COLORADO
Department of Revenue
Marijuana Enforcement Division

December 23, 2022

INDUSTRY BULLETIN: 22-08

RE: Implementation of Rule Changes

Dear Stakeholders:

This bulletin is intended to provide continued guidance on certain rule changes that will be effective January 1, 2023. This Bulletin is a follow-up to a previous new rules bulletin issued in November 2022.

Pesticide Testing – New Pesticides and New Action Limits:

As of January 1, 2023, the action limits for some of the pesticides currently required for testing will change. Please see MED Rule 4-115(D)(5)(a) for the updated pesticide action limits.

- If a Harvest Batch or Production Batch fails pesticide contaminant testing prior to January 1, 2023, it may be retested in accordance with MED Rule 4-135. Retesting should use the action limits that are in effect at the time the retest is performed.

Additional pesticide testing requirements will be phased in under MED Rule 4-115(D)(5)(b) and (c) on July 1, 2023 and July 1, 2024.

Please note, Rule 4-115(D)(5) was also updated to expressly include Industrial Hemp Product as a product required to be tested for pesticides.

Redesignation of Medical Marijuana as Retail Marijuana:

Under SB 22-178, effective January 1, 2023, a Medical Marijuana Cultivation Facility may transfer Medical Marijuana to a Retail Marijuana Cultivation Facility for the purpose of redesignating the Medical Marijuana as Retail Marijuana in accordance with revised Rules 5-235, 6-230, and 6-730. The Rules implement statutory requirements including, but not limited to: which licensees are permitted to transfer and redesignate Medical Marijuana, the requirements for these transfers, and the obligation to notify the local licensing authority and pay applicable excise taxes. The manner and requirements for local licensing authority notification will be determined by each local licensing authority where this is permitted. Licensees using this allowance will need to determine the notice requirements from their local licensing authority where the transfer occurs. Please refer to Rules 5-235(B), 6-230(B), and 6-730(B) for the requirements and restrictions on these transfers. For state reporting requirements, these transfers must be reported in the inventory tracking system using the same process as reporting other business to business transfers.

Concentrate Serving Size & Instructions Labeling Requirements:

In accordance with HB21-1317, if a Regulated Marijuana Concentrate that is an Inhaled Product cannot easily be measured to comply with the recommended serving size requirement, the Regulated Marijuana Products Manufacturer that manufacturers the Regulated Marijuana Concentrate must:

- Affix a measuring device on the Container of Regulated Marijuana Concentrate that permits the patient or consumer to measure each serving in a manner consistent with the recommended serving established under Rule 3-335(D); or
- Include a label on the Container of Regulated Marijuana Concentrate that provides instructions to allow the patient or consumer to measure each recommended serving pursuant to Rule 3-335(D).

In general, most concentrates that are intended to be inhaled in a manner other than a Vaporizer Delivery Device, including but not limited to terms like shatter, wax, butter, sugar, hash, resin, and rosin, will be subject to the requirements in 3-1015(B)(2)(c) and require either a measuring device be affixed to the container or information provided on the label that allows the patient or consumer to measure the recommended serving size.

Further, MED has received inquiries related to how to find and/or re-create the recommended Regulated Marijuana Concentrate serving size illustration in Rule 3-335(D)(3)(d)(ii). This sphere can be found on the tangible educational resource required to be provided to a patient and consumer when purchasing Regulated Marijuana Concentrate and was created using Microsoft Word's "Calibri" font, size 54.