



November 18, 2022

INDUSTRY BULLETIN: 22-07

RE: Implementation of Rule Changes

Dear Stakeholders:

This bulletin is intended to provide guidance on certain rule changes as well as specific testing-related scenarios that may occur as a result of the rule changes that were adopted on October 11, 2022, and will become effective on December 1, 2022. Please note that this bulletin does not include all rule changes effective December 1, 2022, but you can find the complete Final Adopted Rules as well as the annotated Final Adopted Rule Revisions on the [MED Rules webpage](#).

Rules Effective December 1, 2022

Aspergillus Testing of Edible and Topical Marijuana Products:

Regulated Marijuana Products with an intended use of oral consumption or skin and body products will be exempt from aspergillus testing starting December 1, 2022 per MED Rule 4-120(E)(3), 1 CCR 212-3.

- Beginning on or after December 1, 2022, Production Batches with an intended use of oral consumption or skin and body products are not required to be tested for aspergillus testing.
- To submit Production Batches of products intended for oral consumption or skin and body products for microbial contaminant testing, please select the test batch “Microbial Contaminant For Edible/Topical Products Only” when creating a test batch in Metrc. This option has been added to Metrc and choosing that test batch will ensure aspergillus testing is not required to unlock the Production Batch.
- Prior to December 1, 2022, confirmation of required aspergillus testing is not an enforcement priority for Production Batches with an intended use of oral consumption or skin and body products.
- Production Batches that failed aspergillus testing prior to December 1, 2022, can be Transferred without submitting the Production Batch for retest. In order to be Transferred, the Production Batch must have **only** failed aspergillus testing; any other failed test will require normal failed test procedures in accordance with Rule 4-135. In order to Transfer these Production Batches, a ticket will need to be submitted to Metrc Support to request the change of the testing status. Please email support@metrc.com, include the business license number, specific Production Batch numbers that have a failed aspergillus test, date of Production Batch creation, and a copy of this Industry Bulletin when submitting a ticket. Metrc can begin receiving and processing those support tickets on Monday, November 21, 2022.

Vaporizer Delivery Device Waste Disposal:

Under revised Rule 3-230(D)(1), Licensees may transfer Vaporizer Delivery Device waste to another regulated marijuana business for purposes of grinding or compacting in the process to make the waste

unusable and unrecognizable. This rule responds to requests from stakeholders to make it easier to properly dispose of Vaporizer Delivery Device waste.

Electronic Record Keeping:

In response to stakeholder feedback regarding sustainability measures in the regulated marijuana industry, Rule 3-905 has been revised and clarified to make clear that Licensees may maintain the required records in a digital format as long as those records are easily accessible and readily understood by a reasonably prudent business person.

Findings of Suitability - Social Equity Designation:

Under revised Rule 2-235(H), a finding of suitability for a Social Equity Licensee will be valid for two years from the date of approval. This rule applies to all findings of suitability that are currently valid. Social Equity Licensees with a currently valid finding of suitability will be notified by MED that their finding of suitability expiration has been extended in accordance with the revised rule.

Occupational Safety for Remediating Concentrates:

Revised Rule 5-315(D)(10) and revised Rule 6-315(D)(10) requires that Regulated Marijuana Manufacturing Facilities that are engaged in remediation of regulated marijuana for microbial contamination must implement procedures that include, but are not limited to, providing any employee engaged in this type of remediation with gloves, safety glasses, and respirators. These requirements closely align with existing requirements of manufacturing facilities engaged in the remediation of regulated marijuana that failed elemental impurity testing. Licensees must train their employees on the standard operating procedures addressing microbial contamination remediation. Additional requirements can be found in Rules 5-315 and 6-315.

Security Plans Required:

Rule 3-905 requires that licensees establish and maintain internal security controls that include a security plan for each licensed premises that includes, at a minimum:

- Protocols for end-of-day handling of Regulated Marijuana and cash;
- Protocols for reporting theft or burglaries when they are discovered;
- Protocols for reconciling inventory after a theft or burglary has been discovered;
- Identification of exterior lighting, camera angles, and maintenance of the lighting and camera angles; and
- Identification of ingress and egress routes for the property and access control measures, such as speed bumps and gates, taken outside the Licensed Premises.

Licensees may consider and include other measures in their internal security controls.

Patient Documentation Clarification:

Revised Rule 5-110 clarifies documentation requirements for Medical Marijuana Stores that have been designated as a patient's primary store. The revised rule specifically clarifies that a Medical Marijuana Store that is designated as a patient's primary store must maintain both the physician certification required

under Title 25 and, if the patient is authorized to purchase Medical Marijuana in excess of the statutory daily limits, the patient's uniform certification form required under Title 44. Patients can find their physician certification forms using the following resources (provided by the Department of Public Health and Environment Medical Marijuana Registry team):

- Patients can find their most recent physician certification in their online account.
- A patient's recommending health care provider is also required to give the patient a copy of their physician certification.
- If patients need help finding their physician certification in their account or getting access to their online account, they can contact the Registry's customer support team at medical.marijuana@state.co.us or 303-692-2184 Monday - Friday from 9 a.m. until 4 p.m.

For assistance with any questions about the uniform certification form, please use the MED [Inquiry Form](#).

Reduced Testing Allowance Clarification:

Please note that under revised Rules 4-120(B)(1) and 4-120(B)(2), MED has clarified that when a licensee is seeking to obtain Reduced Testing Allowance, the testing period under these subparagraphs begins from the date of creation of the first Harvest Batch or Production Batch that passed testing.