

NOTICE OF RULEMAKING HEARING

The State Licensing Authority of the Colorado Department of Revenue, Marijuana Enforcement Division, will consider the promulgation of additions and amendments to its Rules and Regulations as authorized by Article XVIII, Section 16 of the Colorado Constitution, the Retail Code, sections 12-43.4-101 *et seq.*, C.R.S., and the Medical Code, sections 12-43.3-101 *et seq.*, C.R.S. For specific information and language concerning the proposed changes and new rules, please refer to the partial set of draft regulations that are set forth following this notice and are also at the Colorado Department of Revenue, Marijuana Enforcement Division's website at: <https://www.colorado.gov/pacific/enforcement/2015-med-rulemaking>

STATUTORY AUTHORITY FOR RULEMAKING

The State Licensing Authority promulgates these regulations pursuant to the authority granted in the Retail Code, the Medical Code, Article XVIII, Section 16 of the Colorado Constitution, and section 24-4-103, C.R.S., of the Administrative Procedure Act.

SUBJECT OF RULEMAKING

A portion of the proposed rules are posted on the Colorado Department of Revenue, Marijuana Enforcement Division's website at: <https://www.colorado.gov/pacific/enforcement/2015-med-rulemaking>. The proposed rules will be posted no later than 5:00 p.m. on Wednesday, August 26, 2015. Other relevant information regarding this rulemaking also will be posted on the Division's website. In addition, the proposed rules attached to this Notice are fully incorporated herein.

The State Licensing Authority will consider the promulgation of the following list of new rules and existing rules with changes proposed. This list is not exhaustive. For specific information and language concerning the proposed changes, please refer to the draft regulations that are set forth with this notice, at the Colorado Department of Revenue, Marijuana Enforcement Division's website, and on the Colorado Secretary of State website. **Please take note that in addition to the subject matters addressed in the current draft proposed regulations, the State Licensing Authority may consider additional regulations consistent with any subject matter needed to implement and interpret the Retail Code, the Medical Code, and Article XVIII, Section 16 of the Colorado Constitution.**

The State Licensing Authority will conduct meetings of representative groups of participants with an interest in the subject of the rule-making ("stakeholder meetings") beginning the week of August 3, 2015. More information related to these meetings can be found at: <https://www.colorado.gov/pacific/enforcement/2015-med-rulemaking>. Each stakeholder meeting will be noticed on the Division's website at least 24 hours in advance, and audio recordings of each stakeholder meeting will be posted online after each meeting occurs. The written and recorded materials from the stakeholder meetings will be included in the rulemaking record.

The State Licensing Authority expects the draft rules will be amended during the stakeholder meeting process and that new rules may be drafted. The attached draft rules are only intended to provide interested persons with the initial proposed drafts of some of the permanent rules.

RULES TO BE AMENDED OR ADOPTED PURSUANT TO THE RETAIL CODE

R 100 Series – General Applicability

- R 103 – Definitions
- R 104 – Declaratory Orders Concerning the Retail Code
- R 106 – Subpoena Fees

Additional definitions:

The State Licensing Authority will consider additional amendments to the definitions including definitions related to permitted economic interests and definitions related to other rules under consideration during these rulemaking proceedings.

Additional general rules:

If the rules related to electronic benefit transfers are not adopted by the Department of Revenue as a whole, the State Licensing Authority may consider rules related to electronic benefit transfers pursuant to subsection 26-2-104(2), C.R.S.

*Other general rules may be adopted or amended.

R 200 Series – (Re-named) Licensing and Interests

- R 201 – Complete Applications Required: Retail Marijuana Establishments
- R 202 – Process for Issuing a New License: Retail Marijuana Establishments
- R 203 – Process for Renewing a License: Retail Marijuana Establishments
- R 204 – Factors Considered When Evaluating Ownership of a License: Retail Marijuana Establishments
- R 205 – Transfer of Ownership and Changes in Business Structure: Retail Marijuana Establishments
- R 206 – Changing Location of a Licensed Premises: Retail Marijuana Establishments
- 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 210 – (Re-named) Schedule of Licensing Administrative Service Fees: All Licensees
- R 211 – Conversion – Medical Marijuana Business to Retail Marijuana Establishment Pursuant to 12-43.4-104(1)(a)(I), C.R.S.
- R 212 – New Applicant Retail Marijuana Cultivation Facilities Licensed Pursuant to 12-43.4-104(1)(b)(III), C.R.S.
- R 231 – Qualifications for Licensure: Individuals
- R 233 – (Re-named) Retail Code or Medical Code Occupational Licenses Required
- R 234 – Schedule of License Fees: Individuals
- R 235 – Schedule of Renewal Fees: Individuals

Permitted Economic Interest:

The State Licensing Authority will consider procedural and substantive rules related to permitted economic interests as required by subsection 12-43.4-202(3)(a)(XIV.5), C.R.S.

*Other rules governing licensing may be adopted or amended.

R 300 Series – The Licensed Premises

- R 301 – Limited Access Areas
- R 304 – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation
- R 307 – Waste Disposal
- R 309 – (Re-named) Retail Marijuana Establishments: Inventory Tracking System

*Other rules governing the Licensed Premises may be adopted or amended.

R 400 Series – Retail Marijuana Stores

- R 401 – Retail Marijuana Store: License Privileges
- R 402 – Retail Marijuana Sales: General Limitations or Prohibited Acts
- R 405 – (Re-named) Retail Marijuana Store: Inventory Tracking System

Equivalency:

The State Licensing Authority will consider rules addressing sales restrictions for retail marijuana products, including but not limited to, edible retail marijuana products and retail marijuana concentrate, related to equivalency of retail marijuana flower in such products as required by subsection 12-43.4-(3)(a.5)(I), C.R.S.

Edible Retail Marijuana Products:

The State Licensing Authority may consider rules addressing sales restrictions for edible retail marijuana products, including but not limited to, the sale of retail marijuana products as contemplated by subsection 12-43.4-202(3)(c.5)(I), C.R.S.

*Other rules governing Retail Marijuana Stores may be adopted or amended.

R 500 Series – Retail Marijuana Cultivation Facilities

- R 501 – Retail Marijuana Cultivation Facility: License Privileges

*Other rules governing Retail Marijuana Cultivation Facilities may be adopted or amended.

R 600 Series – Retail Marijuana Products Manufacturing Facilities

- R 604 – Retail Marijuana Products Manufacturing Facility: Health and Safety Regulations
- R 605 – Retail Marijuana Products Manufacturing Facility: Retail Marijuana Concentrate Production

Equivalency:

The State Licensing Authority will consider rules addressing the equivalency of one ounce of retail marijuana flower in retail marijuana products including but not limited to, edible retail marijuana products and retail marijuana concentrate, as required by subsection 12-43.4-202(3)(a.5)(I), C.R.S.

(R 600 Series continued.)

Edible Retail Marijuana Products:

The State Licensing Authority will consider rules governing edible retail marijuana products, including but not limited to, marking retail marijuana products as required by subsection 12-43.4-202(3)(c.5)(I), C.R.S. The State Licensing Authority will consider rules intended to protect individuals from the unintentional ingestion of edible retail marijuana products, as well as to help ensure that edible retail marijuana products are readily identifiable by the general public.

*Other rules governing Retail Marijuana Products Manufacturing Facilities may be adopted or amended.

R 700 Series – Retail Marijuana Testing Facilities

R 701 – Retail Marijuana Testing Facilities: License Privileges

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

R 703 - Retail Marijuana Testing Facilities: Certification Requirements

R 704 - Retail Marijuana Testing Facilities: Personnel

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

R 712 – Retail Marijuana Testing Facility: Mandatory Sampling and Testing Program

*Other rules governing Retail Marijuana Testing Facilities may be adopted or amended.

R 800 Series – Transportation and Storage

R 801 – Transport of Retail Marijuana and Retail Marijuana Product

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

*Other rules governing the transportation and storage of Retail Marijuana may be adopted or amended.

R 900 Series – Business Records and Reporting

R 901 – Business Records Required

R 904 – Manager Change Must Be Reported

*Other rules governing business records and reporting may be adopted or amended.

R 1000 Series – Labeling, Packaging, and Products Safety

R 1002 – Packaging and Labeling of Retail Marijuana by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility

R 1003 – Packaging and Labeling Requirements of Retail Marijuana Concentrates by a Retail Marijuana Cultivation Facility or a Retail Marijuana Products Manufacturing Facility

R 1004.5 – Packaging and Labeling Requirements of a Retail Marijuana Product by a Retail Marijuana Products Manufacturing Facility

R 1005 – Packaging and Labeling of Retail Marijuana by a Retail Marijuana Store

R 1006.5 – Packaging and Labeling of Retail Marijuana Product by a Retail Marijuana Store

R1007 – Packaging and Labeling of Retail Marijuana Concentrates by a Retail Marijuana Store

(R 1000 Series continued.)

Equivalency:

The State Licensing Authority will consider labeling, packaging, and products safety rules related to the equivalency of one ounce of retail marijuana flower in retail marijuana products, including but not limited to, edible retail marijuana products and retail marijuana concentrate, as required by subsection 12-43.4-202(3)(a.5)(I), C.R.S.

Edible Retail Marijuana Products:

The State Licensing Authority will consider labeling, packaging, and products safety rules related to edible retail marijuana products, including but not limited to marking retail marijuana products as required by subsection 12-43.4-202(3)(c.5)(I), C.R.S.

*Other rules governing labeling, packaging, and products safety may be adopted or amended.

R 1100 Series – Signage, Marketing, and Advertising

*Rules governing signage, marketing, and advertising may be adopted or amended.

R 1200 Series – Enforcement

R 1201 – (Re-named) Duties of Employees of the State Licensing Authority

R 1202 – (Re-named) Requirement for Inspections and Investigations, Searches, Administrative Holds, Voluntary Surrenders, and Such Additional Activities as May Become Necessary from Time to Time

R 1203 – Disposition of Unauthorized Marijuana

*Other rules governing enforcement may be adopted or amended.

R 1300 Series – Discipline

R 1301 – Disciplinary Process: Non-Summary Suspensions

R 1302 - Disciplinary Process: Summary Suspensions

R 1303 – Suspension Process: Regular and Summary Suspensions

R 1304 – Administrative Hearings

R 1308 – Confidential Information and Former Division Employees

R 1309 – Administrative Warrants

*Other rules governing discipline may be adopted or amended.

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

*Rules governing Division, local jurisdiction, and law enforcement procedures may be adopted or amended.

R 1500 Series – Retail Marijuana Testing Program

R 1501 – Retail Marijuana Testing Program – Contaminant Testing

R 1502 – Retail Marijuana Testing Program – Mandatory Testing

R 1503 – Retail Marijuana Testing Program – Potency Testing

R 1504 – (Re-named) Retail Marijuana Testing Program – Retail Marijuana Testing Program: Sampling Procedures

*Other rules governing the retail marijuana testing program may be adopted or amended.

Any other rules necessary to implement the Retail Code may be adopted or amended.

RULES TO BE AMENDED OR ADOPTED PURSUANT TO THE MEDICAL CODE

M 100 Series – General Applicability

M 103 – Definitions

M 104 – Declaratory Orders Concerning the Medical Code

M 106 – Subpoena Fees

Additional definitions:

The State Licensing Authority will consider additional amendments to the definitions including definitions related to permitted economic interests and definitions related to other rules under consideration during these rulemaking proceedings.

Additional general rules:

If the rules related to electronic benefit transfers are not adopted by the Department of Revenue as a whole, the State Licensing Authority may consider rules related to electronic benefit transfers pursuant to subsection 26-2-104(2), C.R.S.

*Other general rules may be adopted or amended.

M 200 Series – (Re-named) Licensing and Interests

M 201 – Complete Applications Required: Medical Marijuana Businesses

M 202 – Process for Issuing a New License: Medical Marijuana Businesses

M 203 – Process for Renewing a License: Medical Marijuana Businesses

M 204 – Factors Considered When Evaluating Ownership of a License: Medical Marijuana Businesses

M 205 – Transfer of Ownership and Changes in Licensed Entities: Medical Marijuana Businesses

M 206 – Changing Location of the Licensed Premises: Medical Marijuana Businesses

M 207 – Schedule of Application Fees: Medical Marijuana Businesses

M 208 – Schedule of Business License Fees: Medical Marijuana Businesses

M 209 – Schedule of Business Renewal License Fees: Medical Marijuana Businesses

M 210 - (Re-named) Schedule of Licensing Administrative Service Fees: All Licensees

M 211 – Conversion – Medical Marijuana Business to Retail Marijuana Establishment

M 231 – Qualification for Licensure: Individuals

M 233 – (Re-named) Medical Code or Retail Code Occupational Licenses Required

M 235 – Schedule of License Fees: Individuals

M 236 – Schedule of Renewal Fees: Individuals

Permitted Economic Interests:

The State Licensing Authority will consider procedural and substantive rules related to permitted economic interests as required by subsection 12-43.3-202(2)(a)(XVIII.5), C.R.S.

*Other rules related to licensing and interests may be adopted or amended

M 300 Series – The Licensed Premises

M 301 – The Licensed Premises

M 302 – Possession of Licensed Premises

M 304 – Medical Marijuana Business and Retail Marijuana Establishment – Shared

Licensed Premises and Operational Separation

M 307 – Waste Disposal

M 309 – Medical Marijuana Business: Inventory Tracking System

*Other rules governing the Licensed Premises may be adopted or amended.

M 400 Series – Medical Marijuana Center

M 401 – Medical Marijuana Center: License Privileges

M 403 – Medical Marijuana Sales: General Limitations or Prohibited Acts

M 404 – Point of Sale: Restricted Access Area

Edible Medical Marijuana-Infused Products:

The State Licensing Authority may consider rules similar to those required by subsection 12-43.4-202(3)(c.5)(I), C.R.S., to address sales restrictions for edible medical marijuana-infused products.

*Other rules governing Medical Marijuana Centers may be adopted or amended.

M 500 Series – Optional Premises Cultivation Operation Facilities

M 501 – (Re-named) Optional Premises Cultivation Operation: License Privileges

M 505 – Optional Premises Cultivation Operation: Testing

*Other rules governing Optional Premises Cultivation Operation Facilities may be adopted or amended.

M 600 Series – Medical Marijuana-Infused Products Manufacturers

M 601 – Medical Marijuana-Infused Products Manufacturer: License Privileges

M 605 – Medical Marijuana-Infused Products Manufacturer: Medical Marijuana Concentrate Production

Medical Marijuana-Infused Products:

The State Licensing Authority may consider rules similar to those required by subsection 12-43.4-202(3)(c.5)(I), C.R.S., related to marking edible medical marijuana-infused products to protect the public safety.

*Other rules governing Medical Marijuana-Infused Products Manufacturers may be adopted or amended.

M 700 Series – (Re-named) Medical Marijuana Testing Facilities

M 701 – (Re-named) Occupational License for Medical Marijuana Testing and Research

M 701.5 – Medical Marijuana Testing Facilities: License Privileges

M 702 – Medical Marijuana Testing Facilities: General Limitations or Prohibited Acts

M 703 – Medical Marijuana Testing Facilities: Certification Requirements

M 704 – Medical Marijuana Testing Facilities: Personnel

M 705 – Medical Marijuana Testing Facilities: Standard Operating Procedure Manual

M 706 – Medical Marijuana Testing Facilities: Analytical Processes

M 707 – Medical Marijuana Testing Facilities: Proficiency Testing

M 708 – Medical Marijuana Testing Facilities: Quality Assurance and Quality Control

M 709 – Medical Marijuana Testing Facilities: Chain of Custody

M 710 – Medical Marijuana Testing Facilities: Records Retention

M 711 - Medical Marijuana Testing Facilities: Reporting
M 712 - Medical Marijuana Testing Facilities: Sampling and Testing Program

*Other rules governing Medical Marijuana Testing Facilities may be amended or adopted.

M 800 Series – Transportation and Storage

M 801 – Transport of Medical Marijuana and Medical Marijuana-Infused Products
M 802 – Off-Premises Storage of Medical Marijuana and Medical Marijuana-Infused Product

*Other rules governing transportation and storage of Medical Marijuana and Medical Marijuana-Infused Products may be adopted or amended.

M 900 Series – Business Records and Reporting

M 901 – Business Records Required
M 904 – Manager Change Must Be Reported

*Other rules governing business records and reporting may be adopted or amended.

M 1000 Series – Labeling, Packaging, and Products Safety

*Rules governing labeling, packaging, and products safety may be adopted or amended, including but not limited to rules similar to those required by subsection 12-43.4-202(3)(c.5)(I), C.R.S., related to marking edible medical marijuana-infused products to protect the public safety.

M 1100 Series - Signage, Marketing, and Advertising

*Rules governing signage, marketing, and advertising may be adopted or amended.

M 1200 Series – Enforcement

M 1201 – Duties of Employees of State Licensing Authority
M 1202 – (Re-named) Requirement for Inspections and Investigations, Searches, Administrative Holds, Voluntary Surrenders, and Such Additional Activities as May Become Necessary from Time to Time
M 1203 – Disposition of Unauthorized Medical Marijuana

*Other rules governing enforcement may be adopted or amended.

M 1300 Series – Discipline

M 1301 – Disciplinary Process: Non-Summary Suspensions
M 1302 – Disciplinary Process: Summary Suspensions
M 1303 – Suspension Process: Regular and Summary Suspensions
M 1304 – Administrative Hearings
M 1308 – Confidential Information and Former Division Employees
M 1309 – Administrative Warrants

*Other rules governing discipline may be adopted or amended.

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

*Rules governing Division, local jurisdiction, and law enforcement procedures may be adopted or amended.

M 1500 Series – (New) Medical Marijuana Testing Program

M 1501 – Medical Marijuana Testing Program: Contaminant Testing

M 1502 – Medical Marijuana Testing Program: Mandatory Testing

M 1503 – Medical Marijuana Testing Program: Potency Testing

M 1504 – Medical Marijuana Testing Program: Sampling Procedures

M 1505 – Medical Marijuana Testing Program: Test Batches

M 1506 – Medical Marijuana Testing Program: Costs

M 1507 – Medical Marijuana Testing Program: Contaminated Product and Failed Test Results

*Other rules governing the medical marijuana testing program may be adopted or amended.

Any other rules necessary to implement the Medical Code may be amended or adopted.

RULEMAKING RECORD AND PUBLIC PARTICIPATION

1. Official Rulemaking Record. The official record for purposes of the rulemaking hearing on August 31 and (if necessary) September 1, 2015, will include the written and recorded materials from the stakeholder meetings and any written comments or oral testimony submitted or presented.
2. Written Comments. The State Licensing Authority encourages interested parties to submit written comments on the proposed rules, including alternate proposals, by August 17, 2015, so that the State Licensing Authority can review comments prior to the rulemaking hearing. Written comments will also be accepted after that date. The deadline to submit written comments is 5:00 P.M. on Tuesday, September 1, 2015.

The State Licensing Authority will accept all written comments but strongly encourages written comments to be submitted on the Marijuana Enforcement Division Suggested Revision to Rules Form (Rule Form). A copy of the form is attached to this notice. The form may also be found at <https://www.colorado.gov/pacific/enforcement/2015-med-rulemaking>.

Please print, complete, and save the Rule Form as a separate document and then submit the Rule Form via e-mail. Written comments and completed Rule Forms may be emailed to: dor_medrulecomments@state.co.us. In addition, you may submit completed Rule Forms to:

Marijuana Enforcement Division
Re: Rules
455 Sherman Street, Suite 390
Denver, CO 80203

Written comments will be accepted at the rulemaking hearing.

3. Oral Comments. In its discretion, the State Licensing Authority may also afford interested parties an opportunity to make brief oral presentations at the rulemaking hearing.

The State Licensing Authority strongly encourages written comments

If allowed, oral presentations will likely be limited to two minutes or less per person. Individuals will not be allowed to cede their time to another person (for instance, one person speaking on behalf of five people will not be given ten minutes to speak). Organized groups of individuals are urged to identify one spokesperson and to be concise. The State Licensing Authority encourages interested parties to avoid duplicating previously-submitted material and testimony.

HEARING SCHEDULE

Date: August 31, 2015 and, if necessary, also September 1, 2015

Time: 9:00 a.m. – 5:00 p.m.

Place: Old Supreme Court Chambers

State Capitol Building, Room 220

200 E. Colfax Ave., Denver, CO, 80203

Location of the rulemaking hearing will also be posted on the Department of Revenue's website and the Secretary of State's website.

The hearing may be continued at such place and time as the State Licensing Authority may announce.

The State Licensing Authority shall deliberate upon the evidence, testimony and written submissions presented at this hearing, as well as any related matters properly submitted before the hearing record is closed. Pursuant to said hearing, in the above-entitled matter at the time and place aforesaid, or at any adjourned meeting, the State Licensing Authority will adopt such rules and regulations as in its judgment the record may justify.

If you are an individual with a disability who needs a reasonable accommodation in order to participate in this rulemaking hearing, please contact Corrie Martinez at Corrie.Martinez@state.co.us no later than August 17, 2015.

Dated this 31st day of July, 2015.

THE COLORADO DEPARTMENT OF REVENUE,
STATE LICENSING AUTHORITY,
MARIJUANA ENFORCEMENT DIVISION



Barbara J. Brohl, State Licensing Authority
Colorado Department of Revenue