DEPARTMENT OF REVENUE

MARIJUANA ENFORCEMENT DIVISION
COLORADO MARIJUANA RULES
1 CCR 212-3

Part 1 – General Applicability

Basis and Purpose – 1-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(j), and 44-10-103, C.R.S., and all of the Marijuana 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. This Rule 1-115 was previously Rules M and R 103, 1 CCR 212-1 and 1 CCR 212-2.

1-115 – Definitions

Definitions. The following definitions of terms, in addition to those set forth in section 44-10-103, C.R.S., apply to all rules promulgated pursuant to the Marijuana Code, unless the context requires otherwise:

"Accelerator Cultivator" means a Social Equity Licensee qualified to participate in the accelerator program established pursuant to the Marijuana Code and authorized to exercise the privileges of a Retail Marijuana Cultivation Facility on the premises of an Accelerator-Endorsed Retail Marijuana Cultivation Facility Licensee.

"Accelerator-Endorsed Licensee" means a Retail Marijuana Cultivation Facility Licensee, Retail Marijuana Products Manufacturer Licensee, or a Retail Marijuana Store Licensee who has, pursuant to these rules, been endorsed to host and offer technical and capital support to a Social Equity Licensee pursuant to the requirements of the accelerator program established pursuant to the Code.

"Accelerator Licensee" means an Accelerator Cultivator, Accelerator Manufacturer, or Accelerator Store.

"Accelerator Manufacturer" means a Social Equity Licensee qualified to participate in the accelerator program established pursuant to the Marijuana Code and authorized to exercise the privileges of a Retail Marijuana Products Manufacturer on the premises of an Accelerator-Endorsed Retail Marijuana Products Manufacturer Licensee.

"Accelerator Store" means a Social Equity Licensee qualified to participate in the accelerator program established pursuant to the Marijuana Code and authorized to exercise the privileges of a Retail Marijuana Store on the premises of an Accelerator-Endorsed Retail Marijuana Store Licensee.

"Acquire," when used in connection with the acquisition of an Owner's Interest of a Regulated Marijuana Business, means obtaining ownership, Control, power to vote, or sole power of disposition of the Owner's Interest, directly or indirectly through one or more transactions or subsidiaries, through purchase, assignment, transfer, exchange, succession or other means.

"Acting in Concert" means knowing participation in a joint activity or interdependent conscious parallel action toward a common goal, whether or not pursuant to an express agreement.

“Advertising” means the act of providing consideration for the publication, dissemination, solicitation, or circulation, of visual, oral, or written communication, to directly induce any Person to patronize a particular Medical Marijuana Business or Retail Marijuana Business, or to purchase particular Regulated Marijuana. “Advertising” does not include packaging and labeling, Consumer Education Materials, or Branding.

“Additive” means any non-marijuana derived substance added to Regulated Marijuana to achieve a specific technical and/or functional purpose during processing, storage, or packaging. Additives may be direct or indirect. Direct additives are used to impart specific technological or functional qualities. Indirect additives are not intentionally added but may be present in trace amounts as a result of processing, packaging, shipping, or storage. Botanically Derived Compounds which have been isolated or enriched and subsequently added back into cannabis products are additives.

“Affiliate” of, or Person affiliated with, a specified Person, means a Person that directly or indirectly through one or more intermediaries, Controls or is Controlled by, or is under common Control with, the Person specified.

“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.

“Alternative Use Designation” means a designation approved by the State Licensing Authority, permitting a Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer to manufacture and Transfer Alternative Use Product.

“Alternative Use Product” means Regulated Marijuana that has at least one intended use that is not included in the list of intended uses in Rule 3-1015(B). Alternative Use Product may raise public health concerns that outweigh approval of the Alternative Use Product, or that require additional safeguards and oversight. Alternative Use Product cannot be Transferred except as permitted by Rule 5-325 or Rule 6-325 after obtaining an Alternative Use Designation. Rule 5-325 permits a Medical Marijuana Products Manufacturer to Transfer Alternative Use Product to a Medical Marijuana Testing Facility prior to receiving an Alternative Use Designation. Rule 6-325 permits a Retail Marijuana Products Manufacturer to Transfer Alternative Use Product to a Retail Marijuana Testing Facility prior to receiving an Alternative Use Designation. Except where the context otherwise clearly requires, rules applying to Regulated Marijuana Concentrate or Regulated Marijuana Product apply to Alternative Use Product.

“Applicant” means a Person that has submitted an application for licensure, permit, or registration, or for renewal of licensure, permit, 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.

“Approved Training Program” means a responsible vendor program that received approval from the Division prior to being offered to a Licensee.

“Audited Product” means a Regulated Marijuana Product with an intended use of: (1) metered dose nasal spray, (2) vaginal administration, or (3) rectal administration. Audited Product types may raise public health concerns requiring additional safeguards and oversight. These product types may only be manufactured and Transferred by a Medical Marijuana Products Manufacturer in strict compliance with Rule 5-325 or Retail Marijuana Products Manufacturer in strict compliance with Rule 6-325. Prior to the first Transfer of an Audited Product to a Medical Marijuana Store, Medical Marijuana Cultivation Facility that has a Centralized Distribution Permit, Retail Marijuana Store or Retail Marijuana Cultivation Facility that has obtained a Centralized Distribution Permit, the Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer shall submit to the Division and, if applicable, to the Local Licensing Authority or Local Jurisdiction an independent third-party audit verifying compliance with Rule 5-325 or Rule

6-325. All rules regarding Regulated Marijuana Product apply to Audited Product except where Rules 5-325, 6-325, 4-115, 3-1010, and 3-1015 apply different requirements.

“Bad Actor” means a Person who:

a. Has been convicted, within the previous ten years (or five years, in the case of issuers, their predecessors and affiliated issuers), of any felony or misdemeanor:

i. In connection with the purchase or sale of any Security;

ii. Involving the making of any false filing with the Federal Securities Exchange Commission; or

iii. Arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser or paid solicitor of purchasers of Securities;

b. Is subject to any order, judgment or decree of any court of competent jurisdiction, entered within the previous five years, that restrains or enjoins such Person from engaging or continuing to engage in any conduct or practice:

i. In connection with the purchase or sale of any Security;

ii. Involving the making of any false filings with the Federal Securities Exchange Commission; or

iii. Arising out of conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser or paid solicitor of purchasers of Securities:

c. Is subject to a final order of a state securities commission (or an agency or officer of a state performing like functions); a state authority that supervises or examines banks, savings associations, or credit unions; a state insurance commission (or an agency or officer of a state performing like functions); an appropriate federal banking agency; the U.S. Commodity Futures Trading Commission; or the National Credit Union Administration that:

i. Bars the Person from:

A. Association with an Entity regulated by such commission, authority, agency, or officer;

B. Engaging in the business of Securities, insurance or banking; or

C. Engaging in savings association or credit union activities; or

ii. Constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct entered within the previous ten years;

d. Is subject to an order of the Federal Securities Exchange Commission entered pursuant to section 15(b) or 15B(c) of the Securities Exchange Act of 1934, or section 203(e) or (f) of the Investment Advisers Act of 1940 that:

i. Suspends or revokes such Person's registration as a broker, dealer, municipal securities dealer or investment adviser;

ii. Places limitations on the activities, functions or operations of such Person; or

iii. Bars such Person from being associated with any Entity, or from participating in the offering of any Penny Stock;

e. Is subject to any order of the Federal Securities Exchange Commission entered within the previous five years that orders the Person to cease and desist from committing or causing a violation or future violation of:

i. Any scienter-based anti-fraud provision of the federal securities laws, including without limitations section 17(a)(1) of the Securities Act of 1933, section 10(b) of the Securities Exchange Act of 1934 and 17 C.F.R. 240.10b-5, section 15(c)(1) of the Securities Exchange Act of 1934 and section 206(1) of the Investment Advisers Act of 1940, or any other rule or regulation thereunder; or

ii. Section 5 of the Securities Act of 1933.

f. Is suspended or expelled from membership in, or suspended or barred from association with a member of, a registered national securities exchange or a registered national or affiliated securities association for any act or omission to act constituting conduct inconsistent with just and equitable principles of trade;

g. Has filed (as a registrant or issuer), or was named as an underwriter in, any registration statement or Regulation A offering statement filed with the federal Securities Exchange Commission that, within the previous five years, was the subject of a refusal order, stop order, or order suspending the Regulation A exemption, or is the subject of an investigation or proceeding to determine whether a stop order or suspension order should be issued; or

h. Is subject to a United States Postal Service false representation order entered with the previous five years, or is subject to a temporary restraining order or preliminary injunction with respect to conduct alleged by the United States Postal Service to constitute a scheme or device for obtaining money or property through the mail by means of false representations.

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

"Beneficial Owner" includes the terms "beneficial ownership", or "beneficially owns" and means:

a. Any Person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

i. Voting power which includes the power to vote, or to direct the voting of, an Owner's Interest; and/or,

ii. Investment power which includes the power to dispose, or to direct the disposition of, an Owner's Interest.

b. Any Person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement or any other contract, arrangement, or device with the purpose of effect of divesting such Person of beneficial ownership of an Owner's Interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of section 13(d) or (g) of the Securities Act of 1933 shall be deemed for purposes of such sections to be the beneficial owner of such Owner's Interest.

c. All Owner's Interests of the same class beneficially owned by a Person, regardless of the form which such beneficial ownership takes, shall be aggregated in calculating the number of shares beneficially owned by such Person.

d. Notwithstanding the provisions of paragraphs (a) and (c) of this rule:

i.

A. A Person shall be deemed to be the beneficial owner of an Owner's Interest, subject to the provisions of paragraph (b) of this rule, if that Person has the right to acquire beneficial ownership of such Owner's Interest, as defined in Rule 13d-3(a) (§ 240.13d-3(a)) within sixty days, including but not limited to any right to acquire: (1) Through the exercise of any option, warrant or right; (2) through the conversion of an Owner's Interest; (3) pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or (4) pursuant to the automatic termination of a trust, discretionary account or similar arrangement; provided, however, any person who acquires an Owner's Interest or power specified in paragraphs (d)(i)(A)(1), (2) or (3), of this section, with the purpose or effect of changing or influencing the control of the issuer, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the Owner's Interests which may be acquired through the exercise or conversion of such Owner's Interests or power. Any Owner's Interests not outstanding which are subject to such options, warrants, rights or conversion privileges shall be deemed to be outstanding for the purpose of computing the percentage of outstanding Owner's Interests of the class owned by such Person but shall not be deemed to be outstanding for the purpose of computing the percentage of the class by any other Person.

B. Paragraph (d)(i)(A) of this section remains applicable for the purpose of determining the obligation to file with respect to the underlying Owner's Interests even though the option, warrant, right or convertible Owner's Interests is of a class of equity Owner's Interest, as defined in § 240.13d-1(i), and may therefore give rise to a separate obligation to file.

ii. A member of a national securities exchange shall not be deemed to be a beneficial owner of an Owner's Interest held directly or indirectly by it on behalf of another Person solely because such member is the record

holder of such Owner's Interests and, pursuant to the rules of such exchange, may direct the vote of such Owner's Interests, without instruction, on other than contested matters or matters that may affect substantially the rights or privileges of the holders of the Owner's Interests to be voted, but is otherwise precluded by the rules of such exchange from voting without instruction.

iii. A person who in the ordinary course of his business is a pledgee of Owner's Interests under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged Owner's Interests until the pledgee has taken all formal steps necessary which are required to declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged Owner's Interests will be exercised, provided, that:

A. The pledgee agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the issuer, nor in connection with any transaction having such purpose or effect, including any transaction subject to Rule 13d-3(b);

B The pledgee is a Person specified in Rule 13d-1(b)(ii), including Persons meeting the conditions set forth in paragraph (G) thereof; and

C The pledgee agreement, prior to default, does not grant to the pledgee;

1. The power to vote or to direct the vote of the pledged Owner's Interests; or

2. The power to dispose or direct the disposition of the pledged Owner's Interests, other than the grant of such power(s) pursuant to a pledge agreement under which credit is extended subject to regulation T (12 CFR 220.1 to 220.8) and in which the pledgee is a broker or dealer registered under section 15 of the Securities Act of 1933.

iv. A Person engaged in business as an underwriter of Owner's Interests who acquires Owner's Interests through his participation in good faith in a firm commitment underwriting registered under the Securities Act of 1933 shall not be deemed to be the beneficial owner of such Owner's Interests until the expiration of forty days after the date of such acquisition.

"Blank Check Company" means an Entity that:

a. Is a development stage company that has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other Entity or Person; and

b. Is issuing Penny Stock.

"Botanically Derived Compounds" are organic chemicals that typically have a high vapor pressure at room temperature and are likely to be dispersed into the air. Botanically Derived Compounds

include, but are not limited to terpenes, terpenoids, ketones, esters, and other molecules which are naturally occurring in plants and are used to affect the flavor and aroma of Regulated Marijuana.

“Branding” means promotion of a Regulated Marijuana Business’s brand through publicizing the Regulated Marijuana Business’s name, logo, or distinct design feature of the brand.

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

“Centralized Distribution Permit” means a permit issued to a Medical Marijuana Cultivation Facility pursuant to section 44-10-502, C.R.S., or a Retail Marijuana Cultivation Facility pursuant to section 44-10-602, C.R.S., authorizing temporary storage of Medical Marijuana Concentrate and Medical Marijuana Product received from a Medical Marijuana Products Manufacturer or Retail Marijuana Concentrate and Retail Marijuana Product received from a Retail Marijuana Products Manufacturer for the sole purpose of Transfer to commonly owned Medical Marijuana Stores or 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 Medical Marijuana Cultivation Facility possessing the Centralized Distribution Permit and the Medical Marijuana Store, or 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 16 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.

“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 Regulated Marijuana. A Commercially Reasonable Royalty must be limited to specific intellectual property the Commercially Reasonable Royalty interest owns or is otherwise authorized to license or to a product or line of products. A Commercially Reasonable Royalty must not cause reasonable consumer confusion or violate any federal copyright, trademark or patent law or regulation will not be approved. To determine whether the Commercially Reasonable Royalty 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 an 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.

"Consumer Education Materials" means any informational materials that seek to educate consumers about Regulated Marijuana generally, including but not limited to education regarding the safe consumption of marijuana, Regulated Marijuana Concentrate, or Regulated Marijuana Products, provided it is not distributed or made available to individuals under twenty-one years of age.

"Consumption Area" means a designated and secured area within the Licensed Premises of a Licensed Hospitality Business where consumers can use and consume marijuana and where no one under the age of 21 is permitted. A Consumption Area may, but is not required to, be part of a Restricted Access Area.

"Container" means the receptacle directly containing Regulated Marijuana that is labeled according to the requirements in the 3-1000 Series Rules.

"Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting Owner's Interests, by contract, or otherwise. This definition of Control includes Controls, Controlled, Controlling, Controlled by, and under common Control with.

"Controlling Beneficial Owner" means a Person that satisfies one or more of the following criteria:

a. A natural person, an Entity that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia, a trust, the trustee of a trust, a Publicly Traded Corporation, or a Qualified Private Fund that is not a Qualified Institutional Investor:

i. Acting alone or Acting In Concert, that owns or Acquires Beneficial Ownership of ten percent or more of the Owner's Interest of a Regulated Marijuana Business;

ii. That is an Affiliate that Controls a Regulated Marijuana Business and includes, without limitation, any Manager; or

iii. That is otherwise in a position to Control the Regulated Marijuana Business except as authorized in section 44-10-506 or 44-10-606, C.R.S.; or

b. A Qualified Institutional Investor acting alone or Acting In Concert that owns or Acquires Beneficial Ownership of more than thirty percent of the Owner's Interest of a Regulated Marijuana Business.

c. Unless the context otherwise requires, the defined term Controlling Beneficial Owner includes Direct Beneficial Interest Owner.

"Corrective Action" means a reactive action implemented to eliminate the root cause of a Nonconformance and to prevent recurrence.

"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 44-10-401(3), C.R.S., and these rules; and authorized by court order to take possession of, operate, manage, or control a licensed Regulated Marijuana Business.

"Covered Securities" means:

a. A Security designated as qualified for trading in the national market system pursuant to section 78k-1(a)(2) of the Securities Act of 1933 that is listed, or authorized for listing, on a national securities exchange (or tier or segment thereof); or a Security of the same issuer that is equal in seniority or that is a senior Security to a Security designated as qualified for trading in the national market system.

b. A Security issued by an investment company that is registered, or that has filed a registration statement under the federal Investment Company Act of 1940.

c. A Security as defined by the Federal Securities Exchange Commission by rule pursuant to 15 U.S.C. §77r(b)(3).

d. A Security pursuant to 15 U.S.C. §77r(b)(4).

"Decontamination" means the process of neutralization or removal of dangerous substances or other contaminants from regulated marijuana without changing the product type of the Regulated Marijuana.

"Delivery Motor Vehicle" means any self-propelled vehicle that is designed primarily for travel on the public highways, that is generally and commonly used to transport persons and property over

the public highways or a low-speed electric vehicle that is used for delivery of Regulated Marijuana to patients or consumers; except that the term does not include electric assisted bicycles, wheelchairs, or vehicles moved solely by human power.

“Denied Applicant” means any Person whose application for licensure, permit, or registration pursuant to the Marijuana Code has been denied, any Person whose application for a responsible vendor program has been denied, or any Licensee whose application for any of the following non-exhaustive list has been denied: An initial license application pursuant to Rule 2-220, a renewal application pursuant to Rule 2-225, the request for a finding of suitability pursuant to Rule 2-235, a change of owner pursuant to Rule 2-245; a change of location of the Licensed Premises pursuant to Rule 2-255; a change, alteration, or modification of the Licensed Premises pursuant to Rule 2-260; or a production management tier increase request pursuant to Rule 5-225 or 6-220.

“Department” means the Colorado Department of Revenue. “Designated Sample Collection Area” means an area that has been designated within the Limited Access Area of a Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Medical Marijuana Products Manufacturer that is under surveillance and used for purposes of organizing and combining Sample Increments to create Test Batches, and which has been cleaned and sanitized prior to preparing Test Batches.

“Designated Test Batch Collector” means an Owner Licensee or an Employee Licensee who has been designated by a Regulated Marijuana Business and completed training required by Rule 4-110 to engage in Sample Increment Collection for the purpose of creating Test Batches.

“Director” means the Director of the Marijuana Enforcement Division.

“Disproportionate Impacted Area” means a census tract in the top 15th percentile for that state in at least two of the following categories as measured by the United States Census Bureau:

a. the percent of residents in the census tract receiving public assistance;

b. the percent of residents in the census tract falling below the federal poverty level;

c. the percent of residents in the census tract failing to graduate from High School; and

d. the percent of residents in the census tract who are unemployed.

“Division” means the Marijuana Enforcement Division.

“Edible Medical Marijuana Product” means any Medical Marijuana Product for which the intended use is oral consumption, including but not limited to, any type of food, drink, or pill.

“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.

“Employee License” means a license granted by the State Licensing Authority pursuant to section 44-10-401, C.R.S., to a natural person who is not a Controlling Beneficial Owner. Any person who possesses, cultivates, manufactures, tests, dispenses, sells, serves, transports, or delivers Regulated Marijuana, who is authorized to input data into a Regulated Marijuana Business’s Inventory Tracking System or point-of-sale system, or who has unescorted access in the Restricted Access Area or Limited Access Area must hold an Employee License. Employee License includes both Key Licenses and Support Licenses.

“Entity” means a domestic or foreign corporation, cooperative, general partnership, limited liability partnership, limited liability company, limited partnership, limited liability limited partnership, limited partnership association, nonprofit association, nonprofit corporation, or any other organization or association that is formed under a statute or common law of the state of Colorado or any other jurisdiction as to which the laws of this state of Colorado or the laws of any other jurisdiction governs relations among owners and between the owners and the organization or association and that is recognized under the laws of the state of Colorado or the other jurisdiction as a separate legal entity.

“Executive Officer” means the president, any vice president in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy making function, or any other person who performs similar policy making functions for the Regulated Marijuana Business.

“Exit Package” means an Opaque bag or other similar Opaque covering provided at the point of sale, in which Regulated Marijuana already in a Container is placed. If Regulated 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 the 3-100 Series Rules.

“Fibrous Waste” means any roots, stalks, and stems from a Regulated Marijuana plant.

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

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

“Flowering” means the reproductive state of the cannabis plant in which there are physical signs of flower budding out of the nodes of the stem.

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

“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.

“Foreign Private Issuer” means any foreign issuer other than a foreign government except an issuer meeting the following conditions as of the last business day of its most recently completed second fiscal quarter:

a. More than 50 percent of the outstanding voting Securities of such issuer are directly or indirectly owned of record by residents of the United States; and

b. Any of the following:

    i. The majority of the executive officers or directors are United States citizens or residents;

    ii. More than 50 percent of the assets of the issuer are located in the United States; or

iii. The business of the issuer is administered principally in the United States.

"Good Cause" for purposes of denial of an initial, renewal, or reinstatement of a license, registration, or permit 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 Marijuana Code, any rules promulgated pursuant to the Marijuana Code, 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 criminal history that demonstrates honesty, fairness, and respect for the rights of others and for the law.

"Greenhouse" means a hoop house or other structure with non-rigid walls that utilizes natural light, in whole or in part, for the cultivation of Regulated Marijuana.

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

"Harvested Marijuana" means Regulated Marijuana flower reported as a package in the Inventory Tracking System or post-harvest Regulated Marijuana not including wet whole plant, trim, concentrate, waste, or Fibrous Waste that remains on the premises of the Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility or its off-premises storage location beyond 90 days from harvest.

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

"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 Manufacturer and can be used alone or on a Production Batch that also includes Water-Based Retail Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate.

"Identification Badge" means a physical badge issued to any natural person possessing an Owner License or Employee License, used to verify the identity of the natural persons on the Licensed Premises of a Regulated Marijuana Business.

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

“Immature plant” means a nonflowering 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.

“Indirect Financial Interest Holder” means a Person that is not an Affiliate, a Controlling Beneficial Owner, or a Passive Beneficial Owner of a Regulated Marijuana Business and that:

a. Holds a Commercially Reasonable Royalty in exchange for a Regulated Marijuana Business’s use of the Person’s intellectual property;

b. Holds a Permitted Economic Interest that was issued prior to January 1, 2020, and that has not been converted into an Owner’s Interest or holds any unsecured convertible debt option, option agreement or warrant that establishes a right for a Person to obtain an interest that might convert to an ownership interest in a Regulated Marijuana Business obtained after January 1, 2020;

c. Is a contract counterparty with a Regulated Marijuana Business, other than a customary employment agreement, that has a direct nexus to the cultivation, manufacture, sale, or testing of Regulated Marijuana, including, but not limited to, a lease of real property on which the Regulated Marijuana Business operates, a lease of equipment used in the cultivation, manufacture, or testing of Regulated Marijuana, a secured or unsecured financing agreement with the Regulated Marijuana Business, a security contract with the Regulated Marijuana Business, or a management agreement with the Regulated Marijuana Business, provided that no such contract compensates the contract counterparty with a percentage of revenue for profits of the Regulated Marijuana Business.

    i. Any secured interest in Regulated Marijuana must expressly provide that it is subject to all required suitability and application requirements.

d. Unless the context otherwise requires, the defined term Indirect Financial Interest Holder includes Indirect Beneficial Interest Owner.

“Industrial Fiber Products” means intermediate or finished products made from Fibrous Waste that are not intended for human or animal consumption and are not usable or recognizable as Regulated Marijuana. Industrial Fiber Products include, but are not limited to, cordage, paper, fuel, textiles, bedding, insulation, construction materials, compost materials, and industrial materials.

“Industrial Fiber Products Producer” means a Person who produces Industrial Fiber Products using Fibrous Waste.

“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 Hemp Product” means a finished product containing Industrial Hemp that:

a. Is a cosmetic, food, food additive, or herb;

b. Is for human use or consumption;

c. Contains any part of the hemp plant, including naturally occurring Cannabinoids, compounds, concentrates, extracts, isolates, resins, or derivatives; and

d. Contains a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent.

“Industrial Hygienist” means a natural person 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 persons must be sufficient in the cognate sciences to provide the ability and competency to:

   i. 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;

   ii. 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;

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

b. Any person 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 person 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.

“Ineligible Issuer” means:

a. Any issuer that is required to file reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 that has not filed all reports and other materials required to be filed during the preceding 12 months, other than reports on Form 8-K required solely pursuant to an item specified in General Instruction I.A.3(b) of Form S-3;

b. The issuer is, or during the past three years the issuer or any of its predecessors was:

   i. A Blank Check Company;

   ii. A Shell Company;

   iii. An issuer of an offering of Penny Stock;

c. The issuer is a limited partnership that is offering and selling its Securities other than through a firm commitment underwriting;

d. Within the past three years, a petition under the federal bankruptcy laws or any state insolvency law was filed by or against the issuer, or a court appointed a

receiver, fiscal agent or similar officer with respect to the business or property of the issuer subject to the following:

i. In the case of an involuntary bankruptcy in which a petition was filed against the issuer, ineligibility will occur upon the earlier to occur of:

A. 90 days following the date of the filing of the involuntary petition (if the case has not been earlier dismissed); or

B. The conversion of the case to a voluntary proceeding under federal bankruptcy or state insolvency laws; and

ii. Ineligibility will terminate if an issuer has filed an annual report with audited financial statements subsequent to its emergence from that bankruptcy, insolvency, or receivership process;

e. Within the past three years, the issuer or any Entity that at the time was a subsidiary of the issuer was convicted of any felony or misdemeanor described in paragraphs (i) through (iv) of section 15(b)(4)(B) of the Securities Exchange Act of 1934;

f. Within the past three years, the issuer or any Entity that at the time was a subsidiary of the issuer was made the subject of any judicial or administrative decree or order arising out of a governmental action that:

i. Prohibits certain conduct or activities regarding, including future violations of, the anti-fraud provisions of the federal securities laws;

ii. Requires that the Person cease and desist from violating the anti-fraud provisions of the federal securities laws; or

iii. Determines that the Person violated the anti-fraud provisions of the federal securities laws;

g. The issuer has filed a registration statement that is the subject of any pending proceeding or examination under section 8 of the Securities Act of 1933 or has been the subject of any refusal order or stop order under section 8 of the Securities Act of 1933 within the past three years; or

h. The issuer is the subject of any pending proceeding under section 8A of the Securities Act of 1933 in connection with an offering.

“Ingredient” means any non-marijuana derived substance that is added to Regulated Marijuana to achieve a desired effect. The term Ingredient includes all Additives.

“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 Regulated Marijuana from either the seed or immature plant stage until the Regulated Marijuana is sold to a patient at a Medical Marijuana Store or to a consumer at a Retail Marijuana Store, Transferred to a Medical Marijuana Testing Facility or Retail Marijuana Testing Facility, Transferred to a Sampling Manager, Transferred to an Industrial Fiber Products Producer,

Transferred to a Pesticide Manufacturer, or destroyed by a Regulated Marijuana Business, or used in a Research Project by a Marijuana Research and Development Facility.

“Inventory Tracking System Trained Administrator” means an Owner Licensee of a Regulated Marijuana Business or an Employee Licensee employed by a Regulated Marijuana Business, 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 Owner Licensee of a Regulated Marijuana Business or an Employee Licensee employed by a Regulated Marijuana Business, 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.

“Kief” means the resinous crystal-like tricomes that are found on Regulated Marijuana flower and that are accumulated, resulting in a higher concentration of cannabinoids.

“License” means to grant a license, permit, or registration pursuant to the Marijuana Code.

“Licensed Hospitality Business” means a Marijuana Hospitality Business or Retail Marijuana Hospitality and Sales Business.

“Licensed Premises” means the premises specified in an application for a license pursuant to the Marijuana 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 Medical Marijuana, or to cultivate, manufacture, distribute, sell, store, transport, test, or allow the use or consumption of Retail Marijuana, in accordance with the provisions of the Marijuana Code, and these rules. Not all areas of the Licensed Premises are Limited Access Areas or Restricted Access Areas.

“Licensee” means any Person licensed, registered, or permitted pursuant to the Marijuana Code including an Owner Licensee and an Employee Licensee.

“Limited Access Area” means a building, room, or other contiguous area upon the Licensed Premises where Regulated Marijuana and Regulated Marijuana Products are grown, cultivated, manufactured, stored, weighed, packaged, sold, possessed for sale, Transferred, or processed for Transfer, under control of the Licensee, with access limited to only those persons licensed by the State Licensing Authority and those visitors Escorted by a person licensed by the State Licensing Authority. All areas of ingress or egress to limited access areas must be clearly identified as such by a sign as designated by the State Licensing Authority.

“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 Medical Marijuana Product” means an Edible Medical 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.

“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.

"Local Jurisdiction" means a locality as defined in section 16 (2)(e) of article XVIII of the state constitution.

"Local Licensing Authority" means an authority designated by municipal, county, or city and county charter, ordinance, or resolution, or the governing body of a municipality or city and county, or the board of county commissioners of a county if no such authority is designated.

"Manager" means:

a. A member of a limited liability company in which management is not vested in managers rather than members;

b. A manager of a limited liability company in which management is vested in managers rather than members;

c. A member of a limited partnership association in which management is not vested in managers rather than members;

d. A manager of a limited partnership association in which management is vested in managers rather than members;

e. A general partner;

f. An officer or director of a corporation, a nonprofit corporation, a cooperative, or a limited partnership association; or

g. Any Person whose position with respect to an Entity, as determined under the constituent documents and organic statutes of the Entity, without regard to the Person's title, is the functional equivalent of any of the positions described in this definition.

"Marijuana Code" means the Colorado Marijuana Code found at sections 44-10-101 *et seq.*, C.R.S.

"Marijuana Consumer Waste" means any component left after the consumption of a Regulated Marijuana Product, including but not limited to Containers, packages, cartridges, pods, cups, batteries, all-in-one disposable devices, and any other waste component left after the Regulated Marijuana is consumed.

"Marijuana Hospitality Business" means a facility, which may be mobile, licensed to permit the consumption of marijuana pursuant to article 10; rules promulgated pursuant to article 10; and the provisions of an enacted, initiated, or referred ordinance or resolution of the local jurisdiction in which the licensee operates.

"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 in the 3-1000 Series Rules.

"Marijuana Research and Development Facility" means a Person that is licensed pursuant to the Marijuana Code to grow, cultivate, manufacture, and possess Medical Marijuana, and to Transfer Medical Marijuana to another Marijuana Research and Development Facility all for limited research purposes authorized pursuant to section 44-10-507, C.R.S.

“Material Change” means any change that would require a substantive revision to a Regulated Marijuana Business’s standard operating procedures for the cultivation of Regulated Marijuana or the production of Regulated Marijuana Product.

“Medical Marijuana” means marijuana that is grown and sold pursuant to the provisions of article 10 and for a purpose authorized by section 14 of article XVIII of the state constitution but shall not be considered a nonprescription drug for purposes of section 12-42.5-102(21) or 39-26-717, or an over-the-counter medication for purposes of section 25.5-5-322. If the context requires, Medical Marijuana includes Medical Marijuana Concentrate and Medical Marijuana Products.

“Medical Marijuana Business” means any of the following entities licensed pursuant to article 10: A Medical Marijuana Store, a Medical Marijuana Cultivation Facility, a Medical Marijuana Product Manufacturer, a Medical Marijuana Testing Facility, a Marijuana Research and Development Licensee, a Medical Marijuana Business Operator, or a Medical Marijuana Transporter.

“Medical Marijuana Business Operator” means an entity or person that is not an owner and that is licensed to provide professional operational services to a medical marijuana business for direct remuneration from the Medical Marijuana Business(es). A Medical Marijuana Business Operator is not, by virtue of its status as a medical marijuana business operator, a controlling beneficial owner or a passive beneficial owner of any medical marijuana business it operates.

“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 Concentrate includes Medical Marijuana Concentrate consumed using a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler.

“Medical Marijuana Cultivation Facility” means a Person licensed pursuant to the Marijuana Code to operate a business as described in section 44-10-502, C.R.S.

“Medical Marijuana Product” means a product infused with Medical Marijuana and other Ingredients that is intended for use or consumption other than by smoking, including but not limited to edible product, ointments, and tinctures.

“Medical Marijuana Products Manufacturer” means a Person licensed pursuant to the Marijuana Code to operate a business as described in section 44-10-503, C.R.S.

“Medical Marijuana Store” means a Person licensed pursuant to the Marijuana Code to operate a business as described in section 44-10-501, 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 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 Transporter” means an entity or Person that is licensed to transport Medical Marijuana and Medical Marijuana Products from one Medical Marijuana Business to another Medical Marijuana Business and to temporarily store the transported Medical Marijuana and Medical Marijuana Products at its Licensed Premises, but is not authorized to sell Medical Marijuana or Medical Marijuana Products under any circumstances.

“Mobile Premises” means a Licensed Premises operated by a Marijuana Hospitality Business in a motor vehicle, which includes any self-propelled vehicle that is designed primarily for travel on the

public highways and that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle; but does not include electrical assisted bicycles, electric scooters, low-power scooters, wheelchairs, or vehicles moved solely by human power. A Marijuana Hospitality Business operating a Mobile Premises must comply with all requirements in Rule 6-940.

“Monitoring” means the continuous and uninterrupted attention to potential alarm signals that could be transmitted from a Security Alarm System located at a Regulated Marijuana Business 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 Regulated Marijuana Business.

“Multiple-Serving Edible Retail Marijuana Product” means an Edible Retail Marijuana Product unit for sale to consumers containing no more than 10 milligrams of active THC and no more than 100 milligrams 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 10 milligrams of active THC, yet in total all pieces combined within the unit for sale contain more than 10 milligrams of active THC, then the Edible Retail Marijuana Product shall be considered a Multiple-Serving Edible Retail Marijuana Product.

“Nonconformance” means a non-fulfillment of a requirement or departure from written procedures, work instructions, or quality system, as defined by the Licensee’s written Corrective Action and Preventive Action procedures.

“Non-objecting Beneficial Owner” means a Beneficial Owner who gives permission to a financial intermediary to release their name and address to the company(ies) or issuer(s) in which they have bought Securities.

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

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

“Order to Show Cause” means a document from the State Licensing Authority alleging the grounds for imposing discipline against a Licensee’s license.

“Owner’s Interest” means the shares of stock in a corporation, a membership in a nonprofit corporation, a membership interest in a limited liability company, the interest of a member in a cooperative or in a limited cooperative association, a partnership interest in a limited partnership, a partnership interest in a partnership, and the interest of a member in a limited partnership association.

“Owner License” means a license issued to a natural person who is a Controlling Beneficial Owner of a Regulated Marijuana Business or who is a Passive Beneficial Owner electing to be subject to licensure.

“Passive Beneficial Owner” means any Person Acquiring any Owner’s Interest in a Regulated Marijuana Business that is not otherwise a Controlling Beneficial Owner or in Control.

“Penny Stock” means any equity security other than a Security:

a. That is an National Market System stock, provided that:

i. The Security is registered, or approved for registration upon notice of issuance, on a national securities exchange that has been continuously registered as a national securities exchange since April 20, 1992; and the national securities exchange has maintained quantitative listing standards that are substantially similar to or stricter than those listing standards that were in place on that exchange on January 8, 2004; or

ii. The Security is registered, or approved for registration upon notice of issuance, on a national securities exchange, or is listed, or approved for listing upon notice of issuance on, an automated quotation system sponsored by a registered national securities association, that:

A. Has established initial listing standards that meet or exceed the following criteria:

1. The issuer shall have: (a) stockholders' equity of $5,000,000; (b) market value of listed Securities of $50 million for 90 consecutive days prior to applying for a listing (market value means the closing bid price multiplied by the number of Securities listed); or (c) net income of $750,000 (excluding non-recurring items) in the most recently completed fiscal year or in two of the last three most recently completed fiscal years;

2. The issuer shall have an operating history of at least one year or a market value of listed Securities of $50 million (market value means the closing bid price multiplied by the number of Securities listed);

3. The issuer's stock, common or preferred, shall have a minimum bid price of $4 per share;

4. In the case of common stock, there shall be at least 300 round lot holders of the Security (a round lot holder means a holder of a normal unit of trading);

5. In the case of common stock, there shall be at least 1,000,000 publicly held shares and such shares shall have a market value of at least $5 million (market value means the closing bid price multiplied by the number of publicly held shares, and shares held directly or indirectly by an officer or director of the issuer and by any Person who is the Beneficial Owner of more than 10 percent of the total shares outstanding are not considered to be publicly held);

6. In the case of a convertible debt security, there shall be a principal amount outstanding of at least $10 million;

7. In the case of rights and warrants, there shall be at least 100,000 issued and the underlying security shall be registered on a national securities exchange or listed on an automated quotation system sponsored by a registered national securities association and shall

satisfy the requirements of paragraphs (a) or (e) of this definition;

8. In the case of put warrants (that is, instruments that grant the holder the right to sell to the issuing company a specified number of shares of the company's common stock, at a specified price until a specified period of time), there shall be at least 100,000 issued and the underlying Security shall be registered on a national securities exchange or listed on an automated quotation system sponsored by a registered national securities association and shall satisfy the requirements of paragraphs (a) or (e) of this definition;

9. In the case of units (that is, two or more Securities traded together), all component parts shall be registered on a national securities exchange or listed on an automated quotation system sponsored by a registered national securities association and shall satisfy the requirements of paragraphs (a) or (e) of this definition; and

10. In the case of equity Securities (other than common and preferred stock, convertible debt securities, rights and warrants, put warrants, or units), including hybrid products and derivative products, the national securities exchange or registered national securities association shall establish quantitative listing standards that are substantially similar to those found in paragraph (a)(ii) of this definition; and

B. Has established quantitative continued listing standards that are reasonably related to the initial listing standards set forth in paragraph (a)(ii) of this definition, and that are consistent with the maintenance of fair and orderly markets;

b. That is issued by an investment company registered under the Federal Investment Company Act of 1940;

c. That is a put or call option issued by the Options Clearing Corporation;

d. That has a price of five dollars or more;

i. For purposes of this paragraph (d):

A. A Security has a price of five dollars or more for a particular transaction if the Security is purchased or sold in that transaction at a price of five dollars or more, excluding any broker or dealer commission, commission equivalent, mark-up, or mark-down; and

B. Other than in connection with a particular transaction, a Security has a price of five dollars or more at a given time if the inside bid quotation is five dollars or more; provided, however, that if there is no such inside bid quotation, a Security has a price of five

dollars or more at a given time if the average of three or more interdealer bid quotations at specified prices displayed at that time in an interdealer quotation system, by three or more market makers in the Security, is five dollars or more.

C. The term “inside bid quotation” shall mean the highest bid quotation for the Security displayed by a market maker in the Security on an automated interdealer quotation system that has the characteristics set forth in section 17B(b)(2) of the Federal Securities Exchange Act of 1934, or such other automated interdealer quotation system designated by the Federal Securities Exchange Commission for purposes of this definition, at any time in which at least two market makers are contemporaneously displaying on such system bid and offer quotation for the Security at specified prices.

ii. If a Security is a unit composed of one or more Securities, the unit price divided by the number of shares of the unit that are not warrants, options, rights, or similar Securities must be five dollars or more as determined in accordance with paragraph (d)(i), and any share of the unit that is a warrant, option, right, or similar security, or a convertible security, must have an exercise price or conversion price of five dollars or more;

e. That is registered, or approved for registration upon notice of issuance, on a national securities exchange that makes transaction reports available provided that:

i. Price and volume of information with respect to transactions in that security is required to be reported on a current and continuing basis and is made available to vendors of market information pursuant to the rules of the national securities exchange;

ii. The Security is purchased or sold in a transaction that is effected on or through the facilities of the national securities exchange, or that is part of the distribution of the Security; and

iii. The Security satisfies the requirements of paragraphs (a)(i) or (a)(ii);

f. That is a security futures product listed on a national securities exchange or an automated quotation system sponsored by a registered national securities association; or

g. Whose issuer has:

i. Net tangible assets in excess of $2,000,000, if the issuer has been in continuous operation for at least three years, or $5,000,000 if the issuer has been in continuous operation for less than three years; or

ii. Average revenue of at least $6,000,000 for the last three years.

“Permitted Economic Interest” means any unsecured convertible debt option, option agreement or warrant that establishes a right for a Person to obtain an interest that might convert to an ownership interest in a Regulated Marijuana Business issued prior to January 1, 2020 where the holder 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 as a Controlling Beneficial Owner or Passive Beneficial Owner under the Retail Code or Medical Code. This definition is repealed effective January 1, 2020.

"Person" means a natural person, an estate, a trust, an Entity, or a state or other jurisdiction.

"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" does 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 Regulated 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 Regulated Marijuana Business, nor a Licensee.

"Pressurized Metered Dose Inhaler" means inhalable Regulated Marijuana Concentrate, which may be comprised of other Ingredients, and a pressurized propellant inside a device that administers a dose of an aerosolized composition.

"Preventive Action" means a proactive action implemented to eliminate the cause of a potential Nonconformance or other quality problem before it occurs.

"Production Batch" means (a) any amount of Regulated 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 Medical Marijuana or Retail Marijuana; or (b) any amount of Regulated Marijuana Product of the same exact type, produced using the same Ingredients, standard operating procedures, and the same Production Batch(es) of Regulated Marijuana Concentrate.

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

"Proficiency Testing" means an assessment of the performance of a Medical Marijuana Testing Facility's or 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.

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

"Public Institution," for purposes of the 5-700 Series Rules, 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," for purposes of the 5-700 Serie Rules, means any funds or money obtained by the holder from any governmental entity, including but not limited to research grants.

"Publicly Traded Corporation" means any Person other than an individual that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia or another country that authorizes the sale of marijuana that:

a. Has a class of Securities registered pursuant to section 12 of the Securities Exchange Act of 1934, as amended, that:

   i. Constitutes Covered Securities; or

   ii. Is qualified and quoted on the OTCQX or OTCQB tier of the OTC markets if:

      A. The Person is then required to file reports and is filing reports on a current basis with the Federal Securities Exchange Commission pursuant to the Federal Securities Exchange Act of 1934, as amended, as if the Securities constituted Covered Securities; and

      B. The Person has established and is in compliance with corporate governance measures pursuant to corporate governance obligations imposed on Securities qualified and quoted on the OTCQX tier of the OTC markets.

b. Is an Entity that has a class of Securities listed on the Canadian Securities Exchange, Toronto Stock Exchange, TSX Venture Exchange, or NEO Exchange, if:

   i. The Entity constitutes a Foreign Private Issuer whose Securities are exempt from registration pursuant to section 12 of the Federal Securities Exchange Act of 1934, as amended, pursuant to Rule 12g3-2(b) promulgated pursuant to the federal Securities Exchange Act of 1934, as amended; and

   ii. The Entity has been, for the preceding three hundred sixty-five days or since the formation of the Entity, in compliance with all governance and reporting obligations imposed by the relevant exchange on such Entity; or

c. Publicly Traded Corporation does not include:

   i. An Ineligible Issuer, unless such Publicly Traded Corporation satisfies the definition of Ineligible Issuer solely because it is one or more of the following, and the Person is filing reports on a current basis with the Federal Securities and Exchange Commission pursuant to the Federal Securities Exchange Act of 1934, as amended, as if the Securities constituted Covered Securities, and prior to becoming a Publicly Traded Corporation, the Person for at least two years was licensed by the State Licensing Authority as a Regulated Marijuana Business with a demonstrated history of operations in the state of Colorado, and during such time was not subject to suspension or revocation of the business license:

A. a Blank Check Company;

B. an issuer in an offering of Penny Stock; or

C. a Shell Company.

ii. A Person disqualified as a Bad Actor.

"Qualified Institutional Investor" means:

a. A bank as defined in Section 3(a) (6) of the Federal Securities Exchange Act of 1934, as amended, if the bank is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

b. A bank holding company as defined in the Federal Bank Holding Company Act of 1956, as amended, if the bank holding company is registered and current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

c. An insurance company as defined in Section 2(a) (17) of the Investment Company Act of 1940, as amended, if the insurance company is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

d. An investment company registered under Section 8 of the Investment Company Act of 1940, as amended, and subject to 15 U.S.C. sec. 80a-1 to 80a-64, if the investment company is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder;

e. An employee benefit plan or pension fund subject to the Federal Employee Retirement Income Security Act of 1974, excluding an employee benefit plan or pension fund sponsored by a licensee or an intermediary or holding company licensee which directly or indirectly owns ten percent or more of a licensee;

f. A state or federal government pension plan; or

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

h. Any other entity identified by rule by the state licensing authority.

"Qualified Private Fund" means an issuer that would be an investment company, as defined in section 3 of the Federal Investment Company Act of 1940, but for the exclusions provided under sections 3(c)(1) or 3(c)(7) of that Act, and that:

a. Is advised or managed by an investment adviser as defined and registered under sections 80b-1-21, title 15 of the Federal Investment Advisors Act of 1940, and for which the registered investment adviser is current in all applicable reporting and record-keeping requirements under such act and rules promulgated thereunder; and

b. Satisfies one or more of the following:

i. Is organized under the law of a state or the United States;

ii. Is organized, operated, or sponsored by a U.S. person, as defined under subsection 17 CFR 230.902(k), as amended; or

iii. Sells Securities to a U.S. person, as defined under subsection 17 CFR 230.902(k), as amended.

"R&D Co-Location Permit" means a permit issued to a Marijuana Research and Development Facility authorizing it to co-locate with a commonly owned Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, Medical Marijuana Cultivation Facility, or Retail Marijuana Cultivation Facility pursuant to Rule 5-705. A separate R&D Co-Location Permit is required for each location at which a Marijuana Research and Development Facility seeks to share a single Licensed Premises.

"Reasonable Cause" means just or legitimate grounds based in law and in fact to believe that the particular requested action furthers the purposes of the Marijuana Code or protects the public safety.

"Regulated Marijuana" means Medical Marijuana and Retail Marijuana. If the context requires, Regulated Marijuana includes Medical Marijuana Concentrate, Medical Marijuana Product, Retail Marijuana Concentrate, and Retail Marijuana Product.

"Regulated Marijuana Business" means Medical Marijuana Businesses and Retail Marijuana Businesses.

"Regulated Marijuana Concentrate" means Medical Marijuana Concentrate and Retail Marijuana Concentrate.

"Regulated Marijuana Product" means Medical Marijuana Product and Retail Marijuana Product.

"Regulated Marijuana Testing Facility" means a Medical Marijuana Testing Facility and Retail Marijuana Testing Facility.

"Remediation" means the process of neutralization or removal of dangerous substances or other contaminants from regulated marijuana while changing the product type of the regulated marijuana. ~~by which Regulated Marijuana flower and trim, which has failed microbial testing, is processed into a Solvent-Based Medical Marijuana Concentrate, or into 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 5-700 Series Rules – Marijuana Research and Development Facility. All research and development conducted by a Marijuana Research and Development Facility 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.

“Responsible Vendor Program Provider” means a Person offering an Approved Training Program, in accordance with section 44-10-1201, C.R.S., to Licensees seeking to be designated a responsible vendor.

“Restricted Access Area” means a designated and secure area within a Licensed Premises in a Medical Marijuana Store where Medical Marijuana is sold to patients, possessed for sale, and displayed for sale, and where no one without a valid patient registry card is permitted, and 2) in a Retail Marijuana Store or a Retail Marijuana Hospitality and Sales Business where Retail Marijuana is sold to consumers, possessed for sale, and displayed for sale, and where no one under the age of 21 is permitted.

“Retail Food Establishment” means a retail operation that stores, prepares, or packages food for human consumption or serves or otherwise provides food for human consumption to consumers directly or indirectly through a delivery service, whether such food is consumed on or off the premises or whether there is a charge for such food. “Retail food establishment” does not mean:

a. Any private home;

b. Private boarding house;

c. Hospital and health facility patient feeding operations licensed by the department;

d. Child care centers and other child care facilities licensed by the department of human services;

e. Hunting camps and other outdoor recreation locations where food is prepared in the field rather than at a fixed based of operation;

f. Food or beverage wholesale manufacturing, processing, or packaging plants, or portions thereof, that are subject to regulatory controls under state or federal laws or regulations;

g. Motor vehicles used only for the transport of food;

h. Establishments preparing and serving only hot coffee, hot tea, instant hot beverages, and nonpotentially hazardous doughnuts or pastries obtained from sources complying with all laws related to food and food labeling;

i. Establishments that handle only nonpotentially hazardous prepackaged food and operations serving only commercially prepared, prepackaged foods requiring no preparation other than the heating of the food within its original container or package;

j. Farmers markets and roadside markets that offer only uncut fresh fruit and vegetables for sale;

k. Automated food merchandising enterprises that supply only prepackaged nonpotentially hazardous food or drink in bottles, cans, or cartons only, and operations that dispense only chewing gum or salted nuts in their natural protective covering;

l. The donation, preparation, sale, or service of food by a nonprofit or charitable organization in conjunction with an event or celebration if such donation, preparation, sale, or service of food:

i. Does not exceed the duration of the event or celebration or a maximum of fifty-two days within a calendar year; and

ii. Takes place in the county in which such nonprofit or charitable organization resides or is principally located.

m. A home, commercial, private, or public kitchen in which a person produces food products sold directly to consumers pursuant to the "Colorado Cottage Foods Act," section 25-4-1614, 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 Business. "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. If the context requires, Retail Marijuana includes Retail Marijuana Concentrate and Retail Marijuana Product.

"Retail Marijuana Business" means a Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturer, a Marijuana Hospitality Business, a Retail Marijuana Hospitality and Sales Business, a Retail Marijuana Testing Facility, a Retail Marijuana Business Operator, and a Retail Marijuana Transporter.

"Retail Marijuana Business Operator" means an entity or person that is not an owner and that is licensed to provide professional operational services to a Retail Marijuana Businesses for direct remuneration from the Retail Marijuana Business.

"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 Concentrate includes Retail Marijuana Concentrate consumed using a Vaporizer Delivery Device or Pressurized Metered Dose Inhaler.

"Retail Marijuana Cultivation Facility" means an entity licensed to cultivate, prepare, and package Retail Marijuana and sell Retail Marijuana to Retail Marijuana Stores, to Retail Marijuana Products Manufacturers, and to other Retail Marijuana Cultivation Facilities, but not to consumers.

"Retail Marijuana Hospitality and Sales Business" means a facility, which cannot be mobile, licensed to permit the consumption of only the retail marijuana or retail marijuana products it has sold pursuant to the provisions of an enacted, initiated, or referred ordinance or resolution of the local jurisdiction in which the licensee operates.

"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 Manufacturer" 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 Manufacturers, Retail Marijuana Stores, Retail Marijuana Hospitality and Sales Businesses 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 Manufacturer, and to Transfer Retail Marijuana to Retail Marijuana Hospitality and Sales Businesses and to consumers.

“Retail Marijuana Testing Facility” means an entity licensed to analyze and certify the safety and potency of marijuana.

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

“RFID” means Radio Frequency Identification.

“Sample Increment” means a single portion or unit that is removed from a Harvest Batch or Production Batch by a Designated Test Batch Collector for the creation of a Test Batch. For Harvest Batches, a Sample Increment shall be 500 milligrams of flower or trim. For Regulated Marijuana Products, Audited Products, and Alternative Use Products, a Sample Increment shall be a single serving of the product as defined by the Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer, but shall contain no more than 10 milligrams of active THC per serving for Edible Retail Marijuana Products. For Regulated Marijuana Concentrate, a Sample Increment shall be 250 milligrams of concentrate.

“Sample Increment Collection” means the gathering of Sample Increments to combine into a larger, composite Test Batch.

“Sampling Manager” means an Owner Licensee or management personnel holding an Employee Licensee designated by a Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, Retail Marijuana Cultivation Facility, or Retail Marijuana Products Manufacturer to receive Transfers of Sampling Units pursuant to Rules 5-230, 5-320, 6-225, and 6-320.

“Sample Plan” means a written, documented plan generated by Designated Test Batch Collector(s) in line with the Regulated Marijuana Business' Standard Operating Procedure for Sample Increment Collection.

“Sampling Unit” means a unit of Regulated Marijuana Transferred to a Sampling Manager for purposes of quality control and product development pursuant to Rules 5-230 and 5-320, sections 44-10-502(4) and 44-10-503(10), C.R.S., and Rules 6-225 and 6-320, and sections 44-10-602(6) and 44-10-603(10), C.R.S.

“Security(ies)” means any note, stock, treasury stock, security future, security-based swap, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a “security,” or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

"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).

"Shell Company" means a registrant, other than an asset-backed issuer as defined in Item 1101(b) of Regulation AB, that has:

a. No or nominal operations; and

b. Either:

i. No or nominal operations;

ii. Assets consisting solely of cash and cash equivalents; or

iii. Assets consisting of any amount of cash and cash equivalents and nominal other assets.

"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 Regulated Marijuana between Regulated Marijuana Businesses 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.

"Social Equity Licensee" means a natural person who meets the criteria established pursuant to section 44-10-308(4), C.R.S. A person qualified as a Social Equity Licensee may participate in the accelerator program established pursuant to the Marijuana Code or may hold a Regulated Marijuana Business License or permit issued pursuant to the Marijuana Code.

"Solvent-Based Medical Marijuana Concentrate" means a Medical Marijuana Concentrate that was produced by extracting Cannabinoids from Medical Marijuana through the use of a solvent approved by the Division pursuant to Rule 5-315.

"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 6-315.

"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 in Retail Marijuana. 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, sale, and testing of Regulated Marijuana in Colorado, pursuant to section 44-10-201, C.R.S.

"Target Potency" means the potency that a Medical Marijuana Products Manufacturer intends for an individual Medical Marijuana Product, or a Retail Marijuana Products Manufacturer intends for an individual Retail Marijuana Product, prior to testing, which is also outlined in the Licensee's standard operating procedures.

"Temporary Appointee Registration" means a registration issued to a Court Appointee pursuant to section 44-10-401(3)(a), 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 Regulated 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 Regulated Marijuana from one Licensee to another Licensee, to a patient, or to a consumer. A Transfer includes the movement of Regulated Marijuana 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 Regulated Marijuana occurs.

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

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

"U.S. Person" means:

a. Any natural person resident in the United States;

b. Any partnership or corporation organized or incorporated under the laws of the United States;

c. Any estate of which any executor or administrator is a U.S. natural person;

d. Any trust of which any trustee is a U.S. natural person;

e. Any agency or branch of a foreign entity located in the United States;

f. Any non-discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary for the benefit or account of a U.S. natural person;

g. Any discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary organized, incorporated, or (if a natural person) resident in the United States; and

h. Any partnership or corporation if:

i. Organized or incorporated under the laws of any foreign jurisdiction; and

ii. Formed by a U.S. natural person principally for the purpose of investing in Owner's Interests not registered under the Securities Act of 1933, unless it is organized or incorporated, and owned, by accredited investors (as defined in § 230.501(a)) who are not natural persons, estates or trusts.

"Vaporizer Delivery Device" means inhalable Regulated Marijuana Concentrate, which may be comprised of other Ingredients inside a device that uses a heating element to create a vapor including, but not limited to, vaporizer cartridges and vaporizer pens.

"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 Medical Marijuana Concentrate" means a Medical Marijuana Concentrate that was produced by extracting Cannabinoids from Medical Marijuana through the use of only water or ice.

"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 or ice.

Part 4 – Regulated Marijuana Testing Program

Basis and Purpose – 4-120

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(j), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing the contaminant testing and related process validation portion of the Division's Regulated Marijuana sampling and testing program. This Rule 4-120 was previously Rules M and R 1501, 1 CCR 212-1 and 1 CCR 212-2.

4-120 – Regulated Marijuana Testing Program: Contaminant Testing

A. Contaminant Testing Required.

1. Unless a Medical Marijuana Cultivation Facility's or a Medical Marijuana Products Manufacturer's cultivation or production process has achieved process validation under this Rule, it shall not Transfer or process into a Medical Marijuana Concentrate or Medical Marijuana Product any Medical Marijuana unless Samples from each Harvest Batch or Production Batch from which that Medical Marijuana was derived has been tested by a Medical Marijuana Testing Facility for contaminants and passed all contaminant tests required by this Rule, except as permitted in Rule 5-205(C).

2. Unless a Retail Marijuana Cultivation Facility's, an Accelerator Cultivator, a Retail Marijuana Product Manufacturing Facility's cultivation or production process, or an Accelerator Manufacturer cultivation or production process has achieved process validation under this Rule, it shall not Transfer, or process into a Retail Marijuana Concentrate or Retail Marijuana Product any Retail Marijuana unless Samples from each Harvest Batch or Production Batch from which that Retail Marijuana was derived has been tested by a Retail Marijuana Testing Facility for contaminants and passed all contaminant tests required by this Rule, except as permitted in Rule 6-205(C).

B. Process Validation and Ongoing Testing – Contaminant Testing.

1. Regulated Marijuana. A Medical Marijuana Cultivation Facility's, a Retail Marijuana Cultivation Facility's, or an Accelerator Cultivator's cultivation process shall be deemed validated for Contaminant testing if every Harvest Batch that it produced during at least a six-week period but no longer than a 12-week period passed all contaminant tests required by Paragraph (C) of this Rule. This must include at least six Test Batches. A Medical Marijuana Cultivation Facility, a Retail Marijuana Cultivation Facility, or an Accelerator Cultivator can obtain process validation for all contaminants listed in paragraph (C) of this Rule at the same time or separately for each contaminant.

    a. Visual Microbial Growth. If a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or an Accelerator Cultivator is aware that a Harvest Batch contains visual microbial contamination, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or an Accelerator Cultivator shall subject the Harvest Batch to microbial contaminant testing pursuant to Rule 4-120(C)(1). If the Test Batch fails testing, then the Harvest Batch shall be subject to the requirements in Rule 4-135(C). The Licensees must also follow Rule 4-120(F)(2).

2. Regulated Marijuana Concentrate or Regulated Marijuana Product. A Medical Marijuana Cultivation Facility's, Retail Marijuana Cultivation Facility's, Accelerator Cultivator's, Medical Marijuana Products Manufacturer's, Retail Marijuana Products Manufacturer's, or an Accelerator Manufacturer's production process shall be deemed validated for contaminant testing if for a particular type of Regulated Marijuana Concentrate or Regulated Marijuana Product, every Production Batch that it produced during at least a four-week period but no longer than an eight-week period passed all contaminant tests required by Paragraph (C) of this Rule. This must include Test Batches from at least four Production Batches. If a Regulated Marijuana Concentrate or Regulated Marijuana Product is manufactured using a different extraction process or infusion process or using any different Additives or Botanically Derived Compounds, it will be considered a different type of Regulated Marijuana Concentrate or Regulated Marijuana Product and therefore must be process validated separately.

3. Process Validation is Effective for One Year. Once a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, an Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer has successfully obtained process validation for each of the contaminants listed in paragraph (C) of this Rule, the process validation is effective for one year from the date of the first passing harvest date or production date required to satisfy the process validation requirements.

4. Regulated Marijuana Ongoing Contaminant Testing. After successfully obtaining process validation, once every 30 days a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or an Accelerator Cultivator shall subject at least one Harvest Batch to all contaminant testing required by Paragraph (C) of this Rule. If during any 30-day period a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or an Accelerator Cultivator does not possess a Harvest Batch that is ready for testing, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or an Accelerator Cultivator must subject its first Harvest Batch that is ready for testing to the required contaminant testing prior to Transfer or processing of the Regulated Marijuana. If a Harvest Batch subject to ongoing contaminant testing fails contaminant testing, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or an Accelerator Cultivator shall follow the procedure in Paragraph (F)(2) of this Rule. Ongoing contaminant testing pursuant to this Rule 4-120 shall be subject to the requirements in Rule 4-110. *See* Rule 4-110(A) – Collection of Samples.

a. The Division may reduce the frequency of ongoing contaminant testing required by Medical Marijuana Cultivation Facilities and Retail Marijuana Cultivation Facilities if the Division has reasonable grounds to believe Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities have reached maximum capacity to perform testing required by this Rule. The Division will provide notification of any reduction to the frequency of ongoing contaminant testing to the Licensee's last electronic mailing address provided to the Division.

b. If the Licensee fails to comply with paragraph (B)(4) of this Rule, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or Accelerator Cultivator is no longer process validated.

5. Regulated Marijuana Concentrate or Regulated Marijuana Product Ongoing Contaminant Testing. After successfully obtaining process validation, once every 30 days a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer shall subject at least one Production Batch to all contaminant testing required by Paragraph (C) of this Rule. If during any 30-day period a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer does not possess a Production Batch that is ready for testing, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer must subject its first Production Batch that is ready for testing to the required contaminant testing prior to Transfer or processing of the Regulated Marijuana. If a Production Batch submitted for ongoing contaminant testing fails contaminant testing, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer shall follow the procedure in Paragraph (F)(2) of this Rule.

a. The Division may reduce the frequency of ongoing contaminant testing required by Medical Marijuana Cultivation Facilities, Retail Marijuana Cultivation Facilities, Medical Marijuana Products Manufacturers, and Retail Marijuana Products Manufacturers if the Division has reasonable grounds to believe Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities have reached maximum capacity to perform testing required by this Rule. The Division will provide notification of any reduction to the frequency of ongoing contaminant testing to the Licensee's last electronic mailing address provided to the Division.

b. If the Licensee fails to comply with paragraph (B)(5) of this Rule, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer is no longer process validated.

C. Required Contaminant Tests.

1. Microbial Contaminant Testing. Harvest Batches of Regulated Marijuana, Production Batches of Water, Heat/Pressure-, or Food-Based Medical Marijuana Concentrate, Production Batches of Water, Heat/Pressure-, or Food-Based Retail Marijuana Concentrate, Solvent-Based Medical Marijuana Concentrate produced through Remediation, Solvent-Based Retail Marijuana Concentrate produced through Remediation, Regulated Marijuana Product, and Audited Product must be tested for microbial contamination by a Regulated Marijuana Testing Facility at the frequency established by Paragraphs (A) and (B) of this Rule. The microbial contamination test must include, but need not be limited to, testing to determine the presence of and

amounts present of microbial contaminants listed in Rule 4-115(D)(1): Water Activity, Shiga-toxin producing Escherichia coli (STEC)*- Bacteria, Salmonella species* – Bacteria, Total Yeast and Mold, Total aerobic microbial count, *Staphylococcus Aureus, Pseudomonas aeruginosa, Bile tolerant gram negative bacteria and Candida albicans*.

a. Effective Date for Required Water Activity Testing: Requirements for water activity testing pursuant to this rule shall take effect on July 1, 2021.

b. Wet Whole Plant Exempt From Required Water Activity Testing: Regulated Marijuana wet whole plant is exempt from required water activity testing.

2. Residual Solvent Contaminant Testing. Production Batches of Solvent-Based Medical Marijuana Concentrate, Solvent-Based Retail Marijuana Concentrate, and Audited Product that contains any Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate produced by a Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer must be tested by a Regulated Marijuana Testing Facility for residual solvent contamination at the frequency established by Paragraphs (A) and (B) of this Rule. The residual solvent contamination test must include, but need not be limited to, testing to determine the presence of, and amounts present of acetone, butane, ethanol, heptanes, isopropyl alcohol, propane, benzene*, toluene*, pentane, hexane*, methanol*, ethyl acetate, and total xylenes* (m, p, o – xylenes).

* Note: These solvents are not approved for use. Testing is required for these solvents due to their possible presence in the solvents approved for use per Rule 5-315 and 6-315.

3. Mycotoxin Contaminant Testing. As part of Remediation, each Production Batch of Solvent-Based Medical Marijuana Concentrate produced by a Medical Marijuana Products Manufacturer or Solvent-Based Retail Marijuana Concentrate produced by a Retail Marijuana Products Manufacturer or an Accelerator Manufacturer from Regulated Marijuana that failed microbial contaminant testing produced must be tested by a Regulated Marijuana Testing Facility for mycotoxin and microbial contamination. The mycotoxin contaminant test must include, but need not be limited to, testing to determine the presence of, and amounts present of, aflatoxins (B1, B2, G1, and G2) and ochratoxin A. This is in addition to all other contaminant testing required by this Paragraph (C). This contaminant test cannot be process validated in accordance with subparagraph (B)(2) of this Rule.

4. Pesticide Contaminant Testing. Harvest Batches of Regulated Marijuana and Production Batches of Regulated Marijuana Concentrate must be tested for Pesticide contamination by a Regulated Marijuana Testing Facility at the frequency established by this Rule 4-120(A) and (B). The Pesticide contamination test must include, but need not be limited to, testing to determine the presence of, and amounts present of, the Pesticides listed in Rule 4-115(E)(5).

a. Effective Date for Required Pesticide Contaminant Testing for Production Batches of Regulated Marijuana Concentrate: Requirements for Pesticide contaminant testing for Production Batches of Regulated Marijuana Concentrate pursuant to this rule shall take effect on July 1, 2021.

5. Metals Contaminant Testing.

a. Each Harvest Batch and Production Batch of Regulated Marijuana must be tested for metals contamination by a Regulated Marijuana Testing Facility at the

frequency established in paragraphs (A) and (B) of this Rule. The metals contamination test must include, but need not be limited to, testing to determine the presence of, and amounts present of, arsenic, cadmium, lead, and mercury.

b. Emissions Testing. This subsection (C)(5)(b) is effective January 1, 2022. Each Harvest Batch and Production Batch of Regulated Marijuana Concentrate in a Vaporized Delivery Device must be tested for metals contamination via emissions testing by a Regulated Marijuana Testing Facility at the frequency established in subparagraphs (A) and (B) of this Rule. The metals contamination test must include, but need not be limited to, testing to determine the presence and amounts of arsenic, cadmium, lead, and mercury.

D. Additional Required Tests. The Division may require additional tests to be conducted on a Harvest Batch or Production Batch prior to a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, a Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer Transferring, or processing into a Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, or Retail Marijuana Product any Regulated Marijuana from that Harvest Batch or Production Batch. Additional tests may include, but need not be limited to, screening for Pesticide, chemical contaminants, biological contaminants, or other types of microbials, molds, metals, or residual solvents.

E. Exemptions.

1. Medical Marijuana Concentrate.

a. A Medical Marijuana Products Manufacturer who combines multiple Production Batches of Solvent-Based Medical Marijuana Concentrate into a Production Batch of Solvent-Based Medical Marijuana Concentrate shall be considered exempt from residual solvent testing pursuant to this Rule and the 4-100 Series Rules only if all original Production Batches passed residual solvent testing. This does not apply if a solvent, Additive, or any other Ingredient was introduced during the combination of the Production Batches.

b. A Production Batch of Medical Marijuana Concentrate shall be considered exempt from this Rule if the Medical Marijuana Products Manufacturer that produced it does not Transfer any portion of the Production Batch and uses the entire Production Batch to manufacture Medical Marijuana Product, except that a Solvent-Based Medical Marijuana Concentrate must still be submitted for residual solvent contaminant testing. The manufactured Medical Marijuana Product shall be subject to mandatory testing under this Rule.

2. Retail Marijuana Concentrate.

a. A Retail Marijuana Products Manufacturer or Accelerator Manufacturer who combines multiple Production Batches of Solvent-Based Retail Marijuana Concentrate into a Production Batch of Solvent-Based Retail Marijuana Concentrate shall be considered exempt from residual solvent testing pursuant to this Rule and the 4-100 Series Rules only if all original Production Batches passed residual solvent testing. This does not apply if a solvent, Additive or any other Ingredient was introduced during the combination of the Production Batches.

b. A Production Batch of Retail Marijuana Concentrate shall be considered exempt from this Rule if the Retail Marijuana Products Manufacturer that produced it

does not Transfer any portion of the Production Batch and uses the entire Production Batch to manufacture Retail Marijuana Product, except that a Solvent-Based Retail Marijuana Concentrate must still be submitted for residual solvent contaminant testing. The manufactured Retail Marijuana Product shall be subject to testing under this Rule.

F. Required Re-Validation - Contaminants.

1. Material Change Re-Validation. If a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer makes a Material Change to its cultivation or production process or its standard operating procedure manual, then it must have the first five Harvest Batches or Production Batches produced using the new procedures tested for all of the contaminants required by Paragraph (C) of this Rule regardless of whether its process has been previously validated regarding contaminants. If any of those tests fail, then the Regulated Marijuana Business's process must be re-validated.

   a. Pesticide. It is a Material Change if a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or Accelerator Cultivator begins using a new or different Pesticide during its cultivation process.

   b. Solvents. It is a Material Change if a Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer begins using a new or different solvent or combination of solvents or changes any parameters for equipment related to the solvent purging process, including but not limited to, time, temperature, or pressure.

   c. Cultivation. It is a Material Change if a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or an Accelerator Cultivator begins using a new or different method for any material part of the cultivation process, including, but not limited to, changing from one growing medium to another.

   d. Notification. A Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer must notify the Regulated Marijuana Testing Facility of the Material Change.

   e. Testing Required Prior to Transfer or Processing. When a Harvest Batch or Production Batch is required to be submitted for testing pursuant to this Rule, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer that produced it may not Transfer or process into a Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, or Retail Marijuana Product any of the Regulated Marijuana from that Harvest Batch or Production Batch unless and until the Harvest Batch or Production Batch passes all required testing.

2. Failed Contaminant Testing and Re-Validation. Failed contaminant testing may constitute a violation of these rules.

   a. If a Sample is required to be tested by these Rules or required to be tested by the Division pursuant to Rule 4-120(A) and fails contaminant testing, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator

Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer shall follow the procedures in Rule 4-135(B) for any Inventory Tracking System package, Harvest Batch, or Production Batch from which the failed Sample was taken.

b. The Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer shall also submit Test Batches from three new Harvest Batches or Production Batches of the Regulated Marijuana for contaminant testing by a Regulated Marijuana Testing Facility within no more than 30 days. If any one of the three submitted Test Batches fails contaminant testing, the Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, Accelerator Cultivator, Medical Marijuana Products Manufacturer, or Retail Marijuana Products Manufacturer shall re-validate its process for contaminants.

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

Basis and Purpose – 4-135

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(j), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to protect the public health and safety by establishing rules governing the quarantining of potentially contaminated product and the destruction of product that failed contaminant or potency testing for Division's Regulated Marijuana Sampling and Testing Program. This Rule 4-135 was previously Rules M and R 1507, 1 CCR 212-1 and 1 CCR 212-2.

4-135 – Regulated Marijuana Testing Program: Contaminated Product and Failed Test Results and Procedures

A. Quarantining of Product.

1. If the Division has reasonable grounds to believe that a particular Harvest Batch, Production Batch, or Inventory Tracking System package of Regulated Marijuana is contaminated or presents a risk to public safety, then the Division may require a Regulated Marijuana Business to quarantine it until the completion of the Division's investigation, which may include, but is not limited to, the receipt of any test results.

2. If a Regulated Marijuana Business is notified by any local or state agency, or by a Regulated Marijuana Testing Facility that a Test Batch failed a contaminant or potency testing, then the Regulated Marijuana Business shall quarantine any Regulated Marijuana from any Inventory Tracking System package, Harvest Batch or Production Batch associated with that failed Test Batch and must follow the procedures established pursuant to paragraph (B)(1), (B)(2), (B)(3) and/or (C) of this Rule.

3. Except as provided by this Rule, Regulated Marijuana that has been quarantined pursuant to this Rule must be physically separated from all other inventory and the Licensee may not Transfer or further process the Regulated Marijuana.

4. In addition to any other method authorized by law, the Division may implement the quarantine through the Inventory Tracking System by (a) indicating failed test results and

(b) limiting the Licensee's ability to Transfer the quarantined Regulated Marijuana unless otherwise permitted by these rules.

B. Failed Contaminant Testing: All Contaminant Testing Except Microbial Testing of Regulated Marijuana Flower or Trim and Pesticide Testing. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch failed contaminant testing (except microbial testing of Regulated Marijuana flower or trim and Pesticide testing), then for each Inventory Tracking System package, Harvest Batch, or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch or Production Batch pursuant to Rule 3-230 – Waste Disposal;

2. Decontaminate the Inventory Tracking System package, Harvest Batch, or Production Batch, if possible, and create two new Test Batches, each containing the requisite number of Samples, and have those Test Batches tested for the required contaminant test that failed. Such testing must comport with the sampling procedures under Rule 4-110.

    a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Medical Marijuana Testing Facilities or Retail Marijuana Testing Facilities;

    b. If both new Test Batches pass the required contaminant testing, then the Inventory Tracking System package, Harvest Batch, or Production Batch of Regulated Marijuana or Regulated Marijuana Product associated with each Test Batch may be Transferred or processed into a Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, or Retail Marijuana Product;

    c. If one or both of the Test Batches do not pass contaminant testing, then the Regulated Marijuana Business must destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch included in that Test Batch pursuant to Rule 3-230 – Waste Disposal; or

3. The Regulated Marijuana Business may Transfer the Production Batches that failed contaminant testing to another Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer for decontamination, if possible, and create two new Test Batches after decontamination has occurred, each containing the requisite number of Samples, and have those Test Batches tested for the required contaminant test that failed. Such testing must comport with the sampling procedures under Rule 4-110.

    a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Medical Marijuana Testing Facilities or Retail Marijuana Testing Facilities;

    b. If both new Test Batches pass the required contaminant testing, then the Inventory Tracking System package, Harvest Batch, or Production Batch of Regulated Marijuana or Regulated Marijuana Product associated with each Test Batch may be Transferred or processed into a Medical Marijuana Concentrate, Retail Marijuana Concentrate, Medical Marijuana Product, or Retail Marijuana Product;

c. If one or both of the Test Batches do not pass contaminant testing, then the Regulated Marijuana Business must destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch included in that Test Batch pursuant to Rule 3-230 – Waste Disposal.

C. Failed Contaminant Testing: Microbial Testing of Regulated Marijuana Flower, Wet Whole Plant, or Trim. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch of Regulated Marijuana flower, wet whole plant, or trim failed microbial testing, then for each Inventory Tracking System package or Harvest Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package or Harvest Batch pursuant to Rule 2-230 – Waste Disposal;

2. Decontaminate the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, wet whole plant, or trim, if possible, and create two new Test Batches, each containing the requisite number of Sample~~s~~ Increments, and submit~~have~~ those Test Batches for microbial contaminant testing. ~~tested for the required microbial test that failed.~~ Such testing must comply ~~comport~~ with the sampling procedures under Rule 4-110. If the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, wet whole plant, or trim has undergone Decontamination, then it must also pass a mycotoxin and water activity test prior to Transfer. The mycotoxin and water activity testing is not required to occur until after the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, wet whole plant, or trim has passed microbial testing. If a Test Batch fails mycotoxin or water activity testing the Regulated Marijuana Business must follow the failed contaminant testing procedures pursuant to Paragraph (B) above. Pursuant to Rule 4-120(C), wet whole plant is exempt from water activity testing.

   a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Regulated Marijuana Testing Facilities.

   b. If both Test Batches pass the required microbial testing, then the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, wet whole plant, or trim associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

   c. If one or both of the Test Batches do not pass microbial testing, then the Regulated Marijuana Business must ~~either~~:

      i. ~~(i)~~ D~~d~~estroy and document the destruction of the Inventory Tracking System package or Harvest Batch pursuant to Rule 3-230 – Waste Disposal; ~~or (ii)~~

      ii. Decontaminate and re-test in accordance with this Paragraph (C)(2); or

      iii. Transfer the Inventory Tracking System package or Harvest Batch for Decontamination or Remediation pursuant to Paragraph (C)(3)(b) below.

3. In lieu of decontamination pursuant to Paragraph (C)(2) above, the Regulated Marijuana Business may transfer all Inventory Tracking System packages associated with that failed Test Batch to a Medical Marijuana Cultivation Facility, ~~or a~~ Retail Marijuana Cultivation Facility, or an Accelerator Cultivator for decontamination, or may Transfer such Inventory

Tracking System packages to a Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer for decontamination and/or Remediation.

a. Decontamination. The Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, or Accelerator Cultivator~~, the Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer~~ may decontaminate the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower or trim, if possible, and create two new Test Batches, each containing the requisite number of Samples~~s~~ Increments, and submit those Test Batches for microbial contaminant testing. Such testing must comply with the sampling procedures under Rule 4-110. If the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, wet whole plant, or trim has undergone Decontamination, then it must also pass a mycotoxin and water activity test prior to Transfer. The mycotoxin and water activity testing is not required to occur until after the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower, wet whole plant, or trim has passed microbial testing. If a Test Batch fails mycotoxin or water activity testing the Regulated Marijuana Business must follow the failed contaminant testing procedures pursuant to Paragraph (B) above. Pursuant to Rule 4-120(C), wet whole plant is exempt from water activity testing. ~~, and have those Test Batches tested for the required microbial test that failed. Such testing must comport with the sampling procedures under Rule 4-110.~~

i. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Medical Marijuana Testing Facilities or Retail Marijuana Testing Facilities

ii. If both Test Batches pass the required microbial testing, then the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower or trim associated with each Test Batch may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

~~iii. If one or both of the Test Batches do not pass microbial testing, then the Regulated Marijuana Business must either: (i) destroy and document the destruction of the Inventory Tracking System package or Harvest Batch pursuant to Rule 3-230 – Waste Disposal; or (ii) attempt Remediation of the Inventory Tracking System package or Harvest Batch at a Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or Accelerator Manufacturer for Remediation pursuant to Paragraph (C)(3)(b) below.~~

iii. If one or both of the Test Batches that were created from Harvest Batches or Production Batches pursuant to Paragraph (C)(3)(a) do not pass microbial testing, the Regulated Marijuana Business must either:

A. Destroy and document the destruction of the Inventory Tracking System package or Harvest Batch pursuant to Rule 3-230 Waste Disposal;

B. Decontaminate and re-test in accordance with this paragraph;

C. Attempt Remediation pursuant to Paragraph (C)(3)(b); or

D. Transfer the Inventory Tracking System package or Harvest Batch for Decontamination or Remediation pursuant to Paragraph (C)(3).

b. Remediation. The Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer may Remediate the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower or trim, if possible, and create two new Test Batches, each containing the requisite number of Sample Increments. The new Test Batches are required to be re-tested for Microbial, Mycotoxin, and Water Activity contaminant testing. Such testing must comport with sampling procedures under Rule 4-110.

i. For Remediation, the Regulated Marijuana Business shall process the Inventory Tracking System package or Harvest Batch of Regulated Marijuana flower or trim associated with the failed Test Batch into a Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate.

ii. The Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate that was manufactured pursuant to Paragraph (C)(3)(b) shall undergo all required contaminant testing pursuant to Rule 4-120(C) – Regulated Marijuana Testing Program – Contaminant Testing, potency testing pursuant to Rule 4-125 – Regulated Marijuana Testing Program – Potency Testing, and any other testing required or allowed by the Marijuana Code or these rules, including but not limited to microbial and mycotoxins contamination. Such testing must comport with the sampling procedures under Rule 4-110.

iii. If the Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate that was manufactured pursuant to Paragraph (C)(3)(b) fails contaminant testing, the Regulated Marijuana Business shall destroy and document the destruction of the Inventory Tracking System package(s) or Production Batch(es) of Solvent-Based Medical Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate pursuant to Rule 3-230 – Waste Disposal.

4. Nothing in this Rule removes or alters the responsibility of the Retail Marijuana Business Transferring the Retail Marijuana that failed microbial testing from complying with the requirement to pay excise tax pursuant to article 28.8 of title 39, C.R.S.

D. Failed Contaminant Testing: Pesticide Testing. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch failed Pesticide testing, then for each Inventory Tracking System package, Harvest Batch, or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 – Waste Disposal; or

2. Request that the Regulated Marijuana Testing Facility that reported the original fail conduct two additional analyses of the original Test Batch submitted in accordance with Rule 4-110.

a. If both retesting analyses pass the required Pesticide testing, then the Inventory Tracking System package, Harvest Batch, or Production Batch of Regulated

Marijuana or Regulated Marijuana Product may be Transferred or processed into a Regulated Marijuana Concentrate or Regulated Marijuana Product.

b. If one or both of the retesting analyses do not pass Pesticide testing, then the Regulated Marijuana Business must destroy and document the destruction of the Inventory Tracking System package, Harvest Batch, or Production Batch pursuant to Rule 3-230 – Waste Disposal.

E. Failed Potency Testing. If a Regulated Marijuana Business is notified by the Division or a Regulated Marijuana Testing Facility that a Test Batch of Regulated Marijuana Product failed potency testing, then for each Inventory Tracking System package or Production Batch associated with that failed Test Batch the Regulated Marijuana Business must either:

1. Destroy and document the destruction of the Inventory Tracking System package or Production Batch pursuant to Rule 3-230 – Waste Disposal; or

2. Attempt corrective measures, if possible, and create two new Test Batches each containing the requisite number of Samples, and have those Test Batches tested for the required potency test that failed. Such testing must comport with the sampling procedures under Rule 4-110.

a. A Licensee must either (1) submit both new Test Batches to the same Regulated Marijuana Testing Facility that reported the original failed test result, or (2) submit the new Test Batches to two different Regulated Marijuana Testing Facilities.

b. If both new Test Batches pass potency testing, then the Inventory Tracking System package or Production Batch associated with each Test Batch may be Transferred.

c. If one or both of the Test Batches do not pass potency testing, then the Medical Marijuana Products Manufacturer, Retail Marijuana Products Manufacturer, or an Accelerator Manufacturer must destroy and document the destruction of Inventory Tracking System package or Production Batch pursuant to Rule 3-230 – Waste Disposal.

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

Part 5 – Medical Marijuana Business License Types

Basis and Purpose – 5-205

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(j), 44-10-401(2)(a)(II), 44-10-313, 44-10-502(5), and 44-10-503, C.R.S. The purpose of this rule is to establish a Medical Marijuana Cultivation Facility's license privileges in addition to the privileges outlined in these rules. This Rule 5-205 was previously Rule M 501, 1 CCR 212-1.

5-205 – Medical Marijuana Cultivation Facility: License Privileges

A. Licensed Premises. To the extent authorized by Rule 3-215 – Regulated Marijuana Business – Shared Licensed Premises and Operational Separation, a Medical Marijuana Cultivation Facility may share a Licensed Premises with a commonly owned Retail Marijuana Cultivation Facility. However, a separate license is required for each specific business entity regardless of geographical location. In addition, a Medical Marijuana Cultivation Facility may share and operate at the same Licensed Premises as a Marijuana Research and Development Facility so long as:

1. Each business or business entity holds a separate license;

2. The Marijuana Research and Development Facility obtains an R&D Co-Location Permit;

3. Both the Marijuana Research and Development Facility and the Medical Marijuana Cultivation Facility comply with all terms and conditions of the R&D Co-Location Permit; and

4. Both the Marijuana Research and Development Facility and the Medical Marijuana Cultivation Facility comply with all applicable rules. *See* 5-700 Series Rules.

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

C. Authorized Transfers. A Medical Marijuana Cultivation Facility may Transfer Medical Marijuana and Water-Based Medical Marijuana Concentrate to another Medical Marijuana Cultivation Facility, a Medical Marijuana Store, a Medical Marijuana Products Manufacturer, a Medical Marijuana Testing Facility, a Marijuana Research and Development Facility, or a Pesticide Manufacturer.

1. A Medical Marijuana Cultivation Facility shall not Transfer Flowering plants. A Medical Marijuana Cultivation Facility may only Transfer Vegetative plants as authorized pursuant to Rule 3-605.

2. A Medical Marijuana Cultivation Facility may Transfer Sampling Units of Medical Marijuana or Medical Marijuana Concentrate to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-502(5), C.R.S., and Rule 5-230.

3. A Medical Marijuana Cultivation Facility may Transfer Medical Marijuana or Medical Marijuana Concentrate to another Medical Marijuana Cultivation Facility prior to testing required by these rules only if such Transfer is in accordance with one of the two options below.

a. The Medical Marijuana Cultivation Facility may Transfer Medical Marijuana or Medical Marijuana Concentrate to another Medical Marijuana Cultivation Facility prior to testing if such Transfer is for the purpose of decontamination and only after all other steps outlined in the Medical Marijuana Cultivation Facility's standard operating procedures have been completed, including but not limited to drying, curing, and trimming; or ~~.~~

b. The Medical Marijuana Cultivation Facility may Transfer Medical Marijuana or Medical Marijuana Concentrate to another Medical Marijuana Cultivation Facility prior to testing, drying, curing, trimming, or completion of any other steps in the Medical Marijuana Cultivation Facility's standard operating procedures, subject to the following additional requirements:

i. The Medical Marijuana Cultivation Facility receiving the Transfer is identified as a centralized processing hub in the Inventory Tracking System and must have identical Controlling Beneficial Owner(s) with the originating Medical Marijuana Cultivation Facility;

ii. An originating Medical Marijuana Cultivation Facility may only Transfer Medical Marijuana to one receiving Medical Marijuana Cultivation Facility that will be serving as a centralized processing hub.

iii. The Medical Marijuana or Medical Marijuana Concentrate is weighed prior to leaving the originating Medical Marijuana Cultivation Facility and immediately upon receipt at the receiving Medical Marijuana Cultivation Facility and in accordance with Rule 3-605;

iv. The Transfer, weighing and entry into the Inventory Tracking System are all completed within 24 hours from initiating the Transfer;

v. The receiving Medical Marijuana Cultivation Facility is responsible for compliance with all testing requirements regardless of any testing performed prior to Transfer. If the receiving Medical Marijuana Cultivation Facility is pursuing process validation status, process validation must be obtained separately for Medical Marijuana received from each originating Medical Marijuana Cultivation Facility. A Medical Marijuana Cultivation Facility that is process validated must maintain and produce complete testing records that can verify that facility's compliance with testing and process validation requirements; and

vi. The standard operating procedures for the originating Medical Marijuana Cultivation Facility and receiving Medical Marijuana Cultivation Facility clearly reflect the steps taken by each facility to Transfer, transport, receive, process, and test Harvest Batches.

D. Packaging Processed Medical Marijuana. Processed Medical Marijuana plants shall be packaged in units of ten pounds or less and labeled pursuant to the 3-1000 Series Rules – Labeling, Packaging, and Product Safety, and securely sealed in a tamper-evident manner.

E. Authorized Marijuana Transport. A Medical Marijuana Cultivation Facility is authorized to utilize a licensed Medical Marijuana Transporter for transportation of its Medical Marijuana so long as the place where transportation orders are taken is a Medical Marijuana Business and the transportation order is delivered to a licensed Medical Marijuana Business or Pesticide Manufacturer. Nothing in this Rule prevents a Medical Marijuana Cultivation Facility from transporting its own Medical Marijuana.

F. Performance-Based Incentives. A Medical Marijuana Cultivation Facility may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, a Medical Marijuana Cultivation Facility may not compensate a Sampling Manager using Sampling Units. *See* Rule 5-230 – Sampling Unit Protocols.

G. Authorized Sources of Medical Marijuana Seeds and Immature Plants. A Medical Marijuana Cultivation Facility shall only obtain Medical Marijuana seeds or Immature Plants from its own Medical Marijuana, properly Transferred Retail Marijuana cultivated at a Retail Marijuana Cultivation Facility with at least one identical Controlling Beneficial Owner, or properly transferred from another Medical Marijuana Business pursuant to the inventory tracking requirements in the Rule 3-800 Series.

H. Centralized Distribution Permit. A Medical Marijuana Cultivation Facility may apply to the State Licensing Authority for a Centralized Distribution Permit for authorization to temporarily store Medical Marijuana Concentrate and Medical Marijuana Product received from a Medical Marijuana Products Manufacturer for the sole purpose of Transfer to commonly owned Medical Marijuana Stores.

1. For purposes of a Centralized Distribution Permit only, the term "commonly owned" means at least one natural person who is disclosed to the Division who has a minimum of five percent ownership in both the Medical Marijuana Cultivation Facility possessing a Centralized Distribution Permit and the Medical Marijuana Store to which the Medical Marijuana Concentrate and Medical Marijuana Product will be Transferred.

2. To apply for a Centralized Distribution Permit, a Medical 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 Medical Marijuana Cultivation Facility shall send a copy of its Centralized Distribution Permit 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 Medical Marijuana Cultivation Facility that has been issued a Centralized Distribution Permit and has obtained all required approvals from the local licensing jurisdiction where it is located, if any, may accept Transfers of Medical Marijuana Concentrate and Medical Marijuana Product from a Medical Marijuana Products Manufacturer for the sole purpose of temporary storage and Transfer to commonly owned Medical Marijuana Stores.

    a. A Medical Marijuana Cultivation Facility may only accept Medical Marijuana Concentrate and Medical Marijuana Product that is packaged and labeled for sale to a patient pursuant to the 3-1000 Series Rules.

    b. A Medical Marijuana Cultivation Facility storing Medical Marijuana Concentrate and Medical Marijuana Product pursuant to a Centralized Distribution Permit shall not store such Medical Marijuana Concentrate or Medical Marijuana Product on the Medical Marijuana Cultivation Facility's Licensed Premises for more than 90 days from the date of receipt.

    c. All Transfers of Medical Marijuana Concentrate and Medical Marijuana Product by a Medical Marijuana Cultivation Facility shall be without consideration.

4. All security and surveillance requirements that apply to a Medical Marijuana Cultivation Facility apply to activities conducted pursuant to the privileges of a Centralized Distribution Permit.

I. Transition Permit. A Medical Marijuana Cultivation Facility may only operate at two geographical locations pursuant to Rule 2-255(D).

Part 6 – Retail Marijuana Business License Types

Basis and Purpose – 6-205

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(c), 44-10-203(1)(j), 44-10-203(2)(h), 44-10-203(2)(j), 44-10-203(2)(r), 44-10-203(3)(c), 44-10-401(2)(b)(II), and 44-10-602, C.R.S. The purpose of this rule is to establish the license privileges granted by the State Licensing Authority to a Retail Marijuana Cultivation Facility. This Rule 6-205 was previously Rule R 501, 1 CCR 212-2.

6-205 – Retail Marijuana Cultivation Facility: License Privileges

A. Licensed Premises. To the extent authorized by Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation, a Retail Marijuana Cultivation Facility may share, and operate at, the same Licensed Premises with a commonly owned Medical

Marijuana Cultivation Facility. 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, and operate at, the same Licensed Premises as a Marijuana Research and Development Facility so long as:

1. Each business or business entity holds a separate license;

2. The Marijuana Research and Development Facility obtains an R&D Co-Location Permit;

3. Both the Marijuana Research and Development Facility and the Retail Marijuana Cultivation Facility comply with all terms and conditions of the R&D Co-Location Permit; and

4. Both the Marijuana Research and Development Facility and the Retail Marijuana Cultivation Facility comply with all applicable rules. *See* 5-700 Series Rules.

B. 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.

C. Authorized Transfers. A Retail Marijuana Cultivation Facility may only Transfer Retail Marijuana and Water-Based Retail Marijuana Concentrate to another Retail Marijuana Business.

1. A Retail Marijuana Cultivation Facility shall not Transfer Flowering plants. A Retail Marijuana Cultivation Facility may only Transfer Vegetative plants as authorized pursuant to Rule 3-605.

2. A Retail Marijuana Cultivation Facility may Transfer Sampling Units of Retail Marijuana or Retail Marijuana Concentrate to a designated Sampling Manager in accordance with the restrictions set forth in section 44-10-602(6), C.R.S., and Rule 6-225.

3. A Retail Marijuana Cultivation Facility may Transfer Retail Marijuana or Retail Marijuana Concentrate to another Retail Marijuana Cultivation Facility prior to testing required by these rules only if such Transfer is in accordance with one of the two options below.

   a. The Retail Marijuana Cultivation Facility may Transfer Retail Marijuana or Retail Marijuana Concentrate to another Retail Marijuana Cultivation Facility prior to testing if such Transfer is for the purpose of decontamination and only after all other steps outlined in the Retail Marijuana Cultivation Facility's standard operating procedures have been completed, including but not limited to drying, curing, and trimming; or.

   b. The Retail Marijuana Cultivation Facility may Transfer Retail Marijuana or Retail Marijuana Concentrate to another Retail Marijuana Cultivation Facility prior to testing, drying, curing, trimming, or completion of any other steps in the Retail Marijuana Cultivation Facility's standard operating procedures, subject to the following additional requirements:

      i. The Retail Marijuana Cultivation Facility receiving the Transfer is identified as a centralized processing hub in the Inventory Tracking System and must have identical Controlling Beneficial Owner(s) with the originating Retail Marijuana Cultivation Facility;

ii. An originating Retail Marijuana Cultivation Facility may only Transfer Retail Marijuana to one receiving Retail Marijuana Cultivation Facility that will be serving as a centralized processing hub;

iii. The Retail Marijuana or Retail Marijuana Concentrate is weighed prior to leaving the originating Retail Marijuana Cultivation Facility and immediately upon receipt at the receiving Retail Marijuana Cultivation Facility and in accordance with Rule 3-605;

iv. The Transfer, weighing and entry into the Inventory Tracking System are all completed within 24 hours from initiating the Transfer;

v. The receiving Retail Marijuana Cultivation Facility is responsible for compliance with all testing requirements regardless of any testing performed prior to Transfer. If the receiving Retail Marijuana Cultivation Facility is pursuing process validation status, process validation must be obtained separately for marijuana received from each originating Retail Marijuana Cultivation Facility. A Retail Marijuana Cultivation Facility that is process validated must maintain and produce complete testing records that can verify that facility's compliance with testing and process validation requirements; and

vi. The standard operating procedures for the originating Retail Marijuana Cultivation Facility and receiving Retail Marijuana Cultivation Facility clearly reflect the steps taken by each facility to Transfer, transport, receive, process, and test Harvest Batches.

4. A Retail Marijuana Cultivation Facility may transfer Retail Marijuana to a Pesticide Manufacturer.

D. 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.

E. 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 3-905 – Business Records Required.

F. 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 Business. Nothing in this Rule prevents a Retail Marijuana Cultivation Facility from transporting its own Retail Marijuana.

G. Performance-Based Incentives. A Retail Marijuana Cultivation Facility may compensate its employees using performance-based incentives, including sales-based performance-based incentives. However, a Retail Marijuana Cultivation Facility may not compensate a Sampling Manager using Sampling Units. *See* Rule 6-225 – Sampling Unit Protocols.

H. 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, properly Transferred Medical Marijuana cultivated at a Medical Marijuana Cultivation Facility with at least one identical Controlling Beneficial Owner, or properly transferred from

another Retail Marijuana Business pursuant to the inventory tracking requirements in the 3-800 Series Rules.

I. 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 Manufacturer 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 Permit 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 and has obtained all required approvals from the local licensing jurisdiction where it is located, if any, may accept Transfers of Retail Marijuana Concentrate and Retail Marijuana Product from a Retail Marijuana Products Manufacturer 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 3-1000 Series Rules.

    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 the Retail Marijuana Cultivation Facility's 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.

J. Transition Permit. A Retail Marijuana Cultivation Facility may only operate at two geographical locations pursuant to Rule 2-255(D).