

August 8, 2017

**INDUSTRY-WIDE BULLETIN: 17-06**

**RE: Failed Microbial Contaminant Testing**

Dear Marijuana Industry Stakeholders:

As a result of Senate Bill 17-192 that passed this last legislative session, 12-43.4-202(3)(a)(IV)(C), C.R.S. was updated to include the following language addressing a failed microbial contaminant test:

*" The state licensing authority shall give the licensee an opportunity to RETEST THE PRODUCT AND IF THE SECOND TEST ALSO INDICATES THE PRESENCE OF QUANTITIES OF ANY SUBSTANCE DETERMINED TO BE INJURIOUS TO HEALTH THEN THE LICENSEE CAN remediate the product if the test indicated the presence of a microbial. IF TWO ADDITIONAL TESTS DO NOT INDICATE THE PRESENCE OF QUANTITIES OF ANY SUBSTANCE DETERMINED TO BE INJURIOUS TO HEALTH, THE PRODUCT MAY BE USED OR SOLD BY THE LICENSEE. "*

The effective date of the bill is Wednesday, August 9, 2017. Since the statutory language is effective prior to the official rulemaking process commencing, this Industry Bulletin will serve as interim guidance until Rule R 1507(B.1), 1 CCR 212-2 can be updated to align with statute.

As of August 9, 2017, licensees that fail a contaminant test, or are in possession of Retail Marijuana that previously failed a contaminant test, due to the presence of a microbial may create two new Test Batches, each containing the requisite number of Samples, and have those Test Batches tested for the identified contaminant by the same (or different) Retail Marijuana Testing Facility.

- If both new Test Batches pass the microbial contaminant testing, then any Retail Marijuana from any package or Harvest Batch included in that Test Batch may be sold, wholesaled, transferred, or processed into Retail Marijuana Concentrate or Retail Marijuana Product.
- If one or both of the Test Batches do not pass contaminant testing, the Retail Marijuana Cultivation Facility may transfer all packages or Harvest Batches associated with the failed Test Batch to a Retail Marijuana Products Manufacturing Facility for processing of the failed Retail Marijuana into a Solvent-Based Retail Marijuana Concentrate.
  - The Solvent-Based Retail Marijuana Concentrate shall be manufactured entirely from the Retail Marijuana flower or trim that failed microbial testing. No other Retail Marijuana shall be included in the Solvent-Based Retail Marijuana Concentrate.
  - The Solvent-Based Retail Marijuana Concentrate that was manufactured out of the Retail Marijuana flower or trim that failed microbial testing shall undergo all required testing for contaminants and potency pursuant to Rules R 1501 and R 1503, 1 CCR 212-2, and any other testing required or sanctioned by the Retail Marijuana Code, §§ 12-43.4-101 *et. seq.*, C.R.S. ("Retail Code"), or the Rules promulgated pursuant to the Retail Code, 1 CCR 212-2.



**COLORADO**  
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- If the Solvent-Based Retail Marijuana Concentrate that was manufactured out of the contaminated Retail Marijuana flower or trim, in turn fails contaminant testing, the Retail Marijuana Cultivation Facility shall destroy and document the destruction of the entire portion of the Production Batch(es) associated with the Solvent-Based Retail Marijuana Concentrate that failed contaminant testing (see Rule R 307, 1 CCR 212-2).

A handwritten signature in black ink, appearing to read 'James Burack', written over a horizontal line.

James Burack  
Director  
Marijuana Enforcement Division