



**COLORADO DEPARTMENT OF REVENUE
MARIJUANA ENFORCEMENT DIVISION**

Emergency Rule Adoption

New and Amended Rules, 1 CCR 212-3

2-205 - Fees

2-206 - Social Equity Fees

Statement of Emergency Justification

Pursuant to sections 24-4-103 and 44-10-203, C.R.S., I, Heidi Humphreys, Executive Director of the Department of Revenue and State Licensing Authority, hereby adopt amended and new Rules 2-205 and 2-206 1 CCR 212-3 (Emergency Rules) attached hereto to adjust application and license fees.

Section 24-4-103(6), C.R.S., authorizes the State Licensing Authority to issue an emergency rule if the State Licensing Authority finds that the immediate adoption of the rule is imperatively necessary to comply with state law, federal law, or for the preservation of public health, safety, or welfare, and compliance with the requirements of section 24-4-103, C.R.S., would be contrary to the public interest. I find: (1) the immediate adoption of this amended rule and the new rule is necessary to comply with the constitutional and statutory mandates of the Colorado Marijuana Code, sections 44-10-101 *et seq.*, C.R.S.; and (2) compliance with the notice and public hearing requirements of section 24-4-103, C.R.S., would be contrary to the public interest.

Statutory Authority

The State Licensing Authority promulgates these Emergency Rules pursuant to the authority granted in the Colorado Constitution, Article XVIII, Sec. 16, the Colorado Marijuana Code, sections 44-10-101 *et seq.*, C.R.S., and the state Administrative Procedure Act, section 24-4-103, C.R.S. The statutory authority for the Emergency Rules is identified in the statement of basis and purpose preceding the rules, which includes but is not limited to sections 44-10-103, 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(i) 44-10-203(1)(k), 44-10-203(2)(b), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(2)(o), 44-10-203(2)(q), 44-10-203(2)(r), 44-10-203(2)(s), 44-10-203(2)(w), 44-10-203(2)(dd)(XII), 44-10-203(2)(ff), 44-10-203(2)(gg), 44-10-303(2)(b), 44-10-310(7), 44-10-313, 44-10-401, 44-10-801, 44-10-802, 44-10-803, 44-10-1201, 44-10-1202, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(II). The purpose of this rule is to establish and amend fees required for applications, renewals, licenses, permits, and other fees required to accompany applications and submissions to the Division.

Purpose for Emergency Rule

The purpose of this Emergency Rule is to re-adopt existing emergency rules without substantive amendments. The Emergency Rules: 1) amend Rule 2-205, which currently



contains all fees owed by applicants and licensees upon application to the Marijuana Enforcement Division (“the Division”) for a license, certificate, permit, or other privilege as authorized in the Marijuana Code and Rules; and 2) adopt Rule 2-206, outlining new fees for Social Equity Licensees. The State Licensing Authority has concurrently held stakeholder workgroups related to the permanent rulemaking process for these fee rules, but the Permanent Fee Rules will not be in place prior to the expiration of the existing emergency rules on October 27, 2023. As a result, adopting this second set of emergency rules is necessary to allow for the completion of the permanent rulemaking process.

The Division’s operations are primarily fee funded and fees collected by the State Licensing Authority are transmitted to the Marijuana Cash Fund established in section 44-10-801(1)(a), C.R.S. Further, section 44-10-801, C.R.S., requires that the amount of fees collected reflect the actual direct and indirect costs of the State Licensing Authority in the administration of the Colorado Marijuana Code, at sections 44-10-101, C.R.S., *et seq.* and that the State Licensing Authority review fees at least annually, and if necessary, adjust fees to reflect the direct and indirect costs.

In 2019, the Division engaged in a third party analysis to align with section 44-10-801, C.R.S. In 2020, the Division terminated fee rulemaking to ensure the Division had the resources necessary to conduct pandemic related emergency rulemaking to support licensees’ compliance with public health orders. In 2021, the Division restored license fees that had been reduced in 2016, which included the issuance of a cost-benefit analysis. This cost-benefit analysis informed the reinstatement of fees was part of incremental efforts in response to a \$3.5 million projected shortfall between fiscal years 2021-2022.

Since that time, the Division has continued to face significant challenges including inflation and increased complexity of work that supports industry innovation, while navigating an evolving regulatory framework. Despite continued efforts to improve efficiency and reduce expenditures, the Division faces a negative cash fund balance at the end of the 2022-2023 fiscal year.

Effective date of Emergency Rules and Permanent Rulemaking

The attached Emergency Rules are effective **October 27, 2023**.

Pursuant to section 24-4-103(6), C.R.S., of the Colorado Administrative Procedure Act, the Emergency Rules remain in effect for 120 days from the date of adoption or until repealed by the State Licensing Authority upon filing of a notice of such with the Secretary of State.

On June 5, 2023, July 31, 2023 and October 16, 2023 the State Licensing Authority hosted a stakeholder meeting to discuss the Emergency Rules and proposed permanent rules to adjust application and licensing fees. The State Licensing Authority initiated the permanent rulemaking process pursuant to the Colorado Administrative Procedure Act, section 24-4-103, C.R.S., on June 29, 2023 by filing the Notice of Permanent Rulemaking with the Secretary of State. As part of that permanent rulemaking process, the Division and State Licensing Authority has facilitated additional stakeholder work group meetings



and will facilitate the permanent rulemaking hearing to solicit and gather public comment, which will be part of the permanent rulemaking record.

Additional information regarding the Division's permanent rulemaking session can be accessed on the [Division's website](#).

Statement of Adoption

Pursuant to the Colorado Administrative Procedure Act, Title 24, Article 4, of the Colorado Revised Statutes, I, Heidi Humphreys, Executive Director of the Colorado Department of Revenue, State Licensing Authority, promulgate the following rules to become effective on October 27, 2023.

Part 2 – APPLICATIONS AND LICENSES

2-205 - Fees

2-206 - Social Equity Fees

Heidi Humphreys
Executive Director
Colorado Department of Revenue
State Licensing Authority

October 27, 2023

Date