

## Rule Revisions 12/13/2021

MAR Notice 42-1033

### New Rule I – LICENSE, APPLICATION AND RENEWAL FEES

(1)(f) Manufacturer license:

- (i) \$5,000 for each manufacturing facility that produces, on a monthly basis, less than ten pounds of concentrate;
- (ii) \$10,000 for each manufacturing facility that produces, on a monthly basis, between ten pounds of concentrate and 15 pounds of concentrate;
- (iii) \$20,000 for each manufacturing facility that produces, on a monthly basis, 15 pounds of concentrate

#### **Revision:**

**Added: (iv) any licensee that produces, on a monthly basis, more than 15 pounds of concentrate, shall pay an additional \$1,000 per pound.**

#### **Rationale:**

Section 16-12-204 allows the Department to create additional fee levels as necessary for marijuana manufacturers. This committee has expressed its concern that the Department's proposed rule did not adequately capture licensing fees for manufacturers that produce 15 pounds or more of concentrate per month, and proposed the above amendment to New Rule I.

### New Rule III – MARIJUANA CULTIVATOR LICENSE

(1) A marijuana cultivator licensee allows a marijuana cultivator to plant, cultivate, grow, dry, package and label marijuana and sell marijuana to licensed marijuana manufacturers, licensed dispensaries, and to other licensed dispensaries, and to sell marijuana products to licensed dispensaries.

#### **Revision:**

**(1) A marijuana cultivator licensee allows a marijuana cultivator to plant, cultivate, grow, dry, package and label marijuana and sell marijuana to licensed marijuana manufacturers, licensed dispensaries, and to other licensed dispensaries, and to sell marijuana products to licensed dispensaries. *Marijuana cultivator licensees may not sell marijuana flower to other marijuana cultivator licensees.***

#### **Rationale:**

At the December 9, 2021 meeting of the Economic Affairs Interim Committee, this committee expressed concerns with the Department’s proposed rule purportedly allowing for marijuana cultivator licensees to become brokers of marijuana. The committee further expressed that while it is not concerned with cultivators selling marijuana seeds or marijuana plants to other cultivator licensees, it was not the legislative intent to allow cultivators to sell marijuana flower to other licensees.

### New Rule III – MARIJUANA CULTIVATOR LICENSE

In response to public comment, the Department struck the following provision from New Rule III concerning Marijuana Cultivator Licenses:

(5) A former medical marijuana licensee who engaged in outdoor cultivation before November 3, 2020, may continue to engage in outdoor cultivation but may not expand their existing outdoor cultivation space.

#### **Revision:**

**The Department has reinstated this provision.**

#### **Rationale:**

Section 16-12-223(6) provides that “a former medical marijuana licensee who engaged in outdoor cultivation before November 3, 2020, may continue to engage in outdoor cultivation.” The statute is silent on whether an outdoor cultivator can tier up. The Department struck the prohibition in response to public comment and informed this committee that it intended to allow outdoor cultivators to increase their tier size at their existing locations. At the December 9, 2021 EAIC meeting, this committee stated that it was legislative intent to prohibit outdoor cultivators from tiering up.

### New Rule VI – COMBINED USE LICENSES

(3) A combined use licensee is subject to the marijuana laws.

#### **Revision:**

**(3) A combined use licensee is subject to the marijuana laws, *including 16-12-223, MCA.***

#### **Rationale:**

Based on concerns expressed by this committee regarding the scope of a combined use license, the Department amended New Rule VI to clarify that a combined use licensee is subject to 16-12-223, MCA, which is the statutory provision concerning the licensing of marijuana cultivators.

## New Rules X through XIV – LABELING

In response to public comment, the Department proposed allowing licensees to label their products as either “marijuana” or “cannabis.”

### **Revision:**

**All references to allowing the use of “cannabis” under the labeling rules have been removed.**

### **Rationale:**

This committee expressed its concern that allowing for the use of “cannabis” might not have the desired deterrent effect with children who don’t know what cannabis is, whereas the use of “marijuana” will be more readily understood.

## MAR Notice 42-1040

*No changes*

## MAR Notice 42-1042

### 42.39.117 - DENIAL OF REGISTRY IDENTIFICATION CARD APPLICATION OR REVOCATION OF REGISTRY IDENTIFICATION CARD

In response to public comment and because of the difficulty in enforcing the provision once adult use marijuana is available, the Department struck the following provision from 42.39.117:

(1)(j) the cardholder violates the daily possession or purchase limitations contained in 16-12-515, MCA

### **Revision:**

**The Department has reinstated the provision and added “monthly” to the purchase limitation language.**

### **Rationale:**

At its December 9, 2021 meeting, this committee expressed concerns with removing this language.

## 42.39.310 – WASTE MANAGEMENT

(8) A licensee must maintain accurate and comprehensive records regarding waste material in the seed-to-sale tracking system that accounts for, reconciles, and evidences all waste activity related to the disposal of marijuana to include:

- (a) what was disposed;
- (b) quantity by weight or volume;
- (c) date disposed;
- (d) reason for the disposal.

**Revision:**

**Added:**

*video evidence of disposal to be retained for 30 days*

**Rationale:**

This committee expressed general concerns at the December 9, 2021 committee meeting regarding the Department's proposed changes to the Administrative Rule governing the disposal of marijuana waste. Based on subsequent conversations, the Department understands that the additional language addresses this committee's concerns.

42.39.311 – REPORTING REQUIREMENTS

In response to public comment, the Department revised the following provision (removed language interlined, new language underlined):

(5) A licensee who intends to make any material or substantial changes to the licensed premises must ~~submit~~ notify the department of the proposed ~~the changes to the department for approval prior to making any such changes.~~ Material or substantial changes include:

**Revision:**

**(5) A licensee who intends to make any material or substantial changes to the licensed premises must submit the changes to the department for approval prior to making any such changes. Material or substantial changes include:**

**Rationale:**

This committee informed the Department at the December 9, 2021 meeting that it wanted the provision restored to its original form so that licensees did not undertake changes to their licensed premises only to have the Department disapprove of the changes.