



MONTANA
ADMINISTRATIVE
REGISTER



DEPARTMENT OF REVENUE

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-227.2

Summary

Adoption of NEW RULES 1 and 2 to continue implementation of House Bill 948 (HB 948) (2023), to fulfill the recommendations of the Synthetic Cannabinoid Advisory Council, and to implement the state's revised ban on synthetic cannabinoids enacted under House Bill 49 (2025)

Previous Notice(s) and Hearing Information

On October 10, 2025, the Department of Revenue (department) published MAR Notice No. 2025-227.1 pertaining to the public hearing on the proposed adoption of the department's rules in the 2025 Montana Administrative Register, Issue Number 19.

On November 5, 2025, the department held a public hearing to consider the proposed adoption. The following persons appeared and provided oral testimony to the proposed rulemaking: Joanna Barney, Sacred Sun Farms, and Jennifer Hensley, Hensley and Associates, on behalf of Fidelity Diagnostics Laboratory (Fidelity). The department also received written comments from Susan Stanley, Sensicare.

Final Rulemaking Action – Effective March 21, 2026

ADOPT AS PROPOSED

The agency has adopted the following rules as proposed:

NEW RULE 2 (42.39.702) SYNTHETIC CANNABINOIDS PROHIBITED

ADOPT WITH CHANGES

The agency has adopted the following rules with changes from the original proposal, stricken matter interlined, new matter underlined:

NEW RULE I (42.39.701) DEFINITIONS

The following definitions apply to this chapter:

- (1) “Chemical synthesis” means a process to create a chemical substance through a chemical reaction or conversion by human agency, which changes the molecular structure of any chemical substance, including but not limited to those substances derived from the plant Cannabis family Cannabaceae, that involves the use of chemicals and reagents, as opposed to those of natural origin.
 - (a) The term includes:
 - (i) the decarboxylation of synthetic acidic cannabinoids with or without the use of a chemical catalyst; and
 - (ii) the decarboxylation of natural acidic cannabinoids with the use of a chemical catalyst.
 - (b) The term does not include the decarboxylation of acidic natural cannabinoids without the use of a chemical catalyst.
- (2) “Decarboxylation” means the conversion of an acidic cannabinoid into its neutral form typically with the use of thermal energy such as the conversion of delta-9 THCA into delta-9 THC with heat.
- (3) “Natural cannabinoids” or “phytocannabinoids” means a cannabinoid present or occurring naturally in the biomass of the plant Cannabis family Cannabaceae. These may be separated and further purified by chemical or mechanical manufacturing, as defined in ARM 42.39.102, directly from the biomass.
 - (a) The term includes cannabinoids produced by the decarboxylation of natural acidic cannabinoids without the use of a chemical catalyst.
 - (b) The term may include:
 - (i) intoxicating or non-intoxicating cannabinoids; and
 - (ii) cannabinoids with a synthetic equivalent.
 - (c) The term does not include:
 - (i) synthetic cannabinoids or synthetically derived cannabinoids;
 - (ii) cannabinoids produced by the decarboxylation of synthetic acidic cannabinoids with or without the use of a chemical catalyst; or
 - (iii) cannabinoids produced by the decarboxylation of natural acidic cannabinoids with the use of a chemical catalyst.

- (4) “Natural cannabinoid product” means consumer products that contain natural cannabinoids and do not include synthetic cannabinoids.
- (5) “Synthetic cannabinoids” means the same as provided in 16-12-102, MCA.
 - (a) The term includes:
 - (i) cannabinoids produced by the decarboxylation of synthetic acidic cannabinoids with or without the use of a chemical catalyst; and
 - (ii) cannabinoids produced by the decarboxylation of natural acidic cannabinoids with the use of a chemical catalyst.
 - (b) The term may include:
 - (i) intoxicating or non-intoxicating cannabinoids; and
 - (ii) cannabinoids with a naturally occurring equivalent.
 - (c) The term does not include:
 - (i) natural cannabinoids; or
 - (ii) cannabinoids produced by the decarboxylation of natural acidic cannabinoids without the use of a chemical catalyst.

Authorizing statute(s): 16-12-112, MCA

Implementing statute(s): 16-12-101, 16-12-112, 16-12-117, MCA

Statement of Reasons

The agency has considered the comments and testimony received. A summary of the comments received, and the agency’s responses are as follows:

Comment 1: Ms. Hensley, on behalf of Fidelity, commented support for the proposed rules because the need for the rules stems from unregulated product coming into the state from outside our borders and not from our licensed, regulated, and law-abiding cultivators, manufacturers, and retailers.

Response 1: The department appreciates Ms. Hensley’s appearance and Fidelity’s involvement in the rulemaking process.

Comment 2: Similar to Ms. Hensley, Ms. Barney commented Sacred Sun Farm’s support for the proposed rules. Ms. Barney did note a typographic error in New Rule 1(2) – the definition for decarboxylation - which inadvertently omits the number “9” in the conversion of delta-9 THCA into delta-9 THC with heat.

Response 2: The department appreciates the input and in response to this comment has made the necessary correction upon adoption of the rule.

Comment 3: Ms. Stanley provided a comment to New Rule II(3), and questioned whether (3) allows for hemp derived delta-9 THC products to be sold in dispensaries if they can meet the requirements of the necessary documentation and demonstrate to the department with clear and convincing evidence that the hemp derived delta-9 THC is not synthetic?

Response 3: The department responds that natural cannabinoid products sourced from hemp can be sold in dispensaries as long as the total d9THC does not exceed 0.5mg/serving and 2.0 mg/package as found in 16-12-117(3) MCA. If the department suspects a product contains synthetic d9THC, (3) applies and evidence must be provided that clearly and convincingly demonstrates the non-synthetic origins of the cannabinoid.

Contact

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Approval

Brendan Beatty, Director of Revenue