

## PROPOSED NEW RULE- IMPLEMENTING HB 21-1301

(The same rule would appear in the Retail Marijuana Cultivation Rule Series as well)

### Medical Marijuana Cultivation Facility: Contingency Plan for Outdoor Cultivation

#### A. Submission of Contingency Plan.

1. Beginning January 1, 2022, Medical Marijuana Cultivation Facility licensees that plan to cultivate Medical Marijuana outdoors may submit a contingency plan to the Division for approval in anticipation of an Adverse Weather Event. The Medical Marijuana Cultivation Facility shall also submit a copy of the plan to the Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Regulated Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premises storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction

2. A Medical Marijuana Cultivation Facility may submit a contingency plan at any time, but it must be filed at least 7 days prior to taking action pursuant to the contingency plan and must be approved by the State Licensing Authority prior to taking action pursuant to the contingency plan.

3. After initial submission of a contingency plan, a contingency plan must be submitted with the Medical Marijuana Cultivation Facility's license renewal application. Any material change to a contingency plan prior to a renewal application must be submitted for review and approval pursuant to subsection (A)(2) above prior to taking action pursuant to the revised contingency plan.

4. The Division shall notify the appropriate Local Licensing Authorities of the approval of the contingency plan.

#### B. Requirements for Outdoor Contingency Plans.

1. Notification. Notification of action pursuant to an approved contingency plan shall be made to the Division within 24 hours of initiating action pursuant to a contingency plan. Notification shall be made in writing and can be made by email. A Medical Marijuana Cultivation Facility that cultivates outdoors must also notify the Local Licensing Authority in the local jurisdiction where the licensee operates, and if Transferring Regulated Marijuana to the Licensed Premises of a Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or an off-premise storage facility outside of that jurisdiction, the Local Licensing Authority in that jurisdiction.

2. Primary contact. A primary contact for the Medical Marijuana Cultivation Facility must be identified on the contingency plan including: name, title, phone, and email address. The Medical Marijuana Cultivation Facility shall notify the Division of any

change to the primary contact or required contact information within 48 hours of the change.

3. Transport Manifest. If the contingency plan provides for the Transfer of Regulated Marijuana, a Medical Marijuana Cultivation Facility shall submit a transport manifest to document the proposed Transfer in the event of an Adverse Weather Event. That transport manifest along with the Division's documentation approving the contingency plan may be used for purposes of proof of approved Transfer pursuant to the contingency plan. Medical Marijuana shall be Transferred in the Inventory Tracking System within 48 hours of the physical Transfer of the Medical Marijuana pursuant to a contingency plan.

4. Disclosure of Receiving Licensed Premises.

a. Regulated Marijuana may only be transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or an off-premises storage facility.

b. If Regulated Marijuana will be Transferred to the Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or an off-premises storage pursuant to a contingency plan, that plan must include the name, ownership, and address of the receiving Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility, and/or off-premises storage facility, along with a diagram of the proposed receiving Licensed Premises.

c. The receiving Licensed Premises shall be an existing location that already has an approved state and local license or an off-premises storage permit. The receiving Licensee is not required to share any Controlling Beneficial Owners with the Transferring Medical Marijuana Cultivation Facility.

d. A Medical Marijuana Cultivation Facility that cultivates outdoors may identify and Transfer Medical Marijuana to no more than three receiving Licensed Premises' as part of a contingency plan.

5. Production Management. Regulated Marijuana Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility pursuant to a contingency plan is not included in the receiving Licensed Premises' inventory limit unless and until ownership of the Regulated Marijuana is Transferred from the Medical Marijuana Cultivation Facility that cultivated outdoors to the receiving Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility or off-premises storage facility.

6. Modification of Premises. An application for a modification of a Licensed Premises is not required as part of a contingency plan unless the modification or change

in premises becomes a permanent modification. If that change becomes a permanent change, a modification of premise application must be submitted within 14 days.

7. Security Requirements. All security and surveillance requirements that apply to a Medical Marijuana Cultivation Facility apply to activities conducted pursuant to the contingency plan. If the contingency plan does not require the Transfer of Regulated Marijuana to another Licensed Premises, but requires plants to be covered or video surveillance to be otherwise temporarily obstructed, exemptions to the video surveillance requirements in 3-225 (C)(1), 3-225 (C)(5) and 3-225 (C)(6) may be approved as part of the contingency plan.

8. Inventory Tracking Requirements.

a. Licensees must use the Inventory Tracking System to ensure Regulated Marijuana is identified and tracked during all times that action is being taken pursuant to a contingency plan and if Regulated Marijuana is Transferred to another Regulated Marijuana Business, See Rule 3-805 and 3-810 – Inventory Tracking System. The Inventory Tracking System must be fully reconciled within 48 hours of initiating action pursuant to the contingency plan.

b. Harvest Requirements. If Regulated Marijuana is harvested and Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility, the Inventory Tracking System must be fully reconciled within 48 hours of harvest pursuant to the contingency plan. For harvests completed pursuant to a contingency plan, the weight of Regulated Marijuana can be captured on a per harvest level and equally applied to individual plants rather than requiring the initial wet weight of each plant. This initial harvest weight may be captured at a receiving Licensed Premises of another cultivation and/or off-premises storage facility upon arrival at the Licensed Premises approved as part of the contingency.

c. Separation. If Regulated Marijuana is Transferred to a receiving Licensed Premises of another Medical Marijuana Cultivation Facility, Retail Marijuana Cultivation Facility and/or off-premises storage facility that inventory must be virtually separated by Harvest Batch and must also be virtually and physically separated from the receiving Licensee's inventory. The Harvest Batches must also be clearly labeled at the receiving Licensed Premises.

9. Finishing Product. After Transferring Regulated Marijuana to another Licensed Premises, a Medical Marijuana Cultivation Facility may finish that harvest at the receiving Licensed Premises if all Regulated Marijuana is accounted for in the Inventory Tracking System and the license is in compliance with all surveillance requirements.

10. Testing. Regardless of action pursuant to a contingency plan, the originating Licensee acting pursuant to a contingency plan is responsible for and must still comply with all required testing.