

NOTICE OF EXEMPT RULEMAKING
TITLE 9. HEALTH SERVICES
CHAPTER 18. DEPARTMENT OF HEALTH SERVICES
ADULT-USE MARIJUANA PROGRAM

PREAMBLE

1. Permission to proceed with the exempt rulemaking was granted under A.R.S. § 41-1039 by the Governor on:

June 9, 2023

2. Article, Part or Sections Affected (as applicable) Rulemaking Action

R9-18-102	Amend
R9-18-202	Amend
R9-18-205	Amend
R9-18-303	Amend
R9-18-308	Amend
R9-18-310	Amend
R9-18-312	Amend
R9-18-312.01	New Section
R9-18-314	Amend
R9-18-401	Amend
R9-18-408	Amend

3. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific) and the statute or session law authorizing the exemption:

Authorizing statutes: A.R.S. §§ 36-136(G) and 36-2854

Implementing statutes: A.R.S. §§ 36-2854, 36-2858, 36-2862, and 36-2865

Statute or session law authorizing the exemption: Proposition 207, § 8

4. The effective date of the rule and the agency’s reason it selected the effective date:

November 1, 2024

This delayed effective date will give the Department time to notify stakeholders of the new rules and regulated entities sufficient time to make any operational changes necessary to implement the new rules.

5. Citations to all related notices published in the Register as specified in R9-1-409(A) that

pertain to the record of the exempt rulemaking:

Notice of Public Information: 29 A.A.R. 2171, September 15, 2023

Notice of Exempt Rulemaking: 29 A.A.R. 2453, October 13, 2023

Notice of Exempt Rulemaking: 29 A.A.R. 3532, November 10, 2023

6. The agency's contact person who can answer questions about the rulemaking:

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or

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7. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:

As part of the election in November 2020, voters approved Proposition 207, establishing Arizona Revised Statutes (A.R.S.) Title 36, Chapter 28.2, relating to “the responsible adult use, regulation and taxation of marijuana.” A.R.S. § 36-2854 requires the Arizona Department of Health Services (Department) to adopt rules to implement and enforce A.R.S. Title 36, Chapter 28.2, regulating “marijuana, marijuana products, marijuana establishments and marijuana testing facilities.” A.R.S. § 36-2855 requires marijuana facility agents to be registered with the Department. A.R.S. § 36-2854(D) requires the Department to adopt rules to permit and regulate delivery by marijuana establishments to consumers no later than January 1, 2025. In this rulemaking, the Department is complying with this statutory requirement by making changes in 9 A.A.C. 18. Because the statute

requires dual licensees to comply with the same requirements, corresponding changes will also be made in 9 A.A.C. 17 through a separate rulemaking. Pursuant to Proposition 207, the Department is exempt from the rulemaking requirement of A.R.S. Title 41, Chapters 6 and 6.1 for 60 months after the effective date of the law.

8. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Department did not rely on any study in making these changes to the rules.

9. A showing of good cause why the rule is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

10. The summary of the economic, small business, and consumer impact, if applicable:

Not applicable

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

Not applicable

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

A marijuana facility agent license, issued according to A.R.S. § 36-2855, is a general permit. A marijuana establishment license or marijuana testing facility license, issued according to A.R.S. § 36-2854, is specific to the license holder, location, and scope of services provided. As such, a general permit is not applicable and is not used.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of the federal law:

Not applicable

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable

13. A list of any incorporated by reference material and its location in the rules:

Not applicable

14. Whether this rule previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

The rule was not previously made, amended, repealed, or renumbered as an emergency rule.

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES
CHAPTER 18. DEPARTMENT OF HEALTH SERVICES
ADULT-USE MARIJUANA PROGRAM

ARTICLE 1. GENERAL

Section

R9-18-102. Fees

ARTICLE 2. MARIJUANA FACILITY AGENTS

Section

R9-18-202. Application to Renew a Marijuana Facility Agent License

R9-18-205. Denial, Suspension, or Revocation of a Marijuana Facility Agent License

ARTICLE 3. MARIJUANA ESTABLISHMENTS

Section

R9-18-303. Applying for an Initial Marijuana Establishment License

R9-18-308. Administration

R9-18-310. Product Labeling and Packaging

R9-18-312. Security

R9-18-312.01 Delivery to Consumers

R9-18-314. Inventory Control System

ARTICLE 4. MARIJUANA TESTING FACILITIES

Section

R9-18-401. Owner and Laboratory Agents Acting as Marijuana Facility Agents

R9-18-408. Method Criteria and References for Laboratory Analyses

ARTICLE 1. GENERAL

R9-18-102. Fees

- A.** An applicant submitting an application to the Department shall submit the following nonrefundable fees:
1. Except as specified in subsection (B), for a marijuana facility agent license:
 - a. For an initial license for an applicant submitting the applicant's fingerprints on a fingerprint card, \$300;
 - b. For renewal of a license for an applicant submitting the applicant's fingerprints on a fingerprint card, \$300;
 - c. For an initial license for an applicant submitting a copy of the applicant's current level 1 fingerprint clearance card issued pursuant to A.R.S. § 41-1758.07, \$150; and
 - d. For renewal of a license for an applicant submitting a copy of the applicant's current level 1 fingerprint clearance card issued pursuant to A.R.S. § 41-1758.07, \$150;
 2. For changing information on a marijuana facility agent's license, \$10;
 3. For requesting a replacement marijuana facility agent license, \$10;
 4. For a marijuana establishment license:
 - a. An application fee for an initial license, \$25,000; and
 - b. A license fee for license renewal, \$5,000;
 5. For applying for an approval to operate a marijuana establishment, \$2,500;
 6. To change the location of a marijuana establishment's retail site, cultivation site, or manufacturing site, \$2,500;
 7. To add a cultivation site or manufacturing site for a marijuana establishment, \$2,500;
 8. To change or add to the approved activities for a marijuana establishment's retail site, cultivation site, or manufacturing site, \$2,500; and
 9. For a marijuana testing facility license:
 - a. For an initial license, \$25,000; and
 - b. For license renewal, \$5,000.
- B.** An applicant for an initial marijuana facility agent license is not required to submit the applicable fee in subsection (A)(1) if the applicant, as part of the application packet in R9-18-201, submits an attestation that the applicant meets the criteria for waiver of licensing fees in A.R.S. § 41-1080.01.

ARTICLE 2. MARIJUANA FACILITY AGENTS

R9-18-202. Application to Renew a Marijuana Facility Agent License

To renew a license as a marijuana facility agent, an applicant shall submit to the Department, at least 30 calendar days before the expiration of the license as a marijuana facility agent and in a Department-provided format:

1. The applicant's license number on the marijuana facility agent license;
2. A current photograph of the applicant;
3. For the Department's criminal records check authorized in A.R.S. § 36-2855(B)(2):
 - a. The applicant's fingerprints on a fingerprint card that includes:
 - i. The applicant's first name; middle initial, if applicable; and last name;
 - ii. The applicant's signature;
 - iii. If different from the applicant, the signature of another individual physically rolling the applicant's fingerprints;
 - iv. The applicant's address;
 - v. If applicable, the applicant's surname before marriage and any names previously used by the applicant;
 - vi. The applicant's date of birth;
 - vii. The applicant's Social Security number;
 - viii. The applicant's citizenship status;
 - ix. The applicant's gender;
 - x. The applicant's race;
 - xi. The applicant's height;
 - xii. The applicant's weight;
 - xiii. The applicant's hair color;
 - xiv. The applicant's eye color; and
 - xv. The applicant's place of birth; ~~or~~
 - b. If the applicant's fingerprints and information required in subsection (3)(a) were submitted to the Department as part of an application for a designated caregiver registry identification card, dispensary agent registry identification card, or laboratory agent registry identification card, within the previous six months, the registry identification number on the registry identification card issued to the applicant as a result of the application; or
 - c. Documentation that the applicant has a valid level I fingerprint clearance card issued according to A.R.S. § 41-1758.07;

4. An attestation that the applicant has not been convicted of an excluded felony offense;
5. An attestation that the information provided in the application is true and correct; and
6. The applicable fee in R9-18-102 for renewal of a license as a marijuana facility agent.

R9-18-205. Denial, Suspension, or Revocation of a Marijuana Facility Agent License

- A.** The Department shall deny an application for or renewal of a marijuana facility agent license if a marijuana facility agent does not meet the definition “marijuana facility agent” in A.R.S. § 36-2850.
- B.** The Department may deny an application for or renewal of a license of a marijuana facility agent if the marijuana facility agent:
1. Previously had a registry identification card revoked for not complying with A.R.S. Title 36, Chapter 28.1 or 9 A.A.C. 17;
 2. Previously had a marijuana facility agent license revoked for not complying with A.R.S. Title 36, Chapter 28.2 or this Chapter; or
 3. Provides false or misleading information to the Department.
- C.** The Department may suspend or revoke the license of a marijuana facility agent and may assess a civil penalty if the marijuana facility agent:
1. Diverts marijuana to an individual who or entity that is not allowed to possess marijuana, pursuant to A.R.S. Title 36, Chapter 28.1 or 28.2;
 2. Has been convicted of an excluded felony offense;
 3. Provides false or misleading information to the Department; or
 4. Knowingly violates:
 - a. A.R.S. Title 36, Chapter 28.2, or this Chapter; or
 - b. A.R.S. Title 36, Chapter 28.1, or 9 A.A.C.17, if the marijuana facility agent is also acting as a dispensary agent for a dual licensee under A.R.S. § 36-2855(E).
- D.** If the Department denies, suspends, or revokes the license of a marijuana facility agent, the Department shall provide notice to a marijuana facility agent that includes:
1. The specific reason or reasons for the denial, suspension, or revocation; and
 2. The process for requesting a review of the Department’s decision pursuant to A.R.S. Title 41, Chapter 6, Article 10.

ARTICLE 3. MARIJUANA ESTABLISHMENTS

R9-18-303. Applying for an Initial Marijuana Establishment License

- A.** To apply for an initial marijuana establishment license, an applicant shall electronically submit to the Department, during the application period specified according to R9-18-302(A)(1):
1. The following information in a Department-provided format:
 - a. The legal name of the proposed marijuana establishment;
 - b. The physical address of the proposed marijuana establishment's retail site;
 - c. The county in which the proposed marijuana establishment's retail site is located;
 - d. The following information for the applicant:
 - i. Name of the entity applying,
 - ii. Type of business organization,
 - iii. Arizona mailing address,
 - iv. Telephone number, and
 - v. E-mail address;
 - e. The name, residence address, and date of birth of each principal officer and each board member, according to R9-18-301;
 - f. The name, residence address, and, if applicable, date of birth of any person who is entitled to 10% or more of the profits of the proposed marijuana establishment;
 - g. Whether the applicant agrees to allow the Department to submit supplemental requests for information;
 - h. An attestation that, if the applicant is issued a marijuana establishment license, the proposed marijuana establishment will not operate until the proposed marijuana establishment is inspected and obtains an approval to operate from the Department;
 - i. An attestation that the applicant understands and will comply with the requirements in A.R.S. Title 36, Chapter 28.2, and this Chapter;
 - j. An attestation that information provided to the Department to apply for a marijuana establishment license is true and correct; and
 - k. The signatures of each principal officer and each board member of the proposed marijuana establishment according to R9-18-301 and the date signed;
 2. Documentation that the applicant is in good standing with the Arizona Corporation Commission;

3. For each principal officer and each board member listed according to subsection (A)(1)(e), documentation of the principal officer's or board member's marijuana facility agent license;
 4. An attestation, in a Department-provided format, from each principal officer and each board member listed according to subsection (A)(1)(e) that the principal officer or board member:
 - a. Does not have an excluded felony offense, as defined in A.R.S. § 36-2801;
 - b. Does not have a direct or indirect familial or financial relationship with a marijuana testing facility; and
 - c. Has not had an ownership interest in a licensed marijuana business that had the license revoked in another state;
 5. The application fee in ~~R9-18-102(C)~~ R9-18-102 for a marijuana establishment license.
- B.** An applicant shall ensure that no principal officer or board member of the applying entity is a principal officer or board member on more than four other marijuana establishment license applications, for a total of no more than five marijuana establishment license applications, submitted according to subsection (A).
- C.** Before an entity with a marijuana establishment license begins operating a marijuana establishment, the entity shall apply for and obtain an approval to operate a marijuana establishment from the Department.

R9-18-308. Administration

- A.** A marijuana establishment shall:
1. Ensure that the marijuana establishment's retail site is operating and available to provide marijuana and marijuana products to consumers:
 - a. At least 30 hours weekly between the hours of 7:00 a.m. and 10:00 p.m.; and
 - b. Within 18 months after receiving the marijuana establishment license;
 2. Develop, document, and implement policies and procedures regarding:
 - a. Job descriptions and employment contracts, including:
 - i. Personnel duties, authority, responsibilities, and qualifications; and
 - ii. Supervision;
 - b. Training of marijuana facility agents, including the requirements of A.R.S. Title 36, Chapter 28.2, and this Chapter;
 - c. Inventory control, including:
 - i. Tracking,
 - ii. Packaging,

- iii. Acquiring marijuana or marijuana products from a dispensary or another marijuana establishment, and
 - iv. Providing marijuana or marijuana products to another marijuana establishment or a dispensary;
- d. Laboratory testing, including:
 - i. The analytes, including possible contaminants, to be tested for;
 - ii. The process for separating a batch of marijuana or of a marijuana product until laboratory testing has been completed and testing results received by the marijuana establishment, as specified in R9-18-311(B)(1);
 - iii. The process for collecting samples of marijuana or a marijuana product for laboratory testing, according to R9-18-311(B)(2), including:
 - (1) The amount to be collected from each batch,
 - (2) The method for ensuring that a sample collected is representative of the batch,
 - (3) The packaging of the sample,
 - (4) The method for documenting chain of custody for the sample, and
 - (5) Methods to deter tampering with the sample and to determine whether tampering has occurred;
 - iv. The process for specifying the analytes to be tested for, consistent with R9-18-311(A), and either:
 - (1) Providing samples of marijuana or marijuana products to a marijuana testing facility for testing, or
 - (2) Allowing a marijuana facility agent associated with a marijuana testing facility access to marijuana or marijuana product to collect samples;
 - v. The process for requesting retesting of the remaining portion of a sample of marijuana or a marijuana product; and
 - vi. Actions to be taken on the basis of laboratory testing results;
- e. Remediation, including:
 - i. Criteria for when a batch of marijuana or marijuana product can be remediated;

- ii. The process by which each type of marijuana or marijuana product is remediated, including the methods for remediation and subsequent retesting; and
- iii. Documentation of the remediation process;
- f. Disposal of marijuana or a marijuana product, including:
 - i. Destroying a batch of marijuana or a marijuana product that does not meet the requirements in Table 3.1 and documenting the destruction;
 - ii. Submitting marijuana that is not usable marijuana, as defined in A.R.S. § 36-2801, to a local law enforcement agency and documenting the submission; or
 - iii. Otherwise disposing of marijuana or a marijuana product such that the marijuana or marijuana product is unrecognizable or cannot otherwise be used and documenting the method of disposal, the marijuana facility agent overseeing the disposal, and the date of disposal;
- g. For a marijuana establishment that received the marijuana establishment license under A.R.S. § 36-2854(A)(1)(f), how the marijuana establishment will provide a benefit to one or more communities disproportionately affected by the enforcement of Arizona’s previous marijuana laws, such as through:
 - i. Specific hiring or interning practices; or
 - ii. Donation of a percentage of gross profits to one or more non-profit, community-based organizations, not affiliated directly or indirectly with the marijuana establishment, that focus on social or health inequities in a community; ~~and~~
- h. Advertising that complies with the requirements in A.R.S. § 36-2859;
- i. Labeling of marijuana or a marijuana product provided by the marijuana establishment’s retail site to a consumer, consistent with subsection (A)(13) and R9-18-310(A)(2); and
- j. If applicable, delivery to a consumer, including:
 - i. The process for taking an order from a consumer for delivery of marijuana, marijuana plants, or marijuana products;
 - ii. Ensuring that only marijuana facility agents associated with the marijuana establishment transport marijuana, marijuana plants, or marijuana products for delivery to a consumer;

- iii. What to do if a vehicle transporting marijuana, marijuana plants, or marijuana products for delivery to a consumer breaks down or is in a traffic accident;
 - iv. How to update a trip plan, as required in R9-18-312(F)(1), if the wrong item is delivered, the marijuana facility agent cannot verify that an individual wanting to accept delivery is the ordering consumer and eligible to receive delivery, or any other event occurs that may require a change to the trip plan; and
 - v. Requiring the marijuana facility agent transporting marijuana, marijuana plants, or marijuana products for delivery to a consumer to return to the marijuana establishment's retail site if any marijuana, marijuana plants, or marijuana products remain in the vehicle at the completion of the trip plan specified according to R9-18-312(D)(1);
3. Maintain copies of the policies and procedures at the marijuana establishment's retail site and provide copies to the Department for review upon request;
 4. Maintain at the marijuana establishment current and valid documentation of any certificate or permit issued by a local jurisdiction related to the operation of the marijuana establishment and provide copies to the Department for review upon request;
 5. Review marijuana establishment policies and procedures at least once every 12 months from the issue date of the marijuana establishment license and update as needed;
 6. Ensure that all principal officers, board members, employees and volunteers providing services for the marijuana establishment maintain valid marijuana facility agent licenses with the Department and that the marijuana facility agent licenses are linked to the marijuana establishment through the Department's electronic system;
 7. Ensure that no principal officer or board member:
 - a. Has a direct or indirect familial or financial relationship with a marijuana testing facility, or
 - b. Had or has an ownership interest in a licensed marijuana business that had the license revoked in another state;
 8. Ensure that each marijuana facility agent has the marijuana facility agent's license in the marijuana facility agent's immediate possession when the marijuana facility agent is:
 - a. Working or providing volunteer services at the marijuana establishment's retail site or the marijuana establishment's cultivation site or manufacturing site, or
 - b. Transporting marijuana for the marijuana establishment;

9. Not allow an individual who does not possess a marijuana facility agent license or who does not meet the requirements in A.R.S. § 36-2855(E) to:
 - a. Serve as a principal officer or board member for the marijuana establishment,
 - b. Be employed by the marijuana establishment, or
 - c. Provide volunteer services at or on behalf of the marijuana establishment;
10. Provide written notice to the Department, including the date of the event, within 10 working days after the date, when a marijuana facility agent no longer:
 - a. Serves as a principal officer or board member for the marijuana establishment,
 - b. Is employed by the marijuana establishment, or
 - c. Provides volunteer services at or on behalf of the marijuana establishment;
11. Provide written notice, in a Department-provided format, to the Department, including the date of the event, within 10 working days after the date that the marijuana establishment:
 - a. Ceases to use a cultivation site or manufacturing site specified according to R9-18-306(C); or
 - b. Discontinues an activity specified in R9-18-306(C)(1)(i), (j), or (k);
- ~~11.~~12. Document and report any loss or theft of marijuana or a marijuana product from the marijuana establishment’s retail site, cultivation site, or manufacturing site to the appropriate law enforcement agency;
13. Maintain the quick response code link and webpage required in R9-18-310(A)(2)(h), as specified in policies and procedures, for at least 30 calendar days after the last date the marijuana establishment’s retail site provides the marijuana or marijuana product to which the quick response code link and webpage pertain;
- ~~12.~~14. Maintain copies of any documentation required in this Chapter for at least 12 months after the date on the documentation and provide copies of the documentation to the Department for review upon request; and
- ~~13.~~15. Post the following information in a place that can be viewed by individuals entering the marijuana establishment’s retail site:
 - a. If applicable, the marijuana establishment’s approval to operate;
 - b. The marijuana establishment license;
 - c. A sign in a Department-provided format that contains the following language:
 - i. “WARNING: There may be potential dangers to fetuses caused by smoking or ingesting marijuana while pregnant or to infants while breastfeeding,” and

ii. “WARNING: Use of marijuana during pregnancy may result in a risk of being reported to the Department of Child Safety during pregnancy or at the birth of the child by persons who are required to report;” and

d. The hours of operation during which the marijuana establishment will sell or otherwise transfer marijuana or a marijuana product to a consumer.

B. If a marijuana establishment cultivates marijuana, the marijuana establishment shall cultivate the marijuana in a secure location according to R9-18-312.

R9-18-310. Product Labeling and Packaging

A. A marijuana establishment shall ensure that marijuana or a marijuana product provided by the marijuana establishment’s retail site to a consumer:

1. Complies with packaging and labeling requirements in A.R.S. §§ 36-2854.01 and 36-2860(A);

2. Is labeled with:

a. The marijuana establishment license number;

b. The amount, strain, and batch number of the marijuana or marijuana product;

c. The form of the marijuana or marijuana product;

d. As applicable, the weight of the marijuana or marijuana product;

e. In compliance with Table 3.1, the potency of the marijuana or marijuana product, based on the results of testing by a marijuana testing facility, including the number of milligrams per designated unit or percentage of:

i. Total tetrahydrocannabinol, reported according to ~~R9-18-408(F)(2)(a)~~ R9-18-408(F)(3)(b)(i);

ii. Total cannabidiol, reported according to ~~R9-18-408(F)(2)(b)~~ R9-18-408(F)(3)(b)(ii); and

iii. Any other cannabinoid for which the marijuana establishment is making a claim related to the effect of the cannabinoid on the human body;

f. The following statement: “ARIZONA DEPARTMENT OF HEALTH SERVICES’ WARNING: Marijuana use can be addictive and can impair an individual’s ability to drive a motor vehicle or operate heavy machinery. Marijuana smoke contains carcinogens and can lead to an increased risk for cancer, tachycardia, hypertension, heart attack, and lung infection. Marijuana use may affect the health of a pregnant woman and the unborn child. KEEP OUT OF REACH OF CHILDREN”;

g. For a marijuana product, the ingredients in order of abundance; and

- h. As required by A.R.S. § 36-2854.01 ~~and not later than December 31, 2023~~, a quick response code linking to a webpage that contains the following:
 - i. The strain of the marijuana;
 - ii. The following statement: Using marijuana during pregnancy could cause birth defects or other health issues to your unborn child;
 - iii. Distribution chain information, including:
 - (1) The name of the marijuana establishment;
 - (2) If not cultivated by the marijuana establishment, the name and the license number or registry identification number, as applicable, of the marijuana establishment or dispensary that cultivated the marijuana; and
 - (3) If not infused or prepared for sale by the marijuana establishment, the name and the license number or registry identification number, as applicable, of the marijuana establishment or dispensary that infused or prepared the marijuana product for sale;
 - iv. A link to the final report of testing marijuana or a marijuana product, specified in R9-18-410(B)(3), from a marijuana testing facility;
 - v. If applicable, the method used to extract tetrahydrocannabinol from the marijuana; and
 - vi. The date of:
 - (1) Harvest of the marijuana; and
 - (2) If applicable, manufacture of the marijuana product; and
- 3. Is placed in child-resistant packaging on exit from the marijuana establishment.

B. If a marijuana establishment provides marijuana cultivated, or a marijuana product infused or prepared for sale, by the marijuana establishment to another marijuana establishment or to a dispensary, the marijuana establishment shall ensure that:

- 1. The marijuana or marijuana product is labeled with:
 - a. The marijuana establishment license number;
 - b. The amount, strain, and batch number of the marijuana or marijuana product; and
 - c. The dates of:
 - i. Harvest or sale; and
 - ii. If applicable, manufacture; and

2. A copy of results of testing by a marijuana testing facility for the marijuana or marijuana product is provided to the receiving marijuana establishment or dispensary.

R9-18-312. Security

A. A marijuana establishment shall ensure that, if the marijuana establishment cultivates marijuana:

1. If cultivation takes place indoors, the marijuana is cultivated in a closed, locked room; and
2. If cultivation takes place outdoors, the location:
 - a. Is surrounded by solid, 10-foot walls that are constructed of metal, concrete, or stone that prevent viewing of the marijuana plants; and
 - b. Has a one-inch thick metal gate.

B. A marijuana establishment shall ensure that access to the marijuana establishment's cultivation site or manufacturing site or to the portion of the marijuana establishment's retail site where marijuana is cultivated, processed, manufactured, or stored is limited to the marijuana establishment's principal officers, board members, and authorized marijuana facility agents, unless the individual is supervised by a marijuana facility agent associated with the marijuana establishment.

C. A marijuana facility agent may transport marijuana, marijuana plants, and marijuana products; ~~and marijuana paraphernalia between the marijuana establishment and:~~

1. The marijuana establishment's retail site, cultivation site, or manufacturing site;
2. The marijuana establishment's retail site, cultivation site, or manufacturing site and ~~Another~~ another marijuana establishment;
3. The marijuana establishment's retail site, cultivation site, or manufacturing site and ~~A~~ a dispensary with a dispensary registration certificate issued under 9 A.A.C. 17;
4. The marijuana establishment's retail site and a consumer:
 - a. Consistent with A.R.S. § 36-2854(D) and R9-18-312.01; and
 - b. If the owner of the property at the delivery address provided by the consumer, according to R9-18-312.01(B)(2)(c), has not posted or otherwise notified the marijuana establishment that no deliveries are allowed to the owner's property location; and
- 4.5. The marijuana establishment's retail site, cultivation site, or manufacturing site and ~~A~~ a marijuana testing facility that has a marijuana testing facility license issued by the Department or a laboratory with a laboratory registration certificate issued under 9 A.A.C. 17, Article 4.

D. Before transportation, a marijuana facility agent of a marijuana establishment shall:

1. Complete a trip plan that includes:
 - a. The name of the marijuana facility agent in charge of transporting the marijuana, marijuana plants, or marijuana products;
 - b. The license plate number of the vehicle being used to transport the marijuana, marijuana plants, or marijuana products;
 - ~~b.c.~~ The date and start time of the trip;
 - ~~e.d.~~ A description of the marijuana, marijuana plants, or marijuana products, ~~or marijuana paraphernalia~~ being transported;
 - ~~d.e.~~ Any anticipated stops during the trip, including the locations of the stops and estimated arrival time and departure time for each location; and
 - ~~e.f.~~ The anticipated route of transportation; and

2. Provide a copy of the trip plan in subsection (D)(1) to the marijuana establishment.

E. During transportation, a marijuana facility agent shall:

1. Carry a copy of the trip plan in subsection (D)(1) with the marijuana facility agent for the duration of the trip;
2. Use a vehicle that has a current registration with the Arizona Department of Motor Vehicles, issued according to A.R.S. Title 28, Chapter 7, Article 2:
 - a. Without any marijuana identification;
 - b. Equipped with a global positioning system or other means ~~of tracking~~ for the marijuana establishment to track the current location of the vehicle at any point in time;
 - c. Capable of providing electronic information about where the vehicle has been during at least the previous 90 days;
 - ~~e.d.~~ With operational video surveillance and recording equipment that:
 - i. Shows the interior of the vehicle, including the driver's seat and location of the marijuana, marijuana plants, or marijuana products, ~~or marijuana paraphernalia~~ being transported;
 - ii. Is turned on for the duration of a trip while marijuana or a marijuana product is in the vehicle; and
 - iii. Either stores the recording for at least 30 calendar days or transmits the recorded images at the time of recording to another location, where the recorded images are stored for at least 30 calendar days; and
 - ~~d.e.~~ With a locked compartment in which any marijuana, marijuana plants, or marijuana products being transported may be stored during a trip;

3. Have a means of communication with the marijuana establishment;
 4. Notate the arrival time and departure time for each stop; and
 5. Ensure that the marijuana, marijuana plants, or marijuana products, ~~or marijuana paraphernalia~~ are stored in the locked compartment specified in subsection ~~(E)(2)(d)~~ (E)(2)(e) and are not visible.
- F.** After transportation, a marijuana facility agent shall:
1. ~~enter~~ Enter the end time of the trip and any changes to the trip plan on the trip plan required in subsection (D)(1), and
 2. Ensure that the updated trip plan is provided to the marijuana establishment.
- G.** A marijuana establishment shall:
1. Maintain the documents required in subsection (D)(2) and (F) for at least two years after the date of the documentation;
 2. If transporting a sample to a marijuana testing facility for testing, provide a copy of the trip plan in subsection (D)(1) to the marijuana testing facility; and
 3. Provide a copy of the documents required in subsection (D)(2) and (F) to the Department for review upon request.
- H.** A marijuana establishment shall not transport marijuana, marijuana plants, or marijuana products, ~~or marijuana paraphernalia~~ to a consumer except as specified in R9-18-312.01.
- I.** To prevent unauthorized access to marijuana or a marijuana product at the marijuana establishment's retail site and, if applicable, the marijuana establishment's cultivation site or manufacturing site, the marijuana establishment shall have the following:
1. Security equipment to deter and prevent unauthorized entrance into limited access areas that include:
 - a. Devices or a series of devices to detect unauthorized intrusion, which may include a signal system interconnected with a ~~radio frequency~~ radio-frequency method, such as cellular, private radio signals, or other mechanical or electronic device;
 - b. Exterior lighting to facilitate surveillance;
 - c. Electronic monitoring including:
 - i. At least one 19-inch or greater call-up monitor;
 - ii. A printer capable of immediately producing a clear still photo from any video camera image;
 - iii. Video cameras:

- (1) Providing coverage of all entrances to and exits from limited access areas and all entrances to and exits from the building, capable of identifying any activity occurring in or adjacent to the building; and
 - (2) Having a recording resolution of at least 704 x 480 or the equivalent;
 - iv. A video camera at each point of sale location within the marijuana establishment's retail site allowing for the identification of any consumer purchasing marijuana or a marijuana product;
 - v. A video camera in each grow room capable of identifying any activity occurring within the grow room in low light conditions;
 - vi. Storage of video recordings from the video cameras for at least 30 calendar days;
 - vii. A failure notification system that provides an audible and visual notification of any failure in the electronic monitoring system; and
 - viii. Sufficient battery backup for video cameras and recording equipment to support at least five minutes of recording in the event of a power outage; and
 - d. Panic buttons in the interior of each building; and
2. Policies and procedures:
 - a. That provide for the identification of authorized individuals;
 - b. That deter unauthorized removal of marijuana or marijuana products from the premises, including:
 - i. Restricting access to the areas of the marijuana establishment's retail site where marijuana is cultivated, processed or stored and, if applicable, the marijuana establishment's cultivation site or manufacturing site; and
 - ii. Ensuring that an individual other than a principal officer, board member, or marijuana facility agent associated with the marijuana facility is supervised by a marijuana facility agent associated with the marijuana establishment when in an area specified in subsection (I)(2)(b)(i);
 - c. That prevent loitering;
 - d. For conducting electronic monitoring; and
 - e. For the use of a panic button.

R9-18-312.01. Delivery to Consumers

A. In addition to the requirements in R9-18-312(E)(2), for any vehicles used for delivery to a consumer, a marijuana establishment shall:

1. Maintain a list of the vehicles used for delivery to a consumer, including the make, model, and license plate number of the vehicle;
2. Keep a daily log of vehicle usage, including the date, time period of usage, and retail price of the marijuana, marijuana plants, or marijuana products transported during a trip; and
3. Make a vehicle used for delivery to a consumer available at the retail location for the Department's inspection, within two hours after a Department request.

B. A marijuana establishment shall ensure that no marijuana, marijuana plants, or marijuana products are transported to a consumer unless:

1. The marijuana establishment's retail site has received an order for delivery of the marijuana, marijuana plants, or marijuana products from the consumer during the retail site's regular hours of operation, as posted according to R9-18-308(A)(15);
2. The consumer provides:
 - a. The consumer's name and date of birth;
 - b. The identifying number on the document that will be used to verify the consumer's age upon delivery; and
 - c. The property address of the building and, if applicable, an apartment number for the delivery;
3. A marijuana facility agent at the marijuana establishment's retail site documents the order and includes:
 - a. The date and time of the order;
 - b. The name of the marijuana facility agent taking the order;
 - c. The consumer's name, date of birth, identifying number on the document that will be used to verify the consumer's age, and delivery address;
 - d. The amount and retail price of the marijuana, marijuana plants, or marijuana products ordered; and
 - e. The total retail price of the marijuana, marijuana plants, or marijuana products in the order;
4. A copy of the order is attached to the trip plan required in R9-18-312(D)(1);
5. The delivery originates at the marijuana establishment's retail site; and
6. Before transferring the delivered marijuana, marijuana plants, or marijuana products to

the consumer, the marijuana facility agent providing delivery of the marijuana, marijuana plants, or marijuana products:

- a. Ensures that the individual wanting to accept delivery is the ordering consumer,
- b. Verifies the identity and age of the consumer according to the requirements in R9-18-309(A)(1),
- c. Complies with the requirements in R9-18-309(A)(2) and (3), and
- d. Obtains the hand-written signature of the consumer on the order.

C. When transporting marijuana, marijuana plants, or marijuana products for delivery to a consumer, a marijuana establishment shall ensure that:

1. No delivery is made to any property owned or leased by the United States, this state, a political subdivision of this state, or the Arizona board of regents;
2. No delivery is made to any property address for which the property's owner has informed the marijuana establishment that delivery to a consumer is not permitted at the address;
3. No more than a total retail price of \$10,000 of marijuana, marijuana plants, and marijuana products for delivery to a consumer is in a vehicle providing transportation for delivery; and
4. Only marijuana, marijuana plants, or marijuana products associated with one or more orders made according to subsection (B)(1) are in a vehicle providing delivery to a consumer.

D. A marijuana establishment shall ensure that a marijuana facility agent providing delivery:

1. Returns to the marijuana establishment's retail site at the completion of the trip plan if any marijuana, marijuana plants, or marijuana products associated with one or more orders made according to subsection (B)(1) have not been transferred to the ordering consumer and remain in the vehicle; and
2. Does not pick up or otherwise receive marijuana, marijuana plants, or marijuana products from a consumer for transport to the marijuana establishment once a delivery has been completed according to subsection (B)(7).

R9-18-314. Inventory Control System

A. A marijuana establishment shall designate in writing a marijuana facility agent associated with the marijuana establishment who has oversight of the marijuana establishment's marijuana inventory control system.

B. A marijuana establishment shall only acquire marijuana from:

1. The marijuana establishment's cultivation site or manufacturing site,
2. Another marijuana establishment, or

3. A dispensary with a dispensary registration certificate issued under 9 A.A.C. 17.
- C. A marijuana establishment shall establish and implement an inventory control system for the marijuana establishment's marijuana and marijuana products that documents:
1. The following amounts:
 - a. Each day's beginning inventory of marijuana and marijuana products,
 - b. Acquisitions according to subsection (B),
 - c. Marijuana harvested by the marijuana establishment,
 - d. Marijuana and marijuana products provided to a dispensary or another marijuana establishment,
 - e. Marijuana and marijuana products sold,
 - f. Marijuana and marijuana products submitted to a marijuana testing facility for testing according to R9-18-311,
 - g. Marijuana and marijuana products that were disposed of, and
 - h. The day's ending marijuana and marijuana products inventory;
 2. For acquiring marijuana or a marijuana product from another marijuana establishment or a dispensary:
 - a. A description of the marijuana or marijuana product acquired including:
 - i. The amount, batch number, and strain of the marijuana or marijuana product;
 - ii. For a marijuana product, the ingredients in order of abundance; and
 - iii. For an edible food product infused with marijuana or a marijuana product:
 - (1) The date of manufacture,
 - (2) The total weight of the marijuana-infused edible food product, and
 - (3) The estimated amount and batch number of the marijuana or marijuana product infused in the edible food product;
 - b. As applicable, either:
 - i. The name and license number of the marijuana establishment providing the marijuana or marijuana product, or
 - ii. The name and registry identification number of the dispensary providing the marijuana or marijuana product;

- c. The name and license number or registry identification number, as applicable, of the marijuana facility agent or dispensary agent providing the marijuana or marijuana product;
 - d. The name and license number of the marijuana facility agent receiving the marijuana or marijuana product on behalf of the marijuana establishment; and
 - e. The date of acquisition;
3. For each batch of marijuana cultivated:
- a. The batch number;
 - b. Whether the batch originated from marijuana seeds or marijuana cuttings;
 - c. The origin and strain of the marijuana seeds or marijuana cuttings planted;
 - d. The number of marijuana seeds or marijuana cuttings planted;
 - e. The date the marijuana seeds or cuttings were planted;
 - f. A list of all chemical additives, including nonorganic pesticides, herbicides, and fertilizers used in the cultivation;
 - g. The number of plants grown to maturity; and
 - h. Harvest information including:
 - i. Date of harvest;
 - ii. Final yield weight of processed usable marijuana ~~yield weight~~, as defined in A.R.S. § 36-2801; and
 - iii. Name and license number of the marijuana facility agent responsible for the harvest;
4. For transferring marijuana or a marijuana product to another marijuana establishment or a dispensary:
- a. A description of the marijuana or marijuana product provided including:
 - i. The amount, batch number, and strain of the marijuana or marijuana product;
 - ii. For a marijuana product, the ingredients in order of abundance; and
 - iii. For an edible food product infused with marijuana or a marijuana product:
 - (1) The date of manufacture,
 - (2) The total weight of the marijuana-infused edible food product, and
 - (3) The estimated amount and batch number of the marijuana or marijuana product infused in the edible food product;

- b. The name and marijuana establishment license number or registry identification number, as applicable, of the other marijuana establishment or the dispensary;
 - c. The name and license number or registry identification number, as applicable, of the marijuana facility agent or dispensary agent who received the marijuana or marijuana product on behalf of the other marijuana establishment or the dispensary; and
 - d. The date the marijuana or marijuana product was provided;
5. For submitting marijuana or marijuana products to a marijuana testing facility for testing:
- a. The amount, strain, and batch number of the marijuana or marijuana product submitted;
 - b. The name and registry identification number of the marijuana testing facility;
 - c. The name and registry identification number of the marijuana facility agent who received the marijuana or marijuana product on behalf of the marijuana testing facility; and
 - d. The date the marijuana or marijuana product was submitted to the marijuana testing facility; and
6. For disposal of marijuana or a marijuana product that is not to be sold, transferred, or used for making a marijuana product:
- a. Description of and reason for the marijuana or marijuana product being disposed of including, if applicable:
 - i. The number of failed or other unusable plants, and
 - ii. The results of laboratory testing;
 - b. Date of disposal;
 - c. Method of disposal; and
 - d. Name and license number of the marijuana facility agent responsible for the disposal.
- D.** The individual designated in subsection (A) shall conduct and document an audit of the marijuana establishment's inventory that is accounted for according to generally accepted accounting principles at least once every 30 calendar days.
- 1. If the audit identifies a reduction in the amount of marijuana or a marijuana product in the marijuana establishment's inventory not due to documented causes, the marijuana establishment shall determine and document where the loss has occurred and take and document corrective action.

2. If the reduction in the amount of marijuana or a marijuana product in the marijuana establishment's inventory is due to suspected criminal activity by a marijuana facility agent, the marijuana establishment shall report the marijuana facility agent to the Department and to the local law enforcement authorities.

E. A marijuana establishment shall:

1. Maintain the documentation required in subsections (C) and (D) at the marijuana establishment for at least five years after the date on the document, and
2. Provide the documentation required in subsections (C) and (D) to the Department for review upon request.

ARTICLE 4. MARIJUANA TESTING FACILITIES

R9-18-401. Owner and Laboratory Agents Acting as Marijuana Facility Agents

- A.** For the purposes of this Article, the following individuals are considered owners:
1. If an individual is applying for a marijuana testing facility license, the individual;
 2. If a corporation is applying for a marijuana testing facility license, two individuals who are officers of the corporation;
 3. If a partnership is applying for a marijuana testing facility license, two of the individuals who are partners;
 4. If a limited liability company is applying for a marijuana testing facility license, a manager or, if the limited liability company does not have a manager, an individual who is a member of the limited liability company;
 5. If an association or cooperative is applying for a marijuana testing facility license, two individuals who are members of the governing board of the association or cooperative; and
 6. If a business organization type other than those described in subsections (A)(2) through (5) is applying for a marijuana testing facility license, two individuals who are members of the business organization.
- B.** When a marijuana testing facility is required by this Chapter to provide information, sign documents, or ensure actions are taken, the individual or individuals in subsection (A) shall comply with the requirement on behalf of the marijuana testing facility.
- C.** For the purposes of this Chapter, an individual, with a laboratory agent registry identification card issued under 9 A.A.C. 17, Article 4, is considered to be a marijuana facility agent when working on behalf of a marijuana testing facility or a laboratory with a laboratory registration certificate issued under 9 A.A.C. 17, Article 4.

R9-18-408. Method Criteria and References for Laboratory Analyses

- A.** In addition to the definitions in A.R.S. § 36-2850 and R9-18-101, the definitions in A.A.C. R9-17-404.03(A) apply in this Section unless otherwise stated.
- B.** A technical laboratory director shall ensure that the marijuana testing facility complies with the requirements in A.A.C. R9-17-404.03(B) through (O) when using chemical analytical methods for any of the analytes in Table 3.1.
- C.** A technical laboratory director may release testing results that are scientifically valid and defensible from analyses using chemical analytical methods, according to R9-18-410(B)(3) and (C), with the following data qualifier notations if:

1. The target analyte detected in the calibration blank required in A.A.C. R9-17-404.03(F)(1)(c) or the method blank specified in A.A.C. R9-17-404.03(K)(1) is at or above the limit of quantitation, but the sample result:
 - a. For potency testing, is below the limit of quantitation – B1; or
 - b. When testing for pesticides, fungicides, growth regulators, mycotoxins, heavy metals, or residual solvents, is below the maximum allowable concentration in Table 3.1 for the analyte – B2;
2. The limit of quantitation and the sample results were adjusted to reflect sample dilution - D1;
3. The relative intensity of a characteristic ion in a sample analyte exceeded the acceptance criteria in A.A.C. R9-17-404.03(L)(1) with respect to the reference spectra, indicating interference – I1;
4. When testing for pesticides, fungicides, growth regulators, mycotoxins, heavy metals, or residual solvents, the percent recovery of a laboratory control sample is greater than the acceptance limits in A.A.C. R9-17-404.03(K)(2)(d), but the sample's target analytes were not detected above the maximum allowable concentrations in Table 3.1 for the analytes in the sample – L1;
5. The recovery from the matrix spike in A.A.C. R9-17-404.03(K)(4) was:
 - a. High, but the recovery from the laboratory control sample in A.A.C. R9-17-404.03(K)(2) was within acceptance criteria – M1,
 - b. Low, but the recovery from the laboratory control sample in A.A.C. R9-17-404.03(K)(2) was within acceptance criteria – M2, or
 - c. Unusable because the analyte concentration was disproportionate to the spike level, but the recovery from the laboratory control sample in A.A.C. R9-17-404.03(K)(2) was within acceptance criteria – M3;
6. The analysis of a spiked sample required a dilution such that the spike recovery calculation does not provide useful information, but the recovery from the associated laboratory control sample in A.A.C. R9-17-404.03(K)(2) was within acceptance criteria – M4;
7. The analyte concentration was determined by the method of standard addition, in which the standard is added directly to the aliquots of the analyzed sample – M5;
8. A description of the variance is described in the final report of testing according to R9-18-410(B)(3) and (C) – N1;

9. The relative percent difference for the laboratory control sample and duplicate exceeded the limit in A.A.C. R9-17-404.03(K)(3), but the recovery in A.A.C. R9-17-404.03(K)(2)(d) was within acceptance criteria – R1;
 10. The relative percent difference for a sample and duplicate exceeded the limit in A.A.C. R9-17-404.03(O) – R2; or
 11. The recovery from continuing initial calibration verification standards or continuing calibration verification standards is greater than the acceptance limits in A.A.C. R9-17-404.03(H)(2) or (J)(1)(b) as applicable, but the sample’s target analytes were not detected above the maximum allowable concentrations in Table 3.1 for the analytes in the sample – V1.
- D.** A technical laboratory director shall include in the final report of testing from analyses using chemical analytical methods, according to R9-18-410(B)(3) and (C), the following data qualifier notations if:
1. Sample integrity was not maintained – Q1;
 2. The sample is heterogeneous, and sample homogeneity could not be readily achieved using routine laboratory practices – Q2; or
 3. Testing result is for informational purposes only and cannot be used to satisfy marijuana establishment testing requirements in R9-18-311(A) or labeling requirements in R9-18-310 – Q3.
- E.** For batch analysis of samples to determine potency, a technical laboratory director may check precision by using either a duplicate laboratory control sample or a duplicate sample prepared from the marijuana or marijuana product being tested, according to requirements in A.A.C. R9-17-404.03(K)(2) and (3).
- F.** A technical laboratory director shall ensure that the reporting units for:
1. Pesticides, fungicides, growth regulators, heavy metals, or residual solvents is in parts per million (ppm); and
 2. Mycotoxins are according to A.A.C. R9-17-404.04(I)(4); and
 3. Potency are:
 - a. In either:
 - i. Percent (w/w) relative to the bulk plant material or marijuana product, as applicable; or
 - ii. Number of milligrams per designated unit; and
 - b. For:

- i. Total tetrahydrocannabinol, the sum of tetrahydrocannabinolic acid (THC-A), multiplied by 0.877, and delta-9-tetrahydrocannabinol (Δ 9-THC); and
 - ii. Total cannabidiol, the sum of cannabidiolic acid (CBD-A), multiplied by 0.877, and cannabidiol (CBD).
- G.** To perform testing for the microbial contaminants in Table 3.1, a marijuana testing facility shall:
 - 1. Use an applicable method described in A.A.C. R9-17-404.04(A)(1) and validated according to A.A.C. R9-17-404.04(A)(2), and
 - 2. Comply with A.A.C. R9-17-404.04(A)(3) and (4), as applicable.
- H.** A technical laboratory director shall ensure that the marijuana testing facility complies with the requirements in A.A.C. R9-17-404.04(B) through (G) when performing testing for the microbial contaminants in Table 3.1.
- I.** A technical laboratory director shall include in the final report of testing for the microbial contaminants in Table 3.1, according to R9-18-410(B)(3) and (C), the following data qualifier notations if:
 - 1. The limit of quantitation and the sample results were adjusted to reflect sample dilution - D1;
 - 2. A description of the variance is described in the final report of testing according to A.A.C. R9-17-410(B)(3) and (C) – N1;
 - 3. Sample integrity was not maintained – Q1;
 - 4. The sample is heterogeneous, and sample homogeneity could not be readily achieved using routine laboratory practices – Q2; or
 - 5. Testing result is for informational purposes only and cannot be used to satisfy marijuana establishment testing requirements R9-18-311(A) or labeling requirements in R9-18-310 – Q3.
- J.** A technical laboratory director shall ensure that:
 - 1. The reporting units for *Escherichia coli* are colony forming units per gram (CFU/g);
 - 2. Reporting for *Salmonella* is “Detected” or “Not detected” in one gram; ~~and~~
 - 3. Reporting for *Aspergillus* is “Detected” or “Not detected” in one gram; and
 - ~~3.4.~~ Reporting for mycotoxins includes:
 - a. Total aflatoxins in units of micrograms per kilogram (μ g/kg), and
 - b. Ochratoxin A in units of micrograms per kilogram (μ g/kg).