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**Basis and Purpose – R 103**

The statutory authority for this rule includes but is not limited to sections 12-43.4-202(2)(b) and 12-43.4-202(3)(b)(IX), C.R.S., section 12-43.4-103, 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 is not intended to be a defined term, it is not capitalized.

**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 Retail Marijuana Establishment, or to purchase particular Retail Marijuana, Retail Marijuana Concentrate, or a Retail Marijuana Product. “Advertising” includes marketing, but does not include packaging and labeling. “Advertising” proposes a commercial transaction or otherwise constitutes commercial speech.

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

“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, an indirect financial interest, a lease agreement, secured or unsecured loan, or security interest in fixtures or equipment with a direct nexus to the cultivation, manufacture, Transfer, transportation, or testing of Retail Marijuana, Retail Marijuana Concentrate, 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.

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

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

“Applicant” means a Person that has submitted an application 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 a Direct Beneficial Interest Owner of the Retail Marijuana Establishment, other than a Qualified Limited Passive Investor, and any Person who controls or is positioned so as to enable the exercise of control over a Retail Marijuana Establishment. Each shareholder, officer, director, member, or partner of a Closely Held Business Entity that is a Direct Beneficial Interest Owner and any

Person who controls or is positioned so as to enable the exercise of control over a Retail Marijuana Establishment 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.

“Centralized Distribution Permit” means a permit issued to a Retail Marijuana Cultivation Facility pursuant to section 12-43.4-403, C.R.S., authorizing temporary storage of Retail Marijuana Concentrate and Retail Marijuana Product received from a Retail Marijuana Products Manufacturing Facility for the sole purpose of Transfer to commonly owned Retail Marijuana Stores. For purposes of a Centralized Distribution Permit only, the term “commonly owned” means at least one natural person has a minimum of five percent ownership in both the Retail Marijuana Cultivation Facility possessing the Centralized Distribution Permit and the Retail Marijuana Store.

“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 1 C.F.R. 1700.15 (1995) and 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 regulations, 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; and
- 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 intellectual property with a direct nexus to the cultivation, manufacture, Transfer or testing of Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product. A Commercially Reasonable Royalty must be limited to specific intellectual property the Commercially Reasonable Royalty Interest Holder owns or is otherwise authorized to license or to a product or line of products. A Commercially Reasonable Royalty that could cause reasonable consumer confusion or violate any federal copyright, trademark or patent law or regulation will not be approved. The Commercially Reasonable Royalty shall provide for compensation to the Commercially Reasonable Royalty Holder as a percentage of gross revenue or gross profit. 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 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 or businesses 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 receptacle directly containing Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product that is labeled according to the requirements in Rules R 1001 *et seq.* or Rules R 1001-1 *et seq.*

“Court Appointee” means a Person appointed by a court as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person; acting in accordance with section 12-43.4-401(1.5), C.R.S., and these rules; and authorized by court order to take possession of, operate, manage, or control a licensed Retail Marijuana Establishment.

“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 for which the intended use is oral consumption, 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 an Opaque bag or other similar Opaque covering provided at the retail point of sale, in which Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product already in a Container is placed. If Retail Marijuana flower, trim or seeds are placed into a Container that is not Child-Resistant, then the Exit Package must be Child-Resistant. The Exit Package is not required to be labeled in accordance with Rules R 1001 *et seq.* or Rules R 1001-1 *et seq.*

“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, 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 the cannabis plant in which there are physical signs of flower budding out of the nodes of the stem.

“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.

“Heat/Pressure-Based Retail Marijuana Concentrate” means Retail Marijuana Concentrate that was produced by extracting Cannabinoids from Retail Marijuana through the use of heat and/or pressure. This method of extraction may be used by only a Retail Marijuana Products Manufacturing Facility and can be used alone or on a Production Batch that also includes Water-Based Retail Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate.

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

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

“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 an accredited college or university.

- a. The special studies and training of such individuals shall be sufficient in the cognate sciences to provide the ability and competency to:
  1. Anticipate and recognize the environmental factors and stresses associated with work and work operations and to understand their effects on individuals and their well-being;
  2. Evaluate on the basis of training and experience and with the aid of quantitative measurement techniques the magnitude of such environmental factors and stresses in terms of their ability to impair human health and well-being;
  3. Prescribe methods to prevent, eliminate, control, or reduce such factors and stresses and their effects.
- b. Any individual who has practiced within the scope of the meaning of industrial hygiene for a period of not less than five years immediately prior to July 1, 1997, is exempt from the degree requirements set forth in the definition above.
- c. Any individual who has a two-year associate of applied science degree in environmental science from an accredited college or university and in addition not less than four years practice immediately prior to July 1, 1997, within the scope of the meaning of industrial hygiene is exempt from the degree requirements set forth in the definition above.

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

“Inventory Tracking System” means the required seed-to-sale tracking system that tracks Retail Marijuana from either the seed or immature plant stage until the Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product is sold to a customer at a Retail Marijuana Store, Transferred to a Medical Research Facility, Transferred to a Pesticide Manufacturer, or destroyed.

“Inventory Tracking System Trained Administrator” means an 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 has completed any additional training required by the Division.

“Inventory Tracking System User” means an 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 performing inventory tracking functions in the Inventory Tracking System. Each Inventory Tracking System User must have been successfully trained by an Inventory Tracking System Trained Administrator in the proper and lawful use of Inventory Tracking System.

“Key License” means an Occupational License for an individual who performs duties that are central to the Retail Marijuana Establishment’s operation. An individual holding a Key License has

the highest level of responsibility but is not an Owner. An example of a Key Licensee includes, but is not limited to, managers.

“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.

“Licensed Research Business” means a Marijuana Research and Development Facility or a Marijuana Research and Development Cultivation.

“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, Transferred, or processed for Transfer, 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 liquid food-based product for which the intended use is oral consumption, such as a soft drink or cooking sauce.

“Marijuana-Based Workforce Development Training Program” means a program designed to train individuals to work in the legal Medical or Retail Marijuana industry operated by an entity licensed under the Medical Code and/or Retail Code or by a school that is authorized by the Division of Private Occupational Schools.

“Marketing Layer” means packaging in addition to the Container that is the outermost layer visible to the consumer at the point of sale. The Marketing Layer is optional, but if used by a Licensee in addition to the required Container, it must be labeled according to the requirements of Rules R 1001 et seq. or Rules R 1001-1 et seq.

“Marijuana Research and Development Cultivation” means a Person that is licensed pursuant to the Medical Code to grow, cultivate, and possess Medical Marijuana, and to Transfer Medical Marijuana to a Marijuana Research and Development Facility or another Medical Research and Development Cultivation, all for limited research purposes authorized pursuant to section 12-43.3-408, C.R.S. A Marijuana Research and Development Cultivation is a Licensed Research Business.

“Marijuana Research and Development Facility” means a Person that is licensed pursuant to the Medical Code to possess Medical Marijuana for limited research purposes authorized pursuant to section 12-43.3-408, C.R.S. A Marijuana Research and Development Facility is a Licensed Research Business.

“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. Unless the context otherwise requires, Medical Marijuana Concentrate is considered Medical Marijuana and is included in the term “Medical Marijuana” as used in these rules.

“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 Transporter, a Marijuana Research and Development Facility, or a Marijuana Research and Development Cultivation.

“Medical Marijuana Business Operator” means an entity that holds a registration or license from the State Licensing Authority to provide professional operational services to one or more Medical Marijuana Businesses, other than Licensed Research 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. The Medical Code and rules apply to all Medical Marijuana Business Operators regardless of whether such operator holds a registration or license. Any reference to “license” or “licensee” shall mean “registration” or “registrant” when applied to a Medical Marijuana Business Operator that holds a registration issued by the State Licensing Authority.

“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, Solvent-Based Medical Marijuana Concentrate, and Heat/Pressure-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 perform testing and research on Medical Marijuana, Medical Marijuana Concentrate, and Medical Marijuana-Infused Products.

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



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

“Medical Research Facility” means a Person approved and grant-funded by the State Board of Health pursuant to section 25-1.5-106.5, C.R.S., to conduct Medical Marijuana research. A Medical Research Facility is neither a Medical Marijuana Business, a Retail Marijuana Establishment, nor a Licensee.

“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. An Occupational License may be an Associated Key License, a Key License or a Support License.

“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, 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 a Direct Beneficial Interest 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.

“Pesticide Manufacturer” means a Person who (1) manufactures, prepares, compounds, propagates, or processes any Pesticide or device or active ingredient used in producing a Pesticide; (2) who possesses an establishment registration number with the U.S. Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 et seq.; (3) who conducts research to establish safe and effective protocols, including but not limited to establishing efficacy and toxicity, for the use of Pesticides on Medical Marijuana; (4) who has applied for and received any necessary license, registration, certifications, or permits from the Colorado Department of Agriculture, pursuant to the Pesticide Act, sections 35-9-101 et seq., C.R.S. and/or the Pesticide Applicators’ Act, sections 35-10-101 et seq., C.R.S.; (5) who is authorized to conduct business in the State of Colorado; and (6) who has physical possession of the location in the State of Colorado where its research activities occur. A Pesticide Manufacturer is neither a Medical Marijuana Business, a Retail Marijuana Establishment, nor a Licensee.

“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” means an assessment of the performance of a Retail Marijuana Testing Facility’s methodology and processes. Proficiency Testing is also known as inter-laboratory comparison. The goal of Proficiency Testing is to ensure results are accurate, reproducible, and consistent.

“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.

“Public Institution” means any entity established or controlled by the federal government, a state government, or a local government or municipality, including but not limited to an institution of higher education or a public higher education research institution.

“Public Money” means any funds or money obtained by the holder from any governmental entity, including but not limited to research grants.

“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; or
- 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 Establishment. A Qualified Limited Passive Investor is a Direct Beneficial Interest Owner.

“R&D Co-Location Permit” means a permit issued to a Licensed Research Business authorizing it to co-locate with a commonly owned Medical Marijuana-Infused Products Manufacturer, Retail Marijuana Products Manufacturing Facility, Medical Marijuana Optional Premises Cultivation Operation, and Retail Marijuana Cultivation Facility pursuant to Rule M 1901. A separate R&D Co-Location Permit is required for each location at which a Licensed Research Business seeks to share a single Licensed Premises.

“RFID” means Radio Frequency Identification.

“Remediation” means the process by which Retail Marijuana flower and trim, which has failed microbial testing, is processed into a Solvent-Based Retail Marijuana Concentrate and retested as required by these rules.

“Resealable” means that the Container maintains its Child-Resistant effectiveness for multiple openings.

“Research Project” means a discrete scientific endeavor to answer a research question or a set of research questions. A Research Project must include a description of a defined protocol, clearly articulated goal(s), defined methods and outputs, and a defined start and end date. The description must demonstrate that the Research Project will comply with all requirements in the M 1900 Series – Licensed Research Businesses. All research and development conducted by a Licensed Research Business must be conducted in furtherance of an approved Research Project.

“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, Retail Marijuana Concentrate, 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 but not limited to Retail 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. Unless the context otherwise requires, Retail Marijuana Concentrate is considered Retail Marijuana and is included in the term “Retail Marijuana” as used in these rules.

“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 Solvent-Based Retail Marijuana Concentrate, and Heat/Pressure-Based Retail Marijuana Concentrate.

“Retail Marijuana Cultivation Facility” means an entity licensed to cultivate, prepare, and package Retail Marijuana and Transfer Retail Marijuana to Retail Marijuana Establishments, Medical Research Facilities, and Pesticide Manufacturers, 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 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 Establishment 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 Transfer Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Product only to other Retail Marijuana Products Manufacturing Facilities, Retail Marijuana Stores, Medical Research Facilities, and Pesticide Manufacturers.

“Retail Marijuana Store” means an entity licensed to purchase Retail Marijuana and Retail Marijuana Concentrate from a Retail Marijuana Cultivation Facility and to purchase Retail Marijuana Product and Retail Marijuana Concentrate from a Retail Marijuana Products Manufacturing Facility and to Transfer Retail Marijuana, Retail Marijuana Concentrate 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 perform testing and research on Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Products.

“Retail Marijuana Transporter” means a Person that is licensed to transport Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Products from one Retail Marijuana Establishment to another Retail Marijuana Establishment or to a Medical Research Facility or Pesticide Manufacturer, and to temporarily store the transported Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Products at its Licensed Premises, but is not authorized to sell, give away, buy, or receive complimentary Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Products under any circumstances. A Retail Marijuana Transporter does not include a Licensee that transports and distributes its own Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Products.

“Sample” means any item collected from a Retail Marijuana Establishment 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 Concentrate, Retail Marijuana Product, 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. A Shipping Container is used solely for the transport of Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product between Retail Marijuana Establishments, a Medical Research Facility, or a Pesticide Manufacturer.

“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.

“Support License” means a license for an individual who performs duties that support the Retail Marijuana Establishment’s operations. A Support Licensee is a person with less decision-making authority than a Key Licensee and who is reasonably supervised by a Key Licensee or an Associated Key Licensee. Examples of individuals who need this type of license include, but are not limited to, sales clerks or cooks.

“Temporary Appointee Registration” means a registration issued to a Court Appointee pursuant to section 12-43.4-401(1.5)(b), C.R.S.

“THC” means tetrahydrocannabinol.

“THCA” means tetrahydrocannabinolic acid.

“Test Batch” means a group of Samples that are derived from a single Harvest Batch, Production Batch, or Inventory Tracking System package, and that are collectively submitted to a Retail Marijuana Testing Facility for testing purposes.

“Total THC” means the sum of the percentage by weight of THCA multiplied by 0.877 plus the percentage by weight of THC i.e., Total THC = (%THCA x 0.877) + % THC.

“Transfer(s)(ed)(ing)” means to grant, convey, hand over, assign, sell, exchange, donate, or barter, in any manner or by any means, with or without consideration, any Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product from one Licensee to another Licensee or to a consumer. A Transfer includes the movement of Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product from one licensed premises to another, even if both premises are contiguous, and even if both premises are owned by a single entity or individual or group of individuals and also includes a virtual transfer that is reflected in the Inventory Tracking System, even if no physical movement of the Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product occurs.

“Universal Symbol” means the image established by the Division and made available to Licensees through the Division’s website indicating the Retail Marijuana, Retail Marijuana Concentrate, 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 includes but is not limited to sections 12-43.4-104(2)(a), 12-43.4-202(2)(b), 12-43.4-202(3)(a)(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 sections 12-43.4-103, 12-43.4-306.5, 12-43.4-309, 12-43.4-312, 12-43.4-401, 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 establish that only materially complete applications for licenses, accompanied by all required fees, will be accepted and processed by the Division. The 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 the application can be fully processed, the Applicant must provide the additional requested information within the time frame provided by the Division. Otherwise, the Division cannot act on the application in a timely manner, and the application may be denied.

**R 201 – Application Process**

A. General Requirements

1. All applications for licenses authorized pursuant to subsections 12-43.4-401(1) ~~and (1.5)(a)-(g)~~, C.R.S., shall be made upon current forms prescribed by the Division.
2. A license issued 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. 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 of the application and relevant license fees for each applicant and each premise. 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 210 – Schedule of Other Application Fees: All Licensees, 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, and 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 organization and its operating agreement; evidence of authorization from the Colorado Secretary of State to do business within this State, and 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; and
  - 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, 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 Marijuana Business or Retail Marijuana Establishment 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.
- f. At a minimum, each Applicant for a Court Appointee finding of suitability required by Rule R 253(A)(2), shall provide, at the time of application, the following information:
- i. A copy of the order appointing the Court Appointee;
  - ii. A statement affirming the Court Appointee complied with the certification required by section 12-43.4-401(1.5)(a), C.R.S.;

- iii. If the Court Appointee is an entity, a complete list of all individuals responsible for taking possession of, operating, managing, or controlling the Retail Marijuana Establishment; and
- iv. Documentation of Medical Marijuana Businesses and Retail Marijuana Establishments with regard to which the Court Appointee has previously served as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person. Pursuant to Section 12-43.4-306(1)(f), a Court Appointee may be found unsuitable if, during a period of appointment as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person, any Medical Marijuana Business or Retail Marijuana Establishment for which the Court Appointee was appointed failed to file any tax returns or failed to pay any taxes related to the Medical Marijuana Business or Retail Marijuana Establishment.

- 5. All applications to reinstate 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 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 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, 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. 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.
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 210**

The statutory authority for this rule includes but is not limited to sections 12-43.4-202(2)(a), 12-43.3-1101, 12-43.3-1102, 12-43.4-202(2)(b), 12-43.4-202(3)(a)(II), 12-43.4-304(1), 12-43.4-103, 12-43.4-401, 12-43.3-501, 12-43.3-502, ~~and 12-43.4-501, and 12-43.4-202(2)(a)(XXI)~~, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(II). The purpose of this rule is to establish basic requirements for all Division applications and help the regulated community understand procedural licensing requirements.

#### **R 210 – Schedule of Other Application Fees: All Licensees**

A. Other Application Fees. The following application fees apply:

1. Transfer of Ownership - New Owners - \$1,600.00
2. Transfer of Ownership - Reallocation of Ownership - \$1,000.00
3. Change of Corporation or LLC Structure - \$800.00
4. Change of Trade Name - \$50.00
5. Change of Location Application Fee - \$500.00
6. Modification of Licensed Premises - \$100.00
7. Duplicate Business License - \$20.00
8. Duplicate Occupational License - \$20.00
9. Off Premises Storage Permit - \$1,500.00
10. Retail Marijuana Transporter Off Premises Storage Permit - \$2,200.00

11. Responsible Vendor Program Provider Application Fee: \$850.00
12. Responsible Vendor Program Provider Renewal Fee: \$350.00
13. Responsible Vendor Program Provider Duplicate Certificate Fee: \$50.00
14. Temporary Appointee Registration finding of suitability
  - a. Individual - \$225.00
  - b. Entity - \$800.00
15. Centralized Distribution Permit - \$20.00

B. When Other Application Fees Are Due. All other application fees are due at the time the application and/or request is submitted.

C. Subpoena Fee – See Rule R 106 – Subpoena Fees

### Basis and Purpose – R 253

The statutory authority for this rule includes, but is not limited to, sections 12-43.4-202 and 12-43.4-401, C.R.S. The purpose of this rule is to establish procedures and requirements for any Person appointed by a court as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person acting in accordance with section 12-43.4-401(1.5), C.R.S., and authorized by court order to take possession of, operate, manage, or control a Retail Marijuana Establishment.

### M 253 – Temporary Appointee Registrations for Court Appointees

A. For Court Appointees appointed on or after May 15, 2018, the effective date of House Bill 18-1280:

1. Notice to the State and Local Licensing Authorities. Within seven days of accepting an appointment as a Court Appointee pursuant to section 12-43.4-401(1.5), C.R.S., (or within seven days of June 18, 2018, the effective date of this Rule R 253, whichever is later), such Court Appointee shall file a notice to the State Licensing Authority and the applicable local licensing authority on a form prescribed by the State Licensing Authority. The notice shall be accompanied by a copy of the order appointing the Court Appointee and a statement affirming that the Court Appointee complied with the certification required by section 12-43.4-401(1.5)(a), C.R.S. If the Court Appointee is an entity, the notice shall identify all individuals responsible for taking possession of, operating, managing, or controlling the licensed Retail Marijuana Establishment. Each notice shall identify at least one such individual.
2. Application for Finding of Suitability. Within 14 days of accepting an appointment as a Court Appointee pursuant to section 12-43.4-401(1.5), C.R.S., (or within 14 days of June 18, 2018, the effective date of this Rule R 253, whichever is later), each Court Appointee shall file an application for a finding of suitability with the State Licensing Authority on forms prescribed by the State Licensing Authority. Each entity and individual for whom a notice was filed pursuant to Rule R 253(A) shall file an application for a finding of suitability. The Division may in its discretion rely upon a recent licensing background investigation for Court Appointees that currently hold a license or Temporary Appointee Registration issued by the State Licensing Authority, and may waive all or part of the application fee accordingly.

3. Effective date. The Temporary Appointee Registration shall issue following the State Licensing Authority's receipt of the notice required by Rule R 253(A)(1), and shall be deemed effective as of the date of the court appointment.
- B. For Court Appointees appointed prior to May 15, 2018, the effective date of House Bill 18-1280:
1. Appointment prior to May 15, 2018. Any receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person authorized by court order to take possession of, operate, manage, or control a Retail Marijuana Establishment prior to May 15, 2018, the effective date of House Bill 18-1280, shall be deemed a Court Appointee.
  2. Notice to the State and Local Licensing Authorities and Application for Finding of Suitability. Any such Court Appointee appointed by a court prior to May 15, 2018, shall, within 14 days of June 18, 2018, the effective date of this Rule R 253, file notice of the appointment with the State Licensing Authority and the applicable local licensing authority, and file an application for a finding of suitability with the State Licensing Authority, in accordance with Rule R 253(A)(2). The notice and application shall include a copy of the order appointing the Person, but need not include a statement affirming that the Person complied with the certification required by section 12-43.4-401(1.5)(a), C.R.S.
  3. Effective date. The Temporary Appointee Registration for a Court Appointee appointed prior to May 15, 2018, the effective date of House Bill 18-1280, shall be deemed effective May 15, 2018.
- C. Temporary Appointee Registration.
1. Entities. If the Court Appointee is an entity, such entity shall receive a Temporary Appointee Registration. Additionally, each such entity must identify all individuals responsible for taking possession of, operating, managing, or controlling the Retail Marijuana Establishment, and all such individuals shall also receive a Temporary Appointee Registration, which shall be treated as an Associated Key License, except where contrary to the provisions of this Rule R 253 or section 12-43.4-401(1.5), C.R.S. Each Court Appointee that is an entity must identify at least one such individual.
  2. Individuals. If the Court Appointee is an individual, such individual's Temporary Appointee Registration shall be treated as an Associated Key License except where contrary to the provisions of this Rule R 253 or section 12-43.4-401(1.5), C.R.S.
  3. Other employees. Any other individual working under the direction of a Court Appointee who possesses, cultivates, manufactures, tests, dispenses, sells, serves, transports, researches, or delivers Retail Marijuana, Retail Marijuana Concentrate, or Retail Marijuana Product as permitted by privileges granted under a Retail Marijuana Establishment license must have a valid Occupational License of the type required for the duties that individual will perform. See Rules R 103 and 233.
  4. Licensed Premises. A Court Appointee shall not establish an independent Licensed Premises, but shall be authorized to exercise the privileges of the Temporary Appointee Registration within the Licensed Premises of Retail Marijuana Establishment for which it is appointed.
  5. Retail Code and rules applicable. Court Appointees shall be subject to the terms of the Retail Code and the rules promulgated pursuant thereto. Except where inconsistent with section 12-43.4-401(1.5), C.R.S., or this Rule R 253, the State Licensing Authority may take any action with respect to a Temporary Appointee Registration that it could take with



respect to any license issued under the Retail Code. In any administrative action involving a Temporary Appointee Registration, these rules shall be read as including the terms “registered”, “registration”, “registrant” or any other similar terms in lieu of “licensed”, “licensee”, and any other similar terms as the context requires when applied to a Temporary Appointee Registration.

D. Disciplinary actions.

1. Suspension, revocation, or other disciplinary action. In addition to any other basis for suspension, revocation, or other disciplinary action, a Retail Marijuana Establishment’s license may, pursuant to section 12-43.4-202(2)(a), 12-43.4-401(1.5)(b), and 12-43.4-601(1), C.R.S., be suspended, revoked, or subject to other disciplinary action based upon its Court Appointee’s violations of the Retail Code, the rules promulgated pursuant thereto, or the terms, conditions, or provisions of the Temporary Appointee Registration issued by the State Licensing Authority, or any order of the State Licensing Authority. Such disciplinary action may occur even after the Temporary Appointee Registration is expired or surrendered, if the action is based upon an act or omission that occurred while the Temporary Appointee Registration was active.
2. Suitability. If the State Licensing Authority denied an application for a finding of suitability because the Court Appointee failed to timely apply for a finding of suitability, failed to provide all information requested by the Division in connection with an application for a finding of suitability, or was found to be unsuitable, the State Licensing Authority may pursue disciplinary action as set forth in Rule R 253(D)(1) and (3).
3. Court Appointee’s responsibility to notify the appointing court. The Court Appointee shall notify the appointing court of any action taken against the Temporary Appointee Registration by the State Licensing Authority pursuant to sections 12-43.4-601 or 24-4-104, C.R.S., within two business days. Such actions include, without limitation, the issuance of an Order to Show Cause, the issuance of an Administrative Hold, the issuance of an Order of Summary Suspension, the issuance of an Initial Decision by the Department’s Hearings Division, or the issuance of a Final Agency Order by the State Licensing Authority. The Court Appointee shall forward a copy of such notification to the Division at the same time the notification is made to the appointing court.

E. Expiration and renewal.

1. Conclusion of a Court Appointee’s court appointment. A Court Appointee’s Temporary Appointee Registration shall expire upon the conclusion of a Court Appointee’s court appointment. Each Court Appointee and each Retail Marijuana Establishment that has a Court Appointee shall notify the State Licensing Authority within two business days of the date on which a Court Appointee’s court appointment ends, whether due to termination of the appointment by the court, substitution of another Court Appointee, closure of the court case, or otherwise. For a Court Appointee that is appointed in connection with multiple court cases, the notice shall be filed with the State Licensing Authority with respect to each such case.
2. Annual renewal. If it has not yet expired pursuant to Rule R 253(E)(1), each Temporary Appointee Registration shall be valid for one year, after which it shall be subject to annual renewal in accordance with the Retail Code and rules promulgated pursuant thereto. If a Court Appointee is appointed in connection with multiple court cases, the Temporary Appointee Registration is subject to annual renewal unless all such appointments have ended, whether due to termination of the appointments by the courts, substitution of other Court Appointees, closure of the court cases, or otherwise.

3. Other termination. A Temporary Appointee Registration may be valid for less than the applicable term if surrendered, revoked, suspended, or subject to similar action.
- F. Retail Marijuana Establishment Operators as Court Appointees. By virtue of its privileges of licensure, a Retail Marijuana Establishment Operator and its Associated Key Licensees may serve as Court Appointees without a Temporary Appointee Registration subject to the following terms:
  1. Notice to the State Licensing Authority of appointment. The Retail Marijuana Establishment Operator and its Associated Key Licensee(s) shall notify the State Licensing Authority within seven days of any court appointment to serve as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person and take possession of, operate, manage, or control a Retail Marijuana Establishment. Such notice shall be accompanied by a copy of the order making the appointment, and shall identify each Retail Marijuana Establishment regarding which the Retail Marijuana Establishment Operator is appointed.
  2. Notice to the court of State Licensing Authority action. The Retail Marijuana Establishment Operator and its Associated Key Licensees shall notify the appointing court of any action taken against the Retail Marijuana Establishment Operator license or the Associated Key license by the State Licensing Authority pursuant to sections 12-43.4-601 or 24-4-104, C.R.S., within two business days. Such actions include, without limitation, the issuance of an Order to Show Cause, the issuance of an Administrative Hold, the issuance of an Order of Summary Suspension, the issuance of an Initial Decision by the Department's Hearings Division, or the issuance of a Final Agency Order by the State Licensing Authority. The Retail Marijuana Establishment Operator and its Associated Key Licensee(s) shall forward a copy of such notification to the Division at the same time the notification is made to the appointing court.

## **R 300 Series – The Licensed Premises**

### **Basis and Purpose – R 304.1**

The statutory authority for this rule includes but is not limited to sections 12-43.3-202(1)(b)(I), 12-43.3-202(2)(a)(XX), 12-43.3-202(2.5)(a)(I)(A)-(F), 12-43.4-104(1)(a)(V), 12-43.4-202(2)(b), 12-43.4-401(2), and 12-43.4-404(2), 12-43.3-406, 12-43.4-405 and 12-43.4-406, C.R.S. The purpose of this rule is to establish guidelines for the manner in which a Medical Marijuana Business may share its existing Licensed Premises with a Licensed Retail Marijuana Establishment, and to ensure the proper separation of a Medical Marijuana Business operation from Retail Marijuana Establishment operation.

### **R 304.1 – Medical Marijuana Business and Retail Marijuana Establishment – Shared Licensed Premises and Operational Separation**

- A. Co-Located Medical Marijuana Centers and Retail Marijuana Stores.
  1. Medical Marijuana Center that authorizes only patients that are over the age of 21. A Medical Marijuana Center that authorizes only Medical Marijuana patients who are over the age of 21 years to be on the Licensed Premises may also hold a Retail Marijuana Store license and operate at the same location under the following circumstances:
    - a. The relevant local licensing authority and local jurisdiction permit a dual operation at the same location;
    - b. The Medical Marijuana Center and Retail Marijuana Store are commonly owned;

- c. The Medical Marijuana Center and Retail Marijuana Store shall maintain physical or virtual separation between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana-Infused Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory;
  - d. The Medical Marijuana Center and Retail Marijuana Store shall maintain separate displays between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana-Infused Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory, but the displays may be on the same sale floor;
  - e. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Center and Retail Marijuana Store shall enable the Division and local licensing authority to clearly distinguish the inventories and business transactions of the Medical Marijuana Center from the inventories and business transactions of the Retail Marijuana Store; and
  - f. The Medical Marijuana Center shall post and maintain signage that clearly conveys that persons under the age of 21 years may not enter.
2. Medical Marijuana Center that authorizes patients under the age of 21. A Medical Marijuana Center that authorizes Medical Marijuana patients under the age of 21 years to be on the Licensed Premises may operate in the same location with a Retail Marijuana Store under the following conditions:
- a. The relevant local licensing authority and local jurisdiction permit a dual operation at the same location;
  - b. The Medical Marijuana Center and Retail Marijuana Store are commonly owned;
  - c. The Medical Marijuana Center and Retail Marijuana Store maintain physical separation, including separate entrances and exits, between their respective Restricted Access Areas;
  - d. No point of sale operations occur at any time outside the physically separated Restricted Access Areas;
  - e. All Medical Marijuana, Medical Marijuana Concentrate, and Medical Marijuana-Infused Product in a Restricted Access Area must be physically separated from all Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Product in a Restricted Access Area, and such physical separation must include separate entrances and exits;
  - f. Any display areas shall be located in the physically separated Restricted Access Areas;
  - g. In addition to the physically separated sales and display areas, the Medical Marijuana Center and Retail Marijuana Store shall maintain physical or virtual separation for storage of Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana-Infused Products, and other Medical Marijuana-related inventory from storage of Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory; and

- h. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Center and Retail Marijuana Store shall enable the Division and local licensing authority to clearly distinguish the inventories and business transactions of the Medical Marijuana Center from the inventories and business transactions of the Retail Marijuana Store.
- B. Co-Located Optional Premises Cultivation Operation and Retail Marijuana Cultivation Facility. An Optional Premises Cultivation Operation and a Retail Marijuana Cultivation Facility may share a single Licensed Premises and operate at the same location under the following circumstances:
  1. The relevant local licensing authority and local jurisdiction permit a dual operation at the same location;
  2. The Optional Premises Cultivation Operation and the Retail Marijuana Cultivation Facility are commonly owned;
  3. The co-located Optional Premises Cultivation Operation and Retail Marijuana Cultivation Facility shall maintain either physical or virtual separation between (i) Medical Marijuana and Medical Marijuana Concentrate and (ii) Retail Marijuana and Retail Marijuana Concentrate; and
  4. Record-keeping, inventory tracking, packaging and labeling for the Optional Premises Cultivation Operation and Retail Marijuana Cultivation Facility must enable the Division and relevant local licensing authority to clearly distinguish the inventories and business transactions of the Optional Premises Cultivation Operation from the Retail Marijuana Cultivation Facility.
- C. Co-located Medical Marijuana-Infused Products Manufacturer and Retail Marijuana Products Manufacturing Facility. A Medical Marijuana-Infused Products Manufacturer and a Retail Marijuana Products Manufacturing Facility may share a single Licensed Premises and operate at the same location under the following circumstances:
  1. The relevant local licensing authority and local jurisdiction permit a dual operation at the same location;
  2. The Medical Marijuana-Infused Products Manufacturer and the Retail Marijuana Products Manufacturing Facility are commonly owned;
  3. The Medical Marijuana-Infused Products Manufacturer and Retail Marijuana Products Manufacturing Facility shall maintain either physical or virtual separation between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana-Infused Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory. Nothing in this Rule prohibits a co-located Retail Marijuana Products Manufacturing Facility and Medical Marijuana-Infused Products Manufacturer from sharing raw ingredients in bulk, for example flour or sugar, except Retail Marijuana and Medical Marijuana may not be shared under any circumstances; and
  4. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana-Infused Products Manufacturer and Retail Marijuana Products Manufacturing Facility must enable the Division and local licensing authority to clearly distinguish the inventories and business transactions of the Medical Marijuana-Infused Products Manufacturer from the Retail Marijuana Products Manufacturing Facility.

- D. Co-located Medical Marijuana Testing Facility and Retail Marijuana Testing Facility. A Medical Marijuana Testing Facility and a Retail Marijuana Testing Facility may share a single Licensed Premises and operate at the same location under the following circumstances:
1. The relevant local licensing authority and local jurisdiction permit dual operation at the same location;
  2. The Medical Marijuana Testing Facility and Retail Marijuana Testing Facility are identically owned;
  3. The Medical Marijuana Testing Facility and Retail Marijuana Testing Facility shall maintain either physical or virtual separation between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana-Infused Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory; and
  4. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Testing Facility and Retail Marijuana Testing Facility must enable the Division and local licensing authority to clearly distinguish the inventories and business transactions of the Medical Marijuana Testing Facility from the Retail Marijuana Testing Facility.
- E. Co-located Medical Marijuana Transporter and Retail Marijuana Transporter. A Medical Marijuana Transporter and a Retail Marijuana Transporter may share a single Licensed Premises and operate dual transporting, logistics, and temporary storage business operation at the same location under the following circumstances:
1. The relevant local licensing authority and local jurisdiction permit dual operation at the same location;
  2. The Medical Marijuana Transporter and Retail Marijuana Transporter are identically owned;
  3. The Medical Marijuana Transporter and Retail Marijuana Transporter shall maintain either physical or virtual separation between (i) Medical Marijuana, Medical Marijuana Concentrate, Medical Marijuana-Infused Products, and other Medical Marijuana-related inventory and (ii) Retail Marijuana, Retail Marijuana Concentrate, Retail Marijuana Products, and other Retail Marijuana-related inventory; and
  4. Record-keeping, inventory tracking, packaging and labeling for the Medical Marijuana Transporter and Retail Marijuana Transporter must enable the Division and local licensing authority to clearly distinguish the inventories and business transactions of the Medical Marijuana Transporter from the Retail Marijuana Transporter.
- F. Co-Located Licensed Research Business. A Licensed Research Business may share a single Licensed Premises and operate at the same location as other Medical Marijuana Businesses or Retail Marijuana Establishments to the extent permitted by the Licensed Research Business's R&D Co-Location Permit and otherwise in compliance with all applicable rules. See Rule M 1900 Series.
- G. Violation of this Rule may be considered a license violation affecting public safety.

**R 500 Series – Retail Marijuana Cultivation Facilities**

**Basis and Purpose – R 501**

The statutory authority for this rule includes but is not limited to sections 12-43.4-202(2)(b), ~~12-43.4-202(3)(a)(XXI)~~, 12-43.4-202(3)(b)(IX), 12-43.4-401(4), 12-43.4-403, ~~12-43.4-404(1)(b)~~, and 12-43.4-406, 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 304.1 – 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. In addition, a Retail Marijuana Cultivation Facility may share a single Licensed Premises with and operate at the same location as a Licensed Research Business so long as: each business or business entity holds a separate license; the Licensed Research Business obtains an R&D Co-Location Permit; both the Licensed Research Business and the Retail Marijuana Cultivation Facility comply with all terms and conditions of the R&D Co-Location Permit; and both the Licensed Research Business and the Retail Marijuana Cultivation Facility comply with all applicable rules. See Rule M 1900 Series.
- 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 Transfers. A Retail Marijuana Cultivation Facility may only Transfer Retail Marijuana and Water-Based Retail Marijuana Concentrate to another Retail Marijuana Establishment.
1. A Retail Marijuana Cultivation Facility is also authorized to Transfer Retail Marijuana and Water-Based Retail Marijuana Concentrate to a Medical Research Facility pursuant to section 25-1.5-106.5, C.R.S., or Pesticide Manufacturer pursuant to section 12-43.3-202(1)(h)(II), C.R.S. and these Rules.
  2. A Retail Marijuana Cultivation Facility shall not Transfer Flowering plants or Vegetative plants to any Person except as authorized pursuant to Rule R 801.
- 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. Performance Based Incentives. A Retail Marijuana Cultivation Facility may compensate its employees using performance-based incentives.



- I. Authorized Sources of Retail Marijuana Seeds and Immature Plants. A Retail Marijuana Cultivation Facility shall only obtain Retail Marijuana seeds or Immature Plants from its own Retail Marijuana or properly transferred from another Retail Marijuana Establishment pursuant to the inventory tracking requirements in this Rule.
- J. Centralized Distribution Permit. A Retail Marijuana Cultivation Facility may apply to the State Licensing Authority for a Centralized Distribution Permit for authorization to temporarily store Retail Marijuana Concentrate and Retail Marijuana Product received from a Retail Marijuana Products Manufacturing Facility for the sole purpose of Transfer to commonly owned Retail Marijuana Stores.
1. For purposes of a Centralized Distribution Permit only, the term “commonly owned” means at least one natural person has a minimum of five percent ownership in both the Retail Marijuana Cultivation Facility possessing a Centralized Distribution Permit and the Retail Marijuana Store to which the Retail Marijuana Concentrate and Retail Marijuana Product will be Transferred.
  2. To apply for a Centralized Distribution Permit, a Retail Marijuana Cultivation Facility may submit an addendum to its new or renewal application or a separate addendum prior to a renewal application on forms prepared by the Division to request a Centralized Distribution Permit. The Retail Marijuana Cultivation Facility shall send a copy of its Centralized Distribution addendum to the local licensing authority in the jurisdiction in which the Centralized Distribution Permit is proposed at the same time it submits the addendum to the State Licensing Authority.
  3. A Retail Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit may accept Transfers of Retail Marijuana Concentrate and Retail Marijuana Product from a Retail Marijuana Products Manufacturing Facility for the sole purpose of temporary storage and Transfer to commonly owned Retail Marijuana Stores.
    - a. A Retail Marijuana Cultivation Facility may only accept Retail Marijuana Concentrate and Retail Marijuana Product that is packaged and labeled for sale to a consumer pursuant to the Rule R 1000 Series and Rule R 1000-1 Series.
    - b. A Retail Marijuana Cultivation Facility storing Retail Marijuana Concentrate and Retail Marijuana Product pursuant to a Centralized Distribution Permit shall not store such Retail Marijuana Concentrate or Retail Marijuana Product on its Licensed Premises for more than 90 days from the date of receipt.
    - c. All Transfers of Retail Marijuana Concentrate and Retail Marijuana Product by a Retail Marijuana Cultivation Facility shall be without consideration.
  4. All security and surveillance requirements that apply to a Retail Marijuana Cultivation Facility apply to activities conducted pursuant to the privileges of a Centralized Distribution Permit.

**Basis and Purpose – R 503**

The statutory authority for this rule includes but is not limited to sections 12-43.4-202(1), 12-43.4-202(2)(b), 12-43.4-202(3)(b)(IX) 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 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 Rule R 309 –Inventory Tracking System. A Retail Marijuana Cultivation Facility shall track all Retail Marijuana, Retail Marijuana Concentrate, and Retail Marijuana Product possessed pursuant to a Centralized Distribution Permit in the Inventory Tracking System from the point it is received to the point of Transfer to its commonly owned Retail Marijuana Store. See Rule R 501 – Retail Marijuana Cultivation Facility: License Privileges. 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 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. A Retail Marijuana Cultivation Facility is prohibited from accepting any Retail Marijuana from another Retail Marijuana Establishment 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 to the 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 includes but is not limited to sections 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), and sections 12-43.4-403 and 12-43.4-405, 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; or the Retail Marijuana Cultivation Facility has been issued a Centralized Distribution Permit and is in possession of the Retail Marijuana Concentrate in compliance with Rule R 501(J).
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 into 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 that Transfers 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 includes but is not limited to sections 12-43.4-202(2)(b), 12-43.4-202(2)(a)(XXI), 12-43.4-306(1)(j), 12-43.4-309(7)(a), 12-43.4-403, 12-43.4-404(1)(a), 12-43.4-404(1)(b), 12-43.4-404(2) 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 single Licensed Premises and operate at the same 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. In addition, a Retail Marijuana Products Manufacturing Facility may share a single Licensed Premises with and operate at the same location as a Licensed Research Business so long as: each business or business entity holds a separate license; the Licensed Research Business obtains an R&D Co-Location Permit; both the Licensed Research Business and the Retail Marijuana Products Manufacturing Facility comply with all terms and conditions of the R&D Co-Location Permit; and both the Licensed Research Business and the Retail Marijuana Products Manufacturing Facility comply with all applicable rules. See Rule M 1900 Series.

- C. Authorized Transfers. A Retail Marijuana Products Manufacturing Facility may only Transfer Retail Marijuana, Retail Marijuana Product, and Retail Marijuana Concentrate as follows:
1. Retail Marijuana Concentrate and Retail Marijuana Product.
    - a. A Retail Marijuana Products Manufacturing Facility may Transfer ~~Retail Marijuana,~~ Retail Marijuana Concentrate or Retail Marijuana Product to Retail Marijuana Stores, other Retail Marijuana Products Manufacturing Facilities, Retail Marijuana Testing Facilities, Medical Research Facilities, and Pesticide Manufacturers.
    - b. A Retail Marijuana Products Manufacturing Facility may Transfer Retail Marijuana Product and Retail Marijuana Concentrate to a Retail Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit.
      - i. Prior to any Transfer pursuant to this Rule R 601(C)(1)(b), a Retail Marijuana Products Manufacturing Facility shall verify the Retail Marijuana Cultivation Facility possesses a valid Centralized Distribution Permit. See Rule R 501 – Retail Marijuana Cultivation Facility: License Privileges.
      - ii. For any Transfer pursuant to this Rule R 601(C)(1)(b), A Retail Marijuana Products Manufacturing Facility shall only Transfer Retail Marijuana Product and Retail Marijuana Concentrate that is packaged and labeled for sale to a consumer. See Rule R 1000 Series and Rule R 1000-1 Series.
  2. Retail Marijuana.
    - a. A Retail Marijuana Products Manufacturing Facility may Transfer Retail Marijuana to other Retail Marijuana Products Manufacturing Facilities, Retail Marijuana Testing Facilities, and Retail Marijuana Stores.
- 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 Retail Marijuana 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 Retail Marijuana Transporter for transportation of its Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product so long as the place where transportation orders are taken is a Retail Marijuana Establishment and the transportation order is delivered to a Retail Marijuana Establishment, Medical Research Facility, or Pesticide Manufacturer. Nothing in this Rule prevents a Retail Marijuana Products Manufacturing Facility from transporting its own Retail Marijuana, Retail Marijuana Concentrate or Retail Marijuana Product.
- H. Compensation. A Retail Marijuana Products Manufacturing Facility may compensate its employees using performance-based incentives.

### R 1300 Series – Discipline

#### Basis and Purpose – R 1307

The statutory authority for this rule includes but is not limited to sections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(XV), 12-43.4-104(6)(f), 12-43.4-202(2)(a)(XXI), and 12-43.4-601(3)(b), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(IX). The purpose of this rule is to establish guidelines for enforcement and penalties that will be imposed by the State Licensing Authority for non-compliance with Retail Code, section 18-18-406.3(7), or any other applicable rule. The State Licensing Authority considered the type of violation and the threat of harm to the public versus purely administrative harm when setting the penalty structure. Based upon public testimony and a written commentary, Rule R 1307(A) was amended to include additional license violations affecting public safety and Rule R 1307(C.1) was added.

#### R 1307 – Penalties

- A. Penalty Schedule. The State Licensing Authority will make determinations regarding the type of penalty to impose based on the severity of the violation in the following categories:
1. License Violations Affecting Public Safety. This category of violation is the most severe and may include, but is not limited to, Retail Marijuana sales to persons under the age of 21 years, consuming marijuana on the Licensed Premises, Retail Marijuana sales in excess of the relevant transaction limit, permitting the diversion of Retail Marijuana outside the regulated distribution system, possessing Retail Marijuana or Retail Marijuana Product obtained from outside the regulated distribution system or from an unauthorized source, making misstatements or omissions in the Inventory Tracking System, failing to continuously escort a visitor in a Limited Access Area, violations related to co-located Medical Marijuana ~~Centers-Businesses~~ and Retail Marijuana ~~Businesses~~Establishments, violations related to R&D Co-Location Permits, failure to maintain books and records to fully account for all transactions of the business, Advertising violations directly targeting minors, or packaging or labeling violations that directly impact consumer safety. Violations of this nature generally have an immediate impact on the health, safety, and welfare of the public at large. The range of penalties for this category of violation may include license suspension, a fine per individual violation, a fine in lieu of suspension of up to \$100,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.
  2. License Violations. This category of violation is more severe than a license infraction but generally does not have an immediate impact on the health, safety and welfare of the public at large. License violations may include but are not limited to, Advertising and/or

marketing violations, packaging or labeling violations that do not directly impact consumer safety, failure to maintain minimum security requirements, failure to keep and maintain adequate business books and records, or minor or clerical errors in the inventory tracking procedures. The range of penalties for this category of violation may include a written warning, license suspension, a fine per individual violation, a fine in lieu of suspension of up to \$50,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

3. License Infractions. This category of violation is the least severe and may include, but is not limited to, failure to display required badges, unauthorized modifications of the Licensed Premises of a minor nature, or failure to notify the State Licensing Authority of a minor change in ownership. The range of penalties for this category of violation may include a verbal or written warning, license suspension, a fine per individual violation, and/or a fine in lieu of suspension of up to \$10,000 depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.

B. Other Factors

1. The State Licensing Authority may take into consideration any aggravating and mitigating factors surrounding the violation which could impact the type or severity of penalty imposed.
2. The penalty structure is a framework providing guidance as to the range of violations, suspension description, fines, and mitigating and aggravating factors. The circumstances surrounding any penalty imposed will be determined on a case-by-case basis.
3. For all administrative offenses involving a proposed suspension, a Licensee may petition the State Licensing Authority for permission to pay a monetary fine, within the provisions of section 12-43.4-601, C.R.S., in lieu of having its license suspended for all or part of the suspension.

C. Mitigating and Aggravating Factors. The State Licensing Authority may consider mitigating and aggravating factors when considering the imposition of a penalty. These factors may include, but are not limited to:

1. Any prior violations that the Licensee has admitted to or was found to have engaged in.
2. Good faith measures by the Licensee to prevent the violation, including the following:
  - a. Proper supervision;
  - b. Regularly-provided and documented employee training, provided the Licensee demonstrates all reasonable training measures were delivered prior to the Division's investigation;
  - c. Standard operating procedures established prior to the Division's investigation, and which include procedures directly addressing the conduct for which imposition of a penalty is being considered; and
  - d. Previously established and maintained responsible-vendor designation pursuant to Rule R 407.
3. Licensee's past history of success or failure with compliance checks.



4. Corrective action(s) taken by the Licensee related to the current violation or prior violations.
5. Willfulness and deliberateness of the violation.
6. Likelihood of reoccurrence of the violation.
7. Circumstances surrounding the violation, which may include, but are not limited to:
  - a. Prior notification letter to the Licensee that an underage compliance check would be forthcoming.
  - b. The dress or appearance of an underage operative used during an underage compliance check (e.g., the operative was wearing a high school letter jacket).
  - c. Licensee self-reported violation(s) of the Retail Code or rules promulgated pursuant to the Retail Code.
8. Owner or manager is the violator or has directed an employee or other individual to violate the law.
9. Repealed.

#### **R 1700 Series – Retail Marijuana Establishment Operators**

##### **Basis and Purpose – R 1702**

The statutory authority for this rule includes but is not limited to sections 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), 12-43.4-407 and 12-43.4-901, 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. Financial Interest. A Person who is a Direct Beneficial Interest Owner or an Indirect Beneficial Interest Owner of a Retail Marijuana Establishment Operator may also be a Direct Beneficial Interest Owner, an Indirect Beneficial Interest Owner or otherwise hold a direct or indirect financial interest in another Retail Marijuana Establishment so long as that interest complies with all other requirements of these rules. A Retail Marijuana Establishment may be operated by a Retail Marijuana Business Operator where each has one or more Direct Beneficial Interest Owners or Indirect Beneficial Interest Owners in common. A Person may receive compensation for services provided by a Retail Marijuana Business Operator 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 System account to the Direct Beneficial Interest Owners, agents and employees of a Retail Marijuana Establishment Operator having duties related to Inventory Tracking System 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 System 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 must be an Inventory Tracking System Trained Administrator for the Retail Marijuana Establishment's Inventory Tracking System account. That Inventory Tracking System Trained Administrator shall control access to its Inventory Tracking System 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 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 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.
- J. Any Retail Marijuana Establishment Operators and the Retail Marijuana Establishment Operator's Associated Key Licensee(s) that are appointed by a court to serve as a receiver, personal representative, executor, administrator, guardian, conservator, trustee, or similarly situated Person and take possession of, operate, manage, or control a Retail Marijuana Establishment must comply with Rule R 253(F).