges that the Commercially Reasonable Royalty Interest Holder shall only be entitled to notice of a denial or administrative action concerning the Retail Marijuana Establishment if the denial or administrative action is based upon, or directly related to, the qualifications or actions of the Commercially Reasonable Royalty Interest Holder. The Commercially Reasonable Royalty Interest Holder also agrees and acknowledges that the Commercially Reasonable Royalty Interest Holder may only request leave to intervene in an administrative proceeding against the Retail Marijuana Establishment, pursuant to subsection 24-4-105(2)(c), C.R.S., if the administrative proceeding is based upon, or directly related to, the qualifications or actions of the Commercially Reasonable Royalty Interest Holder. Furthermore, the Commercially Reasonable Royalty Interest Holder agrees and acknowledges that the Commercially Reasonable Royalty Interest Holder may only seek judicial review of an action against the Retail Marijuana Establishment, pursuant to subsection 24-4-106(4), C.R.S., if the administrative action is based upon, or directly related to, the qualifications or actions of the Commercially Reasonable Royalty Interest Holder. THE COMMERCIALLY REASONABLE ROYALTY INTEREST HOLDER KNOWINGLY, FREELY, AND VOLUNTARILY WAIVES ANY RIGHT OR CLAIM TO SEEK ANY INDEPENDENT REVIEW OF APPROVAL OR DENIAL OF THE COMMERCIALLY REASONABLE ROYALTY INTEREST BY THE DIVISION, OR OF AN ADMINISTRATIVE ACTION AGAINST THE RETAIL MARIJUANA ESTABLISHMENT, THAT IS BASED UPON, OR DIRECTLY RELATED TO, THE QUALIFICATIONS OR ACTIONS OF THE COMMERCIALLY REASONABLE ROYALTY INTEREST HOLDER, AND EXPRESSLY

AGREES THAT THE ONLY ADMINISTRATIVE OR JUDICIAL REVIEW OF SUCH A DETERMINATION OR ACTION WILL OCCUR THROUGH A LICENSING OR ENFORCEMENT PROCEEDING FOR THE RETAIL MARIJUANA ESTABLISHMENT.

i. If the Division determines the Commercially Reasonable Royalty Interest Holder is not in compliance with the Retail Code, the Medical Code or these rules, then the recipient shall discontinue sales of any product or lines of products containing any of that Commercially Reasonable Royalty Interest Holder's intellectual property within thirty (30) days of the Division finding. The recipient shall not pay any remuneration to a Commercially Reasonable Royalty Interest Holder that does not qualify under the Retail Code and these rules, including but not limited to Rule R 231.6(B).

j. The Commercially Reasonable Royalty Interest Holder shall neither exercise control over nor be positioned so as to enable the exercise of control over the Retail Marijuana Establishment. Notwithstanding the foregoing, a Commercially Reasonable Royalty Interest Holder may influence the marketing, advertising, labeling and display of the product or line of products for which the Commercially Reasonably Royalty Interest exists so long as such influence is not inconsistent with the Retail Code, the Medical Code or these rules.

J. Profit-Sharing Plan Documents. A Retail Marijuana Establishment offering licensed employees a share of the profits through a Profit-Sharing Plan must submit a list of all proposed participants in the Profit-Sharing Plan along with their names, addresses and occupational license numbers and submit a copy of all documentation regarding the Profit-Sharing Plan in connection with the Retail Marijuana Establishment's application:

1. The documents establishing the Profit-Sharing Plan

~~**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 and must fully incorporate all terms and conditions.

C. Lawful Residency Required. At the time of application, 2. The following provisions must be included in the documents establishing the Profit-Sharing Plan:

a. Any interest in 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, whether held by the following:

1. A valid, unexpired Colorado driver's license, permit,a Profit-Sharing Plan Employee 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 impressedany other person, must be acquired in accordance with the raised embossed sealprovisions 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 presenceMedical Code and verified through the Systematic Alien Verification for Entitlements, administered by the United States Citizenship/or Retail Code, as applicable, and Immigration Services of the Department of Homeland Security. Valid immigration documents are as follows:the rules promulgated thereunder. The issuance of any contract or other interest in violation thereof shall be void.

a. Unexpired foreign passport bearing an unexpired "Processed for I-551" stampb.No contract or with an attached unexpired "Temporary I-551" visa;

b. Unexpired foreign passport accompanied other interest issued 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 and no claim or charge therein or thereto shall provide suitable evidence that be transferred except in accordance with the person seeking provisions of the Permitted Economic Interest is of Good Moral CharacterMedical Code and/or Retail Code as required by the current forms prescribed by the Divisionapplicable, and the rules promulgated thereunder. Any transfer in violation thereof shall be void.

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.c. 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 that any Profit-Sharing Plan Employee does not qualify under the Retail Code and these rules, including but not limited to Rule R 231.6(B), to participate in the Profit-Sharing Plan.

d. A Profit-Sharing Plan Employee 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 could lead to a finding that the Profit-Sharing Plan Employee does not qualify or no longer qualifies under the Retail Code and these rules, including but not limited to Rule R 231.6(B), to participate in the Profit-Sharing Plan.

e. A Retail Marijuana Establishment's or a Profit-Sharing Plan Employee's failure to make required disclosures may lead to a finding that the Profit-Sharing Plan is not approved, and may lead to a requirement that the Retail Marijuana Establishment terminate or modify the Profit-Sharing Plan.

f. The Profit-Sharing Plan Employee agrees and acknowledges that its relationship with the Retail Marijuana Establishment is contingent upon Division approval throughout the entire term of its relationship with the Retail Marijuana Establishment. The Profit-Sharing Plan Employee understands and acknowledges that approval by the Division is wholly discretionary and the Division may, at any time, deny approval of the Profit-Sharing Plan. The Profit-Sharing Plan Employee agrees and acknowledges he or she has no entitlement to or expectation to Division approval of the Profit-Sharing Plan or the Profit-Sharing Plan Employee's participation in the plan. The Profit-Sharing Plan Employee further agrees that any administrative or judicial review of a determination by the Division approving or denying the Profit-Sharing Plan or the Profit-Sharing Plan Employee will only occur through licensing or enforcement proceedings involving the Retail Marijuana Establishment. Each Profit-Sharing Plan Employee further agrees and acknowledges that the Profit-Sharing Plan Employee shall only be entitled to notice of a denial or

administrative action concerning the Retail Marijuana Establishment if the denial or administrative action is based upon, or directly related to, the qualifications or actions of the Profit-Sharing Plan Employee. The Profit-Sharing Plan Employee also agrees and acknowledges that the Profit-Sharing Plan Employee may only request leave to intervene in an administrative proceeding against the Retail Marijuana Establishment, pursuant to subsection 24-4-105(2)(c), C.R.S., if the administrative proceeding is based upon, or directly related to, the qualifications or actions of the Profit-Sharing Plan Employee. Furthermore, the Profit Sharing Plan Employee agrees and acknowledges that the Profit-Sharing Plan Employee may only seek judicial review of an action against the Retail Marijuana Establishment, pursuant to subsection 24-4-106(4), C.R.S., if the administrative action is based upon, or directly related to, the qualifications or actions of the Profit-Sharing Plan Employee. THE PROFIT-SHARING PLAN EMPLOYEE KNOWINGLY, FREELY, AND VOLUNTARILY WAIVES ANY RIGHT OR CLAIM TO SEEK ANY INDEPENDENT REVIEW OF APPROVAL OR DENIAL OF THE PROFIT-SHARING PLAN OR THE PROFIT-SHARING PLAN EMPLOYEE BY THE DIVISION, OR OF AN ADMINISTRATIVE ACTION AGAINST THE RETAIL MARIJUANA ESTABLISHMENT, THAT IS BASED UPON, OR DIRECTLY RELATED TO, THE PROFIT-SHARING PLAN OR THE PROFIT-SHARING PLAN EMPLOYEE'S QUALIFICATIONS OR ACTIONS OF THE PROFIT-SHARING PLAN EMPLOYEE, AND EXPRESSLY AGREES THAT THE ONLY ADMINISTRATIVE OR JUDICIAL REVIEW OF SUCH A DETERMINATION OR ACTION WILL OCCUR THROUGH A LICENSING OR ENFORCEMENT PROCEEDING FOR THE RETAIL MARIJUANA ESTABLISHMENT.

K. Qualified Institutional Investor Requirements. Before a Retail Marijuana Establishment may permit a Qualified Institutional Investor to own any portion of the Retail Marijuana Establishment, the Retail Marijuana Establishment must submit the following documentation to the Division in connection with the Retail Marijuana Establishment's application:

1. A description of the Qualified Institutional Investor's business and a statement as to why the Qualified Institutional Investor meets the definition of Qualified Institutional Investor in Rule R 103 and subsection 12-43.4-306.5(7), C.R.S.

2. A certification made under oath and the penalty of perjury by the Qualified Institutional Investor:

a. That the ownership interests were acquired and are held for investment purposes only and were acquired and are held in the ordinary course of business as a Qualified Institutional Investor and not for the purposes of causing, directly or indirectly, the election of a majority of the board of directors, any change in the corporate charter, bylaws, management, policies, or operations of a Retail Marijuana Establishment.

b. That the Qualified Institutional Investor is bound by and shall comply with the Retail Code and the rules adopted pursuant thereto, is subject to the jurisdiction of the courts of Colorado, and consents to Colorado as the choice of forum in the event any dispute, question, or controversy arises regarding the Qualified Institutional Investor's relationship with the Retail Marijuana Establishment or activities pursuant to the Retail Code and rules adopted pursuant thereto.

c. The Qualified Institutional Investor agrees and acknowledges that its relationship with the Retail Marijuana Establishment is contingent upon Division approval throughout the entire term of its relationship with the Retail Marijuana Establishment. The Qualified Institutional Investor understands and acknowledges that approval by the Division is wholly discretionary and the Division may, at any time, deny approval of the Qualified Institutional Investor. The Qualified Institutional Investor agrees and acknowledges it has no entitlement to or expectation to Division approval of the Qualified Institutional Investor. The Qualified Institutional Investor further agrees that any administrative or judicial review of a determination by the Division approving or denying the Qualified Institutional Investor will only occur through licensing or enforcement proceedings involving the Retail Marijuana Establishment. The Qualified Institutional Investor further agrees and acknowledges that the Qualified Institutional Investor shall only be entitled to notice of a denial or administrative action concerning the Retail Marijuana Establishment if the denial or administrative action is based upon, or directly related to, the qualifications or actions of the Qualified Institutional Investor. The Qualified Institutional Investor also agrees and acknowledges that the Qualified Institutional Investor may only request leave to intervene in an administrative proceeding against the Retail Marijuana Establishment, pursuant to subsection 24-4-105(2)(c), C.R.S., if the administrative proceeding is based upon, or directly related to, the qualifications or actions of the Commercially Reasonable Royalty Interest Holder. Furthermore, the Qualified Institutional Investor agrees and acknowledges that the Qualified Institutional Investor may only seek judicial review of an action against the Retail Marijuana Establishment, pursuant to subsection 24-4-106(4), C.R.S., if the administrative action is based upon, or directly related to, the qualifications or actions of the Commercially Reasonable Royalty Interest Holder. THE QUALIFIED INSTITUTIONAL INVESTOR KNOWINGLY, FREELY, AND VOLUNTARILY WAIVES ANY RIGHT OR CLAIM TO SEEK ANY INDEPENDENT REVIEW OF APPROVAL OR DENIAL OF THE COMMERCIALLY REASONABLE INTEREST BY THE DIVISION, OR OF AN ADMINISTRATIVE ACTION AGAINST THE RETAIL MARIJUANA ESTABLISHMENT, THAT IS BASED UPON, OR DIRECTLY RELATED TO, THE QUALIFICATIONS OR ACTIONS OF THE COMMERCIALLY REASONABLE ROYALTY INTEREST HOLDER, AND EXPRESSLY AGREES THAT THE ONLY ADMINISTRATIVE OR JUDICIAL REVIEW OF SUCH A DETERMINATION OR ACTION WILL OCCUR THROUGH A LICENSING OR ENFORCEMENT PROCEEDING FOR THE RETAIL MARIJUANA ESTABLISHMENT.

d. An explanation of the basis of the signatory's authority to sign the certification and to bind the Qualified Institutional Investor to its terms.

3. The name, address, telephone number and any other information requested by the Division as required on its approved forms for the officers and directors, or their equivalent, of the Qualified Institutional Investor as well as those Persons that have direct control over the Qualified Institutional Investor's ownership interest in the Retail Marijuana Establishment.

4. The name, address, telephone number and any other information requested by the Division as required on its approved forms for each Person who has the power to direct or control the Qualified Institutional Investor's voting of its shares in the Retail Marijuana Establishment.

5. The name of each Person that beneficially owns 5 percent or more of the Qualified Institutional Investor's voting securities or other equivalent.

6. A list of the Qualified Institutional Investor's affiliates.

7. A list of all regulatory agencies with which the Qualified Institutional Investor files periodic reports, and the name, address, and telephone number of the individual, if known, to contact at each agency regarding the Qualified Institutional Investor.

8. A disclosure of all criminal or regulatory sanctions imposed during the preceding 10 years and of any administrative or court proceedings filed by any regulatory agency during the preceding 5 years against the Qualified Institutional Investor, its affiliates, any current officer or director, or any former officer or director whose tenure ended within the preceding 12 months. As to a former officer or director, such information need be provided only to the extent that it relates to actions arising out of or during such person's tenure with the Qualified Institutional Investor or its affiliates.

9. A copy of any filing made under 16 U.S.C § 18a with respect to the acquisition or proposed acquisition of an ownership interest in the Retail Marijuana Establishment.

10. Any additional information requested by the Division.

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 sections 12-43.4-103 and 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~~untimely 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 Direct Beneficial Interest Owner required to have an Associated Key License must be fingerprinted at least every two years, and may be fingerprinted more often at the Division's discretion.

6. The Division ~~will send~~ shall perform a ~~copy of~~limited background check, which may include fingerprinting, regarding Qualified Limited Passive Investors and other Financial Interests that are Indirect Beneficial Interest Owners. If the ~~Licensee's application~~ background check provides reasonable cause for additional investigation, the Division may require additional investigation.

7. For each renewal ~~of an existing license~~application, the Licensee shall submit the original application and one identical copy. The Division will retain the original renewal application and will send the copy to the relevant local jurisdiction within seven days of receiving the renewal 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 Retail Marijuana Establishment Licensee files ~~a late~~an application ~~and the requisite fees with the Division~~ within 90 days of expiration of ~~the~~its license with the Division and pays the requisite fees to the Division, 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 Retail Marijuana Establishment 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.~~

3. The Division will not renew any Retail Marijuana Establishment license expired over 90 days prior to submission of the Retail Marijuana Establishment Licensee's renewal application, nor will it renew any license that has been voluntarily surrendered, any Retail Marijuana Establishment license for which local licensing approval was not obtained within 12 months, or any license that has been revoked. Retail Marijuana Establishment license that expired over 90 days prior to submission of the Retail Marijuana Establishment Licensee's renewal application, a license that has been voluntarily surrendered, a Retail Marijuana Establishment license for which local licensing approval was not

obtained within 12 months, and a license that has been revoked may only be reinstated via an application for a new license that is subsequently approved by the Division or the State Licensing Authority.

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~~shall expire. *See* Rules R 1301 – Disciplinary Process: Non-Summary Suspension and R 1302 – Disciplinary Process: Summary Suspensions.

E. Closely Held Business Entity Direct Beneficial Interest Owners. Closely Held Business Entity Direct Beneficial Interest Owners must submit a current Division certification form, signed by all Direct Beneficial Interest Owner(s) of the Retail Marijuana Establishment certifying that each Associated Key License owner of the Closely Held Business Entity has maintained, and currently maintains, United States citizenship.

F. ~~Permitted Economic Interests.~~Indirect Beneficial Interest Owners and Qualified Limited Passive Investors. At the time of renewal, a Retail Marijuana Establishment shall disclose any and all ~~Permitted Economic Interests~~Indirect Beneficial Interest Owners and Qualified Limited Passive Investors that hold an interest in the Retail Marijuana Establishment. ~~If a~~ Additionally, the Retail Marijuana Establishment ~~is financed by a Permitted Economic Interest, the following~~ must ~~accompany~~present updated information regarding all ~~renewal materials~~Indirect Beneficial Interest Owners and ~~be submitted~~Qualified Limited Passive Investors at the time the Retail Marijuana Establishment submits its renewal materials:

1. Current Division ~~Permitted Economic~~Indirect Beneficial Interest Owners and Qualified Limited Passive Investors renewal disclosure forms;

2. Current Division form, signed by ~~the~~all Direct Beneficial Interest Owner(s) of the Retail Marijuana Establishment, including but not limited to all Qualified Limited Passive Investors, and ~~the person holding the Permitted Economic~~all Indirect Beneficial Interest Owners, allowing the ~~holder of the Permitted Economic Interest~~ Indirect Beneficial Interest Owners and Qualified Limited Passive Investors to be investigated by the Division if the Division deems it necessary;

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

4. Current Division certification form, signed by ~~the holder~~all Direct Beneficial Interest Owner(s) of the ~~Permitted Economic Interest~~Retail Marijuana Establishment and the particular Qualified Limited Passive Investors or Indirect Beneficial Interest Owners, certifying that the Qualified Limited Passive Investor or Indirect Beneficial Interest Owner remains qualified under the Retail Code and these rules;

5. For Permitted Economic Interest Holder, current Division certification form, signed by all Direct Beneficial Interest Owner(s) of the Retail Marijuana Establishment and the particular Permitted Economic Interest holder, certifying that he or she~~:~~

~~a. Has~~ 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

6. For Qualified Limited Passive Investors, current Division certification form, signed by all Direct Beneficial Interest Owner(s) of the Retail Marijuana Establishment and the particular Qualified Limited Passive Investor, certifying that he or she has maintained, and currently maintains, United States citizenship.

Basis and Purpose – R 204

The statutory authority for this rule is found at subsections 12-43.4-103(1), 12-43.4-103(2.5), 12-43.4-103(14.3), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(I), 12-43.4-202(3)(a)(XX) and 12-43.4-202(3)(a)(IX), and sections 12-43.4-307.5 12-43.4-309(11) and 12-43.4-312(1),, C.R.S. The purpose of this rule is to provide clarity regarding the nature of a Direct Beneficial Interest Owner and an Indirect Beneficial Interest Owner, and to clarify what elementsfactors 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.regarding the same. The Division will review whateverall 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.ownership of a Retail Marijuana Establishment.

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

A. Licenses Held By Direct Beneficial Interest 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 its Direct Beneficial Interest Owner:(s). Each natural person other than a Qualified Limited Passive Investor must hold an Associated Key license.

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~~1. The sum of the percentages of ownership of all Direct Beneficial Interest Owners of a Retail Marijuana Establishment and Qualified Institutional Investors must equal 100~~%, and~~ %.

a ~~Retail Marijuana~~ . Qualified Institutional Investors may hold ownership interests, in the aggregate, of 30% or less in the Retail Marijuana Establishment.

b. A Qualified Limited Passive Investor must be a natural person who is a United States citizen and may hold an ownership interest of less than five percent in the Retail Marijuana Establishment ~~must maintain 100% ownership, held by Owners who possess~~.

c. Each Direct Beneficial Interest Owner, including but not limited to each officer, director, managing member, or partner of a Retail Marijuana Establishment, must hold a current and valid ~~Occupational Licenses.~~Associated Key License. *See* Rule R 233 – Retail Code or Medical Code Occupational Licenses Required. Except that this requirement shall not apply to Qualified Limited Passive Investors.

~~b~~

d. With the exception of Qualified Institutional Investors, only Direct Beneficial Interest Owners may hold a partnership interest, limited or general, a joint venture interest, or ownership of a share or shares in a corporation or a limited liability company which is licensed.

e. In the event of ~~an Owner's~~the death ~~or Occupational License~~ , disability, disqualification, divestment, termination, or revocation of the license of a Direct Beneficial Interest Owner or of approval of a Qualified Institutional Investor, 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~~the Licensee's plan for redistribution of ownership among the remaining Direct Beneficial Interest Owners and Qualified Institutional Investors. Such plan is subject to approval by the Division. If a change of ownership application is not timely submitted, the Retail Marijuana Establishment and its Associated Key Licensee(s) may be subject to administrative action.

~~C~~ C. At Least One Associated Key License Required. No Retail Marijuana Establishment may operate or be licensed unless it has at least one Associated Key Licensee that is a Direct Beneficial Interest Owner who has been a Colorado resident for at least one year prior to application. Any violation of this requirement may be considered a license violation affecting public safety.

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

~~D~~E~~F~~. Management Companies. Any Person contracted to manage the overall operation of a Licensed Premises ~~may be considered an Owner~~must hold a Retail Marijuana Operator license.

~~E~~F. Role of Managers. ~~Owners~~Associated Key Licensees 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~~a manager who~~.~~

~~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~~ not a Direct Beneficial Interest Owner. A manager who does not hold an Associated Key License as a Direct Beneficial Interest Owner of the Retail Marijuana ~~or~~ Establishment, must hold ~~or who does not hold~~ a Key License as an employee of the Retail Marijuana ~~Product~~Establishment~~, must hold a key license~~. Any change in manager must be reported to the Division within seven (7) days of the change. Additionally, a Retail Marijuana Operator may ~~constitute ownership~~include management services as part of the operational services provided to a Retail Marijuana Establishment. A Retail Marijuana Establishment and its Direct Beneficial Interest Owners are responsible for the acts and omissions of any manager, Retail Marijuana Establishment Operator, or agents and ~~a direct financial interest.~~employees thereof engaged in the operations of the Retail Marijuana Establishment.

~~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 204.5

The statutory authority for this rule is found at subsections 12-43.4-103, 12-43.4-202(2)(b), 12-43.4-202(3)(a)(I), 12-43.3-202(3)(a)(III), 12-43.4-202(3)(a)(XIV.5), 12-43.4-202(3)(a)(XX), 12-43.4-202(3)(b)(V), 12-43.4-202(3)(b)(VI), 12-43.4-202(3)(b)(VIII), 12-43.4-202(3)(b)(IX), and sections 12-43.4-304, 12-43.4-306, 12-43.4-308, 12-43.4-309, and 12-43.4-312, C.R.S. The purpose of this rule is to clarify the application, review and approval process for various types of Business Interests. The Division will review all relevant information to determine ownership of, interests in, and control of a Retail Marijuana Establishment.

R 204.5 – Disclosure, Approval and Review of Business Interests

A. **Business Interests.** A Retail Marijuana Establishment shall disclose all Business Interests at the time of initial application and at the time of each renewal application. Business Interests include Financial Interests and Affiliated Interests. Any Financial Interest must be pre-approved by the Division. It shall be unlawful to fail to completely report all Business Interests in each license issued. It shall be unlawful for a person other than a Financial Interest holding an Associated Key License to exercise control over a Retail Marijuana Establishment or to be positioned so as to enable the exercise of control over a Retail Marijuana Establishment. Except that a Qualified Institutional Investor and a Qualified Limited Passive Investor may vote his, her or its shares in the Retail Marijuana Establishment.

B. **Financial Interests.** A Retail Marijuana Establishment shall not permit any Person to hold or exercise a Financial Interest in the Retail Marijuana Establishment unless and until such Person's Financial Interest has been approved by the Division. If a Retail Marijuana Establishment wishes

to permit a Person to hold or exercise a Financial Interest, and that Person has not been previously approved in connection with an application for the Retail Marijuana Establishment, the Retail Marijuana Establishment shall submit a change of ownership or financial interest form approved by the Division. A Financial Interest shall include:

1. Any Direct Beneficial Interest Owner;

2. The following types of Indirect Beneficial Interest Owners:

   a. A Commercially Reasonable Royalty Interest Holder who receives more than 30 percent of the gross revenue or gross profit from sales of the product or lines of products subject to the royalty; and

   b. A Permitted Economic Interest holder.

3. **Control.** Any other Person who exercises control or is positioned so as to enable the exercise of control over the Retail Marijuana Establishment must hold an Associated Key License. A natural person who exercises control or is positioned so as to enable the exercise of control over a Retail Marijuana Establishment shall include but shall not be limited to a natural person who:

   a. Bears the risk of loss and opportunity for profit;

   b. Has final decision making authority over any material aspect of the operation of the Retail Marijuana Establishment;

   c. Manages the overall operations of a Retail Marijuana Establishment or its Licensed Premises, or who manages a material portion of the Retail Marijuana Establishment or its Licensed Premises;

   d. Guarantees the Retail Marijuana Establishment's debts or production levels;

   e. Is a beneficiary of the Retail Marijuana Establishment's insurance policies;

   f. Receives the majority of the Retail Marijuana Establishment's profits as compared to other recipients of the Retail Marijuana Establishment's profits; or

   g. Acknowledges liability for the Retail Marijuana Establishment's federal, state or local taxes.

C. **Affiliated Interests.** A Retail Marijuana Establishment shall disclose all Affiliated Interests in connection with each application for licensure, renewal or reinstatement of the Retail Marijuana Establishment. The Division may conduct such background investigation as it deems appropriate regarding Affiliated Interests. An Affiliated Interest shall include any Person who does not hold a Financial Interest in the Retail Marijuana Establishment and who has any of the following relationships with the Retail Marijuana Establishment:

1. The following Indirect Beneficial Interest Owners:

   a. A Commercially Reasonable Royalty Interest Holder who receives 30 percent or less of the gross revenue or gross profit from sales of the product or lines of products subject to the royalty;

   b. A Profit-Sharing Plan Employee; and

   c. A Qualified Institutional Investor.

2. Any other Person who holds any other disclosable interest in the Retail Marijuana Establishment other than a Financial Interest. Such disclosable interests shall include but shall not be limited to a lease agreement, a secured or unsecured loan, or security interest in fixtures or equipment with a direct nexus to the cultivation, manufacture, sale, transportation, or testing of Retail Marijuana or Retail Marijuana Products.

3. If the Division determines any Person disclosed as an Affiliated Interest should have been pre-approved as a Financial Interest, approval and further background investigation may be required. Additionally, the failure to seek pre-approval of a Financial Interest holder may form the basis for license denial or administrative action against the Retail Marijuana Establishment.

D. **Secured Interest In Marijuana Prohibited.** No Person shall at any time hold a secured interest in Retail Marijuana or Retail Marijuana Products.

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, 12-43.4-406, 12-43.4-407 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~~Direct Beneficial Interest Owners or changes in corporate ~~entities~~structure 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 jurisdiction ~~licensing authority~~ at least 30 days prior to any requested transfer or change.

4. Each Applicant for a transfer of ownership shall provide suitable evidence as required by the Division, in accordance with these rules and the Retail Code, of ~~a Person's~~each natural person's proof of lawful presence, citizenship, residence ~~and~~, good character and reputation and verification that ~~the Division may request~~funds used to invest in or finance the retail marijuana business were lawfully earned or obtained. 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~~information by the deadline specified by the Division may result in denial of the application.

6. The ~~Division will send applications~~Applicant shall provide the original and one copy of an application for ~~a~~ transfer of ownership to the Division. The Division will retain the original application and send copy 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.~~jurisdiction. 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, may be a violation affecting public safety, and may result in disciplinary action against the Applicant's existing license(s), if applicable.

9. ~~The~~All current Direct Beneficial Interest 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, may be a violation affecting public safety, and may result in disciplinary action against the license(s) of the current ~~Owner(s)~~Direct Beneficial Interest Owners and/or the Retail Marijuana Establishment.

10. If a Retail Marijuana Establishment or any ~~Licensees affiliated or associated with the business are applying~~of its Direct Beneficial Interest Owners applies to transfer ownership and ~~are~~is 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~~Direct Beneficial Interest 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~~seek to convert to become a Direct Beneficial Interest Owner are subject to this ~~rule~~Rule R 205. The ~~Licensee that is a party to the Permitted Economic Interest~~ Retail Marijuana Establishment must initiate the change of ownership process for an individual holding a ~~suitable~~Permitted Economic Interest who seeks to convert its interest to become a Direct Beneficial Interest Owner. Permitted Economic Interest ~~who is converting its interest to ownership. Unsuitable Permitted Economic Interests and~~ holders ~~thereof~~who are not qualified to become a Direct Beneficial Interest Owner shall not be allowed to convert ~~to an ownership interest~~.

12. Retail Marijuana Transporters Not Eligible. Retail Marijuana Transporters are not eligible to apply for change of ownership.

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 Direct and Indirect Beneficial Interest 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~~, and, where applicable, certifications of residency or citizenship for 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 and, where

applicable, certification of residency or citizenship for 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~~Direct and Indirect Beneficial Owners.

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~~1. A Direct Beneficial Interest 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. If the Licensee does not change the location of its business within the time period granted by the Division, including any extension, the Licensee shall submit a new application, pay the requisite fees and receive a new permit prior to completing any change of the location of the business.

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 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 Operator or a Medical Marijuana Business Transporter, 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. Each licensed premise must have its own public entrance and be securely and physically separated from any other address located within the same structure.

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~~ 4. Upon demonstrating certain conditions, the Direct Beneficial Interest 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~~in 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. Each licensed premise must have its own public entrance and be securely and physically separated from any other address located within the same structure.

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~~4. Upon demonstrating certain conditions, the Direct Beneficial Interest 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~~231

~~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 12-43.4-103, 12-43.4-305, 12-43.4-306 12-43.3-306.5, 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~~background investigations for ~~all Owners, officers managers~~Direct Beneficial Interest Owners, Indirect Beneficial Interest Owners, 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.**~~**Residency**

~~2. The Division may deny the application of an Applicant who fails to provide the requested evidence or information by the Division deadline.~~

~~B~~A. 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~~1. 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 Colorado residency, United States citizenship or lawful presence.

~~3~~2. Maintaining Ongoing ~~Suitability For~~ Licensing Qualification: 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. Applicants and Licensees shall notify the Division within ten days of any other event that renders the Applicant or Licensee no longer qualified under these rules. 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~~3. Application Forms Accessible to Law Enforcement and Licensing Authorities. All application forms supplied by the Division and filed by an Applicant for ~~license~~licensure 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:~~

B. Associated Key Licenses. Each Direct Beneficial Interest Owner who is a natural person, including but not limited to each officer, director, member or partner of a Closely Held Business Entity, must apply for and hold at all times a valid Associated Key License. Except that these criteria shall not apply to Qualified Limited Passive Investors, who are not required to hold Associated Key Licenses. Each such Direct Beneficial Interest Owner must establish that he or she meets the following criteria before receiving an Associated Key License:

1. The Applicant ~~must pay~~has paid the annual application and licensing fees;

2. The Applicant's criminal history ~~must indicate~~indicates 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 licensing authorityjurisdiction;

11. The Applicant establishes that he or she washas not been 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 premises that 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 haseither:

a. Has been a resident of Colorado for at least two yearsone year prior to the date of the Application.application, or

b. Has been a United States citizen since a date prior to the date of the application and has received a Finding of Suitability from the Division prior to filing the application. *See* Rule R 231.5 – Finding of Suitability, Residency and Requirements for Direct Beneficial Interest Owners; Rule R 232 – Factors Considered When Determining Residency and Citizenship: Individuals. .

D14. For Associated Key Licensees who are owners of a Closely Held Business Entity, the Applicant is a United States citizen.

C. Occupational Licenses. An Occupational License Applicant who is not applying for an Associated Key License must meetestablish that he or she meets the following criteria before receiving a license:an Occupational License:

1. The Applicant must payhas paid the annual application and licensing fees;

2. The Applicant's criminal history must indicateindicates 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. *See* Rule R 232 – Factors Considered When Determining Residency and Citizenship: Individuals.

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

56. 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;

67. 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~~8. 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; and

~~8~~9. The ~~E~~Applicant has not been a State Licensing Authority employee with regulatory oversight responsibilities for occupational licensees, 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.

D. 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.

E. Associated Key License Privileges. A person who holds an Associated Key License must apply to associate that license separately with each Retail Marijuana Establishment or Medical Marijuana Business with which the person is associated. A person who holds an Associated Key License may exercise the privileges of a licensed employee in any licensed Retail Marijuana Establishment or Medical Marijuana Business in which they are not an owner so long as the person does not exercise privileges of ownership.

F. Qualified Limited Passive Investor. An Applicant who wishes to be a Qualified Limited Passive Investor and hold an interest in a Retail Marijuana Establishment as a Direct Beneficial Interest Owner must establish that he or she meets the following criteria before the ownership interest will be approved:

1. He or she is a natural person;

2. The Applicant qualifies under Rule R 231.6(B);

3. He or she has been a United States citizen since a date prior to the date of the application, and

4. He or she has signed an affirmation of passive investment.

Basis and Purpose – R 231.5

The statutory authority for this rule is found at subsections 12-43.4-103(~~12~~1), 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), 12-43.4-202(3)(a)(XX), and sections 12-43.4-305, 12-43.4-306~~,~~.5 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 Direct Beneficial Interest Owners.

R 231.5 – Finding of Suitability, Residency and Reporting Requirements for Direct Beneficial Interest Owners

A. Finding of Suitability – Non-Resident Direct Beneficial Interest Owners. A natural person, owner, shareholder, director, officer, member or partner of an entity that intends to apply to become a Direct Beneficial Interest Owner who has not been a resident of Colorado for at least one year prior to the application shall first submit a request to the State Licensing Authority for a finding of suitability to become a Direct Beneficial Interest Owner as follows:

1. A request for a finding of suitability for a non-resident natural person shall be submitted on the forms prescribed by the Division.

2. A natural person or all owners, shareholders, directors, officers, members or partners of an entity who have not been a resident of Colorado for at least one year shall obtain a finding of suitability prior to submitting an application to become a Direct Beneficial Interest Owner to the State Licensing Authority. A non-Colorado resident's failure to obtain a finding of suitability prior to submitting an application to become a Direct Beneficial Interest Owner to the State Licensing Authority shall be grounds for denial of the application.

B. Number of Permitted Direct Beneficial Interest Owners.

1. A Retail Marijuana Establishment may be comprised of an unlimited number of Direct Beneficial Interest Owners that have been residents of Colorado for at least one year prior to the date of the application.

2. On and after January 1, 2017, a Retail Marijuana Establishment that is comprised of one or more Direct Beneficial Interest Owners who have not been Colorado residents for at least one year is limited to no more than fifteen Direct Beneficial Interest Owners, each of whom is a natural person. Further, a Retail Marijuana Establishment that is comprised of one or more Direct Beneficial Interest Owners who have not been Colorado residents for at least one year shall have at least one officer who is a Colorado resident. All officers with day-to-day operational control over a Retail Marijuana Establishment must be Colorado residents for at least one year, must maintain their Colorado residency during the period while they have day-to-day operational control over the Retail Marijuana Establishment and shall be licensed as required by the Retail Code. Rule 231 – Qualifications for Licensure and Residency: Individuals.

C. Notification of Change of Residency. A Retail Marijuana Establishment with more than fifteen Direct Beneficial Interest Owners shall provide thirty days prior notice to the Division of any Direct Beneficial Interest Owners' intent to change their residency to a residency outside Colorado. A Retail Marijuana Establishment with no more than fifteen Direct Beneficial Interest Owners shall notify the Division of the change of residency of any Direct Beneficial Interest Owner at the time of its license renewal. Failure to provide timely notice pursuant to this rule may lead to administrative action against the Retail Marijuana Establishment and its Direct Beneficial Interest Owners.

Basis and Purpose – R 231.6

The statutory authority for this rule is found at subsections 12-43.4-103(2.5), 12-43.3-201(4), 12-43.4-202(2)(b) and 24-18-105(3), 12-43.4-202(3)(a)(XX), and sections 12-43.4-305, 12-43.4-306.5 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~~an Indirect Beneficial Interest Owner other than 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~~6 – Qualifications for ~~Permitted Economic Interests: Individuals~~Indirect Beneficial Interest Owners and Qualified Limited Passive Investors

A. General Requirements

~~A. General Requirements~~

1. ~~All individuals~~An Applicant applying ~~for~~to become a Commercially Reasonable Royalty Interest holder who receives more than 30 percent of the gross revenue or gross profit from sales of the product or line of products or the holder of a Permitted Economic Interest must be pre-approved by the Division.

2. An Applicant applying to become an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor 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~~Applicant 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.~~Applicant and the Retail Marijuana Establishment.

~~2~~3. The Division may deny the ~~individual's~~ application when the ~~individual~~Applicant fails to provide any requested ~~evidence or~~ information by the Division's deadline.

~~3. A Permitted Economic~~4. The Division's determination that an Indirect Beneficial Interest ~~approved by the Division~~Owner or Qualified Limited Passive Investor is qualified constitutes a revocable privilege~~.~~ held by the Retail Marijuana Establishment. The burden of proving the ~~qualifications for suitability to hold a Permitted Economic~~Indirect Beneficial Interest Owner or Qualified Limited Passive Investor is qualified rests at all times with the ~~applicant.~~Retail Marijuana Establishment Applicant. Indirect Beneficial Interest Owners and Qualified Limited Passive Investors are not separately licensed by the Division. Any administrative action regarding an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor may be taken directly against the Retail Marijuana Establishment.

5~~4~~. Permitted Economic Interest Fingerprints Required. Any individual applying to hold his or her first Permitted Economic Interest shall be fingerprinted for a criminal history record check. In the Division's discretion, an individual may be required to be fingerprinted again for additional criminal history record checks.

~~B. Other Requirements~~

B. Qualification. The Division may consider the following non-exhaustive factors to determine whether an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor is qualified:

1. ~~Fingerprints Required. Any individual applying~~The Applicant's criminal history indicates that he or she is of Good Moral Character;

2. The Applicant is at least 21 years of age;

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

4. The Applicant 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 ~~first Permitted Economic Interest shall be fingerprinted~~application date;

5. The Applicant is not currently subject to or has not discharged a sentence for a ~~criminal history record check. In~~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, in the Division's discretion, ~~an individual may be required to be fingerprinted again~~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 may not disqualify an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor;

6. The Applicant 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;

7. The Applicant has not been a State Licensing Authority employee with regulatory oversight responsibilities for ~~additional criminal history record checks~~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.

8. The Applicant has failed to provide documentation requested by the Division to establish qualification to be an Indirect Beneficial Interest Owner.

~~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~~Qualification:

1. An ~~individual seeking or holding a Permitted Economic~~Indirect Beneficial Interest Owner or Qualified Limited Passive Investor 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~~Indirect Beneficial Interest Owner, Qualified Limited Passive Investor and Retail Marijuana Establishment shall cooperate in any investigation into whether an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor continues to be qualified that may be 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;~~

D. Divestiture of Indirect Beneficial Interest Owner or Qualified Limited Passive Investor. If the Division determines an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor is not permitted to hold their interest, the Retail Marijuana Establishment shall have 60 days from such determination to divest the Indirect Beneficial Interest Owner or Qualified Limited Passive Investor. If the Retail Marijuana Establishment fails to divest

any Indirect Beneficial Interest Owner or Qualified Limited Passive Investor the Division determines is not qualified, or is no longer qualified, within 60 days, the Retail Marijuana Establishment may face administrative action against its license or denial of its license. Additionally, failure to divest an Indirect Beneficial Interest Owner or Qualified Limited Passive Investor the Division determines is not qualified, or is no longer qualified, within 60 days may further result in administrative action against the Retail Marijuana Establishment and its Associated Key Licensee(s).

~~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), (3)(a)(I) and (3)(a)(XX), 12-43.4-306~~(1)(k~~.5(2)(a)-(b), 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 and Citizenship: 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~~is 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.

F. Determination of United States Citizenship. Whenever the Retail Code or the rules promulgated pursuant thereto require a Direct Beneficial Interest Owner to be a United States citizen, the Direct Beneficial Interest Owner must provide evidence of United States citizenship as required by the Division in accordance with applicable federal and state statutes and regulations.

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~~Associated Key License or other 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. Trade craftspeople not normally engaged in the business of cultivating, processing, or selling Retail Marijuana do not need to be accompanied at all times, and instead only reasonably monitored.

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 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~~qualification 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 Except Retail Marijuana Transporters

A. All Retail Code Licenses. All ~~Licenses~~licenses issued pursuant to the Retail Code and these rules are valid for one year, except ~~those fully converted from~~that a ~~Medical~~Retail Marijuana ~~Business~~Transporter license~~.~~ and an Occupational License are valid for two years.

B. License May Be Valid for Less Than One Year. A License may be valid for less than one year if surrendered, or 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 12-43.4-103(1), section 12-43.4-105, and 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. Except that trade craftspeople not normally engaged in the business of cultivating, processing or selling Retail Marijuana need not be accompanied on a full-time basis, but only reasonably monitored.

2.1 Any crime or violation of the Retail Marijuana Code or the Retail Marijuana Rules committed by a visitor that involves any discovered plan or other action involving committing theft, burglary, underage sales, diversion of Retail Marijuana or Retail Marijuana Product, or other crime related to the operation of the subject Retail Marijuana Establishment shall be reported to the Division in accordance with rule R 904 – Retail Marijuana Establishment Reporting Requirements.

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, or 12-43.4-406. 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 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.

6. A Medical Marijuana Transporter Licensee and a Retail Marijuana Transporter Licensee may share a single Licensed Premises to operate a dual transporting, logistics, and temporary storage 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.

6.1. Transporters. A co-located Medical Marijuana Transporter and Retail Marijuana Transporter shall maintain either physical or virtual separation of the facilities and Medical Marijuana, Medical Marijuana-Infused Products, Retail Marijuana, and Retail Marijuana Products being transported and stored. Record keeping for the business operations and storage 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 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~~,~~ and Serving, ~~Distributing and Transporting~~ Retail Marijuana and Retail Marijuana Product - Hours of Operation

A. Hours of Operation. Retail Marijuana Establishments shall not sell~~,~~ or 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.

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), 12-43.4-406(1)(c), 12-43.4-406(4)(b) 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.

G. Authorized Marijuana Transport. A Retail Marijuana Store is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana and Retail Marijuana Product so long as the place where transportation orders are taken and delivered is a licensed Retail Marijuana Establishment. Nothing in this rule prevents a Retail Marijuana Store from transporting its own Retail Marijuana and Retail Marijuana Product.

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), 12-43.4-401(4), 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); 12-43.4-402(11); 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.~~Repealed.

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.~~Repealed.

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.~~Repealed.

3. 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 consumer. Except that non-edible, non-psychoactive Retail Marijuana Products including ointments, lotions, balms, and other non-transdermal topical products are exempt from the one-ounce quantity limitation on sales.

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.

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. 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.

1. 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.

2. Any Retail Marijuana Concentrate displayed in a Retail Marijuana Store must include the potency of the concentrate on a sign next to the name of the product.

a. The font on the sign must be large enough for a consumer to reasonably see from the location where a consumer would usually view the concentrate.

b. The potency displayed on the sign must be within plus or minus fifteen percent of the concentrate's actual potency.

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

N. A Retail Marijuana Store shall not sell or give away Retail Marijuana or Retail Marijuana Product to a Retail Marijuana Transporter, and shall not buy or receive complimentary Retail Marijuana or Retail Marijuana Product from a Retail Marijuana Transporter.

O. A Retail Marijuana Store shall not compensate its employees using performance-based sales incentives. Performance-based incentives that are not sales-based are acceptable. Examples of performance-based incentives that are not sales-based include recognition for providing quality information to consumers, or the duration of the employee's employment with the Retail Marijuana Store.

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.~~Repealed

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.~~Repealed.

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, or Retail Marijuana Transporter 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, or Retail Marijuana Transporter 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, or Retail Marijuana Transporter 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, or Retail Marijuana Transporter. 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.

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), 12-43.4-406(1)(c) and 12-43.4-406(4)(b), 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.

G. Authorized Marijuana Transport. A Retail Marijuana Cultivation Facility is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana so long as the place where transportation orders are taken and delivered is a licensed Retail Marijuana Establishment. Nothing in this rule prevents a Retail Marijuana Cultivation Facility from transporting its own Retail Marijuana.

H. A Retail Marijuana Cultivation Facility may compensate its employees using performance-based incentives.

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.~~ Repealed.

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.~~ Repealed

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. 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.

F. A Retail Marijuana Cultivation Facility shall not sell or give away Retail Marijuana to a Retail Marijuana Transporter, and shall not buy or receive complimentary Retail Marijuana from a Retail Marijuana Transporter.

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 or Retail Marijuana Transporter 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 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.

1. 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.

2. Notwithstanding subparagraph (C)(1) of this rule R 505, a Retail Marijuana Cultivation Facility shall be permitted to possess Solvent-Based Retail Marijuana Concentrate only when the possession is due to the transfer of Retail Marijuana flower or trim that failed microbial testing to a Retail Marijuana Products Manufacturing Facility for processing in to a Solvent-Based Retail Marijuana Concentrate, and the Retail Marijuana Products Manufacturing Facility transfers the resultant Solvent-Based Retail Marijuana Concentrate back to the originating Retail Marijuana Cultivation Facility.

a. The Retail Marijuana Cultivation Facility shall comply with all requirements in rule R 1507(B.1) when having Solvent-Based Retail Marijuana Concentrate manufactured out of Retail Marijuana flower or trim that failed microbial testing.

b. The Retail Marijuana Cultivation Facility is responsible for submitting the Solvent-Based Retail Marijuana Concentrate for all required testing for contaminants pursuant to rule R 1501 – Retail Marijuana Testing Program – Contaminant Testing, for potency pursuant to rule R 1503 – Retail Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Retail Marijuana Rules or Retail Marijuana Code.

c. Nothing in this rule removes or alters the responsibility of the Retail Marijuana Cultivation Facility transferring the Retail Marijuana that failed microbial testing from complying with the requirement to pay excise tax pursuant to rule R 502(E).

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), 12-43.4-406(1)(c), and 12-43.4-406(4)(b), 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.

G. Authorized Marijuana Transport. A Retail Marijuana Products Manufacturing Facility is authorized to utilize a licensed Retail Marijuana Transporter for transportation of its Retail Marijuana Product so long as the place where transportation orders are taken and delivered is a licensed Retail Marijuana Establishment. Nothing in this rule prevents a Retail Marijuana Products Manufacturing Facility from transporting its own Retail Marijuana.

H. A Retail Marijuana Products Manufacturing Facility may compensate its employees using performance-based incentives.

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. 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.

I. A Retail Marijuana Products Manufacturing Facility shall not sell or give away Retail Marijuana or Retail Marijuana Product to a Retail Marijuana Transporter, and shall not buy or receive complimentary Retail Marijuana or Retail Marijuana Product.

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, or Retail Marijuana Transporter 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

A. 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, or Retail Marijuana Transporter 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, or Retail Marijuana Transporter 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, or Retail Marijuana Transporter.

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(IX)(A)&(B), 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~~Repealed.

   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.~~Repealed.

8.1 Liquid Edible Retail Marijuana Product.

   a. Pursuant to 12-43.4-404(4)(b), C.R.S., Liquid Edible Retail Marijuana Products are impracticable to mark with the Universal Symbol and are exempt from the provision in subparagraph (C.5)(5) of this rule R 604 that requires Edible Retail Marijuana Products that are impracticable to mark with the Universal Symbol to contain 10mg or less active THC per Child-Resistant package.

   b. This exemption permits the manufacture and sale of Multi-Serving Liquid Edible Retail Marijuana Products so long as the product is:

      i. Packaged in a structure that uses a single mechanism to achieve both Child-Resistant properties and accurate pouring measurement of each liquid serving in increments equal to or less than 10mg of active THC per serving, with no more than 100mg of active THC total per Child-Resistant package; and

      ii. The measurement component is within the Child-Resistant cap or closure of the bottle and is not a separate component.

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.

d. A Multiple-Serving Edible Retail Marijuana Product that is a Liquid Edible Retail Marijuana Product shall comply with the requirements in subsubparagraph (C.5)(8.1)(b) of this rule R 604 and is exempt from subsubparagraphs a-c of this subparagraph (C.5)(9).

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.

12. Edibles Prohibited that are Shaped like a Human, Animal, or Fruit. This subparagraph (C.5)(12) is effective beginning October 1, 2017.

a. The production and sale of Edible Retail Marijuana Products in the following shapes is prohibited:

i. The distinct shape of a human, animal, or fruit; or

ii. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

b. The prohibition on human, animal, and fruit shapes does not apply to the logo of a licensed Retail Marijuana Establishment. Nothing in this subsubparagraph (C.5)(12)(b) alters or eliminates a Licensee's obligation

to comply with the requirements of rule R 1001 – Labeling and Packaging Requirements: General Applicability.

c. Edible Retail Marijuana Products that are geometric shapes and simply fruit flavored are not considered fruit and are permissible; and

d. Edible Retail Marijuana Products that are manufactured in the shape of a marijuana leaf are permissible.

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. Standard Operating Procedures

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.

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.

H. Authorized Marijuana Transport. A Retail Marijuana Testing Facility is authorized to utilize a licensed Retail Marijuana Transporter to transport Samples of Retail Marijuana for testing, in accordance with the Retail Marijuana Code and Retail Marijuana Rules, between the originating Retail Marijuana Establishment requesting testing services and the destination Retail Marijuana Testing Facility performing testing services. Nothing in this rule requires a Retail Marijuana Testing Facility, Retail Marijuana Store, Retail Marijuana Cultivation Facility, or Retail Marijuana Products Manufacturing Facility to utilize a Retail Marijuana Transporter to transport Samples of Retail Marijuana for testing.

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.

I. A Retail Marijuana Testing Facility shall not sell or give away Retail Marijuana or Retail Marijuana Product to a Retail Marijuana Transporter, and shall not buy, or receive complimentary Retail Marijuana or Retail Marijuana Product from a Retail Marijuana Transporter.

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.~~If certification in a testing category is required by the Division, then the Retail Marijuana Testing Facility must be certified in the category in order to perform that type of testing.

1. Residual solvents;

2. ~~Poisons or Toxins;~~Repealed.

3. ~~Harmful Chemicals;~~Repealed.

4. ~~Dangerous Molds, Mildew or Filth;~~Repealed.

5. ~~Harmful~~ Microbials~~, such as E. Coli or Salmonella;~~

6. ~~Pesticides; and~~Repealed

7. THC and other Cannabinoid potency.

8. Chemical Contaminants; and

9. Biological Contaminants.

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.

13. Conduct While Seeking Certification. A Retail Marijuana Testing Facility, and its agents and employees, shall provide all documents and information required or requested by the Colorado Department of Public Health and Environment and its employees, and the Division and its employees in a full, faithful, truthful, and fair manner. A violation of this rule may be considered a license violation affecting public safety.

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.

C.5 Change in Laboratory Director. In the event that the laboratory director leaves employment at the Retail Marijuana Testing Facility, the Retail Marijuana Testing Facility shall:

1. Provide written notice to the Colorado Department of Public Health and Environment and the Marijuana Enforcement Division within seven days of the laboratory director's departure; and

2. Designate an interim laboratory director within seven days of the laboratory director's departure. At a minimum, the interim laboratory director must meet the qualifications of a supervisory analyst.

3. The Retail Marijuana Testing Facility must hire a permanent laboratory director within 60 days from the date of the previous laboratory director's departure.

4. Notwithstanding the requirement of subparagraph (C.5)(3), the Retail Marijuana Testing Facility may submit a waiver request to the Division Director to receive an additional 60 days to hire a permanent laboratory director provided that the Retail Marijuana Testing Facility submits a detailed oversight plan along with the waiver request.

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.

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~~ 5,000 Parts Per Million (PPM)	Solvent-Based Concentrates
Heptanes	< ~~500~~ 5,000 Parts Per Million (PPM)	
~~Benzene**~~	~~< 1 Parts Per Million (PPM)~~	
Toluene**	< ~~1~~890 Parts Per Million (PPM)	
Hexane**	< ~~10~~290 Parts Per Million (PPM)	
Total Xylenes (m,p, o-xylenes)**	< ~~1~~2,170 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~~1.0 ppm Arsenic – Max Limit: < ~~10~~ 0.4 ppm Cadmium – Max Limit: <~~4.1~~ 0.4 ppm Mercury – Max Limit: <~~2.0~~ 0.2 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: All Retail Marijuana Establishments

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 and insurance 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 in 35-14-127, 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~~must 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.

a.1 Use of a Retail Marijuana Transporter. In addition to subsubparagraph (H)(1)(a), Licensees shall also follow the requirements of this subsubparagraph (H)(1)(a.1) when a Licensee utilizes the services of a Retail Marijuana Transporter.

i. When a Retail Marijuana Store, Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility, or Retail Marijuana Testing Facility utilizes a Retail Marijuana Transporter for transporting its Retail Marijuana or Retail Marijuana Products, the originating Licensee shall input the requisite information on the Inventory Tracking System-generated transport manifest for the final destination Licensee who will be receiving the Retail Marijuana or Retail Marijuana Products.

ii. A Retail Marijuana Transporter is prohibited from being listed as the final destination Licensee.

iii. A Retail Marijuana Transporter shall not alter the information of the final destination Licensee after the information has been entered on the Inventory Tracking System-generated transport manifest by the originating Retail Marijuana Store, Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility, or Retail Marijuana Testing Facility.

iv. If the Retail Marijuana Transporter is not delivering the originating Licensee's Retail Marijuana or Retail Marijuana Product directly to the final destination Licensee, the Retail Marijuana Transporter shall communicate to the originating Licensee which of the Retail Marijuana Transporter's Licensed Premises or off-premises storage facilities will receive and temporarily store the Retail Marijuana or Retail Marijuana Product. The originating Licensee shall input the Retail Marijuana Transporter's location address and license number on the Inventory Tracking System-generated transport manifest.

b. Retail Marijuana Vegetative Plants.

i. 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.

ii. Retail Marijuana Transporters are permitted to transport Retail Marijuana Vegetative Plants on behalf of other Licensees due to a change of location approved by the Division pursuant to rule R 206. The Retail Marijuana Transporter shall transport the Retail Marijuana Vegetative Plants directly from the originating Licensed Premises to the final destination Licensed Premises without any stops in between.

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);

c.1 Name, location address, and license number of the Retail Marijuana Transporter if applicable pursuant to R 801(H)(1)(a.1)(iv).

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. Retail Marijuana Transporters shall comply with all requirements of this subsubparagraph (J)(2)(a) except that they are not required to weigh Retail Marijuana or Retail Marijuana Products.

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), 12-43.4-406(2), 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: All Retail Marijuana Establishments

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. Except that Retail Marijuana Transporters are allowed to have more than 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. A Retail Marijuana Transporter may only apply for and hold an off-premises storage permit in a local jurisdiction that permits the operation of Retail Marijuana Stores.

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~~ A Retail Marijuana Store, Retail Marijuana Products Manufacturing Facility, and a Retail Marijuana Cultivation Facility may only have upon the permitted off-premises storage facility Retail Marijuana or Retail Marijuana Product that are part of ~~its~~ the particular Retail Marijuana Establishment's finished goods inventory. The aforementioned Licensees may not share the premises with, or store inventory belonging to, a Medical Marijuana Business or Retail ~~m~~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~~and from 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 ~~P~~product on the premises of its permitted off-premises storage facility.

R 900 Series – Business Records

Basis and Purpose – R 905

The statutory authority for this rule is found at subsections 12-43.4-202(2)(d), 12-43.4-202(3)(a)(XIII), 12-43.4-202(3)(a)(XIV), and 12-43.4-202(3)(b)(IX), C.R.S. The purpose of this rule is to clarify the Division's authority to provide taxation divisions within the Department copies of or access to reports or other information obtained from or regarding a Licensee, for the purpose of ensuring accurate and complete filing of tax returns and payment of sales, excise and income taxes required by Title 39 of the Colorado Revised Statutes. Such information sharing is for a purpose authorized by the Retail Code.

R 905 – Department Information Access

A. Department Access to Reports or Other Information. The Division may provide taxation divisions within the Department copies of or access to reports or other information obtained from or regarding a Licensee for the purpose of ensuring accurate and complete filing of tax returns and payment of sales, excise and income taxes required by Title 39 of the Colorado Revised Statutes.

B. Confidentiality. Reports or other information provided to or accessed by taxation divisions within the Department for the purpose of ensuring accurate and complete filing of tax returns and payment of sales, excise and income taxes required by Title 39 of the Colorado Revised Statutes shall be considered part of the Department's investigation pursuant to subsection 39-21-113(4)(a), C.R.S., and the Division shall continue to maintain such records and information in its possession or control as confidential pursuant to subsection 12-43.3-202(1)(d) and 12-43.4-202(2)(d), C.R.S.

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 larger package that has an RFID tag and all required labels affixed to it. This larger package of Containers may serve as the Shipping Container. Licensees shall ensure that either each package of Retail Marijuana or Retail Marijuana Product placed within a Shipping Container has an RFID tag and all required labels affixed to each package, or the Shipping Container itself must have an RFID tag and all required labels affixed to it for the Retail Marijuana or Retail Marijuana Product contained within the Shipping Container. If the Licensee elects to place the RFID tag and all required labels on the Shipping Container, the Shipping Container shall contain only one package, Harvest Batch, or Production Batch of Retail Marijuana or Retail Marijuana Product. If a Shipping Container holds multiple packages, each individual package shall be affixed with an RFID tag and all required labels. 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 1002.5

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~~ package 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~~ package 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. The package shall be affixed with an RFID tag in accordance with rule R 1001(A).

B. Labeling of Retail Marijuana ~~Shipping Containers~~Packages 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~~package 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~~ package 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~~package; 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~~package 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~~package. 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~~package 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~~package 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~~package 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~~larger package, 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~~ larger package or 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~~package 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~~ package that has no more than one pound of Retail Marijuana Concentrate within it prior to transport or transfer to another Retail Marijuana Establishment. The package shall be affixed with an RFID tag in accordance with rule R 1001(A).

B. Labeling Retail Marijuana Concentrate ~~Shipping Containers~~Packages 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~~package 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~~package 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~~package;

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~~package;

e. A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana used to produce the Retail Marijuana Concentrate contained within; and

f. A complete list of solvents and chemicals used to create the Retail Marijuana Concentrate.

2. Required Potency Statement. For each ~~Production Batch~~package 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~~ package. 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~~ package 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~~ package 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~~ package 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~~ package 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~~ package 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~~ package 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~~ larger package, 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~~larger package.

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)(a), 12-43.4-404(b)(I-II),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~~package 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~~package prior to transport or transfer to another Retail Marijuana Establishment. The package shall be affixed with an RFID tag in accordance with rule R 1001(A).

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.

4.5 Liquid Edible Retail Marijuana Product

   a. Each Liquid Edible Retail Marijuana Product that is a Single-Serving Edible Retail Marijuana Product shall be packaged pursuant to subparagraph (A)(2) of this rule R 1004.

   b. Each Liquid Edible Retail Marijuana Product that is Multiple-Serving Edible Retail Marijuana Product shall be:

      i. Packaged in a structure that uses a single mechanism to achieve both Child-Resistant properties and accurate pouring measurement of each liquid serving in increments equal to or less than 10mg of active THC per serving, with no more than 100mg of active THC total per Child-Resistant package; and

ii. The measurement component is within the Child-Resistant cap or closure of the bottle and is not a separate component.

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.

m. Required Potency Statement. This subsubparagraph (B)(1)(m) of rule R 1004 shall become effective October 1, 2017. Each Container holding a Retail Marijuana Product shall be labeled with the potency of at least the Retail Marijuana Product's THC and CBD. The potency shall be expressed in milligrams for each cannabinoid. The potency shall be labeled in a font size that is at least two font sizes larger than the surrounding label text and also not less than 10 point font, bold, and highlighted with a bright color such as yellow.

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~~ Packages 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~~ package 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~~package:

1. The number of Containers holding a Retail Marijuana Product within the ~~Shipping Container~~package; and

2. The license number of the Retail Marijuana Products Manufacturing Facility(-ies) that produced the Retail Marijuana Product within the ~~Shipping Container~~ package.

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. This subparagraph (B)(2) of rule R 1005.5 shall be repealed on October 1, 2017. 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.

2.1. Required Potency Statement. This subparagraph (B)(2.1) of rule R 1005.5 shall become effective on October 1, 2017. 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. The potency shall be labeled in a font size that is at least two font sizes larger than the adjacent label text and also not less than 10 point font, bold, and highlighted with a bright color such as yellow.

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 (A)(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.".

f. Required Potency Statement. This subsubparagraph (B)(1)(f) of rule R 1006 shall become effective October 1, 2017. Each Container holding a Retail Marijuana Product shall be labeled with the potency of at least the Retail Marijuana Product's THC and CBD. The potency shall be expressed in milligrams for each cannabinoid. The potency shall be labeled in a font size that is at least two font sizes larger than the surrounding label text and also not less than 10 point font, bold, and highlighted with a bright color such as yellow.

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. This subparagraph (B)(2) of rule R 1007.5 shall be repealed on October 1, 2017. 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.

2.1. Required Potency Statement. This subparagraph (B)(2.1) of rule R 1007.5 shall become effective October 1, 2017. Each Container holding a Retail Marijuana Concentrate shall be labeled with the potency of at least the Retail Marijuana Concentrate's THC and CBD. The potency shall be expressed in milligrams for each cannabinoid. The potency shall be labeled in a font size that is at least two font sizes larger than the surrounding label text and also not less than 10 point font, bold, and highlighted with a bright color such as yellow.

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 1300 Series – Discipline

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. The purpose of the modifications to this rule is to clarify that the hearing following the Order of Summary Suspension concerns the allegations set forth in the Order to Show Cause.

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 following a hearing on an Order to Show Cause~~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 in accordance with the following procedure:~~.~~

~~4~~a. After the Summary Suspension Order is issued, the State Licensing Authority shall promptly 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~~b. 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 Order to Show Cause ~~notice~~ be sustained upon final hearing.

c. The Order to Show Cause shall be filed with the Department's Hearings Division. The hearing on the allegations set forth in the Order to Show Cause shall be expedited to the extent practicable and will be conducted in accordance with Rule M 1304 – Administrative Hearings.

6. ~~Unless lifted by the State Licensing Authority, the Summary Suspension Order shall remain in effect until issuance of a Final Agency Order.~~ Repealed

B. Duration of Summary Suspension ~~Hearings~~. Unless lifted by the State Licensing Authority, the Summary Suspension Order shall remain in effect until issuance of a Final Agency Order.

~~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 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. The purpose of the modifications to this rule is to clarify that the hearing following the Order of Summary Suspension concerns the allegations set forth in the Order to Show Cause, and to clarify that an answer is required only for two types of administrative notices: an Order to Show Cause and a Notice of Grounds for Denial.

R 1304 – Administrative Hearings

A. General Procedures

1. Hearing Location. Hearings will generally be conducted by the Department's ~~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~~:~~ the mailing address of the Division's headquarters, as listed on the Division's website. Include "Attn: Hearing Request" in the mailing address.

~~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. If an Order of Summary Suspension has issued, the hearing on the Order to Show Cause ~~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.

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.~~,~~ and shiga-toxin producing Escherichia coli., and the amount of 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.~~Repealed

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.~~Repealed.

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, chemical contaminants, biological contaminants, ~~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, biological contaminants, and chemical contaminants. ~~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, unless or until it passes all required testing.

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, biological contaminants, and chemical contaminants. ~~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 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.

3. Adulteration or Alteration Prohibited. A Licensee or its agent shall not adulterate or alter, or attempt to adulterate or alter, any Samples of Retail Marijuana or Retail Marijuana Product for the purpose of circumventing contaminant testing detection limits or potency testing requirements. The Sample(s) collected and submitted for testing must be representative of the Harvest Batch or Production Batch being tested. A violation of this sub-paragraph (A)(3) shall be considered a license violation affecting public safety.

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 and combined into one Test Batch.

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 and combined into one Test Batch.

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 and combined into one Test Batch.

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 and combined into one Test Batch.

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 and combined into one Test Batch.

f. For Test Batches comprised of Harvest Batches or Production Batches weighing 100 pounds or more, 29 separate Samples must be taken and combined into one Test Batch.

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 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: All Contaminant Testing Except Microbial Testing of Retail Marijuana Flower or Trim. 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.

B.1. Failed Contaminant Testing: Microbial Testing of Retail Marijuana Flower or Trim. If a Retail Marijuana Cultivation Facility is notified by the Division or a Retail Marijuana Testing Facility that a Test Batch of Retail Marijuana flower or trim failed microbial testing, then for each package or Harvest Batch combined into that Test Batch the Retail Marijuana Cultivation Facility must either:

1. Destroy and document the destruction of the package or Harvest Batch, See Rule R 307 – Waste Disposal; or

2. The Retail Marijuana Cultivation Facility may transfer all packages or Harvest Batches associated with the failed Test Batch to a Retail Marijuana Products Manufacturing Facility for processing the particular Retail Marijuana into a Solvent-Based Retail Marijuana Concentrate.

   a. The Solvent-Based Retail Marijuana Concentrate shall be manufactured entirely from the Retail Marijuana flower or trim that failed microbial testing. No other Retail Marijuana shall be included in the Solvent-Based Retail Marijuana Concentrate manufactured pursuant to subparagraph (B.1)(2) of this rule R 1507.

   b. The Solvent-Based Retail Marijuana Concentrate that was manufactured out of the Retail Marijuana flower or trim that failed microbial testing shall undergo all required testing for contaminants pursuant to rule R 1501 – Retail Marijuana Testing Program – Contaminant Testing, for potency pursuant to rule R 1503 – Retail Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Retail Marijuana Rules or Retail Marijuana Code.

   c. If the Solvent-Based Retail Marijuana Concentrate that was manufactured out of the Retail Marijuana flower or trim that failed microbial testing fails contaminant testing, the Retail Marijuana Cultivation Facility shall destroy and document the destruction of the entire portion of the Production Batch(es) associated with the Solvent-Based Retail Marijuana Concentrate that failed contaminant testing, See Rule R 307 – Waste Disposal.

3. Nothing in this rule removes or alters the responsibility of the Retail Marijuana Cultivation Facility transferring the Retail Marijuana that failed microbial testing from complying with the requirement to pay excise tax pursuant to rule R 502(E).

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.

R 1600 Series – Retail Marijuana Transporters

Basis and Purpose – R 1601

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)(XVII), 12-43.4-202(3)(b)(IX), and 12-43.4-406, C.R.S. The purpose of this rule is to establish that it is unlawful for a Retail Marijuana Transporter to exercise any privileges other than those granted by the State Licensing Authority and to clarify the license privileges.

R 1601 – Retail Marijuana Transporter: License Privileges

A. Privileges Granted. A Retail Marijuana Transporter 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 Transporter may share a location with an identically owned Medical Marijuana Transporter. However, a separate license is required for each specific business or business entity, regardless of geographical location.

C. Transportation of Retail Marijuana and Retail Marijuana Product Authorized. A Retail Marijuana Transporter may take transportation and delivery orders, receive, transport, temporarily store, and deliver Retail Marijuana and Retail Marijuana Product.

D. Authorized Sources of Retail Marijuana and Retail Marijuana Product. A Retail Marijuana Transporter may only transport and store Retail Marijuana and Retail Marijuana Product that it received directly from the originating Retail Marijuana Establishment.

E. Authorized On-Premises Storage. A Retail Marijuana Transporter is authorized to store transported Retail Marijuana and Retail Marijuana Product on its Licensed Premises or permitted off-premises storage facility. All transported Retail Marijuana and Retail Marijuana Product must be secured in a Limited Access Area or Restricted Access Area, and tracked consistently with the inventory tracking rules.

Basis and Purpose – R 1602

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)(XVII), 12-43.4-202(3)(b)(IX), and 12-43.4-406, 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 Transporter.

R 1602 – Retail Marijuana Transporter: General Limitations or Prohibited Acts

A. Sales, Liens, and Secured Interests Prohibited. A Retail Marijuana Transporter is prohibited from buying, selling, or giving away Retail Marijuana or Retail Marijuana Product, or from receiving complimentary Retail Marijuana or Retail Marijuana Product. A Retail Marijuana Transporter shall not place or hold a lien or secured interest on Retail Marijuana or Retail Marijuana Product.

B. Evidence of Excise Tax Paid. A Retail Marijuana Transporter is prohibited from accepting Retail Marijuana from a Retail Marijuana Cultivation Facility unless the Retail Marijuana Transporter Licensee has received evidence that any applicable excise tax due pursuant to Article 28.8 of Title 39, C.R.S., was paid.

C. Licensed Premises Required. A Retail Marijuana Transporter shall maintain a Licensed Premises. The Licensed Premises shall be in a local jurisdiction that authorizes the operation of Retail Marijuana Stores. If a Retail Marijuana Transporter Licensed

Premises is co-located with a Medical Marijuana Transporter Licensed Premises, then the combined Licensed Premises shall be in a local jurisdiction that authorizes the operation of both Retail Marijuana Stores and Medical Marijuana Centers.

D. Off-Premises Storage Permit. A Retail Marijuana Transporter may maintain one or more permitted off-premises storage facilities. See rule R 802 – Off-Premises Storage of Retail Marijuana and Retail Marijuana Product: All Retail Marijuana Establishments.

E. Storage Duration. A Retail Marijuana Transporter shall not store Retail Marijuana or Retail Marijuana Product for longer than 7 days from receiving it at its Licensed Premises or off-premises storage facility. The total allowable 7 day storage duration begins and applies regardless of which of the Retail Marijuana Transporter's premises receives the Retail Marijuana or Retail Marijuana Product first, ie. the Retail Marijuana Transporter's Licensed Premises, or any of its off-premises storage facilities.

F. Control of Retail Marijuana and Retail Marijuana Product. A Retail Marijuana Transporter is responsible for the Retail Marijuana and Retail Marijuana Product once it takes control of the Retail Marijuana and Retail Marijuana Product and until the Retail Marijuana Transporter delivers it to the receiving Retail Marijuana Establishment. For purposes of this rule, taking control of the Retail Marijuana and Retail Marijuana Product means removing it from the originating Retail Marijuana Establishment's Licensed Premises and placing the Retail Marijuana and Retail Marijuana Product in the transport vehicle.

G. Location of Orders Taken and Delivered. A Retail Marijuana Transporter is permitted to take orders on the Licensed Premises of any Retail Marijuana Establishment to transport Retail Marijuana and Retail Marijuana Product. The Retail Marijuana Transporter shall deliver the Retail Marijuana and Retail Marijuana Product to the Licensed Premises of a licensed Retail Marijuana Establishment.

H. Consumption Prohibited. A Licensee shall not permit the consumption of marijuana or marijuana product on the Licensed Premises or in transport vehicles.

I. A Retail Marijuana Transporter shall receive Retail Marijuana and Retail Marijuana Product from the originating Licensee packaged in the way that it is intended to be delivered to the final destination Licensee. The Retail Marijuana Transporter shall deliver the Retail Marijuana and Retail Marijuana Product in the same, unaltered packaging to the final destination Licensee.

J. Opening of Sealed Packages or Containers and Re-Packaging Prohibited. A Retail Marijuana Transporter shall not open sealed packages or Containers of Retail Marijuana or Retail Marijuana Product. Retail Marijuana Transporters are prohibited from re-packaging Retail Marijuana or Retail Marijuana Product.

K. Temperature-Controlled Transport Vehicles. A Retail Marijuana Transporter shall utilize temperature-controlled transport vehicles when necessary to prevent spoilage of the transported Retail Marijuana and Retail Marijuana Product.

L. Damaged or Refused Product. Any damaged Retail Marijuana or Retail Marijuana Product that is undeliverable to the final destination Retail Marijuana Establishment, or any Retail Marijuana or Retail Marijuana Product that is refused by the final destination Retail Marijuana Establishment shall be transported back to the originating Retail Marijuana Establishment.

Basis and Purpose – R 1603

The statutory authority for this rule is found at subsections 12-43.4-202(1), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(X), 12-43.4-202(3)(a)(XII), 12-43.4-202(3)(a)(XVII), 12-43.4-202(3)(b)(IX), and 12-43.4-406(3) C.R.S. The purpose of this rule is to establish a Retail Marijuana Transporter's obligation to account for and track all Retail Marijuana and Retail Marijuana Product on the Licensed Premises from the point they are transferred from the originating Retail Marijuana Establishment to the destination Retail Marijuana Establishment.

R 1603 – Retail Marijuana Transporter: Inventory Tracking System

A. Minimum Tracking Requirement. A Retail Marijuana Transporter must use the Inventory Tracking System to ensure its transported Retail Marijuana and Retail Marijuana Product are identified and tracked from the point they are transferred from a Retail Marijuana Establishment when the Retail Marijuana Transporter takes control of the Retail Marijuana and Retail Marijuana Product by removing it from the originating Retail Marijuana Establishment's Licensed Premises and placing the Retail Marijuana and Retail Marijuana Product in the Retail Marijuana Transporter's transport vehicle, through delivery to the destination Retail Marijuana Establishment. See also Rule R 309 – Inventory Tracking System. A Retail Marijuana Transporter must have the ability to reconcile its transported Retail Marijuana and Retail Marijuana Product with the Inventory Tracking System and the associated transaction history and transportation order receipts. See also Rule R 901 – Business Records Required.

1. A Retail Marijuana Transporter is prohibited from accepting any Retail Marijuana or Retail Marijuana Product from another Retail Marijuana Establishment without receiving a valid transport manifest generated from the Inventory Tracking System.

2. A Retail Marijuana Transporter must immediately input all Retail Marijuana and Retail Marijuana Product received at its Licensed Premises or off-premises storage facility, accounting for all RFID tags, into the Inventory Tracking System at the time of receiving the Retail Marijuana or Retail Marijuana Product.

3. A Retail Marijuana Transporter must reconcile transactions to the Inventory Tracking System at the close of business each day.

4. All information on the Inventory Tracking System generated transport manifests must be accurate.

Basis and Purpose – R 1604

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), 12-43.4-202(3)(a)(XVII), and 12-43.4-202(3)(b)(IX), C.R.S. It sets forth general standards and basic sanitary requirements for Retail Marijuana Transporters. It covers the physical premises where the products are weighed and stored 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 Transporter's Licensed Premises. This rule explains when an independent health and sanitary audit may be deemed necessary and sets forth possible consequences of a Retail Marijuana Transporter'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. Overall, the State Licensing Authority intends this rule to help maintain the integrity of Colorado's Retail Marijuana Establishments and the safety of the public.

R 1604 – Retail Marijuana Transporter: Health and Safety Regulations

A. Local Safety Inspections. A Retail Marijuana Transporter's Licensed Premises 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 Transporter 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 weighed, 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 Transporter to undergo such an audit. The scope of the audit may include, but need not be limited to, whether the Retail Marijuana Transporter 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 Transporter. However, the Division always retains the authority to select the independent consultant regardless of whether mutual agreement can be reached.

c. The Retail Marijuana Transporter 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 Transporter 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 Transporter was the cause or source of contamination of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product.

3. Compliance Required. A Retail Marijuana Transporter 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 Transporter's license. See Rule R 1302 – Summary Suspensions.

b. Prior to or following the issuance of such an order, the Retail Marijuana Transporter 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 – Summary Suspensions.

ii. If an agreement to suspend operations is reached, then the Retail Marijuana Transporter may continue to care for its stored or transported Retail Marijuana and Retail Marijuana Product and conduct any necessary internal business operations.

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

R 1700 Series – Retail Marijuana Establishment Operators

Basis and Purpose – R 1701

The statutory authority for this rule is found at subsections 12-43.4-103(17.5), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(XVIII), 12-43.4-202(3)(b)(IX), 12-43.4-309(7)(a), 12-43.4-401(1)(g), 12-43.4-407, and 12-43.4-601(1), C.R.S. The purpose of this rule is to establish that it is unlawful for a Retail Marijuana Establishment Operator Licensee to exercise any privileges other than those granted by the State Licensing Authority and to clarify the license privileges.

R 1701 - Retail Marijuana Establishment Operator: License Privileges

A. Privileges Granted. A Retail Marijuana Establishment Operator shall only exercise those privileges granted to it by the Retail Code, the rules promulgated pursuant thereto and the State Licensing Authority. A Retail Marijuana Establishment Operator may exercise those privileges only on behalf of the Retail Marijuana Establishment(s) it operates. A Retail Marijuana Establishment shall not contract to have more than one Retail Marijuana Establishment Operator providing services to the Retail Marijuana Establishment at any given time.

B. Licensed Premises of the Retail Marijuana Establishment(s) Operated. A separate License is required for each specific Retail Marijuana Establishment Operator, and each such licensed Retail Marijuana Establishment Operator may operate one or more other Retail Marijuana Establishment(s). A Retail Marijuana Establishment Operator will not have its own Licensed Premises, but shall maintain its own place of business, and may exercise the privileges of a Retail Marijuana Establishment Operator at the Licensed Premises of the Retail Marijuana Establishment(s) it operates.

C. Entities Eligible to Hold Retail Marijuana Establishment Operator License. A Retail Marijuana Establishment Operator License may be held only by a business entity, including, but not limited to, a corporation, limited liability company, partnership or sole proprietorship.

D. Separate Place of Business. A Retail Marijuana Establishment Operator shall designate and maintain a place of business separate from the Licensed Premises of any Retail Marijuana Establishment(s) it operates. A Retail Marijuana Establishment Operator's separate place of business shall not be considered a Licensed Premises, and shall not be subject to the requirements applicable to the Licensed Premises of other Retail Marijuana Establishments, except as set forth in Rule R 1702. Possession, storage, use, cultivation, manufacture, sale, distribution, or testing of Retail Marijuana or Retail Marijuana Product is prohibited at a Retail Marijuana Establishment Operator's separate place of business.

E. Agency Relationship and Discipline for Violations. A Retail Marijuana Establishment Operator and each of its Direct Beneficial Interest Owners required to hold an Associated Key License, as well as the agents and employees of the Retail Marijuana Establishment Operator, shall be agents of the Retail Marijuana Establishment(s) the Retail Marijuana Establishment Operator is

contracted to operate, when engaged in activities related, directly or indirectly, to the operation of such Retail Marijuana Establishment(s), including for purposes of taking administrative action against the Retail Marijuana Establishment being operated. *See* § 12-43.4-601(1), C.R.S. Similarly, a Retail Marijuana Establishment Operator and its Direct Beneficial Interest Owners required to hold an Associated Key License, as well as the officers, agents and employees of the Retail Marijuana Establishment Operator, may be disciplined for violations committed by the Direct Beneficial Interest Owners, agents or employees of the Retail Marijuana Establishment acting under their direction or control. A Retail Marijuana Establishment Operator may also be disciplined for violations not directly related to a Retail Marijuana Establishment it is operating.

F. Compliance with Applicable State and Local Law, Ordinances, Rules and Regulations. A Retail Marijuana Establishment Operator, and each of its Direct Beneficial Interest Owners, agents and employees engaged, directly or indirectly in the operation of the Retail Marijuana Establishment it operates, shall comply with all state and local laws, ordinances, rules and regulations applicable to the Retail Marijuana Establishment(s) being operated.

Basis and Purpose – R 1702

The statutory authority for this rule is found at subsections 12-43.4-202(1), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(XVIII), 12-43.4-202(3)(b)(IX), and 12-43.3-901, 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 Establishment Operator.

R 1702 –Retail Marijuana Establishment Operators: General Limitations or Prohibited Acts

A. Prohibited Financial Interest. A Person who is a Direct Beneficial Interest Owner or an Indirect Beneficial Interest Owner of a Retail Marijuana Establishment Operator shall not be a Direct Beneficial Interest Owner or Indirect Beneficial Interest Owner of, or otherwise have a direct or indirect financial interest in, a Retail Marijuana Establishment operated by the Retail Marijuana Establishment Operator. Except that such Person shall have the right to compensation for services provided in accordance with these rules.

B. Sale of Marijuana Prohibited. A Retail Marijuana Establishment Operator is prohibited from selling, distributing, or transferring Retail Marijuana or Retail Marijuana Product to another Retail Marijuana Establishment or a consumer, except when acting as an agent of a Retail Marijuana Establishment(s) operated by the Retail Marijuana Establishment Operator.

C. Consumption Prohibited. A Retail Marijuana Establishment Operator, and its Direct Beneficial Interest Owners, agents and employees, shall not permit the consumption of marijuana or marijuana products at its separate place of business.

D. Inventory Tracking System. A Retail Marijuana Establishment Operator, and any of its Direct Beneficial Interest Owners, agents or employees engaged in the

operation of the Retail Marijuana Establishment(s) it operates, must use the Inventory Tracking System account of the Retail Marijuana Establishment(s) it operates, in accordance with all requirements, limitations and prohibitions applicable to the Retail Marijuana Establishment(s) it operates.

E. Compliance with Requirements and Limitations Applicable to the Retail Marijuana Establishment(s) Operated. In operating any other Retail Marijuana Establishment(s), a Retail Marijuana Establishment Operator, and its Direct Beneficial Interest Owners who are required to hold Associated Key Licenses, as well as the agents and employees of the Retail Marijuana Establishment Operator, shall comply with all requirements, limitations and prohibitions applicable to the type(s) of Retail Marijuana Establishment(s) being operated, under state and local laws, ordinances, rules and regulations, and may be disciplined for violation of the same.

F. Inventory Tracking System Access. A Retail Marijuana Establishment may grant access to its Inventory Tracking Program account to the Direct Beneficial Interest Owners, agents and employees of a Retail Marijuana Establishment Operator having duties related to Inventory Tracking Program activities of the Retail Marijuana Establishment(s) being operated.

1. The Direct Beneficial Interest Owners, agents and employees of a Retail Marijuana Establishment Operator granted access to a Retail Marijuana Establishment's Inventory Tracking Program account, shall comply with all Inventory Tracking System rules.

2. At least one Direct Beneficial Interest Owner of a Retail Marijuana Establishment being operated by a Retail Marijuana Establishment Operator shall maintain administrator privileges over the Retail Marijuana Establishment's Inventory Tracking Program account, shall control access to its Inventory Tracking Program account, and shall promptly terminate the access of the Retail Marijuana Establishment Operator's Direct Beneficial Interest Owners, agents and employees:

a. When its contract with the Retail Marijuana Establishment Operator expires by its terms;

b. When its contract with the Retail Marijuana Establishment Operator is terminated by any party; or

c. When it is notified that the License of the Retail Marijuana Establishment Operator, or a specific Direct Beneficial Interest Owner, agent or employee of the Retail Marijuana Establishment Operator, has expired, or has been suspended or revoked.

G. Limitations on Use of Documents and Information Obtained from Retail Marijuana Establishments. A Retail Marijuana Establishment Operator, and its agents and employees, shall maintain the confidentiality of documents and information obtained from the other Retail Marijuana Establishment(s) it operates, and shall not use or disseminate documents or information obtained from a Retail Marijuana Establishment it operates for any purpose not authorized

by the Retail Code and the rules promulgated pursuant thereto, and shall not engage in data mining or other use of the information obtained from a Retail Marijuana Establishment to promote the interests of the Retail Marijuana Establishment Operator or its Direct Beneficial Interest Owners, Indirect Beneficial Interest Owners, agents or employees, or any Person other than the Retail Marijuana Establishment it operates.

H. Form and Structure of Allowable Agreement(s) Between Operators and Owners. Any agreement between a Retail Marijuana Establishment and a Retail Marijuana Establishment Operator:

1. Must acknowledge that the Retail Marijuana Establishment Operator, and its Direct Beneficial Interest Owners, agents and employees who are engaged, directly or indirectly, in operating the Retail Marijuana Establishment, are agents of the Retail Marijuana Establishment being operated, and must not disclaim an agency relationship.;

2. May provide for the Retail Marijuana Establishment Operator to receive direct remuneration from the Retail Marijuana Establishment, including a portion of the profits of the Retail Marijuana Establishment being operated, subject to the following limitations:

a. The portion of the profits to be paid to the Retail Marijuana Establishment Operator shall be commercially reasonable, and in any event shall not exceed the portion of the net profits to be retained by the Retail Marijuana Establishment being operated;

b. The Retail Marijuana Establishment Operator, and any Person associated with the Retail Marijuana Establishment Operator, shall not be granted, and may not accept:

i. a security interest in the Retail Marijuana Establishment being operated, or in any assets of the Retail Marijuana Establishment;

ii. an ownership or membership interest, shares, or shares of stock, or any right to obtain any direct or indirect beneficial ownership interest in the Retail Marijuana Establishment being operated, or a future or contingent right to the same, including but not limited to options or warrants;

c. The Retail Marijuana Establishment Operator, and any person associated with the Retail Marijuana Establishment Operator, shall not guarantee the Retail Marijuana Establishment's debts or production levels.

3. Shall permit the Retail Marijuana Establishment being operated to terminate the contract with the Retail Marijuana Establishment Operator at any time, with or without cause;

4. Shall be contingent on approval by the Division; and

5. Shall not be materially amended without advance written approval from the Division.

I. A Retail Marijuana Establishment Operator may engage in dual operation of a Retail Marijuana Establishment and a Medical Marijuana Business at a single location, to the extent the Retail Marijuana Establishment being operated is permitted to do so pursuant to subsection 12-43.4-401(2)(a), C.R.S., and the Retail Marijuana Establishment Operator shall comply with the rules promulgated pursuant to the Medical Code and the Retail Code, including the requirement of obtaining a valid registration as a Medical Marijuana Business Operator.

Basis and Purpose – R 1703

The statutory authority for this rule is found at subsections, 12-43.4-202(3)(a)(XVIII), 12-43.4-202(3)(b)(IX), 12-43.4-309(11), and 12-43.4-401(1)(e) C.R.S. The purpose of this rule is to establish occupational license requirements for the Retail Marijuana Establishment Operator's Direct Beneficial Interest Owners, agents and employees, including those directly or indirectly engaged in the operation of other Retail Marijuana Establishment(s).

R 1703 –Retail Marijuana Establishment Operators: Occupational Licenses for Personnel

A. Occupational Licenses Required. All natural persons who are Direct Beneficial Interest Owners, and all natural persons who are agents and employees, of a Retail Marijuana Establishment Operator that are actively engaged, directly or indirectly, in the operation of one or more other Retail Marijuana Establishment(s), including but not limited to all such persons who will come into contact with Retail Marijuana or Retail Marijuana Product, who will have to access Limited Access Areas, or who will have access to the Inventory Tracking Program account of the Retail Marijuana Establishment(s) being operated as part of their duties, must have a valid Occupational License.

1. Associated Key Licenses. All natural persons who are Direct Beneficial Interest Owners in a Retail Marijuana Establishment Operator must have a valid Associated Key License, associated with the Retail Marijuana Establishment Operator License. Such an Associated Key License shall satisfy all licensing requirements for work related to the business of the Retail Marijuana Establishment Operator and for work performed on behalf of, or at the Licensed Premises of, the Retail Marijuana Establishment(s) operated by the Retail Marijuana Establishment Operator.

2. Key Licenses. All other natural persons who are agents or employees of a Retail Marijuana Establishment Operator that are actively engaged, directly or indirectly, in the operation of other Retail Marijuana Establishments, must hold a Key License. The Key License shall satisfy all licensing requirements for work related to the business of the Retail Marijuana Establishment Operator and for work at the Licensed Premises of, or on behalf of, the Retail Marijuana Establishment(s) operated by the Retail Marijuana Establishment Operator.

B. Occupational Licenses Not Required. Occupational Licenses are not required for Indirect Beneficial Interest Owners of a Retail Marijuana Establishment Operator, or for natural persons who will not come into contact with Retail Marijuana or Retail Marijuana, will not have access Limited Access Area(s) of the Retail Marijuana Establishment(s) being operated, and will not have access to the Inventory Tracking Program account of the Retail Marijuana Establishment(s) being operated.

C. Designation of the Manager of a Retail Marijuana Establishment Operated by a Retail Marijuana Establishment Operator. If a Retail Marijuana Establishment Operator is contracted to manage the overall operations of a Retail Marijuana Establishment's Licensed Premises, the Retail Marijuana Establishment shall designate a separate and distinct manager on the Licensed Premises who is an officer, agent or employee of the Retail Marijuana Establishment Operator, which shall be a natural person with a valid Associated Key License or Key License, as set forth in paragraph A of this rule, and the Retail Marijuana Establishment shall comply with the reporting provisions of subsection 12-43.4-309(11), C.R.S.

Basis and Purpose – R 1704

The statutory authority for this rule is found at subsections 12-43.4-202(3)(a)(III), 12-43.4-202(3)(b), and 12-43.4-202(3)(b)(IX), C.R.S. The purpose of this rule is to establish records retention standards for a Retail Marijuana Establishment Operators.

R 1704 – Retail Marijuana Establishment Operators: Business Records Required

A. General Requirement. A Retail Marijuana Establishment Operator must maintain all required business records as set forth in Rule R 901 - Business Records Required, except that:

1. A Retail Marijuana Establishment Operator is not required to maintain secure facility information, diagrams of its designated place of business, or a visitor log for its separate place of business, because a Retail Marijuana Establishment Operator will not come into contact with Retail Marijuana or Retail Marijuana Product at its separate place of business; and

2. A Retail Marijuana Establishment Operator is not required to maintain records related to inventory tracking, or transport, because a Retail Marijuana Establishment Operator is prohibited from engaging in activities on its own behalf that would require inventory tracking or transport. All records relating to inventory tracking activities and records related to transport pertaining to the Retail Marijuana Establishment(s) operated by the Retail Marijuana Establishment Operator shall be maintained at the Licensed Premises of such Retail Marijuana Establishment(s).

B. All records required to be maintained shall be maintained at the Retail Marijuana Establishment Operator's separate place of business, and not at the Licensed Premises of the Retail Marijuana Establishment(s) it operates.