



Marijuana Regulation: The Colorado Model

Mountain and Plains Intergovernmental Audit Forum

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Colorado Department of Revenue**

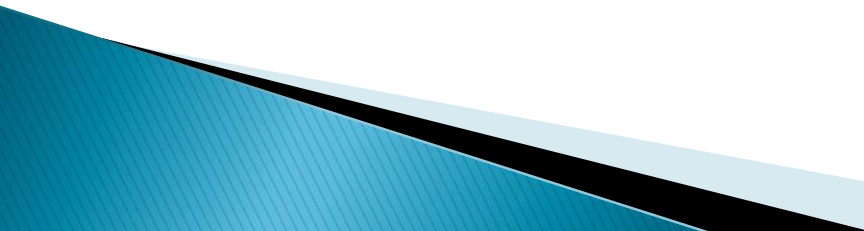
Audit – Causal Factors

- ▶ Aggressive Implementation Deadlines
 - ▶ Lack of Established Infrastructure
 - ▶ Inadequate Resources and Funding
 - ▶ Licensing Coupled with Local Jurisdictions
 - ▶ Operating Unlicensed Businesses
 - ▶ No Existing Regulatory Framework Model
 - ▶ Unstable Operating Environment
 - ▶ Lack of Strategic Business Plan
 - ▶ Lack of Management and Financial Controls
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Audit – Benefits

- ▶ Began taking action before the conclusion of the audit
- ▶ Confirmed and helped us further diagnose problems and develop solutions
- ▶ Confirmed that our corrective measures were on the right track
- ▶ Provided leverage to correct funding and other regulatory issues through the legislative process
- ▶ Encouraged Organizational Commitment and Focus

Audit – Action Steps

- ▶ Establish New Leadership Team
 - ▶ Develop and Implement Strategic Plan
 - ▶ Develop and Implement Staffing and Business Plan
 - ▶ Development of Policies and Procedures
 - ▶ Establish Stable and Secure Funding Source
 - ▶ Establish Management and Financial Controls
 - ▶ De-couple Licensing Process from Local Jurisdictions
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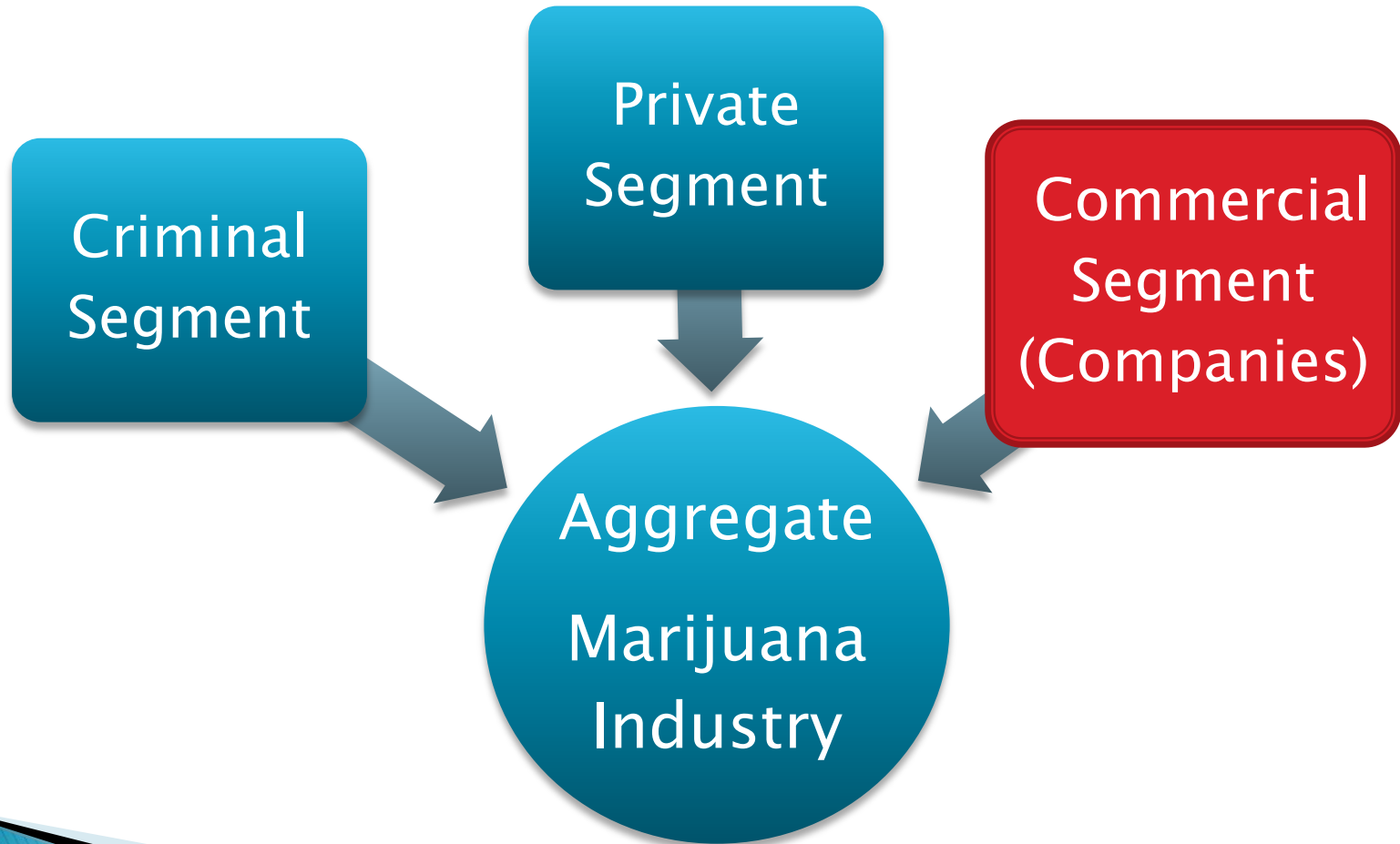
Audit – Action Steps

- ▶ Establish Annual Fee Setting Process & Methodology
- ▶ Implement MJ Inventory Tracking System
- ▶ Comprehensive Rulemaking Focused on Operability
- ▶ Establish Rulemaking Working Group Model
- ▶ Focus on Stakeholders and Outreach
- ▶ Implement Risk Based Compliance Program
- ▶ Streamline occupational and business licensing processes

Audit – Current View

- ▶ From 15 to 72 FTE (108 by July 2017)
- ▶ 4 Offices around the state
- ▶ Millions of Transactions Recorded in METRC
- ▶ Successful Implementation of A64
- ▶ Walk-in Occupational Licensing
- ▶ 90-day Business Licensing
- ▶ Active Compliance Monitoring
- ▶ Colorado is recognized as the model for MJ regulation throughout US and Abroad

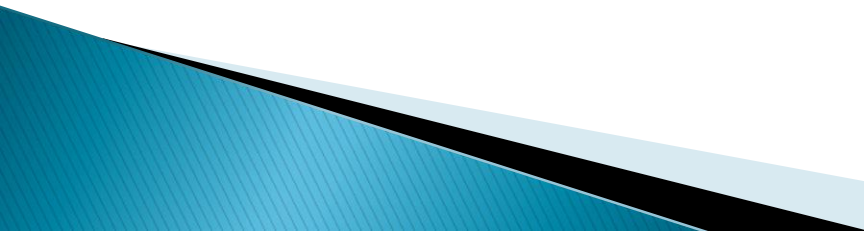
Colorado Marijuana Industry Segments



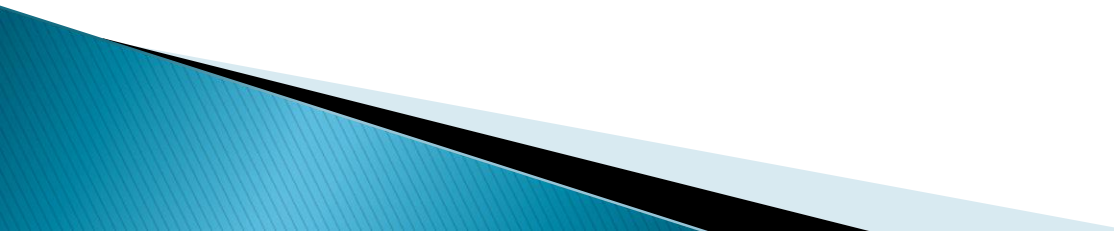
Colorado Commercial Market

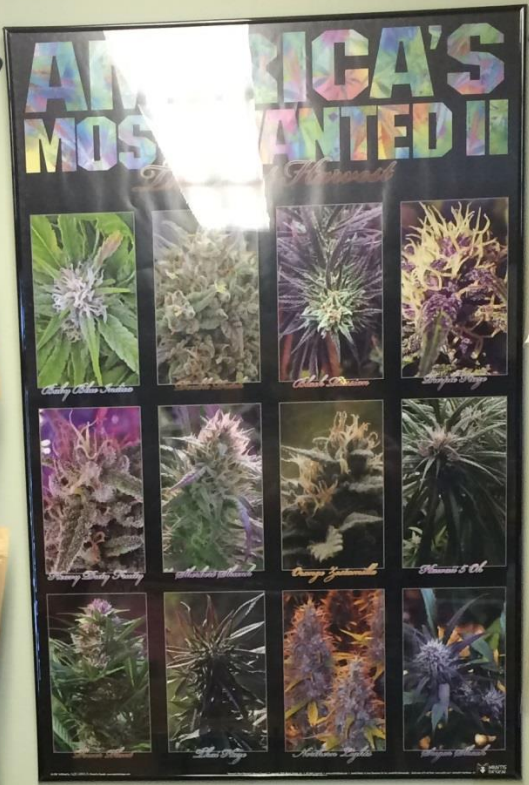
- ▶ Two Industry Segments
 - Medical
 - Recreational
- ▶ Licensee Based
 - State Licensing
 - Local Licensing
 - Regulatory and/or Criminal
- ▶ Stores, Cultivations, Infused Manufacturers, Testing Facilities

MED Regulatory Objectives

- Public Safety
 - Preventing Distribution of Marijuana to Minors
 - Preventing the Involvement of Criminal Enterprises, Gangs and Cartels in Legal Marijuana Industry
 - Preventing the Diversion of Regulated Marijuana to Other States and Criminal Markets
 - Transparent Regulatory Oversight
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Background and Licensing

- ▶ Business structure
 - ▶ Criminal background checks
 - ▶ Government obligations
 - ▶ Financial agreements
 - ▶ Sources of funding
 - ▶ Compliance history
 - ▶ Business associations
 - ▶ Coordination with local licensing authority
 - ▶ Licensing recommendation to SLA
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Approved Business Licenses

As of 07/01/2016

License Types	Medical Licenses	Retail Licenses
Centers/Stores	529	435
Cultivations	786	572
Infused Product Manufacturers	237	193
Testing Facilities	13	15
Totals	1,565	1,215

Over 29,000 approved Occupational Licenses



Field Enforcement-Primary Activities

- ▶ Compliance Inspections
 - Initial inspections
 - Routine inspections
 - Risk based inspections
 - METRC Analysis
- ▶ Complaint Investigations
 - Solvability factors
- ▶ Underage Compliance Operations
 - Liquor Model
 - Under 21, Residency, Registered Patient
- ▶ Criminal Investigations

Marijuana Testing Program

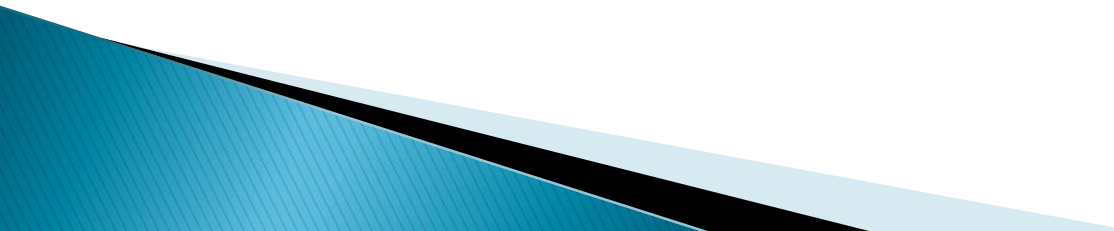
- May 2014 – MED began testing for **potency** of recreational marijuana and recreational marijuana products.
- July 2014 – MED began testing for **homogeneity** of recreational marijuana products.
- July 2015 – MED testing for **residual solvents** on recreational marijuana.
- September 2015 - MED began testing for **microbials** on recreational marijuana.
- Medical marijuana testing under implementation.
- 16 Licensed Recreational Testing Facilities



Inventory Tracking System - METRC

- Track and record a chain of custody from “Seed” to “Sale”.
- Provide MED with inspection process tools necessary to complete on-site validation of inventory.
- Provide mechanism to produce standardized manifests for transportation of marijuana within Colorado – law enforcement priority
- Tracks both Medical and Retail Marijuana Inventory within closed regulatory system
- Tracking ENDS once MJ is purchased by the patient or retail customer

Advantages of RFID Technology

- ▶ Read Distance and Speed
 - ▶ RFID's unique ability to isolate and cingulate a single ID number
 - ▶ RFID's unique ability to capture and ignore ID's it has already identified
 - ▶ RFID improves and simplifies reporting and compliance processes
 - ▶ RFID saves the user time resulting in reduced labor cost
 - ▶ Creates a strong chain of custody and traceability
- 





RFID Tag



RFID Placement – Small Plant



RFID Placement – Larger Plant



Licensed Cultivation







METRC Tracked Transfers - 699,191+

Each manifest will include the name, address, and phone number of originating business

The weight and description of marijuana being transported will be included

MARIJUANA ENFORCEMENT DIVISION MARIJUANA TRANSPORTATION MANIFEST

All sales transactions are to be completed prior to transportation of any Medical Marijuana. The receiving entity may reject product delivered, but amount delivered must be limited to amount agreed upon in prior sales transaction. If the person transporting Medical Marijuana has not yet received his or her occupational license number, put "Pending" in the appropriate field.

Manifest # :	000000603	Date Completed:	02/17/2016
License # of Originating Entity:	403R-X0001	For MED Use Only	
Name of Originating Entity:	CO LOFTY ESTABLISHMENT, LLC		
Address of Originating Entity:	455 Sherman Street Suite 390 Denver, CO 80203		
Phone # of Originating Entity:			
Phone # MED Can Call with Questions:	877-566-6506		
DESTINATION:	CO LOFTY ESTABLISHMENT, LLC	Destination Phone #:	
Stop Number on Route:	1	Destination License Number:	402R-X0001
Address of Destination:	455 Sherman Street Suite 390 Denver, CO 80203	Date and Approximate Time of Departure:	2/17/16 10:35 AM
		Date and Approximate Time of Arrival:	2/17/16 10:35 AM
Route to Be Traveled :	Direct.		
<i>Notes: List any unusual circumstances (e.g., road closure, flat tire, etc.)</i>			
Item Description	Item Label	Weight/Quantity	
Buds - Blue Dream	ABCDEF012345670000012487	100.0000	
PRODUCT REJECTION (if only a portion of shipment is rejected, circle that portion above)			
Name of Person Receiving or Rejecting Product:			
I confirm that the contents of this shipment match weight records entered above, and I agree to take custody of those portions of this shipment <i>not</i> circled above. Those portions circled were returned to the individual delivering this shipment.			
Signature:		Date:	
Signature of individual taking receipt of rejected portion of this shipment:			
Name of Person Transporting:	Bubba	Occupational License # of Person Transporting:	X00420
Signature of Person Transporting:			
Make, Model, License Plate #:	Ford F150 811-abc		

The name and badge # of the transporter, as well as the vehicle information, are required on a manifest

Rulemaking Process

- Use of Stakeholder Working Groups for Rulemaking
 - Industry Members
 - Governmental Officials
 - Law Enforcement
 - Consumer Safety Groups
 - Doctors
- Benefits
 - Negotiated Rulemaking
 - Voluntary Compliance

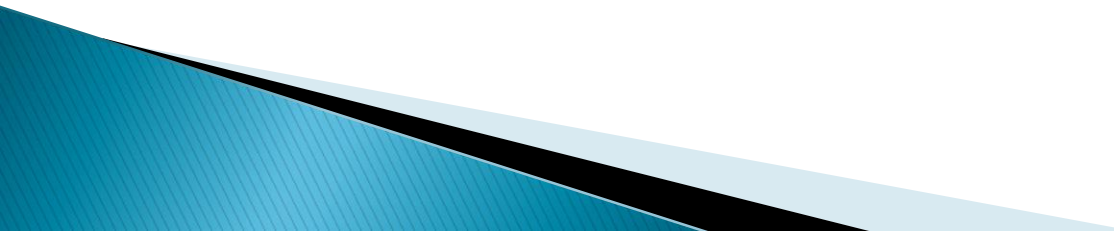
Guiding Principles–Rule Development

- ▶ **Transparent**
 - Rules clearly articulate expectations of Licensees
 - Licensee operations open for inspection/monitoring
- ▶ **Systematic**
 - Rules leverage technology
 - Planned, methodical, repeatable
- ▶ **Operable**
 - Ability to integrate into current business processes
 - Ability to be monitored and enforced by MED
- ▶ **Defensible**
 - Rules grounded in law and can be defended at hearing
 - Licensees reasonably assured they are in compliance if rules are followed

Regulations Protecting Minors

- Child Resistant Packaging
- Extensive Labeling
- Universal Symbol
- Advertising
- Waste removal
- Enforcement / Underage Compliance Checks

Regulations Protecting Public Safety

- Production Management
 - Restrictions on Purchase Amounts
 - Restrictions on Hours of Operation
 - Restrictions on Where One Can Consume
 - Restrictions on Edibles
- 





Regulations Protecting Public Safety

- ▶ No sales outside the licensed premises
 - No internet sales
 - No delivery
- ▶ Video Surveillance Requirements of Entire Premises
- ▶ Waste Removal
- ▶ Mandatory Testing-Potency, Homogeneity, Residual Solvents & Microbials



Disciplinary Process

Progressive Discipline Model

- ▶ Verbal and Written Warnings
 - Minor regulatory violations
 - Part of compliance history
 - Division issuance
- ▶ Assurance of Voluntary Compliance
 - Progressive in nature
 - Fee paid for cost of investigation
 - Division issuance

Disciplinary Process (cont'd)

- ▶ Order to Show Cause
 - Associated with more serious violations
 - Formal Issuance by State Licensing Authority
- ▶ Summary Suspension
 - Exigent circumstances
 - Immediate action due to public safety and welfare issues
 - Formal Issuance by State Licensing Authority

Disciplinary Process (cont'd)

- ▶ Revocation
 - Totality of Circumstances
 - Severity of violations
 - Constitutional
 - Statutory
 - Regulatory
 - Consumer/Public Safety
 - Formal Issuance by State Licensing Authority

Violations and Penalties

- ▶ Retail Marijuana Code, Rule 1307
 - **Public Safety Violations**
 - Suspension up to \$100,000 fine per violation and/or license revocation
 - Violations Associated with Cole Memo Priorities
 - **License Violations**
 - Suspension up to \$50,000 fine per violation and/or license revocation
 - General violations not affecting consumer safety or public safety
 - **License Infractions**
 - Suspension up to a \$10,000 fine per violation
 - Minor regulatory violations

Marijuana Taxation

2.9% – 15% – 10%

Total Tax Collected to Date \$249,053,665

Total Tax Collected in FY2013-2014 \$19,527,399

Total Tax Collected in FY2014-2015 \$88,239,324

Total Tax Collected in FY2015-2016 \$141,286,942

Through May 2016

Regulated MJ Market in Colorado

- ▶ Facts from the 2015 Annual Update:
 - 144,537 pounds of MMJ flower sold in 2015
 - 106,932 pounds of RMJ flower sold in 2015

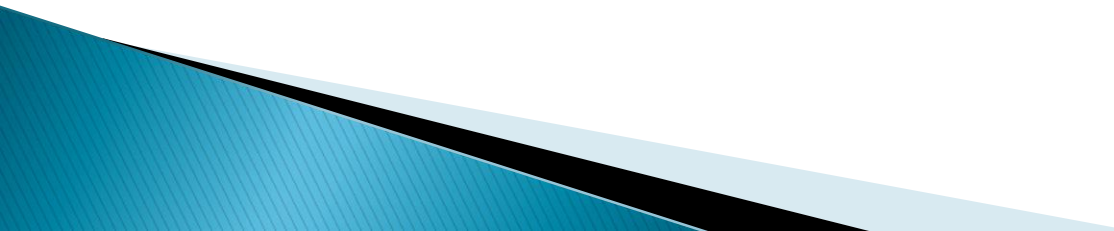




Regulated MJ Market in Colorado

- ▶ Facts from the 2015 Annual Update:
 - 2.26 million units of MMJ infused edibles sold in 2015
 - 5.3 million units of RMJ infused edibles sold in 2015
- As of December 31, 2015:
 - 221 local jurisdictions have banned both MMJ and RMJ
 - 75 local jurisdictions allow both MMJ and RMJ
 - 16 local jurisdictions allow only MMJ
 - 9 local jurisdictions allow only RMJ

Regulatory Challenges

- ▶ Implementation Timelines
 - ▶ Funding and Resources
 - ▶ Edibles
 - ▶ Pesticides
 - ▶ Banking
 - ▶ Continuous Legislative Changes
 - ▶ Lack of Federal Regulatory Assistance
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Thank You

- ← For more information please visit the DOR / MED website at https://www.colorado.gov/pacific/enforcement/marijuana_enforcement

